

CHAPTER 9

PUBLIC PEACE AND GOOD ORDER

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3/24/11

9.01 STATE LAWS PROHIBITING CERTAIN OFFENSES ADOPTED. (Rep. & recr. #163)

- (1) **STATUTORY PROVISIONS.** (Am. #216) Except as otherwise specifically provided in this chapter, the current and future statutory provisions of Chs. 938 to 947, Wis. Stats., and Ch. 961, Wis. Stats., describing and defining regulation against the peace and good order of the State, exclusive of any provisions therein relating to penalties to be imposed and exclusive of any regulations for which the statutory penalty is a term of imprisonment, are adopted and by reference made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by any current or future statute incorporated herein by reference is required or prohibited by this chapter. Any future amendments, revisions or modifications of the current or future statutes incorporated herein are intended to be made part of this chapter in order to secure uniform state-wide regulations of peace and good order of the State.
- (2) **AMENDMENTS.** In construing the foregoing sections and all present and future ordinances of the Village in which statutory provisions have been enacted by reference thereto, the construction of such ordinances shall be made pursuant to Ch. 990, Wis. Stats., and any future amendments, revisions, modifications or recreation of the current or future Ch. 990 are intended to be made part of this chapter in order to secure uniform statewide regulations of peace and good order of the State.

11/11/96

9.02 USE OF FIREARMS, BOWS AND ARROWS.

- (1) **Discharge and use restricted.** It is hereby determined and declared necessary in the interest of the public health, safety and welfare that the discharge of firearms and use of bows and arrows be regulated within the Village.
- (2) **DEFINITIONS.** For purpose of this section:

Developed Lands. An area of land of the following density: 3 or more residential dwellings situated on adjacent parcels of individual size of 5 acres or less.

Firearms. A rifle of any caliber, spring powered rifle, air rifle, shotgun of any gauge, pistol or revolver of any caliber.

Handgun. As defined in Ch. 175, Wis. Stats., or any subsequent amendments thereto.

Muzzle-Loader. Any smooth bore muzzle-loading firearm or any rifles muzzle-loading firearm designed to be discharged from the shoulder.

Permission of Landowner. Written permission.

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Recorder Developed Subdivision. Any developed subdivision of land within the Village laid out and established in accordance with Ch. 236, Wis. Stats., and existing ordinances of the Village relating to land divisions. For purposes of this section a subdivision shall be deemed developed at the time of commencement of visible improvement of the property, including but not limited to, grading, foundation work, and construction of roads.

Recorded Undeveloped Subdivision. Any subdivision of land within the Village laid out and established in accordance with Ch. 236, Wis. Stats., and existing ordinances of the Village relating to land divisions, but in which actual development has not commenced.

Rifle Firearm. "Rifle" means a firearm designed to be fired from the shoulder and made to use the energy of a propellant in a metallic cartridge to fire through a rifled barrel a single projectile for each pull of the trigger.

- (3) Prohibited use of Firearms, Bows and Arrows.
- (a)
 1. No person shall discharge any firearm on any individual parcel of 30 acres or less.
 2. No person may discharge a bow and arrow on any individual parcel of 5 acres or less.
 - (b) No person shall discharge any firearm in any recorded developed subdivision or developed lands as defined by this section or within 1000' thereof.
 - (c) No person shall, while in area not classified as developed lands or recorded developed subdivision, while on the lands of another, without the express written permission of the owner or occupant of the building, discharge any firearm within:
 1. 300' of any building devoted to human occupancy situated on and attached to the lands of another.
 - (d) No person shall discharge any firearm or bow and arrow so that the projection of the bullet, shot or arrow is above or into another's land or public roadways and walkways. This section shall not apply to:
 1. Hunting on lakes, rivers or flowages where projection of shot or arrow is directly into the air and over navigable waters or adjacent marshlands. This shall not prevent use of bow and arrow for the catching or hunting of carp or other rough fish.
 2. Starting guns shooting blanks and fired into the air for starting sporting events, with the permission of the Chief of Police or his representative.

PUBLIC PEACE AND GOOD ORDER 9.02(3)(e)

- (e) No person shall discharge any firearm or bow and arrow in any Village park or regulated hiking or bicycle trail or within 300' from such park or trail.
 - (f) No person shall fore or go armed with any forearm or bow and arrow or discharge or be in immediate possession of any air or gas propelled gun while under the influence of any alcohol, drug or intoxicant.
 - (g) No person shall carry any firearm or bow and arrow onto any Village owned property or into any Village owned building, school property or onto premises of any licensed establishment, except as follows. Nothing in this section shall prohibit acts specifically allowed by Wisconsin Statutes Section 17.60 and other applicable State laws, provided such activities are conducted in strict compliance with such State laws.
 - (h) No person shall knowingly carry a concealed weapon, a weapon that is not concealed, or a firearm that is not a weapon, in any location prohibited by Wisconsin Statutes Section 175.60(16), except as allowed therein.
 - (i) No person shall enter or remain within any property described in Wisconsin Statutes Section 943.13(1m)(c) with a firearm, if proper notification against such entry has been provided.
- 4/9/12
- (4) Rifle Prohibition. No person shall discharge or cause the discharge of any rifle firearm within the territorial limits of the Village.
 - (5) Exceptions. Unless otherwise indicated, the prohibitions of subs, (3) and (4) shall not pertain to:
 - (a) Law officers designated and authorized by the Village, County, State and Federal authority, engaged in lawful pursuit of duties including authorized training exercises.
 - (b) Activities upon any bona fide target range and existing trap and shooting ranges.
 - (c) Conduct that is justified or, had it been subject to a criminal penalty, would have been subject to a defense described in Section 939.45, Wisconsin Statutes, to the extent that Village authority is preempted by Wisconsin Statutes Section 66.0409(3)(b).
- 4/9/12
- (6) Use by Minors.
 - (a) Adult Supervision. No person under the age of 16 years shall carry, go armed with or discharge any forearm, gun or bow and arrow within the Village unless in the immediate presence and under the direct and immediate supervision of a responsible adult expressly designated in each instance by the parent of guardian of such minor to assume such supervision on such occasion.

PUBLIC PEACE AND GOOD ORDER 9.02(6)(b)

- (b) Parental Responsibility. If a person under the age of 16 years violates this section, his parent or guardian may be held responsible for such violation in the same manner as if such parent or guardian had violation the same, and ignorance of such violation shall not be a defense. Prosecution of a parent or guardian shall not be a bar to prosecution of the minor.
- (c) Possession. No person shall give, sell, loan or otherwise furnish to any person under the age of 16 years any firearms, gun or bow and arrow so the same may be used in violation of the provisions of par. (6)(a). IF in possession of such forearm, gun or bow and arrow owned or given, furnished or loaned to the person under the age of 16 by his parent, guardian or other person having custody, such fact shall be deemed prima facie evidence of negligent supervision of the minor, which negligent supervision shall constitute a violation of this section on the part of such parent, guardian or custodian.
- (d) Exception. A person 16 years of age or older, in possession of a hunting or fishing license, may carry and discharge a firearm or bow and arrow in the course of such hunting or fishing, in accordance with the provisions of this section.
- (7) Enforcements. The provisions of this section shall be enforced as provided by this section and State law, including, but not excluding because of enumeration, Chs. 66,345,751,757 and 800, Wis. Stats., or as subsequently renumbered.
- (8) Penalties. In addition to any other penalties, the provisions of §25.04 of this Municipal Code shall apply to this Section

9.03 THROWING OR SHOOTING OF ARROWS, STONES, AND OTHER MISSILES PROHIBITED.

No person shall throw or shoot any object, arrow, 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 Village. This section shall not limit the use of bow and arrow at authorized archery courses.

