

CHAPTER 38
PUBLIC PEACE AND GOOD ORDER

- 38.01 STATUTORY OFFENSES
- 38.02 ATTEMPT
- 38.03 CRIMINAL CODE OFFENSES
- 38.04 PENALTY FOR CRIMINAL CODE OFFENSES
- 38.05 WELFARE FRAUD
- 38.06 PENALTY FOR WELFARE FRAUD
- 38.07 UNDERAGE POSSESSION OF TOBACCO PRODUCTS
- 38.08 PENALTY FOR UNDERAGE POSSESSION OF TOBACCO PRODUCTS
- 38.09 DOGS RUNNING AT LARGE AND UNTAGGED DOGS
- 38.10 PENALTY FOR DOGS RUNNING AT LARGE AND UNTAGGED DOGS
- 38.11 DAMAGES IN COUNTY PARKS
- 38.12 PENALTY FOR DAMAGES IN COUNTY PARKS
- 38.13 SHINING WILD ANIMALS
- 38.14 PENALTY FOR SHINING WILD ANIMALS
- 38.15 LITTERING
- 38.16 PENALTY FOR LITTERING
- 38.17 REGULATION OF FIREWORKS
- 38.18 PENALTY FOR FIREWORKS VIOLATIONS
- 38.19 ALL-TERRAIN VEHICLES
- 38.20 PENALTIES FOR ALL-TERRAIN VEHICLE VIOLATIONS
- 38.21 DRUG PARAPHERNALIA
- 38.22 PENALTY FOR DRUG PARAPHERNALIA OFFENSES
- 38.23 UNDERAGE POSSESSION OF ALCOHOL BEVERAGES
- 38.24 PENALTY FOR UNDERAGE POSSESSION OF ALCOHOL
- 38.25 REGULATING POSSESSION OF MARIJUANA
- 38.26 UNLAWFUL SALE OR GIFT OF TOBACCO TO MINORS
- 38.27 PENALTY FOR UNLAWFUL SALE OR GIFT OF TOBACCO TO MINORS
- 38.28 UNLAWFUL SHELTERING OF MINORS
- 38.29 REGULATION OF EMERGENCY ALARMS
 - (a) Purpose
 - (b) Definitions
 - (c) Automatic Dialing Devices Prohibited
 - (d) Installation of Alarms
 - (e) Intentional Giving of False Alarms Prohibited
 - (f) Fees for False Alarms
 - (g) Disconnections
 - (h) Termination of Response - Automatic Dialing Devices
 - (i) Exclusions
 - (j) Severability
 - (k) Penalty
- 38.30 FEEDING OF DEER
- 38.31 ILLEGAL DUMPING
- 38.32 LOUD AND UNNECESSARY NOISE
 - (a) Prohibitions
 - (b) Penalty
- 38.33 INDOOR SMOKING
- 38.34 PENALTY FOR INDOOR SMOKING

38.01 STATUTORY OFFENSES.

- (a) Sections 38.01 through 38.25 are intended to provide prosecutorial alternatives to acts which may otherwise be violations of state law.
- (b) Any act required to be performed by a statute incorporated as hereafter provided and any act prohibited by any such statute is prohibited by this Ordinance. The defenses available under state law are also available to the corresponding provisions as hereafter provided.

- (c) It is the intent of this Ordinance that its various provisions be construed in the same manner as the corresponding state law. Any future amendments, revisions, or modifications of the statutes incorporated herein are intended to be made a part of this Code.

38.02 ATTEMPT.

- (a) Whoever attempts to commit a violation shall forfeit not more than one-half (1/2) of the maximum forfeiture for the completed offense.
- (b) An attempt to commit an offense requires that an actor have an intent to perform acts and attain a result which, if accomplished, would constitute such offense and that the actor does acts toward the commission of the offense which demonstrates unequivocally, under all the circumstances, that he formed the intent and would commit the offense except for the intervention of another person or some other extraneous factor.

