

CHAPTER VIII

ORDERLY CONDUCT

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8.01 Disorderly Conduct.

- (1) No person shall in a public or private place engage in violent, abusive, indecent, profane, boisterous, unreasonable, loud, or otherwise disorderly conduct under circumstances in which such conduct tends to cause or provoke a disturbance; or
- (2) With intent to annoy another, makes a telephone call, whether or not conversation ensues.
- (3) **Penalties.** Any person who violates this section shall forfeit not more than \$300.00, together with costs of prosecution and may be ordered to pay restitution and complete community service; except any person who is found to violate this section by physical fighting shall forfeit not more than \$500.00 together with costs of prosecution and may be ordered to pay restitution and complete community service.

8.02 RESISTING OR OBSTRUCTING AN OFFICER.

- (1) No person shall knowingly resist or obstruct a police officer while such officer is doing any act in an official capacity and with lawful authority. As is used in this chapter, "Obstructing" includes without limitation:

- (a) Knowingly giving false information to an officer; or
- (b) Knowingly place in physical evidence with intent to mislead the officer in the performance of his or her duty, including the service of any summons or civil process; or
- (c) Hinders, delays, or prevents an officer from properly serving or executing any summons or civil process.
- (d) Knowingly making a false report to an officer.
- (e) It shall be unlawful for any person to give or cause to be given a false fire alarm with intent to deceive any public officer or employee or to tamper, meddle, or interfere in any way with any fire alarm system or device or any part thereof or to make any connection therewith so as to interfere with the proper working of the system or with intent to injure, break, or destroy any machinery or fixtures connected with such a system.

- (2) **Penalties.** Any person who violates this section shall forfeit not more than \$500.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

8.03 LOUD AND UNNECESSARY NOISE PROHIBITED.

(1) Definitions and Standards. All terminology used in this ordinance not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

- (a) “A-weighted sound level” means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.
- (b) “Construction” means any site preparation, assembly, erection, substantial repair, alteration, or similar action.
- (c) “Emergency” means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage that demands immediate action.
- (d) “Emergency work” means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
- (e) “Motor vehicle” means any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, amphibious craft on land, dune buggies, or racing vehicles.
- (f) “Motorboat” means any vessel which operates on water and which is propelled by a motor, including, but not limited to, boats, barges, amphibious craft, water ski towing devices, jet boats, and personal watercraft.
- (g) “Motorcycle” means an unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including but not limited to motor scooters, mini-bikes, and four wheelers.
- (h) “Noise disturbance” means any sound which endangers or injures the safety or health of humans or animals, or annoys or disturbs a reasonable person of normal sensitivities or endangers or injures personal or real property.
- (i) “Person” means any individual, association, partnership, or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.
- (j) “Sound Level Meter” means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels.
- (k) “Street” means any public right-of-way, avenue, boulevard, highway, sidewalk, or alley or similar place which is owned or controlled by the Village.

(2) Prohibited Acts. No person shall make, continue, or cause to be made or continued, any noise disturbance. Non-commercial public speaking and public assembly activities conducted on any public space or public right-of-way shall be exempt from the operation of this section. The following acts, and the causing thereof, are declared to be in violation of this ordinance, but this list shall not be deemed to be exclusive:

- (a) The sounding of any horn or signaling device on any automobile, motorcycle, other vehicle on any street or public place in the Village for three (3) seconds in any period of one minute or less, except as a danger warning; the creation of any reasonably loud or harsh sound by means of any signaling device and the sounding of any plainly audible device for an unnecessary and unreasonable period of time; the use of any signaling device, except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust and the use of any signaling device when traffic is, for any reason, held up.
- (b) The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, "boom box" or other machine or device for the producing or reproducing of sound in a loud and unnecessary manner; or operating playing or permitting the operation or playing of any radio, television, phonograph, "boom box", drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound;
 - (i) between the hours and at levels set forth in this ordinance in such a manner as to create a noise disturbance across a real property boundary;
 - (ii) in such a manner as to create a noise disturbance at 50 feet from such device, when operated in or on a motor vehicle on a public right-of-way or public space, or in a boat on public waters; or
 - (iii) in such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a bus or similar common carrier.
- (c) The owning, possessing, or harboring of any animal or bird that frequently or for a continued duration howls, barks, meows, squawks, or makes other sounds which create noise disturbance across a residential real property boundary. This provision shall not apply to public zoos.
- (d) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor boat, except through a muffler, or other device that will effectively prevent loud or explosive noises.
- (e) The erection (including excavation), demolition, alteration, or repair of any building, as well as the operating of any pile drive, compressor, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or any other similar equipment attended by loud or unusual noise, other than between the hours of 7:00 A.M. and 10:00 P.M.; provided,

however, the Chief of Police shall have the authority, upon determining that the loss that would result would be extraordinary and of such nature as to warrant special considerations, to grant a permit for a period necessary within which time such work and operation may take place within the hours of 10:00 P.M. and 7:00 A.M.

(f) The use of firing of explosives, firearms, or similar devices that create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right-of-way.

(g) Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat in such a manner as to cause a noise disturbance across a residential real property line.

(h) The creation of any excessive noise on any street adjacent to any school or church while the same are in use, or adjacent to any nursing facility, which unreasonable interferes with the normal operation of that institution, or which disturbs or unduly annoys patients in a nursing facility.

(i) Using or operating for any purpose any loudspeaker, public address system, or similar device (i) such that the sound therefrom creates a noise disturbance across a real property boundary; or (ii) between the hours of 10:00 P.M. and 7:00 A.M. the following day on a public right of way or public space.

(j) No person shall make unnecessary and annoying noise with a motor vehicle by squealing tires or the excessive acceleration of the engine.

(k) Excessive and disturbing yelling, shouting, hooting, whistling, or singing in residential or public street right-of-ways between the hours of 10:00 p.m. and 7:00 a.m. or any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities.

(3) Exceptions. The provisions of this noise ordinance shall not apply to the following:

(a) Any vehicle of the Village while engaged in necessary public business.

(b) Excavations or repairs of streets or other public construction by or on behalf of the Village, County, or State at night when public welfare and convenience justifies the work.

(c) The reasonable use of amplifiers or loudspeakers in the course of public address that are non-commercial in nature.

(d) The emission of sound for the purpose of alerting persons to the existing of an emergency or in the performance of emergency work.

(e) Lawnmowers, chainsaws, powered garden equipment, snow blowers, electric insect killing/repelling devices, leaf blowers, and other non-construction maintenance equipment that are operated only during the hours between 7:00 A.M. and 10:00 P.M. Snow blowers operated outside of the hours between 7:00 A.M. and 10:00 P.M. shall be excepted from the provision of this noise ordinance only if the operator's hours of employment require him to operate a snow blower at other times in order to reach his place of employment at his required starting time.

(f) The Village Board may grant exceptions to persons upon evidence of substantial hardship or because of special events. The exceptions may be limited as to noise levels, days, hours, and duration.

(4) Stationary Noise Limits.

(a) Noise from a stationary source shall not exceed the following standards for maximum sound pressure levels measured at the nearest property line Monday-Tuesday.

Zone	7 A.M. to 10 P.M.	10 P.M. to 7 A.M.
Residential	75 dBA	65 dBA
Commercial	77 dBA	68 dBA
All Other Zones	77 dBA	68 dBA

(b) Noise from a stationary source shall not exceed the following standards for maximum sound pressure levels measured at the nearest property line or, in the case of amplified music, the noise level will be taken 125 feet from each side of the speakers, with the highest measurement controlling, from Wednesday - Saturday.

Zone	7 A.M. to 10 P.M.	10 P.M. to 7 A.M.
Residential	75 dBA	65 dBA
Commercial	77 dBA	68 dBA
All Other Zones	77 dBA	68 dBA

(c) Noise from a stationary source shall not exceed the following standards for maximum sound pressure levels measured at the nearest property line or, in the case of amplified music, the noise level will be taken 125 feet from each side of the speakers, with the highest measurement controlling, on Sundays.

Zone	All Day/Night
Residential	60 dBA
Commercial	65 dBA
All Other Zones	65 dBA

Further, on Sundays, live outdoor music is permitted only between the hours of 3:00 p.m. and 8:00 p.m., except that on Sundays that are prior to a legal holiday, music may extend to 11:59 p.m.

(d) No live outdoor music is permitted on Mondays or Tuesdays, except by special event permit approved by the Village Board in accordance with this subsection.

1. Special event permit applications shall be submitted to the Village by May 1 of each year. The Board may make exceptions for late applications upon a showing of good cause.
2. No more than two special event permits shall be granted for any property. The Board may make exceptions allowing for more than two special event permits for a property upon a showing of good cause and based on the criteria set forth in Subsection 4 below.
3. Special event permits are not required for events held on the Monday or Tuesday near July 4th, (the specific dates will be set by the Village Board annually), Downtown Night, Memorial Day, or Labor Day.
4. Special event permits will be decided by the Village Board on a case-by-case basis based on the Board's consideration of all circumstances of the proposed event, including, but not necessarily limited to, the location of the event, the date of the event, and the time of the event. A special event permit may be approved, denied, or conditionally approved in the Board's discretion.

(e) In commercial zones, music provided for the entertainment of customers on Friday, Saturday, and the evenings prior to legal holidays or other special events need not comply with the nighttime decibel levels above prior to 12 o'clock midnight.

(g) Construction equipment in any zone may be operated between the hours of 7:00 A. M. and 10:00 P.M., provided the equipment does not exceed a maximum sound level of 80 dBA measured at the nearest property line of the location at which the equipment is in use.

(h) The maximum noise level for a motorboat shall not exceed 86 dBA.

(5) Methods of Measuring Noise.

(a) Noise measured shall be made with a sound level meter.

(b) Noise measurement shall be made at the nearest lot line of the premises from which a noise complaint is received or in the case of music it will be measured at a point 125 feet from the speakers. The noise meter shall be placed at a height of at least three (3) feet away from walls, barriers, obstructions, and all other sound reflective surfaces.

(c) If a Village police officer deems it necessary or advisable to enforce this ordinance on behalf of the general public, without receipt of a specific citizen complaint, noise measurements may be made at the lot line of a parcel that abuts and is parallel with an existing public street.

(d) As used herein, the term lot line means the perimeter line of a lot or parcel of land. The term lot line is interchangeable with the term property line.

(6) Penalties. Any person who violates this section shall forfeit not more than \$500.00 for the first offense, \$750 for the second offense, and \$1,000 for further offenses, together with the costs of prosecution and may be ordered to pay restitution and complete community service. Every day that a violation exists shall be considered a separate offense.

(7) Severability. If any provision of this ordinance is declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance in its entirety, or any part thereof, other than that so declared to be invalid. The balance of the ordinance not found invalid shall be enforced.

8.04 UNLAWFUL USE OF TELEPHONE OR INTERNET.

(1) Whoever does any of the following shall be subject to penalties in Subsection (2):

(a) With intent to frighten, intimidate, threaten, abuse, or harass makes a telephone call or uses the internet and threatens to inflict injury or physical harm to any person or the property of any person.

