

CHAPTER 5

PUBLIC PEACE AND GOOD ORDER

5.01 DISORDERLY CONDUCT WITH A MOTOR VEHICLE.

No operator shall accelerate a motor vehicle so as to emit an unnecessary noise as the result of the friction caused between the tires and the surface on which the vehicle travels or to cause the tires to throw stones or gravel when in the process of accelerating.

5.02 (RESERVED)

5.03 STATEWIDE SMOKING BAN.

(1) Smoking Ban Adopted. The Town hereby adopts, by reference, the provisions of Wis. Stat. §101.123, Smoking prohibited, pertaining to the statewide smoking ban.

(2) Definitions. For purposes of enforcing the smoking ban in the Town of Freedom, the following definition shall apply instead of the definition found in state statutes:

“Enclosed place” shall mean all space between a floor and a ceiling that is bounded by walls, doors, or windows, whether open or closed, covering more than 50% of the combined surface area of the vertical plans constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011 gauge screen with an 18 by 16 mesh count is not a wall.

(3) Inspection and enforcement. The Town Police Department shall have the power to enter any premises subject to the smoking ban under state law to ascertain whether the premises are in compliance with this section and take appropriate enforcement action pursuant to Wis. Stat. §101.123.

5.04 ORDINANCE RESTRICTING CONSUMPTION OF INTOXICATING LIQUORS AND MALT BEVERAGES ON LICENSED PREMISES.

(1) Restriction. All intoxicating liquors sold on premises which have been licensed under Wisconsin Statute 125.26 as retail Class "B" License, shall be consumed within the boundaries of the licensed premises, or if sold in the original package or container as permitted by Wisconsin Statutes 125.25 shall be consumed entirely off the licensed premises. All fermented malt beverages sold on premises which have been licensed under Wis. Statutes 125.26 as retail Class "B" license, shall be consumed within the boundaries of the licensed premises or, if sold, to be consumed away from

said licensed premises as permitted by Wisconsin Statute 125.25 or 125.26, shall be consumed entirely off said licensed premises. Every Class "B" licensee who, either directly or indirectly, suffers or permits any person or patron to consume intoxicating liquor or malt beverages purchased at said licensed premises, to be consumed on the licensed premises but outside of the confines of the licensed premises, shall be fined not less than \$10.00 nor more than \$500. It shall be presumed that any intoxicating liquor or malt beverages being consumed outside the confines of the licensed premises was, in fact, purchased at said licensed establishment.

(2) Defense. The establishment of the following facts by a person permitted the consumption of intoxicating liquor or malt beverages outside the confines of the licensed premises, shall constitute prima facie evidence of innocence and a defense to any prosecution therefore:

(a) That the Class "B" licensee or his operator on said premises, demanded that each and every patron consuming intoxicating liquors or malt beverages outside the confines of the licensed premises, leave the property immediately.

(b) When the person or person consuming said intoxicating liquor or malt beverages outside the confines of the licensed premises, refuse to leave the property, the retail "B" licensee or his operator, contacted in person or by telephone, a police officer of the Town of Freedom, or if a police officer cannot be reached, that the Outagamie County Sheriff's Department was contacted by telephone requesting that an officer be dispatched immediately to said licensed premises.

(c) That upon arrival of the Town officer, said Class "B" licensee, or his operator, immediately identified the person or persons who were or had been consuming intoxicating liquors or malt beverages outside the confines of the licensed premises; again ordered said person or persons to leave the property; and assisted the officer in removing said person or persons from the licensed premises.

(3) Posting. Every Class "B" licensee shall have posted in the licensed premises, a copy of their license.

5.05 ORDINANCE RELATING TO OPEN INTOXICANTS.

(1) No person shall consume any intoxicating liquor or fermented malt beverage while in or upon any street, alley, sidewalk, thoroughfare, parking lot, or other public way, or outside the confines of the building on premises licensed under Wisconsin Statute 125.26 as a retail Class "B" license, or outside the confines of the building on a premises licensed under Wisconsin Statute 125.27 as a retail Class "B" permit.

(2) All purchases of intoxicating liquor or fermented malt beverages by the glass or in open containers, shall be consumed inside the confines of the building on said licensed premises where served and shall not be removed to the public or private areas set forth in Subsection (1) above.

(3) No person shall possess any glass or open container containing intoxicating liquor or fermented malt beverages in or on any public or private areas set forth in Subsection (1) above.

(4) Town Board, of the Town of Freedom, may, in special circumstances, where it is satisfied that adequate supervision and police protection exists, and upon application therefore by any person, may permit the consumption or possession of intoxicating liquor or fermented malt beverages contrary to this ordinance, provided said permission is limited to a specific time and location.

5.055 SOCIAL HOST.

The purpose of this section is to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and to hold any person who hosts an event or gathering where persons under 21 years of age possess or consume alcohol responsible regardless of whether the person hosting the event or gathering supplied the alcohol.

- (1) Definitions. For purposes of this section, the following terms have the following meanings:
 - a. Alcohol. "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
 - b. Alcoholic beverage. "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.
 - c. Event or gathering. "Event" or "gathering" means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
 - d. Host or allow. "Host" or "allow" means to aid, conduct, entertain, organize, supervise, control or permit a gathering or event.
 - e. Parent. "Parent" means any person having legal custody of a juvenile:
 1. As natural, adoptive parent or step-parent;
 2. As a legal guardian; or
 3. As a person to whom legal custody has been given by order of the Court.
 - f. Residence, premises or public or private property. "Residence", "premises", or "public or private property" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room or

other dwelling unit, or a hall or meeting room, park or any other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a part or other social function, and whether owned, leased, rented or used with or without permission or compensation.

- g. Underage person. "Underage person" is any individual under 21 years of age.
- h. Present. "Present" means being at hand or in attendance.
- i. In control. "In control" means the power to direct, manage, oversee and/or restrict the affairs, business or assets of a person or entity.

(2) Prohibited acts.

- a. It is unlawful for any person(s) to: host or allow an event or gathering at any residence, premises or on any other private or public property where alcohol or alcoholic beverages are present when the person knows that an underage person will or does consume any alcohol or alcoholic beverage; or possess any alcohol beverage with the intent to consume it; and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).
- b. A person is responsible for violating this section if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act.
- c. A person who hosts an event or gathering does not have to be present at the event or gathering to be responsible.

(3) Exceptions.

- a. This section does not apply to a person who procures for or dispenses, gives, or sells alcohol or any alcoholic beverage to an underage person if the underage person is in the direct company of the underage person's parent, guardian, or spouse and the parent, guardian, or spouse has attained the legal drinking age, has consented to the underage person possessing or consuming the alcoholic beverage, and is in a position to observe and control the underage person.
- b. This section does not apply to legally protected religious observances.
- c. This section does not apply to an underage person who is lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

5.06 ORDINANCE REGARDING REGULATION OF JUNKED, INOPERABLE, UNLICENSED OR UNREGISTERED VEHICLE OR TRAILER STORAGE.

(1) Junked, Inoperable, Unlicensed or Unregistered Vehicle or Trailer Storage.

- (a) No disassembled or inoperable or unregistered motor vehicle or trailer shall be stored or allowed to remain in the open upon public or private property for longer than thirty (30) days unless it is in connection with a vehicle sale or repair business enterprise located in a properly zoned area.
- (b) Whenever the Town Board shall be advised that any vehicle or trailer has been placed or stored in the open upon public property contrary to this ordinance, then the Town Board may direct a Town Police Officer to dispose of such vehicle in the manner set forth in Paragraph (d).
- (c) Whenever the Town Board shall be notified that a vehicle or trailer has been placed or stored in the open upon private property within the Town contrary to this ordinance, the Town Board may direct the Town Clerk to give notice either by certified mail or personal delivery to the owner of the real estate and/or resident of said real estate, that the motor vehicle or trailer must be removed within seven (7) days. If said motor vehicle is not removed within the time specified, a Town Police Officer shall cause the vehicle or trailer to be removed and the cost of such removal to be charged to the property from which it is removed. Said charges being entered as a special charge on the tax roll.
- (d) A Town Police Officer when directed by the Town Board shall take custody of a motor vehicle or trailer in violation of this ordinance and take said vehicle to a salvage yard. If said vehicle is not claimed by the owner within a reasonable time as notified by Town Police and the storage and handling fees paid by said owner, said vehicle or trailer shall be sold or retained by said salvage yard.