3/14/11

9.04 USE OF THE GLACIAL DRUMLIN TRAIL. (Cr.#170)

Except as otherwise specifically provided in this chapter, the current and future provisions of the following sections of Ch. NR 45, Wis. Adm. Code, describing and defining regulations with respect to use of lands, structures and property owned under easement, leased or administered by the State, are hereby adopted and by reference made a part of this chapter as if fully set forth herein. The Administrative Code sections as listed shall be designated as part of this chapter by adding the prefix "9.04) to each section number. Any act required to be performed or prohibited by any of the following sections incorporated herein by reference is required or prohibited by this section. Any future amendments, revisions, modifications or additions of the sections incorporated herein are intended to be made part of this section in order to secure uniform statewide regulations of State lands. The following sections of Ch. NR, Wis. Adm. Code, are hereby adopted by reference:

| | |
|----------------|---------------------------------------|
| NR 45.03 | Definitions |
| NR 45.04(1)(a) | Defacing State Property |
| NR 45.04(2) | Closing Hours |
| NR 45.04(3)(a) | Disorderly Conduct |
| NR 45.04(3)d) | Refuse |
| NR 45.04(3)(e) | Noise |
| NR 45.04(3)(f) | Soliciting |
| NR 45.04(3)(g) | Destruction of Property |
| NR 45.04(3)(h) | Ban of Alcohol |
| NR 45.05(1) | Traffic and Parking |
| NR 45.05(2) | Abandoned Vehicles |
| NR 45.05(3) | Recreational Vehicle Operation |
| NR 45.06(1) | Regulation of Animal |
| NR 45.06(4) | Prohibiting Animals on Certain Trails |
| NR 45.07 | Regulation of Fires |
| NR 45.09(1) | Prohibiting Hunting |
| NR 45.10(1) | Prohibiting Camping |

9.05 OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED.

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

9.06 LOUD AND UNNECESSARY NOISE PROHIBITED.

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

PUBLIC PEACE AND GOOD ORDER 9.06(2)

- (2) OPERATION OF MOTOR VEHICLES. No person shall operate a motor vehicle so as to cause the tires thereof to squeal, the horn to blow excessively or the motor to race excessively.

9.07 INDECENT CONDUCT AND LANGUAGE PROHIBITED. No person shall use any indecent, vile, profane, or obscene language or conduct themselves in any indecent, lewd, lascivious or obscene manner within the Village.

9.08 LOITERING PROHIBITED.

- (1) LOITERING OR PROWLING. 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 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 section 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 sentence, 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.
- (2) OBSTRUCTION OF HIGHWAY BY LOITERING. No person shall obstruct any street, bridge, sidewalk or crossing by lounging or loitering in or upon the same after being requested to move on by any police officer.
- (1) OBSTRUCTION OF TRAFFIC BY LOITERING. No person shall loaf or loiter in groups or crowds upon the public streets, alleys, sidewalks, street crossings or bridges or in any other public place within the Village in such manner as to prevent, interfere with or obstruct the ordinary free use of such public streets, sidewalks, streets, street crossings, and bridges or other public places by persons passing along and over the same.
- (2) LOITERING AFTER BEING REQUESTED TO MOVE. No person shall loaf or loiter in groups or crowds upon the public streets, sidewalks or adjacent doorways or entrances, street crossings or bridges or in any other public place or on any private premises without invitation from the owner or occupant, after being requested to move by any police or by any person in authority at such places.
- (3) LOITERING IN PUBLIC PLACES. 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 officer. Upon being requested to move, a person must immediately comply with such request by leaving the premises or area thereof at the time of the request.

PUBLIC PEACE AND GOOD ORDER 9.09

9.09 ANIMALS AND POULTRY NOT TO RUN AT LARGE. No person having in their possession or under their control any animal, poultry or fowl shall allow the same to run at large within the Village, including any person with a permit to keep chickens on their property.

9.10 STORAGE OF JUNK, ETC. REGULATED. (Am. #185)

(1) PROHIBITION.

- (a) No person shall store junked or discarded property including, but not limited to, refrigerators; furnaces; washing machines; stoves; machinery or machinery parts; wood; used lumber; bricks; cement blocks; old iron, chain, brass, copper, lead, tin and other base metals; trailers; farm machinery; rubbish; paper; dirt or stones; barrels; or other substances whatsoever; oil, kerosene; benzene or other similar oil or oily substances; any form of discarded vegetation; or other unsightly debris or trash which substantially depreciates property values un the neighborhood, except in an enclosure which houses such property from public view.
- (b) The Building Inspector may require by written order any premises violating this section to be put in compliance within 10 days after receipt of such order and, if the order is not complied with, may have the premises put into compliance and the cost thereof assessed as a special tax against the property.

(2) JUNKED MOTOR VEHICLES AND MOTOR VEHICLE PARTS. Completely or partially disassembled, dismantled or junked, wrecked or inoperable, not currently licensed or not currently registered motor vehicles or motor vehicle parts of any kind, type or nature shall not be stored or allowed to remain outside of an authorized storage building upon private property within the Village for a period in excess of 10 days, unless such vehicle or parts are accessory to an authorized automotive sales, repairing, towing or salvage business or institutional enterprise located in a properly zoned area.

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- (a) Such vehicle or vehicle parts, when located on public property, may be towed or removed from the scene after 48 hours and impounded as set forth elsewhere in this section.
- (b) Such vehicles or vehicle parts may not be located on private property outside of a permanent building enclosure except as set forth in par. (c).
- (c) Such vehicle or vehicle parts accessory to an automotive sales, repair or towing business may not be located or stored by the property or business operator outside of an authorized storage building for more than 60 calendar days in a 12-month period.
- (d) Such vehicle or vehicle parts stored as junk in an authorized junk or salvage yard must be screened with a visibly impervious screen of at least 6' in height as authorized and permitted by the Building Inspector.

PUBLIC PEACE AND GOOD ORDER 9.10 (3)(a)

(3) VEHICLES NOT TO BE ABANDONED.

- (a) Determination of Abandonment. No person shall leave unattended any motor vehicle, trailer, semi-trailer, or mobile home on any public highway or any property for such time as to cause the vehicle to appear to be abandoned. Except as otherwise provided, whenever any vehicle has been left unattended for more than 48 hours without the property owner's permission, the vehicle is deemed abandoned and constitutes a public nuisance. A motor vehicle shall not be considered abandoned when it is out of ordinary public view or currently registered or designated as not abandoned by an authorized official.
- (b) Vehicles on public highways. No person may abandon a motor vehicle within the meaning of par. (a) on or along any State, County, or Village Highway or on any property.

(4) SALE OR JUNKING ABANDONED VEHICLES. Any vehicle in violation of sub. (3) shall be impounded until lawfully claimed or disposed of under sub. (5), unless it is deemed by the Board that the cost of towing and storage would exceed its value, then that motor vehicle may be junked or sold by the Village prior to expiration of the storage period upon determination by the Board that the vehicle is not stolen or wanted for evidence or other reason. All complete vehicles that exceed 19 model years in age shall be disposed of in accordance with par. (5)(a) below.

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(1) STORAGE AND SALE.

- (a) Notice to Owner. Any vehicle which is deemed abandoned by the Board and of disposed of immediately under sub. (4) shall be retained in a storage place for a minimum of 10 days after certified mail notice has been sent to the owner and to the lien holder of record to permit reclaiming of the vehicle upon payment of accrued charges. The notice shall include the year, make, model and serial number of the vehicle, the place where it is being held and shall inform the owner and any lien holders of their right to reclaim the vehicle. The notice shall state that failure of the owner or lien holders to reclaim the vehicle under this section shall be deemed a waiver of all right, title, and interest in the vehicle and consent to sell it. Each stored vehicle not reclaimed by its owner within the time listed above may be sold. The Village may sell the vehicle by sealed bid or auction sale. At the public sale, the highest bid shall be accepted unless it is deemed inadequate by the Board, in which event all bids may be rejected. If all bids are rejected or none received, the Village may either advertise the sale, adjourn it to a definite date, sell the vehicle at a private sale or junk it. Any interested person may offer bids on each vehicle to be sold.
- (b) Procedure for Bidding. Public notice of the sale shall be posted at the Village Hall and at 2 other public locations in the Village. In addition, a copy of the notice shall be mailed to the last owner of record and lien holder of record.