(b) With intent to frighten, intimidate, threaten, or abuse telephones another or uses the internet and uses any obscene, lewd, or profane language, or suggests any lewd or lascivious act.

(c) Makes a telephone call or uses the internet, whether or not conversation ensues, without disclosing his or her identity and with intent to abuse or threaten any person at the called number or e-mail address.

(d) With intent to harass or offend, telephones another or uses the internet and uses an obscene, lewd, or profane language or suggests any lewd or lascivious act.

(e) Makes or causes a telephone of another repeatedly to ring, with intent to harass any person at the called number.

(f) Makes repeated telephone calls or uses the internet, whether or not conversation ensues, with intent to harass any person at the called number or e-mail address.

(g) Makes a telephone call, whether or not conversation ensues without disclosing his or her identity and with intent to harass any person at the called number.

(h) Knowingly permits any telephone or any internet site under his or her control to be used for any purpose prohibited by this section.

(2) Penalties. Any person who violates this section shall forfeit not more than \$300.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

8.06 HARASSMENT.

(1) No person shall, with intent to harass or intimidate another person:

- (a) Strike, shove, kick, or otherwise subject the person to physical contact or attempt or threaten to do the same;
- (b) Engage in a course of conduct or repeatedly commit acts which harass or intimidate the person and which serve no legitimate purpose.

(2) This section does not prohibit any person from participating in lawful conduct in labor disputes under section 103.53, Wisconsin Statutes.

- (a) The following acts, whether performed singly or in concert, shall be considered legal:
 - (i) Ceasing or refusing to perform any work or to remain in any relation of employment regardless of any promise, undertaking, contract, or agreement in violation of the public policy declared in s. 103.52.
 - (ii) Becoming or remaining a member of any labor organization or of any employer organization regardless of any undertaking or promise as is described in s. 103.52.
 - (iii) Paying or giving to any person any strike or unemployment benefits or insurance or other moneys or things of value.
 - (iv) Aiding, by lawful means, any person who is being proceeded against, in, or is prosecuting, any action or suit in any court of the United States or of any state.
 - (v) Giving publicity to and obtaining or communicating information regarding the existence of or the facts involved in any dispute whether by advertising, speaking, patrolling any public street or any place where any person may lawfully be without intimidation or coercion or by any other method not involving fraud, violence, breach of the peace, or threat of fraud, violence, or breach of the peace.
 - (vi) Ceasing to patronize or to employ any person except that nothing in this paragraph shall be construed to legalize a secondary boycott.

- (vii) Assembling peaceably to do or to organize to do any of the acts specified in pars. 1 to 7 or to promote lawful interests.
- (viii) Advising or notifying any person or persons of an intention to do any of the acts specified in pars. 1 to 7.
- (ix) Agreeing with other persons to do or not to do any of the acts specified in pars. 1 to 8.
- (x) Advising, urging, or inducing without fraud, violence, or threat of fraud or violence others to do the acts specified in pars. 1 to 9, regardless of any undertaking or promise described in s. 103.52.
- (xi) Doing in concert any of the acts specified in pars. 1 to 10.
- (xii) Peaceful picketing or patrolling.

(b) No court shall have jurisdiction to issue any restraining order or temporary or permanent injunction which, in specific or general terms, prohibits any person from doing, whether singly or in concert, any of the acts specified in sub. (1).

(3) Penalties. Any person who violates this section shall forfeit not more than \$500.00, together with the costs of prosecution and may be ordered to pay restitution and complete community service.

8.06 THEFT.

(1) Whoever intentionally takes and carries away, uses, transfers, conceals, or retains possession of movable property of another without the consent of that person or attempts to do so and the intent to deprive the owner permanently of possession of such property.

(2) Definitions In this section:

- (a) “Property” means all forms of tangible property, whether real or personal, without limitation including electricity, gas, and documents which represent or embody a choice in action or other intangible rights.
- (b) “Movable property” is property whose physical location can be changed, without limitation including electricity and gas, documents which represent or embody intangible rights, and things growing on, affixed to, or found in land.
- (c) “Property of another” includes property in which the actor is a co-owner and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife.

(3) Penalties. Any person who violates this section shall forfeit not more than \$500.00, together with the cost of prosecution and may be ordered to pay restitution and complete community service.

8.07 RECEIVING STOLEN PROPERTY.

(1) No person shall intentionally receive or conceal stolen property and any person violating this section is subject to penalties in Subsection (2).

(2) Penalties. Any person who violates this section shall forfeit not more than \$300.00, together with the cost of prosecution and may be ordered to pay restitution and complete community service.

8.08 FRAUD ON HOTEL OR RESTAURANT KEEPER.

(1) Any person who does either of the following is subject to penalties in Subsection (4).

(a) Having obtained any food, lodging, or other service or accommodation at any hotel, motel, boarding or lodging house, or restaurant intentionally absconds without paying for it.

(b) While a guest at any hotel, campground, motel, boarding or lodging house, or restaurant intentionally defrauds the keeper thereof in any transaction arising out of such relationship as guest.

(2) Under this section, *prima facie* evidence of intent to defraud is shown by:

(a) The refusal of payment upon presentation when due and the return unpaid of any bank check or order for the payment of money given by any guest to any hotel, campground, motel, boarding or lodging house, or restaurant, in payment of any obligation arising out of such relationship as guest. Such facts shall also be deemed *prima facie* evidence of intent to abscond without payment.

(b) The failure or refusal of any guest at a hotel, campground, motel, boarding or lodging house, or restaurant to pay, upon written demand, the established charges for food, lodging, or other service or accommodation actually rendered.

(c) The giving of false information on a lodging registration form or the presenting of false or fictitious credentials for the purpose of obtaining lodging or credit.

(d) The drawing, endorsing, issuing, or delivering to any hotel, campground, motel, boarding or lodging house, or restaurant of any check, draft, or order for payment of

money upon any bank or other depository, in payment of established charges for food, lodging, or other service or accommodation knowing at the time that there is not sufficient credit with the drawee bank or other depository for payment in full of the instrument drawn.

(3) This section does not apply to a postdated check or to a check given for a past consideration, except a payroll check.

(4) Penalties. Any person who violates this section shall forfeit not more than \$300.00, together with the costs of prosecution and may be ordered to pay restitution and complete community service.

8.09 WORTHLESS CHECKS.

(1) No person may issue a check or other order for payment which, at the time of issuance, he or she intends not be paid.

(2) Any of the following is prima facie evidence that the person at the time he or she issued the check or other order for the payment of money intended it should not be paid:

(a) Proof that, at the time of issuance, the person did not have an account with the drawee; or

(b) Proof that, at the time of issuance, the person did not have sufficient funds or credit with the drawee and that the person failed within five days after receiving notice of nonpayment or dishonor to pay the check or other order; or

(c) When presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within 5 days after receiving notice of non-payment or dishonor, to pay the check or other order.

(3) Penalties. Any person who violates this section shall forfeit not more than \$1,000.00, together with the costs of prosecution and may be ordered to pay restitution and complete community service.

8.10 DAMAGE TO PROPERTY.

(1) No person shall intentionally cause damage to any physical property of another without the person's consent.

(2) When more than one item of property is damaged, pursuant to a single intent and design, the damage to all of the property may be prosecuted as a single offense.

(3) Any case of damage involving more than one act of damage but prosecuted as a single offense, it is sufficient to allege generally damage to property committed between certain dates. On trial, evidence may be given of any such damage committed on or between the dates alleged.

(4) **Penalties.** Any person who violates this section shall forfeit not more than \$300.00, together with the cost of prosecution and may be ordered to pay restitution and complete community service.

8.11 TRESPASS TO DWELLINGS AND BUILDINGS.

(1) No person shall intentionally enter the dwelling or building of another without the consent of some person lawfully upon the premises, under circumstances tending to create or provoke a breach of the peace.

(2) **Penalties.** Any person who violates this section shall forfeit not more than \$500.00, together with the cost of prosecution and may be ordered to pay restitution and complete community service.

8.12 TRESPASS TO LAND.

(1) Any person who does any of the following is subject to penalty in subsection (3).

(a) Intentionally enters any enclosed or cultivated land of another with intent to catch or kill any birds, animals, or fish on the land or gather any products of the soil without the express or implied consent of the owner or occupant to engage in any of those activities.

(b) Intentionally enters or remains on any land of another after having been notified by the owner or occupant not to enter or remain on the premises.

(c) Hunts, shoots, fishes, or gathers any product of the soil on the premises of another or enters said premises with intent to do any of the foregoing after having been notified by the owner or occupant not to do so.

(d) Intentionally enters any enclosed or cultivated land of another with a vehicle of any kind without the express or implied consent of the owner or occupant.

(2) A person has received notice from the owner or occupant within the meaning of this section if he has been notified personally, either orally or in writing, or if the land is posted. For land to be posted, a sign at least 11 inches square must be placed in at least two conspicuous

places for every 40 acres to be protected. The sign must carry an appropriate notice and the name of the person giving the notice followed by the word "owner" if the person giving the notice is the holder of legal title to the land and by the word "occupant" if the person giving the notice is not the holder of legal title but lawful occupant of the land. Proof that appropriate signs are herein provided were erected or in existence upon the premises to be protected within six months prior to the event complained of shall be *prima facie* proof that the premises to be protected were posted as herein provided.

(3) Penalties. Any person who violates this section shall forfeit not more than \$300.00, together with costs of prosecution, and may be ordered to pay restitution and complete community service.

8.13 MISCONDUCT ON PUBLIC GROUNDS.

(1) No person shall commit any act in a public building or on public grounds which interfere with the peaceful conduct of activities normally carried on in such building or on such grounds.

(2) No person other than a student, member of the faculty, custodial staff, or other person entering the school building for a school related purpose may enter said building or be on the premises without the express authorization (consent) of the principal or faculty member of said school.

(3) It shall be unlawful for any student to remain or loiter on portions of the school grounds or building not specifically designated by assignment without prior approval of the school principal or other faculty members.

(4) Penalties. Any person who violates this section shall forfeit not more than \$300.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

8.14 UNLAWFUL ASSEMBLES AND THEIR SUPPRESSION.

(1) Police officers have a duty to suppress unlawful assemblies within their jurisdiction. For that reason they may order all persons who are part of an assembly to disperse. An "unlawful assembly" is an assembly which consists of three or more persons with which causes such a disturbance of public order that it is reasonable to believe that the assembly will cause injury to persons or damage to property unless it is immediately dispersed.

(2) An "unlawful assembly" includes an assembly of persons who assemble for the purpose of blocking or obstructing the lawful use by any other person or persons of any private or public thoroughfares, property, or of any building or dwelling place, or any portion thereof and which

assembly does in fact so block or obstruct the lawful use by any other person or persons of any such private or public thoroughfares, property or any position of access or exit to or from any private or public building and dwelling place or any portion thereof.