(2) Regulation of Motor Vehicle Sales. No motor vehicle whether registered or unregistered shall be stored or allowed to remain in the open on public or private property for the purpose of resale for longer than thirty (30) days. Should the town be advised of violation herein, the Town Board may proceed under 5.06(1)(b), (c) and (d).

5.07 ORDINANCE REGULATING STORAGE OF JUNK.

(1) No person shall store junked or discarded property including automobiles, automobile parts, trucks, refrigerators, furnaces, washing machines, stoves, wood,

bricks, cement blocks or other unsightly debris which substantially depreciates property values within 250 feet of the centerline of a highway in the Town except in an enclosure which houses such property from public view.

(2) Whenever the Town shall be notified or made aware that such junk is being stored on property outside of an enclosure, the Town Board may direct the Clerk to give notice either by certified mail or personal delivery to the owner of the real estate and/or resident that said junk must be placed in an enclosure or removed from the real estate. If said junk is not removed within fifteen (15) days of said notice, the Town Board may have said junk removed and any charges for said removal shall be entered as a special charge on the tax roll.

5.08 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE.

The following statutes following the prefix "5", defining offenses against the peace and good order of the State, are adopted by reference to define offenses against the peace and good order of the Town of Freedom, provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under 15.20 of this Code.

5.48.983	Use of Cigarettes and Tobacco Products Prohibited
5.66.0107	Possess or Attempt to Possess Marijuana (THC)
5.101.123	Clean Indoor Air
5.110.075(7)	Producing / Using Inspection Sticker Fraudulently
5.120.12(20)	Prohibition of Tobacco on School Grounds
5.134.65	Cigarette and Tobacco Products Retail License <i>1st Offense:</i> <i>2nd Offense:</i> <i>3rd Offense:</i>
5.134.66	Restrictions on Sale or Gift of Cigarettes: A Tobacco Product <i>1st Offense - If No Previous Violation Within 12 Months</i> <i>2nd Offense - If Previous Violation Within 12 Months</i>
5.144.42(2)	Pollution by Motor Vehicle / Failure to Repair
5.167.10	Fireworks Regulated
5.218.01(7)(a)	Used Cars / Prohibited Acts
5.218.01(7)(b)	Motor Vehicles / Sale to Minor
5.218.0145	Worthless Checks
5.939.32	Attempt
5.940.19(1)	Battery

5.941.01	Negligent Operation of Vehicle
5.941.10	Negligent Handling of Burning Metal
5.941.12(2)(3)	Interfering with Firefighting
5.941.13	False Alarms
5.941.20	Endangering Safety by Use of Dangerous Weapon
5.941.23	Carrying Concealed Weapon
5.941.235	Carrying Firearm in Public Building
5.941.237	Carrying Handgun where Alcohol Beverage may be Sold or Consumed
5.941.24	Possession of Switch Blade Knife
5.941.26	Machine Gun and Other Weapons: Use in Certain Cases
5.941.2965	Restrictions on Use of Facsimile Firearms
5.941.299	Restrictions on use of Laser Pointers
5.941.35	Emergency Telephone Calls
5.941.36	Fraudulent Tapping of Electric Wires or Gas or Water Meters or Pipes
5.941.37	Obstructing Emergency or Rescue Personnel
5.942.01	Defamation
5.942.03	Giving False Information for Publication
5.942.05	Opening Letters
5.942.06	Use of Polygraphs and Similar Tests
5.942.08	Invasion of Privacy
5.943.01(1)	Criminal Damage to Property (Restitution - <i>Must Appear</i>)
5.943.012	Criminal Damage – Graffiti on Religious or Other Property
5.943.017	Graffiti
5.943.07	Criminal Damage to Railroads
5.943.11	Entry into Locked Vehicle
5.943.125	Entry into Locked Coin Box
5.943.13	Trespass to Land
5.943.14	Criminal Trespass to Dwellings
5.943.145	Criminal Trespass to Medical Facility
5.943.15	Entry onto a Construction Site or into a Locked Building,

	Dwelling or Room
5.943.20	Theft <i>1st Offense:</i> <i>2nd Offense:</i> <i>3rd Offense:</i>
5.943.21	Fraud on Hotel or Restaurant Keeper <i>1st Offense:</i> <i>2nd Offense:</i> <i>3rd Offense:</i>
5.943.215	Absconding without Paying Rent
5.943.22	Use of Cheating Tokens
5.943.225	Refusal to Pay for Motor Bus Ride
5.943.23	Operating a Vehicle Without Owner's Consent
5.943.24	Issue of Worthless Checks
5.943.34	Receiving Stolen Property
5.943.37	Alteration of Property Identification Marks
5.943.38(3)	Forgery
5.943.41(2), (3)(a)-(d), (4)(b), (5), (6)(a), (b), (d)	Financial Transaction Card Crimes
5.943.45	Obtaining Telecommunications Service by Fraud
5.943.455	Theft of Cellular Telephone Service
5.943.46	Theft of Cable Television Service
5.943.47	Theft of Satellite Cable Programming
5.943.50	Retail Theft <i>1st Offense:</i> <i>2nd Offense:</i> <i>3rd Offense:</i>
5.943.55	Removal of Shopping Cart
5.943.61	Theft of Library Material
5.943.70	Computer Crimes
5.944.15	Fornication
5.944.17	Sexual Gratification

5.944.20	Lewd and Lascivious Behavior
5.944.23	Making Lewd, Obscene or Indecent Drawings
5.944.30	Prostitution
5.944.31	Patronizing Prostitutes
5.944.33	Pandering
5.944.34	Keeping Place of Prostitution
5.944.36	Solicitation of Drinks Prohibited
5.945.02	Gambling
5.945.03	Commercial Gambling
5.945.04	Permitting Premises to be Used for Commercial Gambling
5.946.40	Refusing to Aid Officer
5.946.41	Resisting or Obstructing Officer
5.946.42	Escape
5.946.44	Assisting or Permitting Escape
5.946.65	Obstructing Justice
5.946.67	Compounding Crime
5.946.69	Falsely Assuming to Act as Public Officer or Employee
5.946.70	Impersonating Peace Officer
5.946.72	Tampering with Public Records and Notices
5.947.01	Disorderly Conduct
5.947.011	Disrupting a Funeral or Memorial Service
5.947.012	Unlawful Use of Telephone
5.947.0125	Unlawful use of Computerized Communication System
5.947.013	Harassment
5.947.015	Bomb Scare
5.947.02(3)(4)	Vagrancy
5.947.04	Drinking in Common Carriers
5.947.06	Unlawful Assemblies and their Suppression
5.948.015	Other Offenses against Children
5.948.10	Exposing a Sex Organ
5.948.11	Exposing a Child to Harmful Material

5.948.21	Neglecting a Child
5.948.40	Contributing to Delinquency of a Child
5.948.45	Contributing to Truancy
5.948.51	Hazing
5.948.55	Leaving or Storing a Loaded Firearm within the Reach or Easy Access of a Child
5.948.60	Possession of a Dangerous Weapon by a Child (<i>a minor must appear</i>)
	Adult:
5.948.61	Dangerous Weapons on School Grounds (<i>a minor must appear</i>)
5.948.62	Receiving Stolen Property from a Child
5.948.63	Receiving Property from a Child
5.951	Crimes against Animals (<i>All Chapter Violations</i>)
5.951.095	Harassment of Police Animals
5.961.573	Possession of Drug Paraphernalia (<i>Juveniles Only</i>)
5.961.575	Delivery of Drug Paraphernalia (<i>Juveniles Only</i>)

5.09 (RESERVED)

5.10 CURFEW

(1) CURFEW ESTABLISHED:

(a) It shall be unlawful for any minor to loiter in or upon the public streets, public sidewalks, public right-of-ways, roads, alleys, parks, public buildings, private property held open for use by the public, vacant buildings, playgrounds of schools or school grounds in the Town of Freedom, either on foot or in or upon any conveyance being driven or parked thereon, between the hours of 11:00 o'clock P.M. and 5:00 o'clock A. M. of the following day, unless accompanied by his or her parent, guardian or adult person having legal custody or control.