PUBLIC PEACE AND GOOD ORDER 9.10 (5)(c)

- (c) Procedure After Sale. Upon sale of the abandoned vehicle, the Village shall supply the purchaser with a completed Form MVD 2419-77 which will enable him to obtain a registration certificate of title for the vehicle. The purchaser shall have 10 days to remove the vehicle from the storage area, but shall pay a reasonable storage fee if established by the board for each day the vehicle remains in storage after the second business day after the sale. 10 days after the sale, if the vehicle has not been claimed by the purchaser, he shall forfeit all interest in the vehicle, and it shall be deemed abandoned again and may be sold again. Any list of vehicles to be sold by the Village shall be made available to any interested person or organization which makes a written request for it. The Clerk may charge a fee for the preparation of the list.
- (d) Notice to Motor Vehicle Department. Within 5 days after the sale or disposal of a motor vehicle as provided herein, the Clerk shall advise the state Division of Motor Vehicles of the Sale or disposition on the appropriate form supplied by them.

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9.11 LITTERING PROHIBITED. No person shall throw any glass, refuse, or waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the Village or upon any private property or upon the surface of any body of water within the Village.

9.12 OBEDIENCE TO OFFICERS. No person shall resist or in any way interfere with any officer of the Village while such officer is doing any act in his official capacity and with lawful authority, or shall refuse to assist an officer in carrying out his duties when so requested by the officer.

7/31/78

9.13 BURNING REGULATED. (Rep. & recr. #177)

- (1) **OPENING BURNING PROHIBITED.** All open burning within the Village is hereby prohibited.
- (2) **WISCONSIN PROVISIONS.**
- (a) Except as otherwise specifically provided in this section, the current and future provisions of Sub. IV of Ch. 14, Wis. Adm. Code, describing the regulations for burning in incorporated villages, exclusive of any provisions therein relating to penalties to be imposed, are adopted and by reference made a part of this section as if fully set forth herein. Any act required to be performed or prohibited by any currently or future section incorporated herein by amendments, revisions or modifications of the current or future sections incorporated herein are intended to be made part of this section to secure uniform statewide regulations of burning and fire precautions in the State.
- (b) Reserved. (Rep. #277)

PUBLIC PEACE AND GOOD ORDER 9.13(3)

- (3) COMMERCIAL, BUSINESS AND OTHER BURNING. All burning on any commercial, business or other property within the Village, except for residential is hereby prohibited.
- (4) COST OF FIRE RUN. Any person, business, corporation or organization which violates the terms of this section or burns in a manner which results in a fire run from any fire department shall, in addition to the penalties provided herein be liable to the Village for the actual costs incurred by the Village for the fire run.
- (5) GENERAL REGULATIONS FOR OPEN FIRES. (Cr. #227) All burning, bonfires, or other fires shall be subject to the following regulations.
 - (a) Burning Procedures. No person may engage in any burning of any nature except in strict conformity with the following procedures:
 1. Tools required. Persons engaged in burning shall have sufficient tools present at the fire to control the fire at all times. A minimum of 2 of the following shall be present at the location of the burn;
 - a. Rakes, shovels, garden hose, water pump or other implements necessary to control the spread of fire while the burning is in process.
 2. Supervision. A person of at least 28 years of age shall remain at the fire at all times. He/she shall continuously monitor the burning and ensure the fire remains under control at all times.
 3. Size of Burn Pile. The size of any burn pile shall not exceed the dimensions of 4x4x3 feet high.
 4. Distances. The burning material shall be located at a minimum 15 feet from any property line and at least 30 feet from any building, fences, utility poles, overhead wires or piles of combustible materials.
 5. Wind. No burning shall be permitted if the National Weather Service reports a wind speed in excess of 9 miles per hour. No burning shall be permitted if the wind direction is such that smoke or soot will be visibly carried onto any adjoining building or when or would be a source of annoyance to persons near the location of the burn.
 6. Material Banned from Burning. The burning of garbage's, tires, asphalt, plastic materials, treated lumber, composite goods, or other materials which create toxic or noxious smoke is prohibited at all times.

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7. Time of Burning. Unless specifically provided herein, burning shall be permitted between the hours of 8:00am and 10:00pm 7 days a week. All fires must be completely extinguished by 10:00pm.

(4) EXCEPTIONS. (Cr. #277)

- (a) Burning Ban. The Fire Chief may, at any time in interest of public safety, declare a "burning ban". When a burning ban is in effect no burning of any type will be allowed in the Village limits.
- (b) Burning of Prohibited Materials. The burning of garbage, tires, asphalt products, plastic materials, treated lumber, composite woods, or other materials which create toxic, noxious or odorous smoke or fumes is prohibited at all times.
- (c) Campfires. No permit shall be required for campfires that are in strict compliance with the following requirements.
 1. Size. The size of the fire ring shall not exceed 36 inches in diameter with burning material not to exceed 24 inches in height at any time.
 2. Requirements. No campfire shall be permitted except in strict conformity with the requirements of section 1(1)A, 1 through 6 [subsection (5)(a)(a) through (6)] inclusive.
- (d) Burning in a Container. Burning in a container shall be allowed without a permit as provided herein:
 1. Container. The container must be constructed of metal, masonry, or concrete with a cover of metal mesh with openings not to exceed 3/8 of an inch.
 1. Procedure to Burn. Burning in this type of container shall comply with the requirements of this §9.13.

(5) OUTDOOR WOOD BURNING FURNACES. (Cr. #277)

(a) Prohibition and Limited Exception.

1. New Outdoor Wood Burning Furnaces. No outdoor wood burning furnaces shall be constructed or installed subsequent to the date of this ordinance [Ordinance #277, 12-12-2005] is enacted.
2. Pre-existing Outdoor Wood Burning Furnaces. Outdoor wood burning furnaces which are fully and operational in the date of this ordinance [Ordinance #277, 12-12-2005], and which fully comply with the applicable laws, may continue to be used provided they comply with all the following requirements:

PUBLIC PEACE AND GOOD ORDER 9.13(7)(a)

- a. Subject to the outdoor wood burning surface being fully dismantled and removed from the property in the event it is destroyed or otherwise rendered inoperable.
- b. Subject to the outdoor wood burning furnace being fully dismantled and removed from the property in the event it is destroyed or otherwise rendered inoperable.

(b) Regulations for Pre-Existing Outdoor Wood Burning Furnaces.

1. Burning Limitations. The fuel burned in an existing outdoor wood burning furnace shall only be natural untreated wood or wood specifically permitted by the manufacturer. The following fuels are strictly prohibited are strictly prohibited from being burned in the furnace:
 - (2) Rubbish or garbage including but not limited to wastes, food wraps, packaging, animal carcasses or bones, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes;
 - (3) Waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to the restrictions in Ch. NR 590, Wis. Adm. Code;
 - (4) Asphalt and any products containing asphalt;
 - (5) Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives or resins;
 - (6) Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films, and plastic containers;
 - (7) Rubber, including tires, and synthetic rubber-like products; and
 - (8) Newspaper, corrugated cardboard, container board, office paper, and other materials that must be recycled in accordance with any and all applicable recycling ordinances, statutes, and regulations except as specifically altered.

- (C) Definition: Outdoor Wood Burning Furnaces. An “outdoor wood burning furnace” means a wood-fired furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.