(3) Penalties. Any person who violates this section shall forfeit not more than \$300.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

8.15 LITTERING PROHIBITED.

(1) It shall be unlawful for any person, with the exception of an Elkhart Lake Police Officer placing official materials, to throw, drop, cast, or deposit upon any street, alley, sidewalk, vehicle, or any yard or premises, public or private, any filth of any kind or cans, paper, trash, cigarette butts, paper container, rubbish, bottles, or any other form of litter or waste matter.

(2) It shall be a violation of this ordinance for any unauthorized person to use a trash or garbage receptacle of another person or entity without permission from the owner.

(3) Penalties. Any person who violates this section shall forfeit not more than \$250.00, together with the costs of prosecution and may be ordered to pay restitution and complete community service.

8.16 DRINKING IN CERTAIN PLACES PROHIBITED.

(1) No person shall consume or carry in open containers any alcoholic liquor or fermented malt beverages on any street, sidewalk, parkway, municipally owned swimming beach, or railroad property within the corporate limits of the Village.

(2) Penalties. Any person who violates this section shall forfeit not more than \$250.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

8.17 POSSESSION AND CONSUMPTION OF CERTAIN ITEMS BY UNDERAGE PERSONS.

(1) Possession and consumption of alcohol beverages and intoxicating liquor by underage persons. The provisions of Section 125.07(1), (3), (4), and 125.09(2) of the Wisconsin Statutes relating to the possession and consumption of alcohol beverages and

intoxicating liquor by underage persons and the presence of such persons on licensed premises are hereby adopted and made a part of this chapter.

(2) Alcohol Beverages; Restrictions Relating to Underage Persons.

(a) Restrictions

- (i) No person may procure to sell, dispense, or give away any alcohol beverages to any underage person not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age.
- (ii) No licensee or permittee may sell, vend, deal, or traffic in alcohol beverages to or with any underage person not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age.
- (iii) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control. This subdivision does not apply to alcohol beverages used exclusively as part of a religious service.
- (iv) No adult may intentionally encourage or contribute to a violation of sub. (4) (a) or (b).

(b) Penalties Any person who violates this section shall forfeit not more than \$2,500.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

(3) Presence in Places of Sale; Penalty.

(a) Restrictions. An underage person not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age may not enter, knowingly attempt to enter, or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his or her employee. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This paragraph does not apply to:

- (i) An underage person who is resident, employee, lodger, or boarder on the premises controlled by the proprietor, licensee, or permittee of which the licensed premises consists or is a part.
- (ii) An underage person who enters or is on a Class "A" or "Class A" premises for the purpose of purchasing items other than alcohol beverages.

An underage person so entering the premises may not remain on the premises after the purchase.

(iii) Hotels, drug stores, grocery stores, bowling centers, billiards centers having on the premises 12 or more billiards tables that are not designed for coin operation and that are 8 feet or longer in length, indoor golf simulator facilities, service stations, vessels, cars operated by any railroad, regularly established athletic fields, outdoor volleyball courts that are contiguous to a licensed premises, stadiums, public facilities as defined in s. 125.51 (5) (b) 1.d. which are owned by a county or municipality or centers for the visual or performing arts, 3m. Premises having an indoor volleyball court that measures at least 9 meters by 18 meters in area. The exception under this subdivision does not authorize an underage person to loiter in any room that is primarily used for the sale or consumption of alcohol beverages.

(iv) Premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in chs. 27 and 28, and parks owned or operated by agricultural societies.

(v) Ski chalets, golf courses, and golf clubhouses, racetracks licensed under ch. 562, curling clubs, private soccer clubs, and private tennis club.

(vi) Premises operated under both a Class "B" or "Class B" license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a Class "B" or "Class B" license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.

6m. Premises operating under both a "Class C" license and a restaurant permit.

(vii) An underage person who enters or remains on a Class "B" or "Class B" premises for the purpose of transacting business at an auction or market, if the person does not enter or remain in a room where alcohol beverages are sold, furnished, or possessed.

(viii) An underage person who enters or remains in a room on Class "B" or "Class B" licensed premises separate from any room where alcohol beverages are sold or served, if no alcohol beverages are furnished or consumed by any person in the room where the underage person is present and the presence of underage persons is authorized under this subdivision. An underage person may enter and remain on Class "B" or "Class B" premises under this subdivision only if the municipality which issued the Class "B" or "Class B" license adopts an ordinance permitting underage persons to enter and remain on the premises as provided in this subdivision and the law enforcement agency responsible for enforcing the

ordinance issues to the Class “B” or “Class B” licensee a written authorization permitting underage persons to be present under this subdivision on the date specified in the authorization. Before issuing the authorization, the law enforcement agency shall make a determination that the presence of underage persons on the licensed premises will not endanger their health, welfare, or safety or that of other members of the community. The licensee shall obtain a separate authorization for each date on which underage persons will be present on the premises.

(ix) A person who is at least 18 years of age and who is working under a contract with the licensee, permittee, or corporate agent to provide entertainment for customers on the premises.

(x) An underage person who enters or remains on Class “B” or “Class B” licensed premises on a date specified by the licensee or permittee during times when no alcohol beverages are consumed, sold, or given away. During those times, the licensee, the agent named in the license if the licensee is a corporation or limited liability company or a person who has an operator’s license shall be on the premises unless all alcohol beverages are stored in a locked portion of the premises. The licensee shall notify the local law enforcement agency, in advance, of the times underage persons will be allowed on the premises under the subdivision.

(xi) An underage person who enters or remains in a dance hall attached to Class “B” or “Class B” licensed premises if the dance hall is separate from any room where alcohol beverages are sold, if there is a separate entrance to the dance hall and if no alcohol beverages are furnished or consumed by any person in the dance hall where the underage person is present.

(xii) An underage person who enters and remains on premises for which a temporary Class “B” license is issued under s. 125.26 (6) if the licensee is authorized by the official or body of the municipality that issued the license to permit underage persons to be on the premises under s. 125.26 (6) and if the licensee permits underage persons to be on the premises.

(b) Penalties. A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premise in violation of par. (a) is subject to a forfeiture of not more than \$500.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

(4) Underage Persons; Prohibitions; Penalties.

(a) Any underage person who does any of the following is guilty of a violation:

- (i) Procures or attempts to procure alcohol beverages from a licensee or permittee.
- (ii) Unless accompanied by a parent, guardian, or spouse who attained the legal drinking age, possesses or consumes alcohol beverages on licensed premises.
- (iii) Enters, knowingly attempts to enter, or is on licensed premises in violation of sub. (3) (a).
- (iv) Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.

(b) Except as provided in par. (bm), any underage person not accompanied by his or her parent, guardian, or spouse who attained the legal drinking age who knowingly possesses or consumes alcohol beverages is guilty of a violation.

(bm) An underage person may possess alcohol beverages in the course of employment during his or her working hours if employed by any of the following:

- (i) A brewer.
- (ii) A fermented malt beverages wholesaler.
- (iii) A permittee other than a Class “B” or “Class B” permittee.
- (iv) A facility for the production of alcohol fuel.
- (v) A retail licensee or permittee under the conditions specified in s. 125.32 (2) or 125.68 (2) or for delivery of unopened containers to the home or vehicle of a customer.
- (vi) A campus, if the underage person is at least 18 years of age and is under the immediate supervision of a person who has attained the legal drinking age.

(bs) Any person violating par. (a) is subject to the following penalties:

1. For a first violation, a forfeiture of not less than \$250 nor more than \$500, suspension of the person’s operating privilege as provided under s. 343.30 (6) (b) 1., participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.
2. For a violation committed within 12 months of one previous violation, either a forfeiture of not less than \$300 nor more than \$500, participation in a supervised work program or other community service

work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 2., except that if the violation of par. (a) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 2.

3. For a violation committed within 12 months of 2 previous violations, either a forfeiture of not less than \$500.00 nor more than \$750.00, participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 3., except that if the violation of par. (a) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 3.

4. For a violation committed within 12 months of 3 or more previous violations, either a forfeiture of not less than \$750 nor more than \$1,000, participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 3., except that if the violation of par. (a) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 3.

(c) Any person violating par (b) is subject to the following penalties:

1. For a first violation, a forfeiture of not less than \$100 nor more than \$200, suspension of the person's operating privilege as provided under s. 343.30 (6) (b) 1., participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.

2. For a violation committed within 12 months of one previous violation, either a forfeiture of not less than \$200 nor more than \$300, participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 2., except that if the violation of par. (b) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 2.

3. For a violation committed within 12 months of 2 previous violations, either a forfeiture of not less than \$300 nor more than \$500, participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 3., except that if the violation of par. (b) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 3.

4. For a violation committed within 12 months of 3 or more previous violations, either a forfeiture of not less than \$500 nor more than \$1,000, participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 3., except that if the violation of par. (b) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 3.

(cd) For purposes of par. (bs) or (c), all violations arising out of the same incident or occurrence shall be counted as single violation.

(cm) When a court revokes or suspends a person's operating privilege under par. (bs) or (c), the Department of Transportation may not disclose information concerning or relating to the revocation or suspension to any person other than a court, district attorney, county corporation counsel, city, village, or town attorney, law enforcement agency, or the person whose operating privilege is revoked or suspended. A person entitled to receive information under this paragraph may not disclose the information to any other person or agency.

(d) A person who is under 17 years of age on the date of disposition is subject to s. 938.344 unless proceedings have been instituted against the person in a court of civil or criminal jurisdiction after dismissal of the citation under s. 938.344(3).

(e) 1. In this paragraph, "defendant" means a person found guilty of violating par. (a) or (b) who is 17, 18, 19, or 20 years of age.
2. After ordering a penalty under par. (bs) or (c), the court, with the agreement of the defendant, may enter an additional order staying the execution of the penalty order and suspending or modifying the penalty imposed, except that the court may not stay, suspend, or modify the suspension of a person's operating privilege required under par. (bs) or (c). The order under this subdivision shall require the defendant to do any of the following:

- a. Submit to an alcohol abuse assessment that conforms to the criteria specified under s. 938.547 (4) and that is conducted by an approved treatment facility. The order shall designate an approved treatment facility to conduct the alcohol abuse assessment and shall specify the date by which the assessment must be completed.
- b. Participate in an outpatient alcohol abuse treatment program at an approved treatment facility, if an alcohol abuse assessment conducted under subd. 2. a. recommends treatment.
- c. Participate in a court approved alcohol abuse education program.

3. If the approved treatment facility, with the written informed consent of the defendant, notifies the agency primarily responsible for providing services to the defendant that the defendant has submitted to an assessment under subd. 2. a. and that the defendant does not need treatment or education, the court shall notify the defendant of whether or not the penalty will be reinstated.