(b) "Loitering" means remaining idle in essentially one location and shall include the concept of spending time idly; to be dilatory; to linger aimlessly; to stay; to saunter; to delay; to stand around, and shall also include the colloquial expression, "hanging around".

(2) EXCEPTIONS:

(a) This Section shall not apply to a child:

1. Who is performing an errand as directed by his parent, guardian or person having lawful custody.
2. Who is on his own premises or in the areas immediately adjacent thereto.
3. Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours.
4. Who is returning home for a supervised school, church or civic function, but not later than sixty (60) minutes after the ending of such function.

(b) These exceptions shall not, however, permit a child to unnecessarily loiter about the streets, alleys or public places or to be in a parked motor vehicle on the public streets.

(3) 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 eighteen (18) to allow or permit such person to violate the provisions of (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 eighteen (18) to violate this Section.

(4) TAKING A CHILD INTO CUSTODY.

(a) 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 Sec. 48.277 of the Wisconsin Statutes. The parent, guardian, legal custodian, or other responsible adult to whom the child is released shall sign a release for the child.

(b) If the child is not released under this Subsection, the officer shall deliver the child to the Outagamie 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 custody and giving any child twelve (12) years of age or older a copy of the statement in addition to giving a copy to the Intake Worker. A juvenile violating these curfews regularly may be warned by an officer on duty in his discretion and sent home in lieu of taking the juvenile into custody.

(c) 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 Sec. 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 Sec. 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 Sec. 48.20(6), Wis. Stats.

(5) WARNING AND PENALTY:

(a) Warning. The first time a parent, guardian, or person having legal custody of a child who is taken into custody by a law enforcement officer as provided in Subsection (4) above, such parent, guardian, or person having such 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.

(b) Penalty. Any parent, guardian or person having legal custody of a child described in Sub-Section (1) above who has been warned in the manner provided in Sub-Section (5)(a) herein and who thereafter violates this section shall be subject to a forfeiture of not less than \$10.00 and not more than \$500.00. 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 Chapter 48, Wis. Stats. Any minor person under sixteen (16) years of age who shall violate this Section shall, upon conviction thereof, forfeit the amount set forth in the Town's fee and bond schedule.

5.11 LOITERING ON SCHOOL PROPERTY.

No person not in official attendance or on official school business shall enter into, congregate, loiter, wander, stroll or play in any school building or in or about any playground area adjacent thereto within the Town between the hours of 8:00 a.m. and 4:00 p.m.

5.12-5.14 (RESERVED)

5.15 REGULATION OF ANIMALS.

(1) LICENSE REQUIRED. No person shall own, harbor or keep any dog more than five months of age on January 1 of any year, or five months of age within the license year, or within 30 days from the date such dog becomes five months of age, without complying with the provisions required under Chapter 174, Wis. Statutes.

The Dog License Fees shall be set by the Town Board and incorporated into the Town of Freedom Fee and Forfeiture Schedule.

Kennel license fees shall be set by the Town Board and incorporated into the Town of Freedom Fee and Forfeiture Schedule. Any person in the Town of Freedom who keeps five or more dogs shall obtain a kennel license.

All dogs kept in the Town of Freedom shall be registered by the Town Clerk as to sex, breed, color, spayed or unspayed, neutered or unneutered, name of dog, and name, address and phone number of the owner. At the time of such registration, such owner shall obtain a license, a duplicate copy of which shall be kept on file by the Town Clerk and shall pay a fee as already outlined in this ordinance, and receive a numbered license tag. It shall be the duty of said owner to cause such license tag to be securely attached to the dog's collar or harness and kept there at all times. A new tag with a new number shall be furnished to the licensee by the Town Clerk in place of the original tag on presentation of the license and proof of the loss of the original tag, and the Town Clerk shall keep a record thereof upon the register.

The license year shall commence on January 1 and end on the following December 31. The Town Clerk shall be a designee of the Town Board, and shall have full authority: (a) to register all dogs, (b) to make collection of all dog license fees and penalties and (c) to carry out the provisions of this ordinance.

Dog registration and licensing shall begin on January 1 and end on the following December 31. If the owner of a dog negligently or otherwise permits the dog to be untagged, such owner shall forfeit the amount set forth in the Town's fee and bond schedule.

(2) License Exemption. The only exemption to the requirement for licensing is a service dog specially trained to lead blind, deaf or disabled persons, and the owner of such dog shall receive annually a free license for such dog from the Town Clerk/Deputy Clerk upon application therefore and verification thereof.

(3) Requirements for Keeping of Dogs.

A. No person shall own, harbor or keep any dog which: (i) is off the premises of its owner without being securely fastened to a leash held and under control of its owner or agent, (ii) kills any domestic animal, or (iii) assaults or attacks any person off its premises.

B. Any licensed, unrestrained dog running at large shall be seized and impounded by Town Police in accordance with Section 174.042 Wisconsin Statutes for no more than 24 hours, during which time the registration records shall be searched to determine ownership. Upon determination of ownership, the Town Police shall attempt to notify such owner by telephone or personally, using reasonable effort, and such dog owner shall pick up the dog before the end of the 24 hours. Before the police shall deliver the dog over to the owner, such owner shall pay a \$25.00 penalty for each offense, to the Town of Freedom.

C. Any unlicensed, unrestrained dog running at large shall be seized by the Town Police and taken immediately to the County pound. The fact that a dog is without a license attached to a collar or harness shall be presumptive evidence that the dog is unlicensed, unless it affirmatively appears that a tag had been properly attached to the collar or harness of the dog and had been lost or removed without the knowledge or consent of the owner. In such event, the Police officer shall make a reasonable effort to ascertain and notify the owner.

Before the Town Police shall deliver any dog described in this Section 3-C over to its owner, such owner shall pay a forfeiture as set forth in the Town schedule for each offense and also obtain a license for such dog, if such owner cannot present evidence of a current license all payable to the Town of Freedom and collectible by the Town Police.

D. Every dog owner shall have his/her dog(s) vaccinated against rabies as required by Section 95.21 Wis. Stats., and shall present the certificate of vaccination as evidence of such vaccination to the Town Clerk/Deputy Clerk before a dog license shall be issued.

E. No owner shall permit a dog under their direct control to defecate on someone else's property without immediately taking steps to remove the dog feces from said property.

(4) Restrictions on Keeping Dogs, Cats, Fowl and Other Animals within the Town of Freedom.

A. Restrictions. It shall be unlawful for any person within the Town of Freedom to own, harbor or keep any dog, cat, fowl or other animal which:

- (1) Habitually pursues motor vehicles, bicycles or pedestrians upon any public street, alley or highway in the Town.
- (2) Assaults or attacks any person or destroys property.
- (3) Is at large within the limits of the Town.

(4) Habitually barks or howls to the annoyance of any person or persons.

(5) Kills, wounds or worries any domestic or wild animal.

(6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.

(7) In the case of a dog, is unlicensed.

B. Vicious dogs and animals.

(1) No vicious dog or other animal shall be allowed off the premises of its owner-unless muzzled or on a leash in charge of the owner or a member of the owner's immediate family over the age of sixteen (16). For purposes of enforcing this Section, a dog shall be deemed as being of a vicious disposition if within any twelve (12) month period it bites two (2) or more persons or inflicts serious injury to one (1) person in unprovoked circumstances off the owner's premises. Any vicious dog which is found off the premises of its owner other than as hereinabove provided, may be seized by any person and, upon delivery to the proper authorities, may, upon establishment to the satisfaction of a court of competent jurisdiction of the vicious character of said dog, by testimony under oath reduced to writing, be destroyed.

(2) No person shall harbor or permit to remain on his premises, any animal that is habitually inclined toward attacking persons or animals, destroying property, barking excessively or making excessive noises or running after motorized vehicles, bicycles or lawful pedestrians.