38.03 CRIMINAL CODE OFFENSES. Pursuant to the authority granted to the County Board by Wis. Stat. § 59.54(22), the following conduct, which is the same or similar to that prohibited by the following statutes, is prohibited as follows:

- (a) 940.19(1) Misdemeanor Battery
- (b) 941.01 Negligent operation of vehicle
- (c) 941.10 Negligent handling of burning material
- (d) 941.13 False alarms
- (e) 941.20(1)(d) Endangering safety by use of dangerous weapons (discharge near building)
- (f) 941.235 Firearms in public buildings
- (g) 941.299 Laser pointers
- (h) 941.36 Utility tapping
- (i) 942.05 Opening letters
- (j) 943.01(1)(a) Damage to property (less than \$1,000.00)
- (k) 943.017(1) Graffiti
- (l) 943.13 Trespass to land
- (m) 943.14 Trespass to dwelling
- (n) 943.20(1) and (3)(a) Theft (less than \$1,000.00)
- (o) 943.21(1) and (3)(a) Fraud on hotel or restaurant keeper or taxicab operator (less than \$1,000.00)
- (p) 943.215 Absconding without paying rent
- (q) 943.24(1) Issuance of worthless checks (less than \$1,000.00)
- (r) 943.34(1)(a) Receiving stolen property (less than \$1,000.00)
- (s) 943.45 Theft of telecommunications services
- (t) 943.455 Theft of commercial mobile services
- (u) 943.46 Theft of cable television services
- (v) 943.47 Theft of satellite cable programming
- (w) 943.50 Retail theft (less than \$1,000.00)
- (x) 946.41(1) Resisting or obstructing an officer
- (y) 946.73 Violating County institutional rules
- (z) 947.01 Disorderly conduct
- (aa) 947.012(2) Unlawful use of telephone
- (bb) 947.0123(3) Unlawful use of computerized communications system
- (cc) 944.20 Lewd and Lascivious behavior
- (dd) 944.30 Prostitution
- (ee) 944.31 Patronizing prostitutes
- (ff) 944.33(1) Pandering

38.04 PENALTY FOR CRIMINAL CODE OFFENSES. The maximum penalty for violating any of the provisions of Section 38.03 shall be a forfeiture of not more than One Thousand Dollars (\$1,000.00) or, in default of payment thereof, imprisonment for not more than twenty (20) days. In addition, any person violating Section 38.03(q), above, is subject to the civil liability provided

for under Wis. Stat. § 943.245, and any person violating Section 38.03(w), above, is subject to the civil liability provided for under Wis. Stat. § 943.51.

- 38.05 WELFARE FRAUD. Pursuant to the authority granted to the County Board by Wis. Stat. § 59.54(23), the statutory provisions at Wis. Stat. § 49.95(1) prohibiting a person from, with intent to secure public assistance, under Wis. Stat. ch. 49, whether for himself or herself or for some other person, willfully making any false representations and securing up to Three Hundred Dollars (\$300.00) in such assistance, are hereby adopted by reference and made a part of this Ordinance.
- 38.06 PENALTY FOR WELFARE FRAUD. The penalty for violating Section 38.05 shall be a forfeiture of not more than One Thousand Dollars (\$1,000.00) or in default of payment thereof, imprisonment for not more than twenty (20) days.
- 38.07 UNDERAGE POSSESSION OF TOBACCO PRODUCTS. Pursuant to the authority granted to the County Board by Wis. Stat. § 254.92(4), the statutory provisions of Wis. Stat. §§ 254.92(1) through (3) prohibiting underage purchase and possession of cigarettes and tobacco products are hereby adopted by reference and made a part of this Ordinance.
- 38.08 PENALTY FOR UNDERAGE POSSESSION OF TOBACCO PRODUCTS. The penalty for violating any of the conduct prohibited under Section 38.07 shall be a forfeiture of not to exceed Fifty Dollars (\$50.00), or in default of payment thereof, imprisonment for not more than five (5) days.
- 38.09 DOGS RUNNING AT LARGE AND UNTAGGED DOGS. Pursuant to the authority granted to the County Board by Wis. Stat. § 59.54(20), the statutory provisions of Wis. Stat. § 174.042 prohibiting dogs running at large and untagged dogs, are hereby adopted by reference and made a part of this Ordinance. This Ordinance is only applicable in any town that has not enacted a similar Ordinance.
- 38.10 PENALTY FOR DOGS RUNNING AT LARGE AND UNTAGGED DOGS. The penalty for violating any of the conduct prohibited under Section 38.09 shall, for the first offense, be a forfeiture of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00), or, in default of payment thereof, imprisonment for not more than ten (10) days, and for each subsequent offense, a forfeiture of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00), or in default of payment thereof, imprisonment for not more than twenty (20) days.
- 38.11 DAMAGES IN COUNTY PARKS. Pursuant to the authority granted to the County Board by Wis. Stat. § 27.075, the statutory provisions of Wis. Stat. § 27.067 prohibiting the destruction of notices posted by the County; or breaking, tearing up, or moving trees, vines, shrubs, or flowers; dislocating stones or disfiguring natural conditions within the boundaries of the Broughton Sheboygan County Marsh Park, Taylor Park, Gerber Lakes properties and such other trails, trailheads, boat landings, and other lands administered by the Sheboygan County Planning Department are hereby enacted by reference and made a part of this Ordinance.
- 38.12 PENALTY FOR DAMAGES IN COUNTY PARKS. The penalty for violating any of the conduct prohibited under Section 38.11 shall be a forfeiture of not to exceed One Hundred Dollars (\$100.00) or, in default of payment thereof, imprisonment for not more than ten (10) days.
- 38.13 SHINING WILD ANIMALS. Pursuant to the authority granted to the County Board by Wis. Stat. § 29.314(6), the statutory provisions of Wis. Stat. § 29.314 prohibiting the shining of wild animals are hereby enacted by reference and made a part of this Ordinance.
- 38.14 PENALTY FOR SHINING WILD ANIMALS. The penalty for violating any of the conduct prohibited under Section 38.13 shall be a forfeiture of not to exceed One Hundred Dollars (\$100.00) or, in default of payment thereof, imprisonment for not more than ten (10) days.
- 38.15 LITTERING. Pursuant to the authority granted to the County Board pursuant to Wis. Stat. § 27.019(11), the statutory provisions of Wis. Stat. § 287.81 prohibiting littering are hereby enacted by reference and made a part of this Ordinance.