4. If the defendant completes the alcohol abuse treatment program or court-approved alcohol abuse education program, the approved treatment facility or court approved alcohol abuse education program shall, with the written informed consent of the defendant, notify the agency primarily responsible for providing services to the defendant that the defendant has complied with the order and the court shall notify the defendant of whether or not the penalty will be reinstated. If the court had ordered the suspension of the defendant's operating privilege under par. (bs) or (c), the court may order the secretary of transportation to reinstate the operating privilege of the defendant if he or she completes the alcohol abuse treatment program or court-approved alcohol abuse education program.

5. If an approved treatment facility or court-approved alcohol abuse education program, with the written informed consent of the defendant, notifies the agency primarily responsible for providing services to the defendant that the defendant is not participating in the program or that the defendant has not satisfactorily completed a recommended alcohol abuse treatment program or an education program, the court shall hold a hearing to determine whether the penalties under par. (bs) or (c) should be imposed.

(5) Possession of alcohol beverages on School Grounds Prohibited.

(a) In this subsection:

(i) "Motor vehicle" means a motor vehicle owned, rented, or cosigned to a school.

(ii) "School" means a public, parochial, or private school which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school, or high school.

(iii) "School administrator" means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.

(iv) "School premises" means premises owned, rented, or under the control of a school.

(b) Except as provided by par. (c) no person may possess or consume alcohol beverages:

- (i) On school premises;
- (ii) In a motor vehicle, if a pupil attending the school is in the motor vehicle; or
- (iii) While participating in a school-sponsored activity.

(c) Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws, ordinances, and school board policies.

(d) Any person who violates this subsection is subject to a forfeiture of not more than \$200.00, except if the person is underage the penalties for underage violations shall apply.

8.18 Possession of Controlled Substances; Manufactured or Delivery of Drug Paraphernalia

(1) Marijuana, Possession and Use Prohibited.

- (a) Definition. "Marijuana" means all parts of the plant cannabis sativa L. whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, sale, derivative, mixture or preparation of the plant, its seeds, or resin.
- (b) Possession. Delivery and Use Prohibited. It shall be unlawful for any person to possess, deliver, sell or use marijuana or a marijuana derivative in the Village. This section shall include, but not be limited to those persons who possess, deliver, sell or use marijuana or a marijuana derivative in any amount and include those persons who are charged under this section for a first offense.
- (c) Exception. This section shall not apply to a person who has obtained or possesses marijuana directly from or pursuant to a valid prescription or order of a practitioner licensed to administer a controlled substance and while acting in the course of his professional practice. However, the burden of proof to prove such exception shall be on the person claiming it.
- (d) Penalties. Any person who violates any subsection of Section 8.18(1) shall, upon conviction, be subject to a forfeiture of not more than \$500.00, together with costs of prosecution and may be ordered to pay restitution and complete community service. Any person who violates any subsection of Section 8.18(1) may also have his or her driving privileges suspended or revoked in accordance with section 971.50 Wisconsin Statutes.

(2) Drug Paraphernalia, Possession and Use Prohibited.

(a) Drug paraphernalia defined. In this section “drug paraphernalia” means all equipment, products, and material of any kind which are used, primarily intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introduced into the human body, a controlled substance, as defined in chapter 961 Wis. Stats., in violation of this section. “Drug Paraphernalia” includes, but is not limited to:

- (i) Kits used, primarily 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;
- (ii) Kits used, primarily intended for use, or designed for use in manufacturing, selling, distributing, delivering, compounded, converting, producing, processing, or preparing controlled substances;
- (iii) Isomerization devices used, primarily intended for use or designed for use in increasing the potency of any species of a plant which is a controlled substance;
- (iv) Testing equipment used, primarily intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances;
- (v) Scales and balances used, primarily intended for use, or designed for use in weighing or measuring controlled substances;
- (vi) Diluents and adulterants such as quinine, hydrochloride, mannitol, mannite, dextrose, and lactose used, primarily intended for use, or designed for use in cutting controlled substances;
- (vii) Separation gins and sifters used, primarily intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;
- (viii) Blenders, bowls, containers, spoons, and mixing devices used, primarily intended for use, or designed for use in compounding controlled substances;
- (ix) Capsules, balloons, envelopes or other containers used, primarily intended for use, or designed for use in packaging small quantities of controlled substances;
- (x). Containers and other objects used, primarily intended for use, or designed for use in storing or concealing controlled substances;

(xi). Objects used, primarily 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:

- a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- b. Water pipes;
- c. Carburetion tubes and devices;
- d. Smoking and carburetion masks;
- e. Roach clips, defined as objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;
- f. Miniature cocaine spoons and cocaine vials;
- g. Chamber pipes;
- h. Carburetor pipes;
- i. Electric pipes;
- j. Air-driven pipes;
- k. Chilams;
- l. Bongs;
- m. Ice pipes or chillers.

(xii). “Drug Paraphernalia” excludes:

- (a) Hypodermic syringes, needles, and other objects used or primarily intended for use in parenterally injecting substances in the human body.
- (b) Any items including pipes, papers, and accessories that are designed for use or primarily intended for use with tobacco products.

(xiii) “Primarily” means chiefly or mainly.

(b) Determination of drug paraphernalia. In determining whether an object is drug paraphernalia, the following shall be considered without limitation of such other consideration a court may deem relevant:

- (i) Statements by an owner or by anyone in control of the object concerning its use;
- (ii) Prior convictions, if any, of an owner or of anyone in control of the object under any municipal, state, or federal law relating to any controlled substance;
- (iii) The proximity of the object in time and space to a direct violation of this section;

- (iv) The proximity of the object to controlled substances;
- (v) The existence of any residue of controlled substance on the object;
- (vi) Direct or circumstantial evidence of the primary 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 primary intent to use the object to facilitate a violation of this section. The innocence of an owner or of anyone in control of this object as to a direct violation of this section shall not prevent a finding that the object is primarily intended for use or designed for use as drug paraphernalia;
- (vii) Oral or written instructions provided with the object concerning its use;
- (viii) Descriptive materials accompanying the object which explain or depict its use;
- (ix) National and local advertising concerning its use;
- (x) The manner in which the object is displayed for sale;
- (xi). Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community such as a licensed dealer or distributor of tobacco products.
- (xii) The existence and a scope of legitimate uses for the object in the community;
- (xiii). Expert testimony concerning its use.

(c) Prohibited activities:

- (i) Possession of Drug Paraphernalia. No person may use or possess with primary intent to use drug paraphernalia 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. Possession of drug paraphernalia shall give rise to a rebuttable presumption of prohibited use.
- (ii) Manufacture, Sale, or Delivery of Drug Paraphernalia. No person may sell, deliver, possess with primary intent to deliver or manufacture with primary intent to deliver drug paraphernalia, knowing 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.

(iii) Delivery of Drug Paraphernalia to a Minor. Any person 18 years of age or over who violates Subsection 2 of this section by delivering drug paraphernalia to a person under 18 years of age is guilty of a special offense.

(iv) 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 in part is to promote the sale of objects designed or primarily intended for use as drug paraphernalia.

(v) Exemption.

a. This subsection does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies, and other persons those conduct is in accordance with chapter 961 Wis. Stats.

b. This section does not prohibit the possession, manufacture, or use of hypodermics in accordance with chapter 961 Wis. Stats.

c. This ordinance does not prohibit the possession of controlled substances and/or drug paraphernalia as defined by this ordinance by police personnel of the Village of Elkhart Lake in the course of employment for evidentiary, educational or demonstration purposes.

(d) Penalties.

(i) Any drug paraphernalia used or possessed in violation of this ordinance shall be seized and forfeited to the Village of Elkhart Lake.

(ii) Any person who violates Subsections 1, 2, or 4 of Section 8.18(2)(B) shall, upon conviction, be subject to a forfeiture of not more than \$500.00, together with costs of prosecution and may be ordered to pay restitution and complete community service. Any person who violates subsections 1, 2, or 4 of Section 8.18(2)(B) may also have his or her driving privileges suspended or revoked in accordance with section 961.50 Wis. Stats.

(iii) Any person who violates subsection 3 of section 8.18(2)(B) shall, upon conviction, be subjected to a forfeiture of not more than \$1,000.00 together with costs of prosecution and may be ordered to pay restitution and complete community service. Any person who violates Subsection 3 of Section 8.18(2)(B) may also have his or her driving privileges suspended or revoked in accordance with section 961.50 Wis. Stats.

(3) Marijuana, Possession with Intent to deliver or distribute.

(a) Definition. "Marijuana" means all parts of the plant cannabis sativa L. whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, sale, derivative, mixture or preparation of the plant, its seeds, or resin.

(b) Possession with Intent to Deliver, Delivery. It shall be unlawful for any person to possess, with intent to deliver or to distribute marijuana. Intent under this section may be demonstrated by, without limitation because of enumeration, evidence of the quantity and monetary value of the substances possessed, the possession of manufacturing implements or paraphernalia, and the activities or statements of the person in possession of the marijuana prior to and after the alleged violation.

(c) PENALTIES. Any person who violates any subsection of Section 8.18(3) shall, upon conviction, be subject to a forfeiture of not more than \$500.00, together with costs of prosecution and may be ordered to pay restitution and complete community service. Any person who violates any subsection of Section 8.18(3) may also have his or her driving privileges suspended or revoked in accordance with section 961 Wisconsin Statutes.

(4) Prescription Drugs, Possession and Use Prohibited.

(a) Definition: "Prescription drug" means a drug or device prescribed by a practitioner licensed in this state to prescribe and administer drugs or in another state and recognized by this state as a person authorized to prescribe and administer drugs including, but not limited to the following:

(i) A controlled substance included in Schedules II to V of Ch. 961 of the Wis. Statutes;

(ii) A drug, drug product, or drug-containing preparation that is subject to 21 USC 353(b) or 21 CFR 201.105.

(b) Possession and Use Prohibited. No person may possess, attempt to possess, or use a prescription drug unless the prescription drug is obtained in compliance with Ch. 450 of Wis. Statutes. Attempts to possess may include, but not be limited to the following:

(i) Use of fraud, deceit, willful misrepresentation, forgery, alteration of a prescription order, willful concealment of a material fact, or use of a false name, address, or title.

(c) Delivery and Possession with Intent to Deliver Prohibited. No person may deliver, or possess with intent to deliver a prescription drug unless authorized by Ch 450 of Wis. Statutes.

(d) Penalties. Any person who violates any section of 8.18(3) shall, upon conviction, be subject to a forfeiture of not more than \$500.00, but not less than \$350.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

8.19 PURCHASE OR POSSESSION OF TOBACCO PRODUCTS BY CHILDREN PROHIBITED

(1) Definition.

- (a) "Child" means a person who is less than 18 years of age.
- (b) "Cigarette" means any rolled tobacco wrapped in paper and shall include electronic cigarettes as defined as any electronic-smoking device that is used to deliver nicotine or any other substances to the person inhaling from a device.
- (c) "Law Enforcement Officer" means any person employed by the state or any political subdivision of the state, for the purpose of detecting or preventing crime and enforcing laws or ordinances that the person is employed to enforce. This also includes a person appointed as conservation warden.
- (d) "Tobacco Products" means cigars; electronic cigarettes, electronic cigars, electronic pipes, cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff; snuff flour; Cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clipping, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe otherwise, or both for chewing and smoking; but "tobacco products" does not include cigarettes, as defined under s. 139.30(1).