C. Animals running at large.

(1) No person having in his possession or ownership any animal or fowl shall allow the same to run at large within the Town. The owner of any animal or fowl, whether licensed or unlicensed, shall keep his animal or fowl tied or enclosed in a proper enclosure so as not to allow said animal to interfere with the passing public or neighbors. Any animals or fowl running at large unlicensed and required by state law or Town Ordinance to be licensed shall be seized and impounded by a humane or law enforcement officer.

(2) A dog or cat shall not be considered running at large if it is on a leash and under the control of a person physically able to control the animal.

D. Owner's liability for damage caused by dogs or cats; penalties.

The provisions of Sec. 174.02, Wis. Stats., relating to the owner's liability for damage caused by dogs or cats, together with the penalties therein set forth, are hereby adopted and incorporated herein by reference.

(5) Animal Feces.

The owner or person in charge of any dog or other animal shall not permit solid fecal matter or urine of such animal to deposit on any street, alley or other public or private property, unless such matter is immediately removed therefrom by said owner or person in charge of such animal.

This Section shall not apply to owners of service dogs.

(6) Injury to Property by Animals.

It shall be unlawful for any person owning or possessing a dog, cat, bird or other animal to permit such dog, cat, bird or other animal to go upon any parkway or private lands or premises without the permission of the owner of such premises, and break, bruise, destroy or injure any lawn, flower bed, plant, shrub, tree or garden, in any manner whatsoever, or to defecate or urinate thereon.

(7) Dog, Cat or Animal Vocal Disturbance.

It shall be unlawful for any person to knowingly keep or harbor any dog, cat or other animal which habitually barks, howls, yelps or makes any other audible noises to the discomfort of the peace and quiet of the neighborhood or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs, cats and other animals are hereby declared to be a public nuisance. Any animal is considered to be in violation of this Section when two (2) formal, written complaints are filed with the Police Department within a four (4) week period.

(8) Prohibited and Protected Animals, Fowl, Reptiles and Insects.

A. Protected Animals.

(1) Possession and Sale of Protected Animals. It shall be unlawful for any person, firm or corporation, to possess with intent to sell or offer for sale, or buy or attempt to buy, within the Town, any of the following animals, alive or dead, or any part of product thereof: all wild cats of the family felidae, polar bear (*thalarctos maritimus*), red wolf (*canis niger*), vicuna (*vicugna vicugna*), or alligator, caiman or crocodile of the order of crocodilia, gray or timber wolf (*canis lupus*), sea otter (*enhydra lutris*), Pacific ridley turtle (*lepodochelys olivacea*), Atlantic green turtle (*chelonina mydas*), Mexican ridley turtle (*lepodochelys kempii*).

(2) Compliance with Federal Regulations. It shall be unlawful for any person, firm or corporation, to buy, sell or offer for sale, a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 91st Congress).

(3) Regulating the Importation of Certain Birds. No person, firm or corporation, shall import or cause to be imported into this Town, any part of the plumage, skin or dead body of any species of hawk, owl or eagle. This paragraph shall not be construed to forbid or restrict the importation or use of the plumage, skin, body or any part thereof legally collected for use by the American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.

B. Exceptions. The provisions of Subsection (a) above shall not be deemed to prevent the lawful importation, possession, purchase or sale of any species by any public agency, institute of higher learning, persons holding federal permits, or by a person holding a Scientific Collectors Permit issued by the Secretary of the Department of Natural Resources of the state, or to any person or organized licensed to present a circus.

C. Wild Animals; Prohibition on Keeping. It shall be unlawful for any person to keep, maintain or have in his possession or under his control within the Town, any poisonous reptile or any other dangerous or carnivorous wild animal, insect or reptile, any vicious or dangerous domesticated animal or any other animal or reptile with wild, vicious or dangerous propensities. Specifically, it shall be unlawful for any person to keep, maintain or have in his possession or under his control within the Town, any of the following animals, reptiles or insects:

- (1) All poisonous animals and reptiles including rearfang snakes.
- (2) Apes: Chimpanzees (Pan); gibbons (Hylobates); gorillas (Gorilla); orangutans (Pongo); ans siamangs (Symphalangus).
- (3) Baboons (Papoi, Mandrillus).
- (4) Bears (Ursidae).
- (5) Cheetahs (Acinonyxjubatus).

- (6) Crocodiles (Crocodylia), thirty (30) inches in length or more.
- (7) Constrictor snakes, six (6) feet in length or more.
- (8) Coyotes (*Canis latrans*).
- (9) Elephants (*Elephas* and *Loxodonta*).
- (10) Game cocks and other fighting birds.
- (11) Hippopotami (Hippopotamidae).
- (12) Hyenas (Hyaenidae).
- (13) Jaguars (*panthera onca*).
- (14) Leopards (*Panthera pardus*).
- (15) Lions (*Panthera leo*).
- (16) Lynxes (*Lynx*).
- (17) Monkeys, old world (Cercopithecidae).
- (18) Piranha fish (Characidae).
- (19) Pumas (*Felis concolor*); also known as cougars, mountain lions and panthers.
- (20) Rhinoceroses (*Rhinocero tidae*).
- (21) Sharks (class Chondrichthyes).
- (22) Snow leopards (*Panthera uncia*).
- (23) Tigers (*Panthera tigris*).
- (24) Wolves (*Canis lupus*).
- (25) Poisonous insects.
- (26) Except in properly zoned districts: horses, mules, ponies, donkeys, cows, pigs, goats, sheep, chickens or any animal raised for fur-bearing purposes unless otherwise permitted elsewhere in this Code.

D. Exceptions: Pet Shops. The prohibitions of Subsection (c) above shall not apply where the creatures are in the care, custody or control of: a veterinarian for treatment; agricultural fairs; shows or projects of the 4-H Clubs; a display for judging purposes; an itinerant Of transient carnival, circus or other show; dog or cat shows or trials; public or private educational institutions; licensed pet shops; zoological gardens, if:

- (1) Their location conforms to the provisions of the zoning ordinance of the Town.
- (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
- (3) Animals are maintained in quarters so constructed as to prevent their escape.
- (4) No person lives or resides within one hundred (100) feet of the quarters in which the animals are kept.

(9) Providing Proper Food and Drink to Confined Animals and Fowl.

A. No person owning or responsible for confining or impounding any animals or fowl may refuse or neglect to supply the animals or fowl with a sufficient supply of food and water as prescribed in this Section.

B. The food shall be sufficient to maintain all animals or fowl in good health.

C. If potable water is not accessible to the animals or fowl at all times, it shall be provided daily and in sufficient quantity for the health of the animals or fowl.

(10) Providing Proper Shelter.

A. Proper shelter. No person owning or responsible for confining or impounding any animal or fowl may fail to provide the animal or fowl with proper shelter as prescribed in this Section. In the case of farm animals, nothing in this Section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or fowl is located.

B. Indoor standards. Minimum indoor standards of shelter shall include:

(1) Ambient temperatures. The ambient temperature shall be compatible with the health of the animal or fowl.

(2) Ventilation. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animal or fowl at all times.

C. Outdoor standards. Minimum outdoor standards of shelter shall include:

(1) Shelter from sunlight. When sunlight is likely to cause heat exhaustion of an animal or fowl which is tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.

(2) Shelter from inclement weather.

(a) Animals and fowl generally. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal or fowl.

(b) Dogs. If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate and shelter the dog shall be provided.

D. Space standards. Minimum space requirements for both indoor and outdoor shelters shall include:

(1) Structural strength. The housing facilities shall be structurally sound and maintained in good repair to protect the animal and fowl from injury, and to contain the animal or fowl.

(2) Space requirements. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal or fowl adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

E. Sanitation standards. Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excrement and other waste materials, dirt and trash, so as to minimize health hazards to the animal or fowl.

5.16 COMPRESSION BRAKING PROHIBITED.

No person shall, within the Town, use motor vehicle brakes which are in any way activated or operated by the compression of the engine of a motor vehicle (compression brakes, e.g. “jake brakes” or Jacobs brakes), or any unit or part thereof, except in an emergency situation.

5.17 ATV REGULATIONS.

(1) Purpose. The Town of Freedom, Outagamie County, Wisconsin (“Town”) hereby adopts the following all-terrain vehicle (ATV) and utility terrain vehicle (UTV) routes upon roadways listed in Section 3. Following due consideration of the recreational value to connect trail opportunities and weighed against possible dangers, public health, liability aspects, terrain involved, traffic density and automobile traffic volume, these routes have been created.