- 38.16 PENALTY FOR LITTERING. The penalty for violating any of the conduct prohibited under Section 38.15 shall be a forfeiture of not to exceed Five Hundred Dollars (\$500.00) or, in default of payment thereof, imprisonment for not more than twenty (20) days.
- 38.17 REGULATION OF FIREWORKS. Pursuant to the authority granted to the County Board by Wis. Stat. § 167.10(5), the statutory provisions at Wis. Stat. §§ 167.10(1-4) prohibiting the sale, possession, or use of fireworks, as defined by Wis. Stat. § 167.10, are hereby adopted by reference and made part of this Ordinance.
- 38.18 PENALTY FOR FIREWORKS VIOLATIONS. The penalty for violating Section 38.17 shall be a forfeiture of not more than One Thousand Dollars (\$1,000.00) or in default of payment thereof, imprisonment for not more than twenty (20) days.
- 38.19 ALL-TERRAIN VEHICLES. Pursuant to the authority granted to the County Board by Wis. Stat. § 23.33(11)(am), the statutory provisions at Wis. Stat. §§ 23.33(1), (2), (3), (3g), (4), (4c), (4g), (4j), (4L), (4p), (4t), (4x), (5), (6), (7), and (8) relating to the regulation of all-terrain vehicles are hereby adopted by reference and made a part of this Ordinance.
- 38.20 PENALTIES FOR ALL-TERRAIN VEHICLE VIOLATIONS.
- (a) Except as provided in Subsections (2) and (3), any person who violates a Section of the all-terrain vehicle regulations adopted at Section 38.19 shall be subject to a forfeiture of not more than Two Hundred Fifty Dollars (\$250.00).
- (b) Except where the violation causes death or injury, a person who violates the statutory provisions at Wis. Stat. § 23.33(8)(f) adopted at Section 38.19 and who, within the last two (2) years prior to the arrest for the current violation, was two (2) or more times previously convicted for violating a provision of Wis. Stat. § 23.33 or a County Ordinance adopting a provision of Wis. Stat. § 23.33, shall forfeit not more than Five Hundred Dollars (\$500.00).
- (c) A person who violates the statutory provisions at Wis. Stat. § 23.33(4c) or § 23.33(4p)(e) adopted at Section 28.19 and has not previously been convicted within five (5) years for a similar offense shall forfeit not less than One Hundred Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00)
- (d) In addition to any other penalty or order, a person who violates the statutory provisions of Wis. Stat. §§ 23.33(4c)(a) or 23.33(4p)(e) adopted at Section 38.19 shall be ordered by the Court to submit to and comply with an assessment by an approved public treatment facility for an examination of the person's use of alcohol, controlled substances, or controlled substance analysis.
- The assessment order shall comply with Wis. Stat. §§ 343.30(1q)(c)1.a. to c. Intentional failure to comply with an assessment ordered under this paragraph constitutes a contempt of court, punishable under Wis. Stat. ch. 785.
- (e) In addition to any other penalty, the Court may order the defendant to restore or replace any uniform all-terrain vehicle route or trail sign or standard that the defendant removed, damaged, defaced, moved, or obstructed.
- 38.21 DRUG PARAPHERNALIA. Pursuant to the authority granted to the County Board by Wis. Stat. § 59.54(6), the statutory provisions of Wis. Stat. §§ 961.573(2), 961.574(2), and 961.575(2) prohibiting possession, manufacture, or delivery of drug paraphernalia, are hereby adopted by reference and made a part of this Ordinance.
- 38.22 PENALTY FOR DRUG PARAPHERNALIA OFFENSES. The penalty for violating any of the conduct prohibited under Section 38.21 shall be a forfeiture not to exceed Five Hundred Dollars (\$500.00) or in default of payment thereof, imprisonment for not more than ten (10) days.
- 38.23 UNDERAGE POSSESSION OF ALCOHOL BEVERAGES. Pursuant to the authority granted to the County Board by Wis. Stat. § 125.10(2), the statutory provisions of Wis. Stat. §§ 125.07(1), 125.07(4)(a), 125.07(4)(b), 125.07(4)(bm), 125.085(3)(b), and 125.09(2) prohibiting the purchase

