ORDINANCE No. 04-06-09-04

An Ordinance Creating Section ~~42-90~~ 42-10 of the Fontana Municipal Code Regarding Truancy

The Village Board of the Village of Fontana on Geneva Lake, Walworth County, Wisconsin, do hereby ordain as follows:

42-10 → under General instead of under Curfew for minors

Section I. Section ~~42-90~~ of the Municipal Code of the Village of Fontana-on-Geneva Lake is hereby created as follows:

(a) Italics, No Bold

~~1.~~ **Authority:**

Section 118.163(2) Wis. Stats authorizes the Village to adopt a Municipal Truancy Ordinance ~~based on 938.125(2), 938.342~~ and 118.16(5) authorizes the Village to adopt an ordinance requiring certain persons to ensure ~~that a child~~/student attends school. 118.15

(b) Italics, No Bold

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

~~(a)~~ *Truant/truancy* means ~~=~~ Any absence of part or all of one or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of such absence by the parent or guardian of the absent student and also means intermittent attendance carried on for the purpose of defeating the intent of this ordinance or ~~SS 118.16(4)~~ Wis Stat. § 118.15.

~~(b)~~ *Habitual Truant* means ~~=~~ A pupil who is absent from school without an acceptable excuse for either of the following:

1. Part or all of 5 or more days out of 10 consecutive days which school is held during a school semester.
2. Part or all of 10 or more days on which school is held during a schools semester.

~~(c)~~ *Dropout* means ~~=~~ Same meaning given in ~~SS~~ Wis Stat. § 118.153(1) (b)

~~(d)~~ *School Attendance Officer* means ~~=~~ Any employee designated by the School Board to deal with matters relating to school attendance and truancy.

(c) No bold, italics

~~3.~~ **Prohibition of Truancy:** acceptable excuse ~~means~~ has the meaning as defined in Wis. Stat. § 118.15 & 118.16(4)

The Village, by this section, does prohibit any child/student under the age of 18 or a person 18 years of age until the end of the school term, quarter or semester in which the person turned 18 years of age, within its jurisdiction from being either truant or from being a habitual truant or a dropout, as those terms are defined in this section. The Fontana Police Department is authorized to issue a municipal citation to any such child/student found within its jurisdiction, who is determined to be truant or habitually truant under the terms of this section.

Prior to the issuance of any citation the Police Department shall determine whether school officials have done the following:

(1) ~~(a.)~~ Met with or attempted to meet with student's parent/s or guardian to discuss the student's truancy.

(2) ~~(b.)~~ Provide an opportunity for educational counseling to the child and considered curriculum modifications.

(3) ~~(c.)~~ Evaluated the child to determine whether learning problems are a cause of the truancy and, if so, taken steps to overcome the learning problems.

(4) ~~(d.)~~ Conducted an evaluation to determine whether social problems are a cause in the student's truancy and, if so, taken appropriate action or made appropriate referrals.

No forfeiture amount will be stated on the citation and there shall be a mandatory Municipal Court appearance with a parent or guardian for all citations issued.

(d) No bold, italics

~~4.~~ **Penalties:**

(1) ~~(a.)~~ ***Truant*** - Upon a finding that a child is ***truant***, the Court shall enter an order making one or more of the following dispositions:

1. Order the child/student to attend school.
2. Order a forfeiture of no more than $50.00 plus court costs for a first violation, or a forfeiture of not more than $100.00 plus court costs for any second or subsequent violation committed within 12 months of a previous violation, subject to section 938.37 and subject to a maximum cumulative forfeiture amount of not more than $500.00 plus court costs for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the child/student, the parents or guardian of the child/student, or both.

(2) ~~(b)~~ ***Habitual Truant*** - Upon a finding that a child is a ***habitual truant***, the Court shall enter an order making one or more of the following dispositions:

a. ~~1.~~ Suspend the child's/student's operating privilege, as defined in section 340.01(40), Wis. Stats, for not less than 30 days or more than one year. The judge shall immediately take possession of the suspended license and forward it to the Department of Transportation of the State of Wisconsin, together with a notice stating the reason for, and duration of, the suspension.

b. ~~2.~~ Order the child/student to participate in counseling, community service work or a supervised work program under SS 118.163(2). The costs of any such counseling, community service work, or supervised work program may be assessed against the child/student, the child's/student's parents or guardian, or both.

c. ~~3.~~ Order the child/student to remain at home, except during the hours in which the child is attending a religious worship or a school program, including travel time required to get to and from the school program or place of worship. The child/student may be permitted to leave his/her home if the child/student is accompanied by a parent or guardian.

d. ~~4.~~ Order the child/student to attend an educational program as described in section 938.34(7d), Wis Stats.

e. ~~5.~~ Order the Department of Workforce Development to revoke, under section 103.72 Wis. Stats., a permit under section 103.70, Wis. Stats., authorizing the employment of the child/student.

f. ~~6.~~ Order the child/student to be placed in a teen court program as described in section 938.342(1g)(f), Wis. Stats.

g. ~~7.~~ Order the child/student to attend school.

h. ~~8.~~ Order a forfeiture of not more than $500.00 plus costs, subject to section 938.37, Wis. Stats. All or part of the forfeiture plus costs may be assessed against the child/student, the parents or guardian, or both.

i. ~~9.~~ Order the child/student be placed under formal or informal supervision as described in section 938.34(2), Wis. Stats., for up to one year.

j. ~~10.~~ Order the child's/student's parent or guardian to participate in counseling at the parent's or guardian's own expense, or to attend school with the child/student, or both.

k. ~~11.~~ Order any other reasonable conditions consistent with this subsection including a curfew, restrictions as to going to or remaining on specified premises, and restrictions on associating with other juveniles or adults.

(3) ~~(c)~~ ***Dropout*** – Upon a finding that a child/juvenile is a ***dropout***, the Court ~~1.~~ May suspend the driving operating privileges as defined in ~~SS~~ Wis. Stat. 340.01(40), of any child/juvenile who is at least 16 years of age but less than 18 years of age. The suspension may be kept in place until the juvenile reaches the age of 18. The Court shall immediately take possession of any suspended license and forward it to the Department of Transportation with a notice stating the reason and duration of the suspension.

(e) italics, no bold
~~5.~~ **Contributing to Truancy:**

(1) (a.) Any person 18 years of age who has a child/student under their control, which child/student is between the ages of 6 and 18 years of age and which child/student attends school within the jurisdiction of the Municipal Court as defined in SS 938.125(2) is required to ensure that the child/student attends school pursuant to SS 118.15.

(2) (b.) The Police Department is authorized to issue a municipal citation to any person believed to be in violation of section 5(a).

(3) (c.) ***Exceptions***: A person will not be found guilty of this section if the person proves that he is unable to comply with this section because of the disobedience of the student/child under their control. If the person is unable to comply with this section due to the disobedience of the student/child, no action will be undertaken pursuant to this section, and the child/student will be referred to the Juvenile Court.
Nor shall a person found guilty if the child/student under their control has been sanctioned under SS 49.26(1)(h).

(4) (d.) ***Penalty***: A person found guilty of section 5(a) shall be subject to a forfeiture of not less than $50.00 nor more than $500.00 plus court costs.

Section II. **Effective Date:** This ordinance shall be in full force and effect upon its passage approval, and publication as required by law.

Passed and Adopted by the Village Board of the Village of Fontana on Geneva Lake, Walworth County, WI this 6th day of April, 2009.

Village of Fontana on Geneva Lake

By:_____
Arvid Petersen, President

Attest:_____
Dennis L. Martin, Clerk