(2) Authority. The routes are created pursuant to town authority as authorized by §23.33(8)(b) of the Wisconsin Statutes. The applicable provisions of §23.33 regulating ATV/UTV operations pursuant to routes and trails are adopted.

(3) Routes and Trails. The Town of Freedom reserves the right to close or modify routes and trails at any time. Routes and trails shall be subject to the following:

- (a) Any restriction of trails and routes shall be designated by majority vote of the Town Board and shall be marked accordingly.
- (b) The Town or its designee shall maintain all route and trail signs within the Town.
- (c) All ATV/UTV routes and trails should be signed in accordance with NR 64.12, and NR64.12(7)(c).
- (d) All Town roads, sidewalks, alleyways and transportation marked corridors within the Town are hereby designated as ATV/UTV routes. Authorized private lands subject to public easement or leases are designated trails. All county roadways located in the Town are hereby declared as ATV/UTV routes, if authorized by the County of Outagamie, and all state highways in the Town are declared as ATV/UTV routes, if authorized by the State of Wisconsin.
- (e) The Town shall maintain a route and trail map.

(4) Conditions. All ATV/UTV operators on Town routes must comply with the following condition:

- (a) ATV/UTV operators shall observe posted roadway speed limits.

- (b) ATV/UTV operators shall ride single file, and cannot ride on the shoulder of the road.
- (c) ATV/UTV operators shall observe all laws of this state pertaining to the use of an ATV/UTV.
- (d) ATV/UTV operators must have a valid driver's license.
- (e) ATV/UTV operators under the age of 18 must wear a helmet.
- (f) ATV/UTV operators cannot ride on any route or trail from midnight to 5 a.m., unless they are engaged in snow plowing.
- (g) ATV/UTV operators must have headlights and taillights on while operating on any Town route or trail, and must operate with a muffler that falls within the legal decibel limits.

(5) Enforcement. This ordinance shall be enforced by any law enforcement officer authorized to enforce the laws of the State of Wisconsin.

(6) Penalties. Wisconsin state ATV/UTV penalties as found in §23.33(13)(a) of the Wisconsin Statutes are adopted by reference.

(Amended: 9 September 2019; Ord. No. 19-01)

5.18-5.29 (RESERVED)

5.30 TRUANCY OFFENSES.

(1) DEFINITION. For purposes of this section, the following terms shall have the following meaning:

A. TRUANT, means a pupil who is absent from school without an acceptable excuse under Sections 118.15 and 118.16(4), Wis. Stats, as from time to time may be amended, for all or part of any day on which school is held during a semester.

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

C. TRUANCY, means any absence of part of all of one or more days from school during which the attendance officer, principal, or teacher, has not been notified of a legal excuse of such absence by the parent or legal guardian of the absent pupil.

(2) PENALTIES.

A. Any pupil under the age of eighteen (18) years of age found by the Court to be truant shall be subject to one or more of the following:

1. An order for the pupil to attend school.

2. Subject to Section 938.37, Wis. Stats., a forfeiture of not more than \$50 plus costs for the first violation, or a forfeiture of not more than \$100 plus cost for any second or subsequent violation committed within twelve (12) months of the previous violation up to a cumulative maximum of not more than \$500 for all violations committed during a school semester.

3. All or part of the forfeiture plus costs may be assessed against the pupil, the pupil's parent(s) or guardian(s), or both.

B. Any pupil under the age of eighteen (18) years of age found by the Court to be a habitual truant shall be subject to one or more of the following:

1. Suspension of the pupil's operating privilege for not less than thirty (30) days or more than one year. If this penalty is imposed, the Court shall immediately take possession of any suspended license and forward it together with a notice stating the reason for and the duration of the suspension;

2. An order for the pupil to participate in counseling, a supervised work program, or other community services as described in Section 938.34(5g), Wis. Stats. The costs of any such counseling, supervised work program, or other community service work may be assessed against the pupil, the parent(s) or the guardian(s) of the pupil, or both;

3. An order for the pupil to remain at home except during the hours in which the pupil is attending religious worship or travel time required to get to and from the place of worship or school program (the order may permit the pupil to leave his/her home if the pupil is accompanied by a parent or guardian);

4. An order for the pupil to attend an educational program as described in Section 938.34(7b), Wis. Stats.;

5. An order for the pupil to attend school;

6. Subject to Section 934.37, Wis. Stats., a forfeiture of not more than \$500 plus costs for each occurrence. All or part of the forfeiture

plus costs may be assessed against the pupil, the pupil's parent(s), or guardian(s) of the pupil, or both;

7. Any other reasonable conditions consistent with this subsection, including curfew, restrictions as to going or remaining on specified premises and restrictions on associating with other children or adults;

8. An order placing the pupil under formal or informal supervision as described in Section 938.34(2), Wis. Stats., for up to one (1) year;

9. An order for the pupil's parent, guardian, or legal custodian's own expense, or to attend the school with the pupil, or both.

(3) CONTRIBUTING TO TRUANCY

A. Except as provided in sub (B) below, any person eighteen (18) years of age or older who by act or omission knowingly encourages or contributes to the truancy of a pupil shall be subject to the forfeiture of not more than \$200 plus costs, and upon default of the payment of the forfeiture on the costs of the prosecution, shall be imprisoned in the County Jail until said forfeiture and costs are paid but not to exceed ninety (90) days.

B. An act or omission contributes to a truancy of a pupil whether or not the pupil 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 pupil to be truant.

5.31-5.39 (RESERVED)

5.40 POSSESSION OF DANGEROUS WEAPONS AND FIREARMS.

(1) Firearms in Public Buildings.

(a) Pursuant to §943.13(1m)(c)4. of the Wisconsin Statutes, no person shall enter or remain in any part of a building owned, occupied or controlled by the State or local governmental unit if the State or local governmental unit has notified the person not to enter or remain in the building while carrying a firearm or a specific type of firearm.

(b) The Town Chairman shall cause signs to be erected at all entrances to all buildings owned, occupied or under the control of the Town of Freedom providing notice that no person, including employees of volunteers providing service to the Town are to enter or remain in any such building while carrying a firearm. Such signs shall be five inches by seven inches or larger.

(c) Nothing in this subsection shall be construed to apply to prohibit a peace officer or armed forces or military personnel armed in the line of duty or any person duly authorized by the Chief of Police to possess a firearm in any public building.

(d) Nothing in this subsection shall be construed to authorize the carrying of any firearm or dangerous weapon contrary to §§941.23 or 941.235 of the Wisconsin Statutes.

(2) Discharge of Dangerous Weapons

Subject to the provisions of §175.60 of the Wisconsin Statutes, no person shall wear, conceal about his person or display in a threatening manner, any dangerous weapon or firearm, and no person, except an authorized peace officer, shall discharge any dangerous weapon or firearm or have any dangerous weapon or firearm in his possession within the Town unless it is unloaded, knocked down and enclosed in a carrying case or other suitable container, and except as follows:

(a) The Board may issue permits to an organized gun club to engage in target practice within the Town at times and places designated by the Chief of Police.

(b) The Chief of Police may issue permits to persons employed by armored car services allowing them to carry firearms while engaged in such employment.

(c) The permit shall be issued annually and shall be valid for the period from and including April 1 of one year to and including March 31 of the following year.

(d) The cost of the permit shall be \$15.00 per year, or any part thereof.

(e) The Chief of Police shall establish standards and requirements to qualify persons for the permit or any renewal thereof.

(f) The permit shall be subject to revocation at any time upon conditions to be established by the Chief of Police.

(g) Any person engaged in hunting for big game, small game, or birds of any nature; provided the person complies with all applicable hunter safety regulations promulgated by the Wisconsin Department of Natural Resources; and any person sighting a gun, or using an air gun, BB gun or pellet gun for target practice, provided they are at least 100 yards from any inhabited structure and are using a safe shooting background during daylight hours.