and possession of alcohol beverages, the presence on places of sale, and falsification of proof of age are hereby adopted by reference and made a part of this Ordinance.

38.24 PENALTY FOR UNDERAGE POSSESSION OF ALCOHOL BEVERAGES. The penalty for violating any of the conduct prohibited under Section 38.23 shall be the same as the penalty imposed on the statutory counterpart except any forfeiture shall be a County forfeiture.

38.25 REGULATING POSSESSION OF MARIJUANA.

(a) Pursuant to the authority granted to the County Board by Wis. Stat. §§ 59.54(25) and (25g), the possession of marijuana as defined at Wis. Stat. § 961.01(14) or the possession of a synthetic cannabinoid as defined at Wis. Stat. § 961.14(4)(tb) is prohibited, subject to the following limitations:

- (1) This Ordinance is only applicable to circumstances where the possession is in an amount of twenty-five (25) grams or less.
- (2) This Ordinance is only applicable if the defendant has not previously been convicted of a violation of Wis. Stat. § 961.41(3g)(e) or this Ordinance provision.
- (3) This Ordinance does not apply in any Sheboygan County municipality that has enacted a similar Ordinance prohibiting the possession of marijuana.
- (4) This Ordinance does not apply where the person has obtained the substance or the analog directly from or pursuant to a valid prescription or order of a practitioner who is acting in the course of his or her professional practice, or unless the person is otherwise authorized by Wis. Stat. ch. 961 to possess the substance or analog.

(b) The maximum penalty for violating any of the provisions of Subsection (1) above shall be a forfeiture of One Thousand Dollars (\$1,000.00) or, in default of payment thereof, imprisonment for not more than twenty (20) days.

38.26 UNLAWFUL SALE OR GIFT OF TOBACCO TO MINORS. Pursuant to the statutory authority granted to the County Board by Wis. Stat. § 134.66(5), the statutory provisions of Wis. Stat. §§ 134.66(1) through (4) prohibiting the sale or gift of cigarettes to minors are hereby adopted by reference and made a part of this Ordinance.

38.27 PENALTY FOR UNLAWFUL SALE OR GIFT OF TOBACCO TO MINORS. The penalty for violating any of the conduct prohibited under Section 38.26 shall be a forfeiture of not more than Five Hundred Dollars (\$500.00). The Court shall suspend any license or permit of any person who violates Section 38.26 as provided in Wis. Stat. § 134.66(4)(a)3.