(2) Prohibition Against the Purchase or Possession of Tobacco Products by Children. No children may do any of the following:

- (a) Buy or attempt to buy any cigarette or tobacco product;
- (b) Falsely represent his or her age for the purpose of receiving any cigarette or tobacco product;
- (c) Possess any cigarette or tobacco product.

(3) Prohibition Against the Purchase and Supply of Tobacco Products for Children.

- (a) No person may knowingly permit any person under the age of 18 years of age to purchase tobacco products.
- (b) No person may knowingly supply any person under the age of 18 years of age with tobacco products.
- (c) No person under the age of 18 years may possess any cigarette, tobacco product or tobacco related devices and which shall include any electronic smoking device that can be used to deliver nicotine or any other substances to the person inhaling from the device as defined in Chapter 8.36(1).

(4) Penalties. Any person who violates this section shall forfeit not more than \$250.00, together with the cost of prosecution and may be ordered to pay restitution and complete community service.

8.20 CURFEW.

(1) Curfew Established. It shall be unlawful for any person under eighteen (18) years of age to be on foot, bicycle, or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, place of amusement and entertainment, cemetery, playground, public building, or any other public place in the Village of Elkhart Lake between the hours of 11:00 P.M. and 5:00 A.M., unless accompanied by his or her parent or guardian, or a person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefore. A child, unaccompanied by a parent, guardian, or other person having legal custody found in any of the above activities shall be *prima facie* evidence that the child is there unlawfully and that no reasonable excuse for his or her presence provided that the officer has reason to believe the child does not meet one of the exceptions outlined in Subsection 2.

(2) Exceptions. The curfew requirements shall not apply to a child:

- (a) Who is performing an errand as directed by his or her parent, guardian, or a person having lawful custody provided that the child is traveling directly to and from the location of the assigned errand;
- (b) Who is on his or her own premises, or in the areas immediately adjacent thereto, provided the immediate adjacent area is not a park or other public property.
- (c) Whose employment makes it necessary to be upon the streets, alleys, or public places, or in any motor vehicle during such hours; or
- (d) Who is engaged in otherwise lawful activities of expression as contemplated under the First Amendment to the United States Constitution.

(e) Who is returning from a supervised school, church, or civic function, but not later than thirty (30) minutes after the ending of such function.

The above exceptions do not permit a child to unnecessarily loiter about the streets, alleys, or public places, or be in a parked motor vehicle on the public streets, alleys, or public places.

(3) Parental Responsibility

(a) It shall be unlawful for any parent, guardian, or other person having the lawful care, custody, and control of any person under eighteen (18) years of age to allow or permit such person to violate the provisions of this curfew ordinance. If a parent, guardian, or a person having the lawful care, custody, and control was informed by any law enforcement officer of a separate violation of this ordinance occurring within thirty (30) days of the present offense, it shall be *prima facie* evidence that such parent, guardian or person having the lawful care, custody, and control allowed or permitted the present violation. Any parent, guardian, or person having lawful care, custody, and control who makes a missing person notification to the police department shall not be considered to have allowed or permitted any person under eighteen (18) years of age to violate this ordinance.

(b) Any person who knowingly contributes to the violation of this section by any person under the age of eighteen (18) years of age shall be subject to penalties in Subsection (5).

(4) Taking a Child Into Custody. Without limiting the law enforcement powers of the police department authorized under Wisconsin law, law enforcement officers shall have the following powers under this curfew ordinance.

(a) Every law enforcement officer while on duty is authorized to take into custody any child violating the provisions of this ordinance. Children taken into custody shall be released from custody as soon as is reasonably possible. The law enforcement officer shall make every reasonable effort to immediately release the child to the child's parent, guardian, or a person having the lawful care, custody, and control of the child. If the parent, guardian, or legal custodian is unavailable, unwilling, or unable to provide supervision for the child, the law enforcement officer may release the child to a responsible adult and verbally counsel or warn as may be appropriate, or in the case of a runaway child, may release the child to a home authorized under the Wisconsin Statutes.

(b) If the child is not released under this subsection, the law enforcement officer shall deliver the child to the Sheboygan County Juvenile Court intake worker in a manner determined by the court and law enforcement agencies, stating in writing with supporting facts the reasons why the child was taken into physical custody and giving any child twelve (12) years of age or older a copy of the statement, in addition to giving a copy to the intake worker.

(c) If the child is believed to be suffering from a serious physical condition that requires either prompt diagnosis or prompt treatment, the law enforcement officer shall take such action as is required under the Wisconsin Statutes. If the child is believed to be mentally ill, drug dependent, or developmentally disabled and exhibits conduct that constitutes a substantial risk of physical harm to the child or to others, the law enforcement officer shall take such action as is required under the Wisconsin Statutes. If the child is believed to be an intoxicated person who has threatened, attempted or inflicted physical harm on himself or herself or on another, and is likely to inflict such physical harm unless committed or is incapacitated by alcohol, the law enforcement officer shall take such action as is required by Wisconsin Statutes.

(5) Penalties.

(a) Any parent, guardian, or person having the lawful care, custody, and control of a child under 18 years of age or any other person who contributes to a violation of this section, shall forfeit not more than \$150.00, together with the costs of prosecution and may be ordered to pay restitution and complete community service.

(b) Any child who violates this section shall forfeit not more than \$150.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

8.21 TRUANCY

(1) Authority: Wisconsin Statutes Sec. 118.163(2) authorizes the Village of Elkhart Lake to adopt a municipal truancy ordinance based on juvenile code sections 938.02(9m), 938.13(6), 938.17(2)(a), 938.17(2)(d), 938.17(2)(g), and 938.342, Wisconsin Statutes.

(2) Definitions: For the purpose of this ordinance:

(a) “Habitual truant” means a pupil who is absent from school without an acceptable excuse under section 118.15 of the Wisconsin Statutes, part or all of five or more days on which school is held during school semester.

(b) “Operating privilege” means the privilege given in section 340.01(40) of the Wisconsin Statutes.

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

(3) The Village of Elkhart Lake, by this ordinance, does prohibit any student within its jurisdiction from being a truant or a habitual truant as that term is defined in this ordinance. The

Village of Elkhart Lake Police Department is authorized to issue a Village citation to any said student found within its jurisdiction who is determined to be truant or a habitual truant.

Any citation issued shall be returnable in the Village Municipal Court in the same manner as all ordinance citations are returnable. The citation is to state on its face that this is a "must appear" citation and no forfeiture amount is to be written on the face of this citation.

(4) (a) The Village of Elkhart Lake Police Department is authorized to issue a Village citation to any person who knowingly contributes to the truancy of any student found within its jurisdiction.

(b) PENALTIES. Any person who violates this section shall forfeit not more than \$250.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

(5) **Disposition:** Upon finding the child habitually truant, the court may impose the following dispositions:

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

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

(c) A forfeiture of not more than \$500.00, plus costs, subject to section 938.37 of the Wisconsin Statutes. All or part of the forfeiture, plus costs, may be assessed against the person, the parents or guardian of the person, or both.

(d) Completion of community service.

Upon finding a person a truant, the court may impose one or more of the following dispositions:

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

(b) 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 or subsequent violation committed within twelve months of a previous violation subject to section 938.37 of the Wisconsin Statutes and subject to a maximum cumulative forfeiture amount of not more than \$500.00 for all violations committed during the school semester. All or part of the forfeiture, plus costs, may be assessed against the person, the parents, or guardian of the person or both.

(c) Completion of community service.

8.22 UNLAWFUL SHELTERING OF MINORS

(1) No person shall, unless duly licensed under state statutes or without having first obtained the permission of the parents or legal guardian of any minor or without first notifying the police department of the existence of a minor described in Subsection (1)(a) of this section on premises owned or operated by or under the control of such person:

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

(2) Any person violating any provision of this section shall be subject to a forfeiture of not less than \$50.00 or more than \$200.00, together with the cost of prosecution and may be ordered to pay restitution and complete community service.

8.23 SALE AND USE OF FIREWORKS

(1) Definition. In this section, “fireworks” means anything manufactured, processed, or packaged for exploding, emitting sparks, or combustion which does not have another common use but does not include any of the following:

- (a) Fuel or lubricant.
- (b) A firearm cartridge or shotgun shell.
- (c) A flare used or possessed or sold for use as a signal in an emergency or in an operation of a railway, aircraft, watercraft or motor vehicle.
- (d) A match, cigarette lighter, stove, furnace, candle, lantern, or space heater.
- (e) A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
- (f) A toy snake which contains no mercury.
- (g) A model rocket engine.
- (h) Tobacco and any tobacco products.

- (i) A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects or to produce audible and visible effects.
- (j) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.
- (k) A fuseless device that is designed to produce audible or visible effects and contains less than one-quarter grain of explosive mixture.
- (l) A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.
- (m) A cylindrical fountain that consists of one or more tubes and that is classified by the federal Department of Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.
- (n) A cone fountain that is classified by the federal Department of Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

(2) Sale. No person may sell or possess with intent to sell fireworks, except:

- (a) To a person holding a permit under 8.23(4).
- (b) To a city, village or town; or
- (c) For a purpose specified under 8.23(4).

(3) Use.

- (a) No person may possess or use fireworks without a user's permit from the president of the Village or from an official or employee designated by the president. No person may use fireworks or a device listed under sub. (1)(a) to (n) while attending a fireworks display for which a permit has been issued to a person listed under 8.23(4).
- (b) Any person who knowingly permits any person under the age of 18 years of age to violate the provisions of this subsection or who is present while such person violates the provisions of this subsection, is subject to the penalties set forth in Subsection (5).
- (c) Paragraph (a) and (b) do not apply to:
 - (i) The Village or its agents, but municipal fire and law enforcement officials shall be notified of the proposed use of fireworks at least two days in advance;
 - (ii) The possession or use of explosives in accordance with rules or general orders of the department of industry, labor, and human relations;

- (iii) The disposal of hazardous substances in accordance with rules adopted by the Department of Natural Resources;
- (iv) The possession or use of explosive or combustible materials in any manufacturing process;
- (v) The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions;
- (vi) A possessor or manufacturer of explosives in possession of a license or permit under 18 USC 841 to 848 if the possession of the fireworks is authorized under the license or permit.
- (vii) The possession of fireworks in the Village while transporting the fireworks to a city, town, or village where the possession of the fireworks is authorized by permit or ordinance.
 - a. Paragraph (a) applies to a person transporting fireworks under par.
 - (b) if, in the course of transporting the fireworks through the Village, the person remains in the Village for a period of at least 12 hours.