Definitions: The following terms shall have the meanings indicated:

(1) Dangerous weapon: (See §939.22(10), Wis. Stats.) Includes, without limitation by enumeration, a firearm, pea-shooter, slingshot, bow made for throwing or projecting arrows or other missiles, taser or stun-gun, nunchiku,

cross-knuckles or knuckles of lead, brass or other metal, or any knife with a switch blade or device whereby the blade can be opened by a button, pressure on the handle or other mechanical contrivance.

(2) Firearm. Includes, without limitation by enumeration, a rifle, shotgun, pistol, revolver, air gun, BB gun or pellet gun, whether called by one of the foregoing names or any other name.

(3) Peace officer. (See §939.22(22) Wis. Stats.)

5.41 (RESERVED).

5.42 THROWING OR SHOOTING MISSILES AND PROJECTILES.

No person shall throw or shoot any object, stone, snowball or other missile or projectile, by hand or by any other means, at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the Town.

5.43 URINATING OR DEFECATING IN PUBLIC.

No person shall urinate or defecate outside of designed sanitary facilities, upon any sidewalk, street, alley, public parking lot, park, playground, cemetery, or other public area within the Town, or upon any private property in open view of the public, in the halls, rooms without rest room facilities, stairways or elevators of public or commercial buildings.

5.44 OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED.

No person shall stand, sit, loaf, loiter or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the Town in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon, or prevent or hinder free ingress to or egress from any place of business, amusement, church, public hall or public meeting place.

5.45 LOUD AND UNNECESSARY NOISE PROHIBITED.

No person shall make, or cause to be made, any loud, disturbing or unnecessary sounds or noises which may annoy or disturb a person of ordinary sensibilities in or about any public street, alley or park, or any private residence.

5.46 LOITERING.

(a) Loitering or prowling prohibited - generally: 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 the appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this subsection, afford the person an opportunity to dispel any alarm which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this subsection if the police or peace officer did not comply with the preceding condition, or if it appears at trial that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.

(b) Obstruction of traffic by loitering. No person shall loaf or loiter in a group or crowd upon the public streets, alleys, sidewalks, street crossings or bridges, or in any other public place within the Town, in such a manner as to prevent, interfere with or obstruct the ordinary free use of such public streets, alleys, sidewalks, street crossings or bridges, or other public places, by persons passing along and over the same.

(c) Loitering after being requested to move.

(1) In groups or crowds. No person shall loaf or loiter in a group or a crowd upon the public streets or sidewalks, in adjacent doorways or entrances, on street crossings or bridges, or in any other public place, or on any private premises without invitation from the owner or occupant thereof, after being requested to move by any police or peace officer, or any person in authority at such places.

(2) In places of public assembly or use. No person shall loiter, lounge or loaf in or about any depot, theater, dance hall, restaurant, store, public sidewalk, public parking lot or other place of assembly or public use, after being requested to move by any police or peace officer. Upon being requested to move, a person shall immediately comply with such request by leaving the premises and area thereof

(3) Obstructing highways. No person shall obstruct any street, bridge, sidewalk or street crossing by lounging or loitering in or upon the same after being requested to move on by any police or peace officer.

(d) Loitering in school and playground areas. No person not in official attendance or on official school business shall enter into, congregate, loiter, wander, stroll, stand or play in any school building, or in or about any playground area adjacent thereto, within the Town, on official school days.

5.47 (RESERVED)

5.48 (RESERVED)

5.49 LITTERING PROHIBITED.

(a) No person shall throw, deposit, place or dump any glass, refuse, waste, filth, tires, wood waste, grass clippings, weeds, shingles, waste from cement trucks, or any other litter upon the streets, alleys, highways, public parks or other property of the Town, or upon any private property not owned by them, or upon the surface of any body of water within the Town.

(b) No person shall place anything in a privately owned dumpster not owned by them.

(c) No person shall place non-recyclables at a recycling center or in a recycling receptacle.

5.50 OBEDIENCE TO OFFICERS.

No person shall resist or interfere with any police or peace officer in the Town while such police or peace officer is doing any act in his official capacity and with lawful authority, nor shall any person refuse to assist a police or peace officer in carrying out his duties when so requested by the officer.

5.51 OPEN CISTERNS, WELLS, BASEMENTS OR OTHER DANGEROUS EXCAVATION.

No person shall have or permit on any premises owned or occupied by him, any open cistern, cesspool, well, unused basement, excavation or other unsecured opening. All such places shall be filled, securely covered or fastened in such manner as to prevent injury to any person. Any cover or fastener used shall be of such design, size and weight that the same cannot be removed or dislodged by small children.

5.52 ABANDONED OR UNATTENDED APPLIANCES.

No person shall leave or permit to remain outside any dwelling, building or other structure, or within any unoccupied or abandoned dwelling, building or other structure, or on any vacant or undeveloped property, under his control and in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator, upright or chest freezer, oven or any other appliance or container having an airtight door or lid, snap lock or other locking device which may not be released from the inside, unless such door or lid is removed from such appliance or container, or unless such container is displayed for sale on the premises of the owner or occupant and is securely closed and rendered inaccessible while unattended.

5.53 (RESERVED).

5.54 USE OF OFF ROAD MOTORIZED VEHICLES.

(a) Definitions. An "off road motorized vehicle" is defined as a motorized vehicle not licensed by the State of Wisconsin for operation on highways.

(b) Restriction. No person shall operate any motorized vehicle on any place other than a public roadway in the Town, except as follows:

(1) A person may operate an off road motorized vehicle on land owned by the operator thereof, or a member of his family, or a person having obtain explicit permission of the land owner.

(2) A person may operate an off road motorized vehicle on undeveloped private property in the Town provided that, at the time of operation, the person has on his person written permission from the owner of the property to operate such motorized vehicle on such private property.

(3) The operation of off road motorized vehicles is prohibited on all publicly-owned property in the Town, except duly designated highways, streets or roadways, or crossings thereof.

(c) Use of Off-Road Motorized Vehicles to Provide Access for persons with disabilities.

(1) Purpose. The Town Board, Town of Freedom, Outagamie County, following due consideration, deems it to be in the public interest to provide recreational opportunities for persons with disabilities, as defined at Section 340.01(43g) of the Wisconsin Statutes, and therefore establishes transportation routes for such persons, pursuant to this ordinance, to allow access to public parks, facilities and trails.

(2) Statutory Authority. The routes are created pursuant to Town authority under Sections 349.10(1)(e); 349.18(1)(b); 349.23; and 349.236 of the Wisconsin Statutes. To the extent necessary to accomplish the implementation of the routes, the provisions of the above statutory sections are hereby adopted by reference. In the event that any provision of this ordinance is inconsistent, or conflicts with such statutes or any of them, that statute, and not this ordinance, shall control and be applied.

(3) Conditions.

(a) Speed. No person shall operate an off-road motorized vehicle within the Town of Freedom, on any trail, street, or other public way, at a speed in excess of any posted speed limit. Any off-road motorized vehicle which is not able to obtain the speed of 25 mph. must display a slow-moving vehicle sign as required in Section 347.245(1) of the Wisconsin Statutes.

(b) Equipment Requirements. No off-road motorized vehicle may be operated on any street within the Town of Freedom unless it conforms to all noise,

registration and other equipment requirements as stated in the Wisconsin Statutes or the Municipal Code of the Town of Freedom.

(c) Headlight and Taillight. Every off-road motorized vehicle operating within the Town, upon any public street, must display lighted headlights and taillights at all times, day or night. Headlights shall be of a white or clear light and must be capable of illuminating the road ahead during hours of darkness and be observed at a distance of 500 feet. Headlights must be properly adjusted, so as not to interfere with the operation of other vehicles on the roadway. Taillights shall be red in color and be observable to a distance of 500 feet at night.

(d) Operation in Parks and on Trails. No person shall operate an off-road motorized vehicle within any public park or on any public trail at a speed of more than 10 mph. When traveling on trails or paved pathways within parks, the operator of the off-road motorized vehicle shall yield the right-of-way to pedestrian traffic and shall use the most direct route from any trail or paved pathway to their destination.

(e) Restrictions on Operators of Off-Road Motorized Vehicles. No person shall operate an off-road motorized vehicle on any Town road, public park or trail unless such person shall have a valid motor vehicle operator's license.