38.28 UNLAWFUL SHELTERING OF MINORS.

(a) No person shall unless duly licensed under the Wisconsin Statutes or without having first obtained the permission of the parents or legal guardian of any minor or without first notifying the County of Sheboygan Sheriff's Department of the existence of a minor described in Subsection (1) hereof on premises owned or operated by or under the control of such person:

- (1) By any means conceal or shelter, or assist in the concealing or sheltering of, any minor under the age of eighteen (18) years while the minor is under the legal custody of the parents or legal guardian and while the minor is on report with any law enforcement agency as a "missing person," a "runaway," or a "wanted" person; or
- (2) Supply false information to or obstruct any law enforcement officer in the performance of his duty to locate or to take into custody any minor described in this Section.

- (b) Any person violating any provision of this Section shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00) together with the cost of prosecution and in default of payment thereof, imprisonment in the county jail until such forfeiture and costs are paid but not to exceed thirty (30) days.

38.29 REGULATION OF EMERGENCY ALARMS.

- (a) Purpose. The purpose of this Ordinance is to reduce the high incidence of false alarms, and to prevent alarms from interfering with the emergency 911 telephone system, thereby promoting public peace and good order within Sheboygan County.

- (b) Definitions.

- (1) Alarm - As used in this Section, "**alarm**" shall mean any device which when actuated by a criminal act or other emergency requiring law enforcement response, transmits a signal to central alarm system or directly to the Sheboygan County Sheriff's Department or produces an audible or visual signal designed to notify persons within the audible or visual range of the signal. Except where inconsistent, the term alarm shall include automatic dialing devices.

- (2) Automatic Dialing Device - As used in this Section, "**automatic dialing device**" shall mean any telephone or electronic device or attachment which automatically selects a public primary telephone trunk of the Sheriff's Department and produces any prerecorded message to report a criminal act, a fire, or other emergency.

- (3) False Alarm - As used in this section, "**false alarm**" means a signal from an alarm, telephone, or other contact with the Sheboygan County Sheriff's Department when an emergency situation does not exist, including without limitation, the activation of an alarm through negligence of the alarm owner or lessee or his or her agent or employee, or through mechanical failure. The term "false alarm" shall also include intentional acts of alarm owners or their agents and employees.

- (4) Owner - As used in this section, "**owner**" means the owner of an alarm device and his or her agent or employee.

- (5) Person - As used in this section, "**person**" means individuals, associations of individuals, firms, corporations, and business entities.

- (c) Automatic Dialing Devices Prohibited. No person shall use or cause to be used any automatic telephone dialing device which automatically selects a public telephone number of the Sheboygan County Sheriff's Department. The relaying of messages to the Sheriff's Department from automatic dialing devices shall only be accomplished by person to person telephone communication.

- (d) Intentional Giving of False Alarms Prohibited. No person shall intentionally give or cause a false alarm of any type to be received at the Sheboygan County Sheriff's Department. An intentional false alarm includes the testing of an alarm without prior notification to the Sheriff's Department.

- (e) Fees for False Alarms. Alarm owners, including owners of automatic dialing devices shall be charged a fee for each false alarm that is received by the Sheriff's Department, in accordance with the following calendar year schedule:

- (1) First two false alarms no charge
 - (2) Third thru ninth false alarms \$100.00 each
 - (3) Ten false alarms..... disconnection

Fees must be paid within thirty (30) days of the date of written notification from the Sheriff's Department. The Sheriff shall, upon thirty (30) days prior written notice to the alarm owner, cause an alarm to be disconnected. Ten (10) false alarms received by the

Sheriff's Department, non-payment of fees, non-registration, or non-compliance with any other provision of this section shall be cause for disconnection.

- (f) Exclusions. This Section (38.27) is not applicable to alarms which do not terminate at, or are not relayed, to the Sheboygan County Sheriff's Department.
- (g) Penalty. Any person convicted of a violation of Subsections (c) or (d), above, shall forfeit not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each occurrence or each date that the violation existed.

38.30 FEEDING OF DEER.

(a) Prohibition.

- (1) No person may place or allow any device or any fruit, grain, mineral, plant, salt, vegetable, or other material to be placed outdoors on any public or private property for the purpose of attracting or feeding deer.
- (2) Each property owner shall have the duty to remove any materials placed on the owner's property in violation of this Ordinance. Failure to remove such materials within twenty-four (24) hours after notice from the County shall constitute a separate violation of this Ordinance.
- (3) Each property owner shall have the duty to remove any device placed on the owner's property to which deer are attracted or from which deer actually feed. Alternatively, a property owner may modify such a device or make other changes to the property that prevent deer from having access to or feeding from the device. Failure to remove such a device or to make such modifications within twenty-four (24) hours after notice from the County shall constitute a separate violation of this Ordinance.

