

ORDINANCE # 365
Non-Habitual Truancy and Habitual Truancy

The Village Board of the Village of Lomira, Dodge County, Wisconsin hereby ordains Section 16-10 of the Lomira Municipal Code the following amendments:

Sec. 16-10. – Truancy

1. Truancy.

(a) Authority. Wis. Stats. § 118.163(1m) authorizes the village to enact a municipal ordinance prohibiting a person under 18 years of age from being truant.

(b) Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Acceptable excuse has the meaning as defined in Wis. Stats. §§ 118.15 and 118.16(4).

(1) "Operating privilege" has the meaning given in s. 340.01 (40).

(2) "Truant" means a pupil who is absent from school without an acceptable excuse under ss. 118.15 and 118.16 (4) for part or all of any day on which school is held during a school semester.

118.163(1m): A county, city, village or town may enact an ordinance prohibiting a person under 18 years of age from being a truant. The ordinance shall provide which of the following dispositions are available to the court:

(a) An order for the person to attend school.

(b) A forfeiture of not more than \$50 plus costs for a first violation, or a forfeiture of not more than \$100 plus costs for any 2nd or subsequent violation committed within 12 months of a previous violation, subject to s. 938.37 and subject to a maximum cumulative forfeiture amount of not more than \$500 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.

(c) An order for the person to report to a youth report center after school, in the evening, on weekends, on other non-school days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in s. 938.342 (1d) (c).

Truancy Prohibited: The village, by this section, does prohibit any student within its jurisdiction from being a truant as that term is defined in this section. Law Enforcement is authorized to issue a municipal citation to any such student found within its jurisdiction who is determined to be truant under the terms of this section.

(1) Except as provided in Wis. Stats. § 118.16(5m), prior to the issue of a citation hereunder, or against the child's parent or guardian under Wis. Stats. § 118.15, for failure to cause the child to attend school regularly, the law enforcement personnel shall determine whether the school officials have, within the school year during which the truancy occurred, done all of the following:

(a) Met with the child's parent or guardian to discuss the child's truancy or attempted to meet with the child's parent or guardian and received no response or were refused.

(b) Provided an opportunity for educational counseling to the child to determine whether a change in the child's curriculum would resolve the child's truancy and have considered curriculum modifications under Wis. Stats. § 118.15(1)(d).

(c) Evaluated the child to determine whether learning problems may be a cause of the child's truancy and, if so, have taken steps to overcome the learning problems, except that the child need not be evaluated if tests administered to the child within the previous year indicate that the child is performing at his grade level.

- (d) Conducted an evaluation to determine whether social problems may be a cause of the child's truancy and, if so, have taken appropriate action or made appropriate referrals.
- (e) Provide law enforcement with documentation on the "Dodge County Truancy Form", provided by the sheriff's office, of the corrective measures that have taken place.

(2) Subsection (c)(1) of this section does not apply if a meeting under Wis. Stats. § 118.16(2)(cg)3 is not held within ten school days after the date that the notice under Wis. Stats. § 118.16(2)(cg) is sent. Subsections (c)(1)b through d do not apply if the school attendance officer provides evidence that appropriate school personnel were unable to carry out the activity due to the child's absences from school.

(3) *Disposition.* In accordance with Wis. Stats. § 118.163(1m), upon finding a child truant, the following dispositions are available to the court:

- (a) An order for the person to attend school.
- (b) A forfeiture of not more than \$50 plus costs for a first violation, or a forfeiture of not more than \$100 plus costs for any 2nd or subsequent violation committed within 12 months of a previous violation, subject to s. 938.37 and subject to a maximum cumulative forfeiture amount of not more than \$500 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.
- (c) An order for the person to report to a youth report center after school, in the evening, on weekends, on other non-school days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in s. 938.342 (1d) (c).
- (d) An order for the person to remain at home except during hours in which the person 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 a person to leave his home if the person is accompanied by a parent or guardian.
- (e) An order for the person to attend an educational program as described in Wis. Stats. § 938.34(7d).

(4) *Contributing to truancy.*

- (a) Except as provided in subsection (e)(2) of this section, any person 17 years of age or older who, by any act or omission, knowingly encourages or contributes to the truancy, as defined under Wis. Stats. § 118.16(1)(c), of a person 17 years of age or under is guilty of a Class C misdemeanor.
- (b) Subsection (e)(1) of this section does not apply to a person who has under his control a child who has been sanctioned under Wis. Stats. § 49.26(1)(h).
- (c) An act or omission contributes to the truancy of a child, whether or not the child is adjudged to be in need of protection or services if the natural and probable consequences of that act or omission would be to cause the child to be truant.