(4) Routes. Except as provided in the Wisconsin Statutes, or as stated herein, no person shall operate any off-road motorized vehicle upon any public street, in any public park, on any public trail or on any other public or private property in the Town except upon routes and trails designated by the Town Board. No person may operate an off-road motorized vehicle for any reason on the following streets: (1) any State or County highway, unless for the purpose of crossing said State or County highway to access a designated route; (2) any street where operation is prohibited by a posted sign.

5.55 TRESPASSING IN VEHICLES.

No person shall enter a motor vehicle, aircraft or watercraft, or any part thereof, belonging to another person without the express consent of the person in lawful possession of the motor vehicle, aircraft or watercraft.

5.56 (RESERVED)

5.57 FRAUDULENT RETURN OF MERCHANDISE.

No person shall return merchandise to a merchant for the purpose of claiming a cash refund or credit if the person deceives the merchant by doing any of the following:

(a) Represents that such person purchased the merchandise when the person did not purchase it.

(b) Represents that merchandise was purchased from a particular merchant when it was not purchased from that merchant.

(c) Represents that the merchandise was purchased for a particular price when it was purchased for a lower price.

(d) Gives a merchant a false name or address.

5.58 POSSESSION OF CIGARETTES AND TOBACCO PRODUCTS BY MINORS.

(a) No person under 18 years of age may purchase or possess any cigarette or tobacco product.

(b) Any person under 18 years of age may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment, during working hours if employed by a retailer licensed under §134.65(1), Wis. Stats.

(c) Persons under 18 years of age found purchasing or in the possession of cigarettes or tobacco products shall be penalized in accordance with the Town fee and bond schedule.

(d) Cigarette and tobacco product vending machines.

(1) No retailer may place a cigarette or tobacco product vending machine within 500 feet of a school.

(2) If, at the time this Section is enacted, a written agreement binding on a cigarette or tobacco product vending machine operator governs the location of his vending machine which is located within 500' of a school, the vending machine operator shall remove the vending machine on the date the written agreement expires, or is scheduled to be renewed.

(3) No retailer may keep a cigarette or tobacco product vending machine in any public place that is open to persons under 18 years of age, unless ALL of the following apply:

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

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

(4) The retailer, or the person designated by the retailer to ultimately control, govern and direct the activities within the premises where the cigarette or tobacco product vending machine is located, shall ensure that an employee of

the retailer remains in the immediate vicinity, plain view and control of the vending machine whenever the premises are open.

(5) A cigarette or tobacco product vending machine operator shall remove all such vending machines that are located in any place prohibited by this Section within sixty (60) days after the effective date of this Section.

(6) The penalty violations of this Section shall be \$200, plus costs, per occurrence.

5.585 ELECTRONIC NICOTINE DELIVERY SYSTEMS AND ELECTRONIC SMOKING DEVICES. [Amended 02-25-2015 by Ord. No. 15-03]

(a) Findings. The Town Board of the Town of Freedom finds that:

(1) Electronic nicotine delivery systems (ENDS) and electronic smoking devices provide an alternative smoking experience to tobacco cigarettes. Electronic smoking devices are not subject to regulation by the Federal Food and Drug Administration (FDA) and have not been proven safe for either users or bystanders. The contents of cartridges vary widely and may contain nicotine, traces of nicotine, carcinogens, formaldehyde, antifreeze and other toxic substances which may pose health risks for users and bystanders. Electronic smoking devices do not produce a gas or vapor but rather a dense visible aerosol of liquid submicron droplets consisting of glycols, nicotine, and other chemicals, some of which are carcinogenic. Packaging does not consistently include health warnings as required for conventional cigarettes and does not provide notice of harmful effects, nicotine concentration levels, or the existence or content levels of toxic substances.

(2) Electronic smoking devices have been proven to emit nicotine, ultra-fine particles, volatile organic compounds and other toxins. Inhalation of nicotine is proven to be dangerous to everyone, especially children and pregnant women. Exposure to ultrafine particles are distressing and harmful and may exacerbate respiratory illnesses, such as asthma and may constrict arteries which could trigger a heart attack. The volatile organic compounds, such as formaldehyde and benzene, found in electronic smoking device aerosols, as well as conventional cigarette smoke, are proven carcinogens. Inhalation of vaporized nicotine in propylene glycol is not FDA approved. Short term exposure to propylene glycol causes eye, throat, and airway irritation and long term inhalation can result in developing asthma. Some studies show that heating propylene glycol changes its chemical composition, producing small amounts of propylene oxide, a known carcinogen. There are metals in electronic smoking device aerosol, including chromium, nickel and tin nanoparticles.

(3) Youth in particular may be more vulnerable to the marketing and appeal of electronic smoking devices and may migrate from these devices to conventional cigarettes and tobacco products. Electronic smoking devices which contain nicotine can create or sustain a nicotine addiction. Nicotine is an addictive and harmful substance. Electronic smoking devices can pose health risks from which minors should be protected. Access to these substances and devices by youth should be restricted.

(b) Purpose and Authority. The ordinance is adapted for the purpose of protecting the public health, safety, comfort and general welfare of the people of the Town of Freedom. This ordinance is adapted under the authority of Wis. Stat. sec. 101.123(4m).

(c) Definitions. Except as set forth below, the definitions of Wis. Stat., sec. 101.123(1) are hereby adopted. In this section:

"Town buildings" and "Town property" mean all Town owned or operated buildings and those portions of buildings leased or operated by the Town, and municipal property such as motor vehicles.

"Electronic smoking device" means any product containing or delivering nicotine or any other similar substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. "Electronic smoking device" includes any component part of such product whether or not sold separately. The term shall include such devices whether they are manufactured as electronic cigarettes, electronic cigars, electronic pipes or any other product name. "Electronic smoking device" is not included in any product that has been approved by the United States Food and Drug Administration (FDA) for sale as a tobacco cessation product or is being marketed and sold solely for approved purposes.

"Smoking" includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form or the use of any oral smoking device.

(d) Prohibition Against Smoking In Town Buildings and Town Property. No person may smoke in City buildings or motor vehicles.

(e) Sale of Electronic Smoking Devices to Persons Under the Age of 18. No person shall sell or offer for sale or provide for nominal or no consideration any electronic smoking device to any person under 18 years of age.

- (f) Possession of Electronic Smoking Device by Persons Under the Age of 18. No person under 18 years of age shall possess or use any electronic smoking device.
- (g) Declaration of Establishments, Restaurants and Tavern as Smoke Free. A manager, operator, owner or other person in control of any establishment, restaurant or tavern may prohibit smoking within the meaning of this chapter in said establishment, restaurant or tavern or in any portion, including outdoor areas under its control. Such declaration shall be noticed to patrons by conspicuous signage and shall be enforceable in the same manner as any other violation of this chapter.
- (h) Severability. Interpretation. Each section, paragraph, sentence, clause, word, and provision of this ordinance is severable, and if any such section or provision shall be held unconstitutional or invalid for any reason, such decision(s) shall not affect the remainder of the chapter nor any part thereof other than that affected by such decision.
- (i) Interpretation. Whenever the provisions of the Wisconsin Statutes and this chapter conflict, the provisions of this chapter shall apply.
- (j) Penalty.
 - (1) Any person who violates provisions of this section shall pay a forfeiture in accordance with the Town of Freedom Fee and Forfeiture Schedule.
 - (2) Any person in charge who violates Wis. Stat. Sec. 101.123(2m) shall pay a forfeiture in accordance with the Town of Freedom Fee and Forfeiture Schedule.

5.59 MISUSE OF STATEWIDE EMERGENCY SERVICES NUMBER (911).

The Town hereby adopts §146.70, Wis. Stats. Any person who intentionally dials the statewide emergency services number -- 911 -- to report an emergency, knowing in fact that the situation which he or she reports does not exist, shall be fined in accordance with the Town Bond Schedule.

5.60 HARBORING A MINOR WITHOUT PARENTAL CONSENT.

Any owner, tenant or person in control of a residence or other facility shall not allow or permit a child under the age of 18 to loiter, idle or remain in such residence or facility, or upon such property, without the consent of the child's parent or legal guardian.