PUBLIC PEACE AND GOOD ORDER 9.13(8)

(6) INDEMNIFICATION. (Cr. #277) All burning shall be subject to compliance with applicable requirements of this section and shall be subject to the party starting the fire accepting the indemnifications obligations described in this section. By commencing a fire in the Village, whether or not conducted in compliance with this section, the party starting the fire thereby agrees to be solely responsible for all damages done by the fire. Such party thereby agrees to release, hold harmless and to indemnify and accept render of defense, and to defend and pay any and all legal, accounting, consulting, engineering and other expenses relating to the defense of any claim asserted or imposed upon the Village of Dousman, its officers, agents, employees and independent contractors growing out of the burning activities.

(7) PENALTIES. (Cr. #277) In addition to such penalties and remedied as may apply, any person, business, corporation or organization found to be in violation of any provision of this section shall be subject to penalties and forfeitures as set forth in §25.04 of this code. In addition, any person, business, corporation or organization found to be violation of any provisions of this section shall be responsible for all personnel and equipment costs associated with any fire call made to the site. In the event that fire call costs are not paid within 60 days of levy, the Village Board may direct the costs be placed on the owner's tax bill as a special charge.

9.14 OPEN CISTERNS, WELLS, BASEMENTS OR OTHER DANGEROUS EXCAVATIONS PROHIBITED.

No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations or other dangerous opening. All such places shall be filled, securely covered or fastened in such manner as to prevent injury to any person and any cover shall be of a design, size, and weight that the same cannot be removed by small children.

9.15 ABANDONED OR UNATTENDED ICE BOXES, ETC., PROHIBITED.

No person shall leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children

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any abandoned, unattended or discarded ice box, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing such door or lid, snap lock or other locking device which may not be released from the inside without first removing such door or lid, snap lock or other locking device from such ice box, refrigerator or container, unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

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PUBLIC PEACE AND GOOD ORDER 9.16

9.16 CURFEW. (Rep & recr. #262)

(1) DEFINITIONS.

- (a) Public Place. Public place, as used herein, means a place or a substantial group of the public has access, including but not limited to public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots and the common areas of schools, hospitals, apartment buildings, transport facilities and shops.
- (b) Legal Guardian. Legal guardian, as uses herein, means a person who under court order, is the guardian of the child, and also a person or public agency or private agency with whom the child has been placed by court.

(2) CHILDREN IN PUBLIC PLACE AT NIGHT. No child under the age of 17 years shall congregate, loiter, wander, stroll, stand, or play upon the street, alley or other public place in the Village of Dousman as defined herein between 11:00pm and 5:00am the next day, subject to the limitations described in subsections (3) and (4) below.

(3) DEFENSES: It is a defense to arrest, detention and prosecution under subsection (2) that the child was:

- (a) Accompanied by Parent. Subsection (2) does not apply to a child who is accompanied by his or her parent, legal guardian or other adult person authorized by a parent or legal guardian of such child to take the parent's or legal guardian's place in accompanying said child for designated period of time and purpose within a specified area.
- (b) Emergencies. Subsection (2) does not apply to a child who is in violation of subsection (2) due to an unforeseen circumstance (including but not limited to fire, natural disaster, or automobile accident) that calls for immediate action to prevent or respond to serious bodily injury or loss of life.
- (c) Own Property. Subsection (2) does not apply to a child who is on a sidewalk abutting the child's residence.
- (d) Interstate Travel. Subsection (2) does not apply to a child who is in a motor vehicle that is engage in interstate travel.
- (e) Parental Errand. Subsection (2) does not apply to a child who is on errand request and direction of the child's parent or legal guardian, without any detour or stop.
- (f) Employment. Subsection (2) does not apply to a child who is performing a function that is required to be done at that time by the child's employment, or going to or returning home from such employment activity, without any detour or stop.

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- (g) Supervised Functions. Subsection (2) does not apply to a child who is attending an educational, religious, or recreational activity that is supervised by adults and sponsored by a school, the Village of Dousman, a civic organization, a religious organization, or another similar entity that takes responsibility for the minor at all times during the hours described in subsection (2) or going to or returning from the same without any detour or stop.
 - (h) Emancipated Minors. Subsection (2) does not apply to a child who is exercising First Amendment rights protected by the United States Constitution and/or related rights protected by the State of Wisconsin Constitution including free exercise of religion, freedom of speech and the right of assembly.
 - (i) Permitted Protected Activities. Subsection (2) does not apply to a child who is exercising First Amendment rights protected by the United States Constitution and/or related rights protected by the State of Wisconsin Constitution, including free exercise of religion, freedom of speech, and the right assembly.
- (4) ENFORCEMENT. No arrest, citation, detention of a child or other enforcement action shall be taken under this section unless the person taking such action reasonably believes, based upon all circumstances, that an offense has occurred, and that the child has no defense described in subsection (3).
 - (5) PARENTAL VIOLATION. No parent, guardian, or other person having legal custody of a child under age 17 years, shall permit or suffer such child to violate subsection (2), above, subject to the limitations described in subsections (3) and (4), above. The foregoing does not apply, however, against any person who notifies the Village Police Department or Waukesha County Sheriff's Department that the child subject to their care, custody or control is missing, provided that this exception only applied during the time that said child continues to be missing after said notification.
 - (6) RESPONSIBILITY OF OPERATORS OF PLACES OF AMUSEMENT. No person operating a place of amusement or entertainment with the Village, Or any agent, servant or employee of any such person, shall permit a child under the age of 17 years to enter or loiter in such place of amusement or entertainment between 11:00pm and 5:00am, the next day subject to the limitations described in subsection (3) and (4), above. The foregoing does not apply, however, against any person who notifies the Village of Dousman Police or Waukesha County Sheriff's Department that the subject child is on the premises and fails to leave when requested to do so; provided that this exception only applies during the time that said child continues to be on the premises after said notification.

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- (7) **RESPONSIBILITY OF HOTELS, MOTELS, AND ROOMING HOUSES.** No person operating a hotel, motel, lodging or rooming house within the Village, or any agent, servant or employee of such person, shall permit any child under the age of 17 years to congregate, loiter, wander, stand, stroll, or play upon any portion of such hotel, motel, lodging or rooming house between 10:00pm and 7:00am the next day, subject to the limitations described in subsections (3) and (4), above. The foregoing does not apply, however, against any person who notifies the Village Police Department or Waukesha County Sheriff's Department that the subject child is on the premises and fails to leave when requested to do so; provided that this exception only applies during the time that said child continues to be on the premises after said notification.
- (8) **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 Village between 8:00am or 4:00pm on official school days, subject to the limitations described in subsection (3) and (4), above.
- (9) **DETAINING A CHILD.** When a law enforcement officer reasonably believes, based on all circumstances, that a child is violating this section and that the child has no defense described in subsection (3), the officer may take the child to the Village Police Department or the Sheriff's Department for Waukesha County, Wisconsin for proper identification. Every law enforcement officer while on duty may detain any such child until such as the parent, guardian, or other adult person having legal custody of the child be immediately notified and the person so notified shall, as soon as reasonably possible thereafter, report to the Village Police Department or the Sheriff's office for the purpose of taking the child into custody and shall sign a release for the child.
- (10) **WARNING.** The first time a child is detained by law enforcement officers as provided in subsection (9), a parent, guardian or person having legal custody shall be advised to the provisions of this section and 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 herein provided.
- (11) **GENERAL PENALTY.**
 - (a) Any parent, guardian or person having legal custody of a child who has been warned of a violation of this section in the manner provided in subsection (10), and who thereafter violates any of the provisions of this section shall be subject to a penalty as provided in §25.04 of this Municipal Code.
 - (b) Any child who violates this section shall be subject to the penalty as provided in §25.04 of this Municipal Code and, in addition, may be dealt with under Ch. 48, Wis. Stats.

PUBLIC PEACE AND GOOD ORDER 9.17

9.17 PARK CLOSING HOURS. (Cr. #88)

The Village Park shall be closed between 10:00pm and 6:00am daily. No person shall be within the Village Park between such hours without permission of the Village Board.