(b) Rebuttable Presumptions.

- (1) There is a rebuttable presumption that the placement of fruit, grain, mineral, plant, salt, vegetable, or other materials in an aggregate quantity of more than two (2) quarts at the height of less than five (5) feet off the ground is for the purpose of feeding deer.
- (2) There is a rebuttable presumption that the placement of fruit, grain, mineral, plant, salt, vegetable, or other materials in an aggregate quantity of more than two (2) quarts in a drop feeder, automatic feeder, or similar device regardless of the height of the fruit, grain, mineral, plant, salt, vegetable, or other material is for the purpose of feeding deer.

(c) Exceptions.

- (1) Naturally Growing Materials. This Ordinance does not apply to naturally growing materials, including but not limited to fruit, grain, nuts, seeds, and vegetables.
- (2) Planted Materials. This Ordinance does not apply to planted materials growing in gardens, such as standing crops, or in a wildlife food plot.
- (3) Stored Crops. This Ordinance does not apply to stored crops provided that the stored crop is not intentionally made available to deer.
- (4) Incidental Spills. This Ordinance does not apply to spills of seed materials intended for planting or to crop materials that have been harvested if the spills are incidental to normal agricultural operations and such materials are not intentionally made available to deer.
- (5) Captive Wildlife. This Ordinance does not apply to property where farm-raised deer are held in captivity subject to regulation under Wis. Stat. ch. 169.

- (6) Authorized by County Board. This Ordinance does not apply to feeding that is authorized by County Board Resolution on a temporary basis for a specific public purpose.
- (d) Penalty. Any person violating any provision of this Section shall forfeit not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) for each offense, together with the costs of prosecution. A separate offense shall be deemed committed on each day or part of each day during which a violation occurs or continues. Any person who defaults in the payment of a forfeiture or the costs of prosecution may be imprisoned in the County Jail until the forfeiture and costs are paid, but such imprisonment shall not exceed thirty (30) days. This Subsection does not preclude the County from taking any appropriate action to abate, prevent, or remedy a violation of any provision of this Section.

38.31 ILLEGAL DUMPING.

- (a) Pursuant to the authority granted to the County Board by Wis. Stat. §§ 59.54(6) and 59.70, whoever disposes of trash or other solid waste in a dumpster, garbage can, or other solid waste container belonging to another person without the permission of the owner or person legally entitled to use said dumpster or solid waste container shall be subject to a forfeiture not to exceed Two Hundred Dollars (\$200.00), or in default of payment thereof, imprisonment for not more than two (2) days.
- (b) Subsection (1), above, does not apply to a person who places solid waste in a receptacle designed for solid waste storage that is located along a highway or public property, provided that the solid waste is created incidental to the use of the facility on which the receptacle is located such as a boat landing or wayside.

38.32 LOUD AND UNNECESSARY NOISE.

- (a) Prohibitions. 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, park, or private residence.
- (b) Penalty. Any person violating this Section shall be subject to a forfeiture of not more than Two Hundred Fifty Dollars (\$250.00).

38.33 INDOOR SMOKING. Pursuant to the authority granted by the County Board by Wis. Stat. § 101.123(4m), the statutory provisions of Wis. Stat. § 101.123 regulating or prohibiting smoking inside enclosed places and such other related regulated or prohibited activities, are hereby enacted by reference and made a part of this Ordinance. Persons in charge of any restaurant, tavern, private club, or retail establishments located in an area subject to this Ordinance may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern, private club, or retail establishment where customers, employers, or persons associated with the restaurant, tavern, private club, or retail establishment may smoke.

38.34 PENALTY FOR INDOOR SMOKING. The penalty for violating any of the conduct prohibited under Section 38.33 shall be a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty Dollars (\$250.00) for each violation, except that if a person in charge of a facility fails to take any required action to stop illegal smoking or other activity prohibited herein, he or she is subject to a forfeiture of not to exceed One Hundred Dollars (\$100.00) for each violation but no more than one (1) penalty per day. If the person in charge has not previously received a warning notice, then the law enforcement officer must issue a warning for the first violation in lieu of a citation.