(4) Exceptions. Section 8.23(1) to (3) does not apply to:

- (a) A permit issued to the following:
 - 1. A public authority.
 - 2. A fair association.
 - 3. An amusement park.
 - 4. A park board.
 - 5. A civic organization.
 - 6. A group of residents or nonresident individuals.
 - 7. An agricultural producer for the protection of crops from predatory birds or animals.
- (b) A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.
- (c) The person issuing a permit under this subsection may require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims

that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy, if required, shall be taken in the name of the Village wherein the fireworks are to be used, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, if required, together with a copy of the permit shall be filed in the office of the clerk of the Village.

(d) A permit under this subsection shall specify all of the following:

- (i) The name and address of the permit holder.
- (ii) The date on and after which fireworks may be purchased.
- (iii) The kind and quantity of fireworks which may be purchased.
- (iv) The date and location of permitted use.
- (v) Other special conditions prescribed by the Village.

(e) A copy of a permit under this subsection shall be given to the municipal fire or law enforcement official at least 2 days before the date of authorized use.

(f) A permit under this subsection may not be issued to a minor.

(5) Penalties

(a) Any fireworks used or possessed in violation of this ordinance shall be seized and forfeited to the Village of Elkhart Lake.

(b) Any person who violates subsections (2) or (3) of Section 8.23 shall forfeit not more than \$250.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

8.24 REGULATION FIREARMS AND DANGEROUS WEAPONS

(1) Definitions.

- (a) "Firearm." Any weapon which acts by force or by gunpowder.
- (b) "Dangerous weapons." Any firearm which is loaded or unloaded, any device designed as a weapon and capable of producing death or great bodily harm, or any

other device or instrumentality which, in the manner in which it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

- (c) "Public Building." Any building owned by the Village, the county, or the school district.
- (d) "Building" For purposes of this section, a building is defined as a permanent structure used for human occupancy and includes a manufactured home, as defined in Sec. 101.91(2) Wis. Stats.

(2) Restrictions.

- (a) *Possession of Firearms in Village Owned-Buildings.* No person, other than a law enforcement officer licensed to carry a firearm, may enter into or remain in any Village-owned building while carrying a firearm or dangerous weapon.
 - i. This subsection does not apply to a vehicle driven or parked in a Village-owned parking facility.
 - ii. The Chief of Police may grant written exemptions to the prohibition in this subsection. To the furthest extent allowable by law, the Village shall be immune from liability for any decision to grant or not grant an exemption.
 - iii. Signs providing notice of the prohibition in this subsection shall be posted in prominent locations near all entrances to all Village-owned building so that individuals entering the buildings can be reasonably expected to see them. Signs shall be at least 5" x 7" in size.
- (b) *Discharge of Firearms Regulated.* No person except an authorized police officer shall discharge any firearm within the Village.
- (c) *Possession of Dangerous Weapons.* No person other than an authorized police officer shall wear or carry any slingshot, cross knuckles of lead, brass or other metal, switchblade knife, or any other dangerous or deadly weapon within the Village limits, except in conformance with the restricts and requirements of section 167.31 of Wisconsin Statutes.
- (d) *Use of Other Dangerous Weapons.* No person shall shoot or discharge any dangerous weapon anywhere in the Village, except by permission of the Chief of Police, granted for special occasions, except in proper position for firing salutes or by command of a proper military or police officer in the performance of official duty, or in a licensed shooting range, on game farms or hunting preserves. This section does not apply to any person engaged in otherwise lawful activities on the premises of an established bow and arrow target range or other premises where the physical layout and circumstances are such that the health and safety of other persons is not endangered.
- (e) *Hunting Within Village.* No person shall engage in hunting activities using a firearm or bow within the corporate limits of the Village.

(3) Exceptions.

Except as provided above a person may carry and discharge a bow within the Village limits for the purpose of hunting under regulations established by the state department of natural resources, provided that such person has a valid hunting license and subject to the conditions in this section.

- a. No person may hunt on any Village owned land without permission from the Elkhart Lake Board of Trustees.
- b. No person may hunt in the Village within 100 yards of a building that is used for human occupancy which is located on another person's property unless permission is given.
- c. All persons hunting with a bow and arrow within the village must discharge the arrow towards the ground.

(4) Penalties.

- (a) Any firearms or dangerous weapons used or possessed in violation of this ordinance shall be forfeited to the Village of Elkhart Lake.
- (b) Any person who violates subsection (2) shall forfeit not less than \$250.00 nor more than \$500.00, together with costs of prosecution, including attorneys' fees, and may be ordered to pay restitution and complete community service.

(5) Severability.

- (a) In the event that any provision in this Section is for any reason held to be invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portions of this Section shall be deemed separate, distinct, and independent provisions of the Section and all remaining provisions of the Section shall remain in full force and effect.

8.25 Open Burning

(1) Prohibited. No person shall burn or set any fire for the purpose of burning rubbish, brush, scrap lumber, grass, leaves, or garbage within the Village at any time, except after having been granted permission by the Village fire department chief or his designee.

(2) Exceptions.

- (a) Fires set by the fire department for practice or instruction of firefighters, instruction of the public or testing firefighting equipment.
- (b) Fires set by fire or law enforcement personnel for the purpose of burning explosives or dangerous material for which there is no other safe means of disposal.

- (c) Fires set for outdoor cooking with the following exceptions:
 - (i) Wood or other non-explosive fuel may be burned for the purpose of cooking or preparing foods only under constant supervision, not nearer than 10 feet to any building, in a substantial burner built of metal, concrete or brick as approved by the fire chief or designee.
 - (ii) Propane fueled appliances and burners shall not be used above the first floor level of any porch or deck attached to a building or structure.
- (d) Recreational bonfires may be set with the following conditions:
 - (i) Small bonfires may be used for recreation and roasting. The fire shall be contained in a fire ring constructed of brick, stone, or metal no larger than 36 inches outside diameter. This shall not be closer than 20 feet to any building, structure, lumber, wooden fence, or woodpile. Such fire shall be under constant supervision.
 - (ii) The fire ring shall extend upward a minimum of 6 inches above the landscaped ground level.
 - (iii) Fuel for bonfires shall consist of dry wood only and shall not be ignited with flammable or combustible liquids.
 - (iv) Material for bonfires may not include rubbish, garbage, trash, any material made or coated with rubber, plastic, leather, or petroleum-based materials and may not contain any flammable or combustible liquids.
 - (v) The maximum height of the wood fuel load for bonfires shall not exceed 18 inches above grade or the landscape.
 - (vi) At no time shall the smoke or heat created by such burning be an annoyance or discomfort to the neighborhood or the traveling public and the fire may be ordered extinguished upon any complaint.
- (e) Open burning will be allowed for small open flames for welding, acetylene torches, safety flares, heating tar, or similar applications.
- (f) A bonfire may be allowed at officially sponsored activities of civic, educational, and religious organizations located within the Village subject to the granting or permission by the fire chief or his designee.
- (g) Fires in metal containers on the ice during the winter season, provided the container is in good condition and located no closer than 10 feet from any building, pier, dock, or other structure.

(3) Open Flame Candles, Fixtures

- (a) No open flame or other flame fixtures shall be used in any public building or structure except within churches, fraternal lodges, or comparable organizations.
- (b) Hurricane type fixtures with a flame or chimneys used in conjunction with candles shall be the only acceptable method for lighting or decorative purposes in any building or structure used for public amusement, recreation, or dining purposes.

(4) Penalty Provision. Any person who shall violate any provision of this ordinance shall, upon conviction thereof, forfeit not more than \$500.00 for each offense, together with the costs of prosecution and may be ordered to complete community service and pay fees including restitution and reasonable attorney fees. Each day that a violation continues shall be considered a separate offense.

(5) No Warranty. Nothing in this ordinance shall be interpreted as guaranteeing or warranting that any method, construction product, service, or building is free from the risk of fire. No issuance of a license or permit, approval, inspection, or other action by any Village official, employee, or agent shall constitute a warranty or guaranty that any method, construction, product, service, or building is free from the risk of fire.

8.26 NEGLIGENT HANDLING OF BURNING MATERIAL

(1) Any person who, by smoking or attempting to smoke a cigar, cigarette, pipe, or tobacco, or by lighting or attempting to light a fire whether willfully or wantonly or unintentionally sets fire to any public or private property so as to endanger life or property in any way or to any extent shall be guilty of violating this section.

(2) Penalties. Any person who violates this section shall forfeit not more than \$300.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

8.27 DOGS

(1) Definitions.

- (a) “Collar” means a band, strip, or chain placed around the neck of a dog.
- (b) “Department” means the department of agriculture, trade, and consumer protection.

- (c) “Domestic Animal” means livestock, dogs, and cats.
- (d) “Livestock” means any horse, bovine, sheep, goat, pig, lama, alpaca, domestic rabbit, and farm-raised deer.
- (e) “Officer” has the meaning designated in s. 95.21 subsection (1) (b).
- (f) “Owner” includes any person or household who owns, harbors, or keeps a dog.
- (g) “Fence” includes a traditional or electrical underground fence.
- (h) “Vicious Dog”
 - (i) Any dog or hybrid dog with a propensity, tendency or disposition to attack, assault, cause injury or otherwise endanger the safety of human beings or other domestic animals as evidence by its habitual or repeated chasing or snapping, or barking and/or snarling in a life threatening manner.
 - (ii) Any dog or hybrid dog which attacks a human being or another domestic animal without provocation.
 - (iii) Any dog or hybrid dog owned or harbored primarily or in part for the purpose of dog-fighting, or any dog trained for dog-fighting.

(2) Restraining Action Against Dogs.

- (a) Killing The Dog.
 - (i) Except as provided in paragraph (2), a person may intentionally kill a dog only if a person is threatened with serious bodily harm by the dog, and:
 - a. Other restraining actions were tried and failed; or
 - b. Immediate action is necessary.
 - (ii) A person may intentionally kill a dog if a domestic animal that is owned or in the custody of a person is threatened with serious bodily harm by the dog and the dog is on property owned or controlled by the person and:
 - a. Other restraining actions were tried and failed; or
 - b. Immediate action is necessary.

(b) Inapplicable To Officers and Veterinarians. This section does not apply to an officer acting in lawful performance of his or her duties or a veterinarian killing a dog in an proper or humane manner.

(c) PENALTIES. A person who violates this section shall forfeit no more than \$500.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

(3) Dogs Running at Large, Untagged Dogs Subject to Impoundment, Limitation on Number of Dogs; Penalties.

(a) Dog Running At Large.

(i) It shall be unlawful for any person who owns, harbors, or keeps a dog to permit such dogs to run at large any time of year within the Village limits.

(ii) Any dog which is off the premises of its owner or keeper must be under the control of an attendant holding a leash, maximum of 8 feet.

(iii) It is unlawful for a dog to be within any public park or beach or the fireman's park or beach except as provided in the Village of Elkhart Lake-Glenbeulah Athletic Association Park rules and regulations (1)b14.

(iv) Any dog on owner's premise which is not leashed (15 feet maximum), fenced in, or under control of an attendant would be considered running at large.