5.61 TRESPASS TO BUILDINGS, STRUCTURES OR BUSINESS.

(a) No person shall enter any building, structure, business or property of another without the permission of the owner or person apparently in charge of the building, structure, business or property.

(b) Permission to enter shall be presumed when the building, structure, business or property is normally open to the public. Permission may, however, be specifically Withdrawn by the owner or person apparently in charge of the building, structure, business or property at any time.

(c) No person shall climb any utility pole within the Town, unless the person has been duly authorized by the Town and/or the utility. No person shall remove or attempt to remove from any utility pole, any Town property including, without limitation, flags and decorations, unless the person has been duly authorized by the Town and/or the utility.

5.62 DAMAGE TO CURBS.

No person shall run a vehicle over a curb in the Town, unless that curb shall have been properly blocked or ramped to ensure no damage to the curb. Properly blocked means adequately covered behind the curb with crushed stone to a sufficient depth to protect the back of the curb, and a 4x4 planking in front of the curb. All tires crossing the curb shall be supported in this manner. This requirement may be waived by the Town Board for good cause shown.

5.63 CONSTRUCTION PRACTICES WITHIN THE TOWN.

(a) Preamble. The Town wishes to protect its citizens, pedestrians, motor vehicles, streets, curbs, sewers and sidewalks injury or damage due to construction debris and activity, during construction projects and after their completion. This Section is enacted to require proper construction practices to assure such protection.

(b) Mud, dust, brush, stumps, etc. No general contractor, building permit holder or owner, or anyone acting under them, shall cause, maintain or permit the littering of any public or private property, or public streets, with mud, dust, brush, stumps, tree limbs, mounds of dirt following landscape completion, or other types of debris, nor shall any general contractor, building permit holder or owner, or anyone acting under them, cause damage to any public street, sidewalk, curb, gutter, sewer system or property.

(c) Hours of work. Construction activities may commence no earlier than sunrise and shall cease by no later than 8:00 o'clock p.m., unless the hours of work are expanded by the written approval of the Town Board.

(d) Daily cleanup. General contractors, building permit holders and owners, and anyone acting under them, must clean up a construction site by 8:00 o'clock p.m. each day or at the end of the workday, whichever occurs earlier, and the site must be kept clean as much as is feasible during the workday.

(e) Street or sidewalk debris. Debris in the street or on the sidewalk which could injure a pedestrian or cyclist, or damage a motor vehicle, must be removed immediately.

(f) Disposal of debris at construction site.

(1) No general contractor, subcontractor, owner, permit holder, municipality or municipal subcontractor shall allow any person to leave at a construction site, litter or building debris which creates a nuisance. During the course of any construction which requires a permit within the Town, the general contractor, permit holder or owner shall be responsible for having a dumpster, or other suitable method of disposal which will properly contain all construction related debris, on the site at all times while construction is underway on the site.

(2) If a general contractor, permit holder or owner creates a nuisance, the Building Inspector shall revoke the building permit until there is compliance with this Section.

(g) Damage to curb or sidewalks. It is the responsibility of the general contractor, permit holder or owner to inspect all curbs and sidewalks at or near the construction site, prior to commencement of construction. Any such damage must be reported to the Town Board prior to commencement of construction. Any damage not reported prior to the commencement of construction will be attributed to the general contractor, permit holder or owner. Not to run a vehicle over a curb in the Town, unless that curb shall have been properly blocked or ramped to ensure no damage to the curb. Properly blocked means adequately covered behind the curb with crushed stone to a sufficient depth to protect the back of the curb, and a 4x4 planking in front of the curb. All tires crossing the curb shall be supported in this manner. This requirement may be waived by the Building Inspector for good cause shown.

(h) Violations.

(1) If any general contractor, permit holder or owner is convicted of three or more violations of this Section within a six (6) month period, the Building Inspector shall have the authority to withhold building permits from such general contractor, permit holder or owner for a period of six (6) months.

(2) If any general contractor, permit holder or owner shall fail to pay any costs of any curb repair or sidewalk repair for damage to curbs or sidewalks caused by the construction activity, the Building Inspector shall have the right to

withhold the issuance of building permits to that general contractor, permit holder or owner until such time as all repair costs have been paid.

(3) In addition to the penalty provided in this Subsection (t), the Town may clean up and/or repair, or contract for the clean-up and/or repair, and charge the costs of same to the general contractor, permit holder or owner who is found in violation of this Section. If the charges are not paid by the general contractor, permit holder or owner, the occupancy permit may be withheld.

(i) Town compliance. The Town will comply with this Section, but no penalties shall apply to the Town.

(j) Liability. The general contractor, permit holder and owner are jointly and severally liable for violations of this Section. It is the Town's intention to prosecute violations in the following order:

(1) First. General contractor.

(2) Second. Permit holder.

(3) Third. Owner.

5.64 ADOPTING OF STATE LAW REGARDING POSSESSION OF MARIJUANA.

The provisions of Sec. 66.107(l)(bm) Wis. Stats. as amended from time to time, regarding the possession of twenty-five (25) grams or less of marijuana as defined in Sec. 961.01(14) Wis. Stats., and subject to the exceptions in Sec. 961.41(3g)(intro) Wis. Stats., shall be punishable as a violation of this Code, except that any person 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 marijuana in the State of Wisconsin, shall not be charged under this paragraph.

5.65 POSSESSION, SALE OF ISOBUTYL NITRATE.

No person shall manufacture, possess, use, dispense, sell or hold for sale any isobutyl nitrate, or any compound or mixture or preparation containing significant amounts of isobutyl nitrate.

5.66 ADOPTION OF STATE LAW REGARDING POSSESSION OF SYNTHETIC CANNABINOID OR SALVIA PROHIBITED.

(1) *Intent.*

- (a) The open sale of synthetic cannabinoid, commonly known as “K-2”, “Spice”, or by other street names, and the public consumption and use of so-called incense products and herbais is on the rise.
- (b) Synthetic cannabinoid products have yet to be tested by the Federal Drug Administration and certified as safe for human consumption; and because they are sold as incense or potpourri, there is no health or quality assurance regulation to ensure these products are safe.
- (c) The National Drug Intelligence Center of the U.S. Department of Justice indicates the adverse effects of synthetic cannabinoid, when smoked, include panic attacks, elevated pulse and blood pressure, intense hallucinations, and in some cases, seizures.
- (d) *Salvia divinorum* (“Salvia”), when smoked, produces effects similar to that of marijuana or synthetic cannabinoid on the user.
- (e) Regulation of synthetic cannabinoid and *Salvia* is necessary to promote the health, safety and welfare of the town.

(2) *Definitions.*

- (a) *Salvia divinorum* means any plant material which contains the active chemical principle called salvinorin A.
- (b) *Synthetic cannabinoid* includes the following chemicals, as identified by their common names: dimethylheptylpyran, “HU-210,” “JWH-018,” “CP-55940,” “HU-331,” “WIN 55,212-2,” or any cannabinoid derivative designed to mimic the physical, psychological, intoxicating, narcotic or other effects of marijuana.

(3) *Prohibition.* No person may possess or attempt to possess *Salvia divinorum* or any synthetic cannabinoid without a valid prescription or order of a practitioner who is acting in the course of his or her professional practice.

5.70 PENALTIES.

(1) FORFEITURES. The penalty for violation of any provision of this Chapter shall be a forfeiture as hereafter provided plus court costs and other fees as permitted under Wisconsin Statutes.

(2) STATE FORFEITURE STATUTE. Forfeitures for violation of any subparagraph of 5.06 shall conform to the forfeiture permitted to be imposed for violation of the statutes adopted by reference, including any variations or increases for subsequent offenses.

(3) STATE FINE STATUTES. The forfeiture for violation of any statute adopted by reference hereunder for which a penalty is a fine shall not exceed the maximum fine permitted under such statute.

(4) LOCAL REGULATIONS. The penalty for violation of any other section of this Chapter, unless specified otherwise, shall be as set forth in the Town fee and bond schedule.

(5) JUVENILES. In the case of a juvenile, the penalty provisions may include a disposition which is hereby incorporated by reference from Wisconsin Statutes 48.344.