

ORDINANCE NO. 1471

AN ORDINANCE TO REPEAL AND RECREATE SECTION 303-2 OF THE CITY OF ST. FRANCIS CODE OF ORDINANCES CONCERNING SCHOOL ATTENDANCE

WHEREAS, Chapter 118 of the Wisconsin Statutes establishes regulations pertaining to school attendance; and

WHEREAS, pursuant to Section 118.163 of the Wisconsin Statutes, the City of St Francis has adopted Section 303-2 of the City of St Francis Code of Ordinances; and

WHEREAS, following inquiry from the St. Francis School District, City Staff have recommended that the Council consider certain revisions to Section 303-2 of the Code to more fully reflect the provisions of Section 118.163 of the Wisconsin Statutes and to further incorporate language to reflect the Council’s intention that school attendance requirements shall apply to both in-person and virtual school sessions; and

WHEREAS, the Common Council finds that the adoption of the proposed revisions to Section 303-2 of the City Code will promote the public health, safety and welfare;

NOW, THEREFORE, the Common Council of the City of St. Francis, Wisconsin does ordain as follows:

SECTION 1. Chapter 303, “Minors”, Section 303-2 “School Attendance,” is hereby repealed and recreated to read as follows:

§ 303-2. School attendance.

A. Definitions. In this Section:

1. “Absent from school” means either:
 - a. A child’s failure to physically appear in person at the public, private, or tribal school, technical college, or home-based private educational program that the child is enrolled in for part or all of any day that such school, technical college or educational program made instruction available to such child on an in-person basis; or
 - b. A child’s failure to appear and participate electronically at the public, private, or tribal school, technical college, or home-based private educational program that the child is enrolled in for part or all of any day that such school, technical college or educational program made instruction available to such child on a virtual basis.
2. “Dropout,” as defined in Wis. Stat. § 118.153(1)(b), means a child who ceased to attend school, does not attend a public, private, or tribal school, technical college, or home-based private educational program on a full-time basis, has not graduated from high school, and does not have an acceptable excuse under Wis. Stat. §§ 118.15(1)(b) to (d) or (3).

3. "Habitual truant," as defined in Wis. Stat. § 118.16(1)(a), means a pupil who is absent from school without an acceptable excuse under Wis. Stat. § 118.16 and Wis. Stat. § 118.15 for part or all of 5 or more days on which school is held during a school semester.
4. "Operating privilege" has the meaning given in Wis. Stat. § 340.01 (40).
5. "Truant" means a pupil who is absent from school without an acceptable excuse under Wis. Stat. §§ 118.15 and 118.16(4) for part or all of any day on which school is held during a school semester.

B. Compulsory school attendance and school attendance enforcement. Sections 118.15 and 118.16, Wis. Stats., are hereby incorporated by reference, as they may be amended from time to time, as though fully set forth herein.

C. Disposition – Truancy. If the Court finds a person guilty of truancy, the Court may enter a dispositional order including one or more of the following terms:

1. Order the person to attend school.
2. Impose 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 parent or guardian of the person, or both.
3. Order the person to report to a youth report center after school, in the evening, on weekends, on other nonschool 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. Section 938.34(5g) applies to any community service work performed by a person under this paragraph.

D. Disposition – Habitual Truancy. If the court finds a person guilty of habitual truancy, the Court may order one or more of the following dispositions:

1. Suspension of the person's operating privilege for not less than 30 days nor more than one year. The court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the department of transportation a notice stating the reason for and the duration of the suspension.
2. An order for the person to participate in counseling or a supervised work program or other community service work as described in Wis. Stat. § 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. Any county department of human services or social services, community agency, public agency or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned pursuant to an order under this paragraph acting in good faith has immunity from any civil liability in excess of \$25,000 for any act or omission by or impacting on that person.
3. 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 or her home if the person is accompanied by a parent or guardian.

4. An order for the department of workforce development to revoke, under Wis. Stat. § 103.72, a permit under Wis. Stat. § 103.70 authorizing the employment of the person.
5. An order for the person to attend school.
6. A forfeiture of not more than \$500 plus costs, subject to Wis. Stat. § 938.37. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.
7. 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 children or adults.
8. An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.
9. An order for the person to report to a youth report center after school, in the evening, on weekends, on other nonschool 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 Wis. Stat. § 938.342(1g)(k).

E. Dropouts.

1. Pursuant to Wis. Stat. § 118.163(2m)(b), the Court may order the school district to provide to the Court with a list of all persons who are known to the school district to be dropouts and who reside within the City of St. Francis. Upon request, the department of transportation shall assist the Court to determine which dropouts have operating privileges.
2. The Court may issue an order pursuant to Wis. Stat. § 118.163(2m)(a) suspending the operating privilege of a person who is at least 16 years of age but less than 18 years of age and is a dropout. The Court may suspend such person's license until the person reaches the age of 18. The court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the department of transportation a notice stating the reason for and the duration of the suspension.

SECTION 2: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and publication as provided by law.

Passed and adopted at a regular meeting of the Common Council of the City of St. Francis
this 4th day of November 2020.

CITY OF ST. FRANCIS

BY: /s/Ken Tutaj
Ken Tutaj, Mayor

ATTEST:

/s/Anne B. Uecker, MMC/WCPC
Anne Uecker, City Clerk/Treasurer