9.18 DRINKING IN PUBLIC PLACES PROHIBITED. (Cr. #124)

- (1) No person shall drink, consume, transport, carry or possess any intoxication liquor, wine or fermented malt beverage, except in the original package and with the seal unbroken, whether in or out of a vehicle in any of the following places:
 - (a) Any Village owned, or controlled parking lot.
 - (b) Any public park, street, highway, alley, sidewalk or other similar place within the Village.
 - (c) Any privately owned parking lot, driveway or lot used for vehicular traffic which is used or can be used by the public with the express or implied permission of the owner thereof unless expressly authorized in writing by the owner of such parking lot, driveway or lot.
 - (d) Any grounds under private or public ownership unless the owner thereof has granted permission for such drinking. 7/12/04
 - (e) Any ground under the control of the Kettle Moraine School District and the grounds of any privately owned and operated school, church, hospital or home or other institution frequented by the public, unless expressly authorized by the owner thereof.
- (2) The holder of a Class "B" fermented malt beverage or intoxicating liquor license shall make every reasonable effort to discourage his patrons from taking fermented malt beverages, wine or intoxication liquors from the licenses premise when such beverages are services for consumption on the premises.
- (3) The Village Board may permit the consumption or possession of fermented malt beverages, wine or intoxicating liquors in specifically authorized public places, or at any event, for which a temporary picnic license has been granted.

9.19 FALSE ALARMS PROHIBITED. (Rep. & recr. #220)

- (1) INTENT. Although the Village of Dousman recognizes that alarm systems serve a public service, it is the intent of this section to establish regulations, standards, and controls relating to the use of alarm devices which are monitored or relayed to the Dousman Fire District or Village of Dousman Police Department serving the Village of Dousman to prevent false alarm which create hazards to the public.
 - (a) For various reasons, false alarms frequently occur. Each false alarm requires response by the public safety personnel, involves unnecessary expense to the Village of Dousman and increases risk of injury to persons or damage to property and dilutes the overall public safety protection to the Village of Dousman. Such false alarms constitute a public nuisance and must be abated.

PUBLIC PEACE AND GOOD ORDER 9.19(2)

(2) PROHIBITIONS. Unintentional and Intentional False Alarms are prohibited.

(a) Unintentional false alarms. No person owning, leasing, using or possessing a private alarm system shall, by means of the alarm system give a false alarm as defined herein. This subsection is intended to impose strict liability on the person whose premises issues an unintentional false alarm which is received by or related to the Village of Dousman Police Department or the Dousman Fire District. The fact that the false alarm was accidental, caused by human error or by electrical malfunction shall not be the defense to prosecution for Unintentional alarm.

(b) Intentional False Alarm. No person shall give an intentional false alarm, as herein described.

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

(a) Alarm system. Shall mean any electrical or mechanical device for the detection of unauthorized entry on premises or for alerting others of the commission of an unlawful act or both, or the detection of a fire, and when activated, emits a sound or transmits a signal or message or both.

(b) False alarm. Means a signal from an alarm system which results in a call, direct or indirect, to the Village of Dousman Police Department or the Fire District serving the Village of Dousman resulting in response by the appropriate municipal organization when an actual emergency does not exist. A false alarm shall be, for all purposes, considered a public nuisance.

(c) Intentional False Alarm. Means willful activation of an alarm device knowing that no crime, fire, or other emergency exists.

(d) Private Alarm. Any alarm system not owned or leased by the Village of Dousman or any governmental department.

(e) Person. Shall mean any individual, partnership, corporation or other entity.

(4) PENALTIES. The following penalties shall apply to false alarms.

(a) Unintentional False Alarms.

(i) For the first violation of this ordinance, the person on violation will be issued a warning.

(ii) For the second and subsequent violations of this ordinance, the person in violation shall be subject to the following forfeitures including the costs of prosecution, if any:

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- 1) Second or third false alarms, fifty dollars (\$50).
- 2) Fourth or fifth false alarms, one hundred dollars (\$100).
- 3) Sixth or subsequent false alarms, two hundred dollars (\$200).

(iii) The above schedule is per calendar year.

(b) Intentional False Alarms. Intentional false alarms shall be subject to the penalties described in Section 25.04 of the Municipal Code of Dousman, Wisconsin.

(c) Additional Penalties. In addition to the penalties provided herein, the Village of Dousman is not precluded from pursuing other remedies including but not limited to temporary and permanent injunctions or any other relief provided by law. All penalties and remedies available under any Village of Dousman ordinance or State Statute are cumulative.

9.20 TRESPASS.

(1) INVITATION NECESSARY. No person shall willfully drive any automobile, snowmobile, truck other motor vehicle, or any horse drawn vehicle, or ride or drive any horse, or other animal, or park an automobile or other vehicle, or drive or permit any cattle to be driven or to go upon or enter upon, walk over, occupy, or in any other manner use, either as a prowler or loiterer, in any manner, any lane, roadway or any lands or premises owned or lawfully occupied or possessed by another, within the Village, without an invitation, express or implied, extended by such owner, occupant or possessor.

(2) DEFINITIONS. For the purposes of this section.

(a) Trespasser. One who goes upon premises owned, occupied, or possessed by another without invitation, express or implied, extended by such owner, occupant or possessor, and solely for his own pleasure, advantage or purpose.

(b) An invitation. Express or implied consent to be on the premises of another. There is an implied consent when the possessor, by his conduct or his words, or both, by implication consents to such other person's being on the premises.

9.21 JUVENILE DRINKING PROHIBITED. (Am. #216)

Chapter 125, Wis. Stats., defining offenses against the peace and good order of the State is hereby adopted by reference against the peace and good order of the Village, exclusive of any provisions thereof relating to the penalties to be imposed or the punishment for violation of such chapter.

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9.22 PROHIBITED OPERATION OF MOTOR VEHICLES ON THE PUBLIC THOROUGHFARES BY UNLICENSED JUVENILES.

- (1) PROHIBITION. Subject to the applicable provision of the Wisconsin Statutes and Wisconsin Administrative Code, no unlicensed juvenile under 16 years of age shall operate any motor vehicle, whether registered or unregistered, on the public thoroughfare.
- (2) DEFINITIONS. For the purpose of this section.
 - (a) Motor vehicle. A vehicle which is self-propelled.
 - (b) Operate. Driving or in actual physical control of a motor vehicle.
 - (c) Public Thoroughfare. Includes any public road, street, alley, highway, freeway, interstate, county trunk highway or public right-of-way and shall include the grass area within the statutory limits of the public thoroughfare and contiguous to the traveled portion thereof.

9.23 PROHIBITED OPERATION OF "OFF THE ROAD" VEHICLES.

- (1) VEHICLE PARKS. Subject to conflicting provisions of the Wisconsin Statutes and Wisconsin Administrative Code, if any, no person shall operate within the Village limits and "off the road" vehicle on any property not owned and resided on by the operator, or member of the family of the operator, except in those areas that may be designated by the Village Board as approved parks.
- (2) AUTHORIZED OPERATION OF "OFF THE ROAD" VEHICLES. "Off the Road" vehicles may be operated:
 - (b) On the premises owned by the operator or member of the family of the operator if the operator resides on the premises where the vehicle is being operated. Operation of such vehicle shall be between 9am and 6pm and be such that the noise from such vehicle does not cause a nuisance and annoyance to other persons residing near such operations.
 - (c) In those areas designated by the Village Board as approved vehicle parks pursuant to the terms and conditions set by the Village Board.
- (3) DEFINITIONS. For the purpose of this section.
 - (a) "Off the Road" Vehicles. Any mini-bike, trail bike, all-terrain vehicle, go-cart, or other such vehicle (Expressly excluding snowmobiles which are regulated by separate ordinance and Wisconsin Statutes) which are commonly operated off the traveled portion of the public thoroughfare whether currently being used on or off the road and whether registered or non-registered.