(5) The issuance of any citation for truancy shall be at the discretion of the law enforcement officer investigating the truancy complaint.

2. Habitual Truancy.

(1) *Authority.* Wis. Stats. § 118.163(2) authorizes the village to enact a municipal ordinance prohibiting a person under 18 years of age from being a habitual truant.

(2) *Definitions.* The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(a) Acceptable excuse: has the meaning as defined in Wis. Stats. §§ 118.15 and 118.16(4).

(b) Habitual truant: has the meaning given in Wis. Stats. § 118.16(1)(a).

(c) Truant: means a pupil who is absent from school without an acceptable excuse under ss. 118.15 and 118.16(4) for part or all of any day on which school is held during a school semester.

(3) Truancy prohibited: The village, by this section, does prohibit any student within its jurisdiction from being a habitual truant as that term is defined in this section. Law Enforcement is authorized to issue a municipal citation to any such student found within its jurisdiction who is determined to be habitually truant under the terms of this section.

(4) Except as provided in Wis. Stats. § 118.16(5m), prior to the issue of a citation hereunder, or against the child's parent or guardian under Wis. Stats. § 118.15, for failure to cause the child to attend school regularly, the law enforcement personnel shall determine whether the school officials have, within the school year during which the truancy occurred, done all of the following:

(a) Met with the child's parent or guardian to discuss the child's truancy or attempted to meet with the child's parent or guardian and received no response or were refused.

(b) Provided an opportunity for educational counseling to the child to determine whether a change in the child's curriculum would resolve the child's truancy and have considered curriculum modifications under Wis. Stats. § 118.15(1)(d).

(c) Evaluated the child to determine whether learning problems may be a cause of the child's truancy and, if so, have taken steps to overcome the learning problems, except that the child need not be evaluated if tests administered to the child within the previous year indicate that the child is performing at his grade level.

(d) Conducted an evaluation to determine whether social problems may be a cause of the child's truancy and, if so, have taken appropriate action or made appropriate referrals.

(e) Provide law enforcement with documentation on the "Dodge County Truancy Form", provided by the sheriff's office, of the corrective measures that have taken place.

(5) Subsection (3) of this section does not apply if a meeting under Wis. Stats. § 118.16(2)(cg)3 is not held within ten school days after the date that the notice under Wis. Stats. § 118.16(2)(cg) is sent. Subsections (4)b through d do not apply if the school attendance officer provides evidence that appropriate school personnel were unable to carry out the activity due to the child's absences from school.

(6) *Disposition.* In accordance with Wis. Stats. § 118.163(2), upon finding a child habitually truant, the following dispositions are available to the court:

(a) Suspension of the person's operating privilege for not less than 30 days nor more than one year. The court shall immediately take possession of any suspended license and forward it to the Department of Transportation together with a notice stating the reason for and the duration of the suspension.

(b) An order for the person to participate in counseling or a supervised work program or other community service work as described in Wis. Stats. § 938.34(5g). 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.

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

(d) An order for the person to attend an educational program as described in Wis. Stats. § 938.34(7d).

(7) *Contributing to truancy.*

(a) Except as provided in subsection (7)(b) of this section, any person 17 years of age or older who, by any act or omission, knowingly encourages or contributes to the truancy, as defined under Wis. Stats. § 118.16(1)(c), of a person 17 years of age or under is guilty of a Class C misdemeanor.

(b) Subsection (7)(a) of this section does not apply to a person who has under his control a child who has been sanctioned under Wis. Stats. § 49.26(1)(h).

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

(8) The issuance of any citation for truancy shall be at the discretion of the law enforcement officer investigating the truancy complaint.

Dated this 10 day of July, 2024.

Motion by Tr. Kohlmann, seconded by Tr. Priesgen to adopt Ordinance #365 as presented and effective immediately.

Aye: Jewell, Kohlmann, Loomans, Luedtke, More, Priesgen, Ritger

Nay: —

Absent: _____

Signed: Donald Luedtke
Donald Luedtke, President

Attest: Jenna Rhein
Jenna Rhein, Administrator-Clerk-Treasurer