(b) Untagged Dog. A dog is considered to be untagged if a valid license tag is not attached to a collar which is kept on the dog whenever the dog is outdoors unless the dog is securely confined in a fenced area.

(c) Dog Running At Large Or Untagged Dog Subject To Impoundment.

(i) An officer shall attempt to capture and restrain any dog running at large and any untagged dog.

(d) Limitation On Number of Dogs. No person or household may keep, harbor, shelter, or possess more than five dogs over the age of five months.

(e) Penalties.

(i) If the owner of the dog negligently or otherwise permits a dog to run at large or be untagged, the owner shall forfeit not less than \$25.00 nor more than \$100.00 for the first offense and not less than \$50.00 nor more than \$200.00 for subsequent offenses. The owner may also be ordered to pay restitution and complete community service.

(ii) Any person who violates the ordinance limiting the number of dogs shall forfeit not less than \$25.00 nor more than \$100.00 for the first offense and not less than \$50.00 nor more than \$200.00 for subsequent offenses. The person may also be ordered to pay restitution and complete community service.

(4) Impounding Dogs.

(a) Any member of the Elkhart Lake Police Department shall seize and impound any dog found in violation of the aforesaid regulations. All such dogs seized and impounded by the police department shall be transported to the humane society. The owner or keeper of such dogs, if identified, shall be notified, and said owner or keeper may claim his dog and the Village of Elkhart Lake shall be entitled to the payment of an impounding fee. Such impounding fees shall not exceed \$10.00 for the pick up of each dog and \$30.00 for the transporting fee to the humane society.

(b) Actual seizure of a dog, license or unlicensed, running at large, by the Police Department shall not be necessary. In the event the police officer can ascertain the identity of such dog, the police officer shall notify the owner of such dog and such identity shall be sufficient evidence of which to make an arrest for any violation of this ordinance.

(5) Dog License Tax.

(a) Requirement. Except as provided in s.174.054 of Wisconsin Statutes, the owner of a dog more than five months of age on January 1 of any year, or five months age within the licensed year shall annually, on or before the date the dog becomes five months of age, pay the dog license tax and obtain a license.

(b) Tax. The minimum dog license tax is \$3.00 for a neutered male dog or spayed female dog, upon presentation of evidence that the dog is neutered or spayed and \$8.00 for an unneutered male dog or unspayed female dog, or one-half of these amounts if the dog became five months of age after July 1 of the license year.

(c) Additional Tax. The Village Board may, by resolution, raise the minimum dog license tax on dogs within its jurisdiction. If the Village Board increases the minimum tax, it shall provide that the tax for unneutered male dogs and unspayed female dogs is greater than the tax for neutered male dogs and spayed female dogs. The additional tax may not exceed the total costs of all dog licensing, regulating an impounding activity from the previous year, less any refunds which may be received under s.174.09(2) and shall be levied and collected in the same manner of other dog licensed taxes.

(d) License Year. The license year commences on January 1 and ends on the following December 31.

(e) Late Fees. The Village clerk shall assess and collect a late fee from every owner of a dog five months of age or over if the owner fails to obtain a license prior to April 1 of each year or within 30 days of requiring ownership of a licensable dog or if the owner failed to obtain a license on or before the dog reached licensable age. All late fees received or collected shall be paid into the local treasury as revenue of the Village.

(6) Exemption of Dogs for Blind, Deaf, and Mobility-Impaired.

(a) Every dog specially trained to lead blind or deaf persons, or to provide support for mobility-impaired persons is exempt from a dog license tax and every person owning such a dog shall receive annually a free dog license from the local collecting officer upon application.

(7) Dogs for Blind, Deaf and Mobility-Impaired Admitted to Public Places.

(a) No person who is an owner, leasee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation, amusement or recreation, including any inns, hotels, restaurants, eating places, barbershops, billiard parlors, stores, public conveyance on land or water, theaters, motion picture houses, public educational institutions, or elevators may refuse to permit entrance into, or use of, any such accommodations if the accommodations are available to a blind, deaf, or mobility-impaired person for the reason the person is being lead by a dog specifically trained, or being specially trained, to lead blind or deaf persons or to provide support for mobility-impaired persons, or to the trainer of that kind of dog for the reason that the trainer is accompanied by that kind of dog if:

(i) Such dog is wearing a harness and a leash or special cape; and

(ii) The person has presented, for inspection, credentials issued by a school for training dogs for the blind, deaf, or mobility-impaired.

(b) PENALTIES. Any person violating Sub (a) shall forfeit not more than \$100.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

(8) Dog Licenses And Collar Tags.

(a) Licenses Required.

(i) Except as provided in Wisconsin Statues Section 174.054, a dog license is necessary for the keeping of any dog over five months of age.

(ii) *Licenses.* Upon payment of the required dog license tax and upon presentation of evidence that the dog is currently immunized against rabies, the Village clerk shall complete and issue to the owner a license for the dog bearing a serial number and in the form prescribed by the department stating the date of

expiration, the owner's name and address, and the name, sex, spayed, or unspayed, neutered, or unneutered, breed, and color of the dog.

(iii) *Tag.* After issuing the license, the Village clerk shall deliver to the owner of durable material bearing the same serial number as the license, the name of the county in which issued, and the license year.

(iv) *Tag To The Attached.* The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog in which the license is issued at all times but this requirement does not apply to a dog during competition or training, to a dog securely confined outdoors, to a dog while hunting, to a dog securely confined in a fenced area or to a dog while actively involved in herding or controlling livestock if the dog is under the control of its owner.

(v) *Duplicate Tags.* A new tag with a new number shall be furnished to the owner by a Village clerk in place of the original tag upon presentation of the licensed official. The Village clerk shall then endorse a new tag number on a license and shall keep a record in file.

(b) **Penalties.** All dogs living within the Village must be properly tagged and licensed according to Section 8.27. Any person who violates this section shall forfeit not more than \$500.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

(9) Duty To Report Animal Bite.

Every person, including the owner or person harboring or keeping a dog or other animal, who knows that such animal has bitten any person shall immediately report such fact to the Police Department.

(10) Keeping Of Vicious Dogs Regulated.

(a) Requirements and Prohibitions.

(i) *Lead and Muzzle.* No person owning, harboring or having the care of a vicious dog may suffer or permit such dog to go outside its kennel or pen unless the dog is securely leashed with a leash no longer than 4 feet in length. No person may permit a vicious dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. The dog may not be leashed to inanimate objects such as trees, posts, and buildings. A vicious dog on a leash outside the dog's kennel shall be muzzled by a muzzling device sufficient to prevent the dog from biting person or other animals. A vicious dog shall not be required to be muzzled when shown in either a sanctioned American Kennel Club show or upon prior approval of the Police Department.

(ii) Confinement. All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in par. (1) above. The pen, kennel, or structure shall have secure sides and a secure top attached to all sides. A structure used to confine a vicious dog shall be locked with a key or combination lock when the dog is within the structure. The structure shall have a secure bottom or floor attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than 2 feet. All structures erected to house vicious dogs shall comply with all zoning and building regulations of the Village. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

(iii) Confinement Indoors. No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit the building on its volition. No vicious dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(iv) Prohibited in Multiple Dwellings. No vicious dog may be kept within any portion of any multiple dwelling.

(v) Signs. All owners, keepers or harborers of vicious dogs shall, within 15 days of the effective date of this section, display in a prominent place on their premises a sign easily readable by the public with letters not less than 2 inches in height stating "Danger-Vicious Dog." A similar sign is required to be posted on the kennel or pen of the dog.

(vi) Insurance. All owners, keepers or harborers of vicious dogs or hybrid dogs shall, within 30 days of the effective date of this section, provide proof to the Police Department of public liability insurance in a single incident amount of \$50,000 for bodily injury to or death of any person or for the damage to property owned by any person which may result from the ownership, keeping or maintenance of vicious dogs or hybrid dogs. The insurance policy shall provide that no cancellation of the policy will be made unless a 10-day written notice is first given the Police Department. The owner or custodian of the dog shall produce evidence of the required insurance upon request of the law enforcement officer. This paragraph does not apply to dogs kept by law enforcement agencies.

(b) Vicious Dog Determination.

The Police Department shall investigate every dog complaint and make a determination as to whether or not such dog is "vicious," as defined in sub. (a) above. In the event the Police Department makes a determination that a dog is "vicious," it shall so inform the owner, keeper or harborer of such dog and provide such person with a copy of this section.

(c) Appeal of Vicious Dog Determination.

Whenever an owner or caretaker wishes to contest an order declaring an animal to be a dangerous animal, he or she shall, within seventy-two (72) hours after receipt of the vicious dog determination, deliver to the Municipal Court a written objection to the determination stating specific reasons for contesting the order. Upon receipt of the written objection, the matter shall be placed on the calendar for the Municipal Court to be reviewed at the next regular session. The Municipal Court shall allow the animal's owner or caretaker an opportunity to present evidence as to why the animal should not be declared vicious. After the hearing, the owner or caretaker shall be notified in writing of the Court's determination. If the Court upholds the determination that the animal is vicious, the owner or caretaker shall comply with the requirements of this ordinance. If the owner or caretaker further contests the determination, he or she may, within five (5) days of receiving the Municipal Court's decision, seek review of the decision by the Circuit Court. During any pending appeal in this section, the owner or caretaker shall comply with the confinement requirements of this ordinance.

(d) Compliance.

Within 10 days of the determination that a dog is vicious, as provided in sub. (c) above, or 10 days after an unsuccessful appeal under sub. (d) above, the owner of a vicious dog shall either comply with all provisions of this section or dispose of such dog.

(e) Disposition Of Vicious Dogs.

Any vicious dog which attacks a human being or domestic animal may be ordered destroyed by a police officer or humane officer when, in the judgment of a court of competent jurisdiction, the dog represents a continuing threat of serious harm to human beings or domestic animals.

(f) Penalty.

Forfeiture to be determined.

8.28 CATS: KEEPING AND RETAINING

(1) Definitions. Terms used in this ordinance are defined as follows:

(a) Owner:

Any person owning, harboring, sheltering, or keeping a cat. The occupant of any premises on which a cat remains or to which it customarily returns daily for a period of ten days is presumed to be harboring, sheltering, or keeping a cat within this definition. No person may keep, harbor, shelter, or possess more than five cats over the age of five months.

(b) At Large:

Off the premises of its owner or upon the public streets, alleys, public grounds, school grounds, parks within the Village. A cat shall not be deemed at large if:

- (a) it is attached to a leash of sufficient strength to restrain the animal or
- (b) when properly restrained within a motor vehicle or
- (c) if accompanied by or under the control of any person.

(2) Cats A Nuisance-It shall be unlawful for any owner to own a cat which:

- (a) is at large.
- (b) assaults or attacks any person.
- (c) by frequent and habitual yelping or making other noises shall cause serious annoyance or disturbance to three persons each of whom lives in a separate residence in the Village limits.
- (d) acts in such a manner as to justify a reasonable person to believe it is vicious.