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- (b) Operator. A person who drives or is in actual physical control of a vehicle.
- (c) Public Thoroughfare. Includes public road, street, alley, highway, freeway, interstate, county trunk highway or public right-of-way.
- (d) Traveled Portion. The paved or otherwise surfaced portion of the roadway and the prepared shoulder, but shall include the grass area within the statutory limits of the highways contiguous to the traveled portion thereof.
- (e) Approved Vehicle Parks. Those areas within the Village limits which are specifically approved by the Village Board for operation of "off the road" vehicle.

9.24 SOLICITATION. Whoever, with intent that an offense be committed, advises, another to commit that offense under circumstances which indicate unequivocally that he has such intent, may be subject to a forfeiture not to exceed the maximum provided for the completed offense.

9.25 CONSPIRACY. Whoever, with the intent that an offense under this chapter be committed, agrees or combines with another for the purpose of committing that offense, if one or more parties to the conspiracy does an act to effect its object, may be subject to a forfeiture not to exceed the maximum provided for the completed offense.

9.26 ATTEMPT. (1) Whoever attempts to commit an offense under this chapter may be subject to a forfeiture not to exceed $\frac{1}{2}$ the maximum penalty for the completed offense.

- (2) An attempt to commit an offense requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute such offense and that he does act towards the commission of the offense which demonstrates, under all circumstances that he forms that intent and would commit the offense except for the intervention of another person or some other extraneous factor.

9.27 DRUG PARAPHERNALIA. (Cr. #181) (1) DEFINITION. In this section "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, as defined in Ch. 161, Wis. Stats., in violation of this section. It includes, but is not limited to:

- (a) Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
- (b) Kits used, intended for use or designated for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.

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- (c) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.
- (d) Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength effectiveness or purity of controlled substance.
- (e) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.
- (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use or designed for use in cutting controlled substances.
- (g) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana.
- (h) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding-controlled substances.
- (i) Capsules, balloons, envelopes or other containers used, intended for use or designed for use in packaging small quantities of controlled substances.
- (j) Containers and other objects used, intended for use or designed for use on storing or concealing controlled substances.
- (k) Hypodermic syringes, needles, and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body.
- (l) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body including but not limited to:
 1. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.
 2. Water pipes.
 3. Carburetion tubes and devices.
 4. Smoking and carburetion masks.
 5. Objects used to hold burning materials, such as a marijuana cigarette, that has become too small or too short to be held in the hand.

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6. Miniature cocaine spoons and cocaine vials.
 7. Chamber pipes.
 8. Carburetor pipes.
 9. Electric pipes.
 10. Air-driven pipes.
 11. Chillums.
 12. Bongs.
 13. Ice pipes or chillers.
- (2) DETERMINATION OF DRUG PARAPHERNALIA. In determining whether an object is drug paraphernalia, the following shall be considered:
- (a) Statements by an owner or by anyone in control of the object concerning its use.
 - (b) Prior to convictions, if any, of an owner or of anyone in control of the object under any city, state or federal law relating to any controlled substance.
 - (c) The proximity of the object in time and space to a direct violation of this section.
 - (d) The proximity of the object to the controlled substances.
 - (e) The existence of any residue of controlled substances on the object.
 - (f) Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons whom the person knows or should reasonably know intend to use the object to facilitate a violation of this section. The innocence of an owner or of anyone in control of the object as to a direct violation of this section shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.
 - (g) Oral or written instructions provided with the object concerning its use.
 - (h) Descriptive materials accompanying the object which explains or depict its use.
 - (i) National and local advertising concerning its use.
 - (j) The manner in which the object is displayed for sale.
 - (k) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprises.
 - (l) The existence and scope of legitimate uses for the object in the community.
 - (m) Expert testimony concerning its use.

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(3) PROHIBITED ACTIVITIES.

- (a) Possession of Drug Paraphernalia. No person may use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process,

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prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this section.

- (b) (b) Manufacture, Sale, or Deliver of Drug Paraphernalia. No person may sell, deliver, possess with intent to deliver drug paraphernalia knowing that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section.

- (c) Delivery of Drug Paraphernalia to a Minor. (Am. #216) Any person 17 years of age or over who violates par. (b) by delivering drug paraphernalia to a person under 18 years of age is guilty of a special offense.

- (d) Advertisement of Drug Paraphernalia. No person may place in any newspaper, magazine, handbill, or other publication or upon any outdoor billboard or sign any advertisement, knowing that the purpose of the advertisement, in whole or part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

- (e) Exception. This subsection does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ch. 161, Wis. Stats. This section does not prohibit the possession, manufacture or use of hypodermics in accordance with Ch. 161, Wis. Stats.

- (4) PENALTIES. (a) Any drug used in violation of this section shall be seized and forfeited to the Village.

- b) Any person who violates par. (3)(a),(b) or (d) shall, upon conviction, be subject to a forfeiture of not more than \$500, together with the costs of prosecution, and upon default of payment, be imprisoned in the county jail or house of correction until the costs are paid, but not exceed 20 days.

- (c) Any person who violated par. (3)© shall, upon conviction, be subject to a forfeiture of \$1,000, together with the cost of prosecution, and upon default of payment, be imprisoned in the county jail, or house of correction until the costs are paid, but not to exceed 40 days.

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9.28 ROLLER SKATES, ROLLER BLADES, ROLLER SKIS, SKATEBOARDS AND PLAY VEHICLES. (Cr. #205) (1) RESTRICTIONS. No person shall ride, push or travel upon roller skates, roller blades, roller skis, a skateboard or other play vehicle upon the following listed premises:

- (a) Main Street – from grove Street to the Bicycle Trail.
- (b) Upon all premises held out to the public for use of their motor vehicles, whether such premises are publicly or privately owned and whether or not a fee is charged for the use thereof.
- (c) Upon any tennis courts or in any shelter in a Village park.

(2) GENERAL REGULATIONS. (a) No person shall roller skate, roller blade, roller ski, or ride a skateboard or play vehicle in a reckless manner.

(b) No person shall roller skate, roller blade, roller ski, or ride a skateboard or play vehicle without exercising due care for the safety of other persons and without yielding to pedestrians.

(c) No person shall roller skate, roller blade, roller ski, or ride a skateboard or play vehicle in the Village of Dousman between 10pm and 7am except those play vehicles equipped with rubber tires upon each roller or wheel thereof.

(3) PRIVATE AND PUBLIC PROPERTY. No person shall roller skate, roller blade, roller ski, or ride a skateboard or play vehicle on any private property without the express permission of the owner and occupant of such property and no person shall roller skate, roller blade, roller ski, or ride a skateboard or play vehicle on any public property, including property owned by the Village.

(4) RESPONSIBILITY OF PARENTS.

(a) No parent, spouse, guardian or other person having care and custody of a child under the age of 18 years shall permit or by inefficient control, allow such child to roller skate, roller blade, roller ski, or ride a skateboard or play vehicle anywhere in the Village without complying with the terms of this section.

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(b) Parents in violation of this section shall be liable to the injured person for any damages resulting from vandalism or damages caused by their ward or child in addition to any penalty imposed by the court under this section.

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- (5) PENALTY. (a) Initial Violation. Any person over the age of 17 years violating the provisions of this section shall be subject to a forfeiture of not less than \$10 nor more than \$200 plus costs per each offense. Failure to pay any forfeiture hereunder shall subject any violator over the age of 17 years to be sentenced to County Jail under such forfeiture is paid but not to exceed 90 days or suspension of motor vehicle operator's license until the forfeiture is paid but not to exceed 5 years. Any person between the ages of 14 and 17 years shall be subject to a forfeiture of not less than \$10 nor more than \$25 plus costs per each offense or referred to the proper authorities as provided in Ch. 48, Wis. Stats. Failure to pay any forfeiture hereunder shall subject the violator to the provisions of §48.17(2), Wis. Stats. Any person under the age of 14 shall be referred to the proper authorities as provided in Ch. 48, Wis. Stats.
- (b) Continued Violations. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this section shall preclude the Village from maintaining any appropriate action to prevent or remove a violation of any provision of this section.

9.29 USE OF CIGARETTES AND TOBACCO PRODUCTS PROHIBITED.

(Cr. #206; AM. #216) Section 938.983, Wis. Stats., describing and defining regulations with respect to the use of cigarettes and tobacco products by a person under 18 years of age, exclusive of any provisions therein relating to penalties to be imposed, is hereby adopted and by reference made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by the statute incorporated herein by reference is required or prohibited by this chapter. Any future amendments, revisions or modifications to the statute incorporated herein is intended to be made part of this chapter in order to secure uniform state-wide regulation of the use of cigarettes and tobacco products.

DESIGNATED SEX OFFENDERS REGULATED.9.30

(1) Findings and Facts.

- (a) The Village Board finds that repeat sex offenders, sex offenders who use physical violence, and sex offenders who prey on children are sex predators who present an extreme threat to the public safety. Sex offenders are extremely likely to use physical violence and to repeat their offense; and most sex offenders commit many offenses, have many more victims that are never reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sex offenders' victimization to society at large, while incalculable, clearly exorbitant.
- (b) It is the intent of this section to not impose a criminal penalty, but instead to serve the Village's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the Village by creating area around locations where children regularly congregate in concentrated numbers wherein certain sex offenders and sex predators are prohibited from loitering and residing.
- (c) The Village Board has closely considered this question and had made numerous findings and expressions of intent within the preamble to the Ordinance which adopts this Code Section which are incorporated here by reference.

(2) Definitions.

- (a) "Child" means a person under the age of 18 for purposes of this ordinance.
- (b) "Child Day Care" means any facility that provides care and supervision for compensation to four or more children for less than 24 hours a day where a license is required under Wisconsin Statute §48.65(1) for the operation of such facility.
- (c) "Child Group Home" means a group home, as defined in Wisconsin Statutes Section 48.02(7), a residential care center for children or youth, as defined in Wisconsin Statutes Section 48.02(15d), a shelter care facility, as defined in Wisconsin Statutes Section 48.02(17), a foster home, as defined in Wisconsin Statutes Section 48.02(6), a treatment foster home, as defined in Wisconsin Statutes Section 48.02(17q), and a child care institution or community-based residential facility which includes housing for children and which has received a conditional use permit pursuant to Section 17.36 of the Village of Dousman Zoning Code.

DESIGNATED SEX OFFENDERS REGULATED 9.30(2)(d)

- (d) “Designated Sex Offender”, for purpose of this section, means any person who is required to register under Wis. Stat. Sec. 301.45 for any sexual offense against a child and any person who is required to register under Wis. Stat. Sec. 301.45 and who has been designated a Special Bulletin Notification (SBN) sex offender pursuant to Wis. Stat. Sec 301.46(2) and (2m). The term “designated sex offender” does not include a person whose sole reason for the registration under such statutes is for a single conviction of Wisconsin Statutes Section 948.11(2) (exposing a child to harmful material), and such offender is four or fewer years older than the child to whom the harmful material was exposed, and the Village Chief of Police determines that the offender and the child were well known to each other, and the exposure that resulted in conviction was done electronically without physical contact. 2/8/16
- (e) “Golf Course” means any public or private golf course or range.
- (f) “Library means any library that is held open for use by the public where such library includes a collection of material specifically intended for use by children.
- (g) “Minor” means a person under the age of 17.
- (h) “Park/Conservation Area” means any area held open for use by the public for active or passive leisure purposes including, but not limited to, any park, parkway, recreation or open space area, beach, playground, conservation area, lake access point or recreation trail. “Park/Conservation Area” also means any private lake access point or private beach that owners of two or more lots or condominium units are entitled use, pursuant to a deed restriction, subdivision plat, condominium declaration, condominium plat, homeowner’s association regulation or similar rights of common use.
- (i) “Public/Private School” means any public or private elementary or secondary school.
- (j) “Permanent Residence” means a place where the person abides, lodges, or resides for 14 or more consecutive days.
- (k) “Specialty School” means any specialized school for children, including, but not limited to, a gymnastic academy, dance academy, or music school.
- (l) “Swimming Pool” means any swimming pool, wading pool, or aquatic facility held open for use by the public.
- (m) “Temporary residence” means a place where the person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person’s permanent address or a place where the person routinely abides, lodges, or resides for a period of hour or more consecutive or non-consecutive days in a month and which is not the person’s permanent address.

DESIGNATED SEX OFFENDERS REGULATED 9.30(3)

(3) Prohibited Location of Residence for Designated Offenders.

- (a) **Child Safety Zones.** No designated sex offender shall establish a permanent residence or temporary residence on property that is within 2,000 feet of real property consisting of any of the following:
1. Public/Private School
 2. Specialty School
 3. Child Day Care
 4. Library
 5. Park/Conservation Area
 6. Swimming Pool
 7. Golf Course
 8. Movie Theater
 9. Child Group Home
- (b) **Original Domicile Restriction.** In addition to and not the exclusion or prejudice of the foregoing, no designated sex offender shall be permitted to reside in the Village of Dousman unless the person was domiciled in the Village of Dousman at the time of the offense resulting in the person's most recent conviction of a designated sex offender crime. A designated sex offender does not violate this subsection if the Resident Board has granted exemption.
- (c) Distance for the purpose of this section shall be measured from the closest boundary line of the real property supporting the residence of a person to the closest real property boundary line of the applicable above enumerated use(s). A map depicting the above-enumerated uses and the resulting residency restriction distances, as amended from time to time, is on file in the Office of the Village Clerk for public inspection pursuant to Section 9.30(6) of this Ordinance.
- (d) **Exception.** A designated sex offender residing within a prohibited area as described in Section 9.30(3)(a) or 9.30(3)(b) does not commit a violation of Section 9.30(3) if any of the following apply:
1. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wisconsin Statute §301.45 before the effective date of this Ordinance.
 2. The person is a minor and is not required to register under Wisconsin Statute §301.45 or §301.46.
 3. The applicable use described in Section 9.30(3)(a) was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wisconsin Statutes §301.45.

DESIGNATED SEX OFFENDERS REGULATED 9.30(4)

(4) Loitering by Designated Sex Offender Prohibited.

- (a) It shall be unlawful for any designated sex offender in the Village of Dousman to loiter or prowl un any child safety zone identified on the map prepared pursuant to Section 9.30(6) if any of the foregoing is done in a place, at a time, or a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of the persons or property in the vicinity. Among the circumstances that may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a law enforcement officer, refuses to identify him or herself, or manifestly endeavors to conceal him or herself or any object. Unless flight by the actor or other circumstances makes it impractical, a law enforcement officer shall prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him or her to identify himself or herself or explain his or her presence and conduct at the aforementioned locations. No person shall be convicted of an offense under this section if the law enforcement officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true, and, if believed by the law enforcement officer at the time, would have dispelled the alarm.
- (b) The prohibitions set forth in subsection (4)(a), above, shall not apply where the designated sex offender is a minor and is accompanied by one or both of his or her parents, guardian, or other adult person having his or her care.

(5) Other Prohibited Activity.

It is unlawful for any designated offender to participate in a holiday event in the Village of Dousman involving one or more child by means of: distributing candy or other items to such child or children on Halloween; wearing a Santa Claus costume on, or during any of the thirty days preceding, Christmas; wearing an Easter Bunny costume on or during any of the thirty days preceding Easter; or by engaging in other similar type(s) of activity that may, under the circumstances then present, tend to entice a child to have contact with a designated offender. Holiday events in which the designated sex offender is the parent or legal guardian of the child or children involved, and no other children are present, are exempt from this paragraph.

(6) Child Safety Zones Map.

The Village Clerk shall maintain an official map showing locations identified in Section 9.30(3)(a) of this Ordinance. The Village Clerk shall cause such map to be updated at least annually to reflect any changes in the location of prohibited zones. These shall be designated on the map as "child safety zones". The map is to be displayed in the office of the Village Clerk. In the event of a conflict, the written terms of this Ordinance shall control.

DESIGNATED SEX OFFENDERS REGULATED 9.30(7)

(7) Penalties.

In addition to, and or to the exclusion or prejudice of such other penalties and remedies as may apply, violation of this Section 9.30 is subject to the following:

- (a) Any violation of this section shall be subject to the penalties and remedies as set forth in Section 25.04 of the Village Code. Each day of each violation shall constitute a separate offense.
- (b) Violation of this Section 9.30 shall constitute a public nuisance, which, in addition to monetary forfeitures shall be subject to action by the Village to abate and enjoin such nuisance.

(8) PETITION FOR EXEMPTION

1. A designated sex offender may seek exemptions from Subsection (3)(a) and (3)(b) by petitioning to the Sex Offender Residence Board ("Residence Board").
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2. The Residence Board shall consist of three citizens residing in the Village. Members shall be selected by the Village President subject to the approval of Village of Dousman Village Board. Members shall serve for a term of five (5) years and shall serve no more than two (2) consecutive terms. The terms for the initial members of the Residence Board shall be staggered with one serving (1) year, a second member serving three (3) years and the third member serving five (5) years.
3. The Residence Board shall approve an official petition form. The designated sex offender seeking an exemption must complete the petition and submit it to the Village Clerk who shall forward it to the Residence Board. The Residence Board shall hold a hearing on each petition, during which the Residence Board may review any pertinent information and accept oral or written statements from any person. The Residence Board shall base its decision on factors related to the Village's interest in promoting, protecting and improving the health, safety and welfare of the community. Applicable factors for the Residence Board's consideration shall include, but are not limited to:

DESIGNATED SEX OFFENDERS REGULATED 9.30(8)

- a. Nature of the offense that resulted in designated sex offender status.
 - b. Date of offense.
 - c. Age of time of offense.
 - d. Recommendation of probation or parole officer.
 - e. Recommendation of Police Department.
 - f. Recommendation of any treating practitioner.
 - g. Counseling, treatment and rehabilitation status of designated sex offender.
 - h. Remorse of designated sex offender.
 - i. Duration of time since designated sex offender's incarceration.
 - j. Support network of designated sex offender.
 - k. Relationship of designated sex offender and victim(s).
 - l. Presence or use of force in offense(s).
 - m. Adherence to terms of probation or parole.
 - n. Proposals for safety assurances of designated sex offender.
 - o. Conditions to be placed on any exception from the requirements of this Ordinance.
4. The Residence Board shall decide by majority vote whether to grant or deny an exemption. An exemption may be unconditional or limited to a certain address or time, or subject to other reasonable conditions. The Residence Board's decision shall be final for purposes of any appeal. A written copy of the decision shall be provided to the designated sex offender and the Village of Dousman Police Department.

(9) Exception for Placements under Chapter 980 of the Wisconsin Statutes.

To the extent required by Section 980.135 of the Wisconsin Statutes, and notwithstanding the foregoing provisions of this chapter, the Village of Dousman hereby exempts and may not enforce any portion thereof that restricts or prohibits a designated sex offender from residing at a certain location or that restricts or prohibits a person from providing housing to a designated sex offender against an individual who is released under Wisconsin Statutes Section 980.08, or against a person who provides housing to such individual, so long as the individual is subject to supervised release under Chapter 980 of the Wisconsin Statutes the individual is residing where he or she is ordered to reside under Section 980.08 of the Wisconsin Statutes and the individual is in compliance with all court orders issued under Chapter 980 of the Wisconsin Statutes.

9.31 TRUANCY

(1) DEFINITIONS

- (a) Truancy means any absence for 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 pupil, and also intermittent attendance carried on for the purpose of the defeating of the intent of the compulsory school attendance provisions of §118.15, Wis. Stats.
- (b) Truant means a pupil who is absent from school without an acceptable excuse under §118.15 and §118.16(4), Wis. Stats., for part or all of any day on which school is held during a school semester.
- (c) Habitual truant means a pupil who is absent from school without an acceptable excuse under §118.15 and §118.16(4), Wis. Stats., for part or all of five or more days which school is held during a school semester.
- (d) Acceptable excuses mean those circumstances in which compulsory attendance is not required, pursuant to §118.15 and §118.16(4), Wis. Stats.

(2) PROHIBITIONS

- (a) Any person under the age of 18 years of age found to be truant as defined herein shall be subject to one or more of the following dispositions:
 - 1. An order for the juvenile to attend school.
 - 2. Subject to §938.37, Wis. Stats., a forfeiture of not more than \$50.00 plus costs for a first violation or a forfeiture of not more than \$100.00 plus costs for any second violation or committed within 12 months of a prior violation, subject to a maximum cumulative forfeiture amount of not more than \$500.00 for all violations committed during a school semester.
 - 3. All or part of the forfeiture plus costs may be assessed against the juvenile, the juvenile's parents and guardian of the juvenile or both.
- (b) Any person under the age of 18 found by the court to be a habitual truant shall be subject to one or more of the following:
 - 1. Suspension of the juvenile's operating privilege for not less than 30 days not more than one year, as defined in §340.01(40), Wis. Stats. The court shall immediately notify the Department of Transportation with a notice stating the reason for and the duration of the suspension.

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2. An order for the juvenile to participate in counseling, a supervised work program or other community service as described in §938.34(5g), Wis. Stats. The costs of any such counseling, supervised work program or other community service may be assessed against the juvenile, parents, or guardian of the juvenile, or both.
3. An order for the juvenile 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 place of worship or school program. The order may permit the juvenile to leave his/her home if the juvenile is accompanied by a parent or guardian.
4. An order for the juvenile to attend an educational program as described in §938.34(7d), Wis. Stats.
5. An order for the juvenile to attend school.
6. Subject to §938.37, Wis. Stats., a forfeiture of not more than \$500.00 plus costs for each occurrence. All or part of the forfeiture plus costs may be assessed against the juvenile, the juvenile's parents or guardian or both.
7. Any other reasonable conditions consistent with this subsection including curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
8. An order placing the juvenile under formal or informal supervision as set forth in §938.34(2), Wis. Stats., for up to one year.
9. An order for the juvenile's parents, 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 juvenile, or both.

(3) CONTRIBUTING TO TRUANCY

- (a) Except as provided below, any person 17 years of age or older who, by act or omission, knowingly encouraged or contributes to the truancy of a child shall be subject to a forfeiture of not more than \$250.00 plus costs.
- (b) Subsection (a) does not apply to a person who has under his or her control a child who has been sanctioned under §49.26(1)(h), Wis. Stats.
- (c) An act or omission contributed 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.

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9.40 PENALTIES. (Ren. MMC '94) Any person who shall violate any provisions of this chapter shall be subject to penalties as follows:

- (1) Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in §25.04 of this Municipal Code.
- (2) In addition to any penalty imposed for violation of any provision of Chapter 943, Wis. Stats., incorporated herein, any person over 16 years of age who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent or parents of any un-emancipated minor child who violates any provision of Chapter 943, Wis. Stats., incorporated herein, may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with §895.035, Wis. Stats. (Am. #216)

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9.41 ENFORCEMENT. (REN. Mcc '94) The Police Department and the Village Attorney shall enforce the provisions of this chapter. Such enforcement shall be initiated by either a Village ordinance citation being written, whose contents shall conform to the requirements found in §800.02(2), Wis. Stats., or §778.25, Wis. Stats., where applicable, or shall be referred to the Village Attorney's office where a Village ordinance complaint shall be drafted and serviced upon the violator.

11/11/96