(3) Remedy Any cat which comes within the classification of section (2) above shall be seized and impounded by a police officer of the Village. If such cat is licensed, it shall be immediately returned to the owner and the owner shall receive a citation for violation of this ordinance. If the cat is not licensed, it shall be transported to the humane society. The owner or keeper of such cats, if identified, shall be notified, and said owner or keeper may claim his cat and the Village of Elkhart Lake shall be entitled to the payment of an impounding fee. Such impounding fees shall not to exceed \$10.00 for the pick up of each cat and \$30.00 for the transporting fee to the humane society.

(4) Penalty Any person who violates this section shall forfeit not more than \$250.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

8.29 ANIMAL FECES

(1) Any person owning or having control of any animal shall clean up the feces of such animal immediately and dispose of it in a sanitary manner when the animal has defecated on the property of another or on public property.

(2) Penalties. Any person who violates this section shall forfeit not more than \$100.00, together with the costs of prosecution and may be ordered to pay restitution and complete community service.

8.30 MISTREATING ANIMALS

(1) No person may treat any animal, whether belonging to him or herself or another, in a cruel manner. This section does not prohibit bona fide experiments carried on for scientific research or normal and accepted veterinary practices.

(a) "Cruel" means harassing an animal or causing it unnecessary and excessive pain or suffering or unjustifiable injury or death.

(b) "Law enforcement agency" has the meaning given in Wis. Stats. 165.83 (1)(b) and specifically includes in its definition the Village of Elkhart Lake Police Department.

(2) PENALTIES. Any person who violates this section shall forfeit not more than \$500.00, together with costs of prosecution and may be ordered to pay restitution and complete community service. Any person who violates this section knowing that the animal victim is used by law enforcement agency to perform agency functions shall forfeit not more than \$750.00, together with costs of prosecution, and may be ordered to pay restitution and complete community service.

8.31 KEEPING OF CERTAIN ANIMALS

(1) DEFINITION. Non-domesticated animal: any wild animal, reptile, or fowl which is not naturally tame or gentle, but is of a wild nature or disposition, and which, because of its size, vicious nature, or other characteristics would constitute a danger to human life or property. The term includes animals and birds, the keeping of which is licensed by the State or federal government, such as, wolves, raptors, and pheasants. By way of example and not of limitation, the term includes: snakes, eagles, ocelots, jaguars, cougars, weasels, wild ferrets, badgers, monkeys, chimpanzees, deer and bison.

(2) It shall be unlawful for any person or persons to keep, harbor, feed, or possess any livestock or farm animals on a property or in any residence, household or dwelling unit within the Village. "Livestock or farm animals" means horses, ponies, donkeys, mules, cattle, swine, bison, alpacas, llamas, goats, sheep, chickens, poultry, wild hog, ducks, turkey, peacocks, ratites, or geese. This section does not prohibit the Village in its governmental capacity from keeping, harboring, feeding, or possessing any animals at a public zoo or park, nor shall it apply to the exhibition of any animals at any agricultural fair or similar public exposition held in the Village, nor to properly zoned premises in compliance with Village.

(3) It shall also be unlawful for any person or persons to keep, maintain or harbor wild animals on a property or in any residence, household or dwelling unit within the Village. "Wild animal" under this section includes, but is not limited to, deer, elk, ferrets, mink, chinchilla, other forbearing species, otter, fox, raccoon, skunk, opossum, weasels, squirrels, or beehives.

(4) It shall be unlawful for any person or persons to keep, maintain or harbor exotic animals on a property or in any residence, household or dwelling unit within the Village. "Exotic animal" under this section includes, but is not limited to, live alligators, crocodiles, cayman, monkeys, primates, member of the feline species other than the domestic cat (*felis domesticus*), member of the canine species other than the domestic dog (*canis familiaris*), wolf dog hybrids, prairie dog, gambian rat, fancy mice and rats, reptiles (except turtles listed below), snakes, bears, marsupials, lizards capable of growing to more than two feet in length at maturity, arachnids, venomous invertebrates and venomous amphibians.

(5) Small animals, reptiles, birds and fish that are housed within a residence shall be permitted. Small animals include: rabbits, dogs, cats, goldfish, tropical fish, parrots, parakeets, cockatiels, canaries, cockatoos, finches, love birds, guinea pigs, gerbils, hamsters, salamanders capable of growing to no more than one foot in length at maturity, and turtles under 7 inches in diameter at maturity.

(6) Penalties. Any person who violates this section shall forfeit not less than \$250 nor more than \$500.00 for each offense, together with costs of prosecution and may be ordered to pay restitution and complete community service. For purposes of determining forfeitures, each day's violation of the provisions of this section shall constitute a separate offense. The Village may also seek injunctions, abatement orders, and other equitable relief in the event of a violation.

8.32 SNOWMOBILES

(1) **State Laws Adopted** Except as otherwise provided, the statutory provisions describing and defining regulations with respect to snowmobiles in the following enumerated sections of the Wisconsin Statutes are hereby adopted by reference and made part of this ordinance as if fully set forth herein. Acts required to be performed or prohibited by such statutes are required or prohibited by the ordinance.

350.01 Definitions.

(1g) "Alcoholic beverages" has the meaning designated in s. 125.02.

(1h) "Alcohol concentration" has the meaning given in s. 340.01(1v).

(1i) "Approved public treatment facility" has the meaning specified under s. 51.45(2)(c).

(1r) "Board" means the natural resources board.

(2) "Controlled substance" has the meaning designated in s. 961.01(4).

(2d) "Controlled substance analog" has the meaning given in s. 961.01(4m).

(3) "Department" means the Department of Natural Resources.

- (3m) “Drug” has the meaning specified in s. 450.01 (10).
- (6) “Headlamp” has the meaning designated in s. 340.01(21).
- (6m) “Headlamp barrier” means a fence, natural growth, difference in elevation or other means of restricting the view that users of an adjacent roadway have of headlamps on a snowmobile trail.
- (7) “Highway” has the meaning designated in s. 340.01(22).
- (8) “Hours of darkness” has the meaning designated in s. 340.01 (23).
- (8m) “Immediate family” means persons who are related as spouses, as siblings, or as parent and child.
- (9) “Intoxicant” means any alcohol beverage, controlled substance, controlled substance analog, or other drug or any combination thereof.
- (9c) “Intoxicated snowmobiling law” means s. 350.101(1) or a local ordinance in conformity therewith, s. 350.101(2) or, if the operation of a snowmobile is involved, s. 940.09 or 940.25.
- (9e) “Land under the management and control of the person’s immediate family” means land owned or leased by the person or a member of the person’s immediate family and over which the owner or lessee has management and control. This term excludes land owned or leased by an organization of which the person or a member of the person’s immediate family is a member.
- (9g) “Law enforcement officer” has the meaning specified under s. 165.85(2)(c) and includes a person appointed as a conservation warden by the department under s. 23.10(10).
- (9m) “Lodging establishment” means any of the following:
 - (a) A bed and breakfast establishment as defined in s. 254.61(1).
 - (b) A hotel as defined in s. 254.61(3)
 - (c) A tourist rooming house as defined in s. 254.61(6).
 - (d) A campground.
- (9r) “Operate” means the exercise of physical control over the speed or direction of a snowmobile or the physical manipulation or activation of any of the controls of a snowmobile necessary to put it in motion. “Operate” includes the operation of a snowmobile.

(9w) “Operator” means a person who operates a snowmobile, who is responsible for the operation of a snowmobile or who is supervising the operation of a snowmobile.

(10) “Owner” means a person who has lawful possession of a snowmobile by virtue of legal title or equitable interest therein which entitles the person to possession.

(10d) “Purpose of access from lodging” means for the purpose of traveling for the shortest distance that is necessary for a person operating the snowmobile to go between a lodging establishment and the snowmobile route or snowmobile trail that is closest to the lodging establishment.

(10g) “Purpose of authorized analysis” means for the purpose of determining or obtaining evidence of the presence, quantity, or concentration of any intoxicant in a person’s blood, breath, or urine.

(10m) “Purpose of residential access” means for the purpose of traveling for the shortest distance that is necessary for a person operating the snowmobile to go between a residence and the snowmobile route or snowmobile trail that is closest to that residence.

(10r) “Refusal law” means s. 350.104(5) or a local ordinance in conformity therewith.

(10t) “Registration documentation” means a snowmobile registration certificate, a validated registration receipt, or a registration decal.

(11) “Roadway” has the meaning designated in s. 340.01(54).

(11m) “Sanctioned race or derby” means a competitive snowmobile event sponsored by a county, town, city, or village by a promoter, by a chamber of commerce, or by a snowmobile club or other similar organization.

(12) “Snowmobile” has the meaning designated in s. 340.01(58a).

(13) “Snowmobile dealer” means any person engaged in the sale of snowmobiles for a profit at wholesale or retail.

(13m) “Snowmobile distributor” means a person who sells or distributes snowmobiles to snowmobile dealers or who maintains distributor representatives.

(14) “Snowmobile manufacturer” means any person engaged in the manufacture of snowmobiles for sale to the public.

(15) “Snowmobile renter” means any person engaged in the rental or leasing of snowmobiles to the public.

(16) “Snowmobile route” means a highway or sidewalk designated for use by snowmobile operators by the governmental agency having jurisdiction as authorized under this chapter.

(17) “Snowmobile trail” means a marked corridor on public property or on private lands subject to public easement or lease designated for use by snowmobile operators by the governmental agency having jurisdiction, but excluding highways except those highways on which the roadway is not normally maintained for other vehicular traffic by the removal of snow.

(18) “State trunk highway” has the meaning designated in s. 340.01(60).

(19) “Street” has the meaning designated in s. 340.01(64).

(20) “Tail lamp” has the meaning designated in s. 340.01(66).

(21) “Test facility” means a test facility or agency prepared to administer tests under s. 343.305(2).

(22) “Validated registration receipt” means a receipt issued by the department or an agent under s. 350.12(3h)(ag) 1. a. that shows that an application and the required fee for a registration certificate has been submitted to the department.

350.02 Operation of snowmobiles on or in the vicinity of highways.

(1) No person may operate a snowmobile upon any part of any freeway which is a part of the federal system of interstate and defense highways. No person may operate a snowmobile upon any part of any other freeway unless the Department of Transportation authorizes snowmobile use on that freeway.

(2) (a) No person may operate a snowmobile on any highway except in the following manner or as otherwise authorized by law:

1. Directly across any roadway having fewer than 5 lanes, but only after stopping and yielding the right-of-way to all vehicles approaching on the roadway. Crossings under this subdivision may be made only at a place where no obstruction prevents a quick and safe crossing. For purposes of this subdivision, “obstruction” includes but is not limited to impairment of view and dangerous roadway condition.
- 1m. Directly across a roadway having 5 lanes in the manner specified in subd. 1., but only if the Department of Transportation authorizes such a crossing.
2. On any roadway that is not normally maintained for other vehicular traffic by the removal of snow.

3. On the roadway of highways to cross a bridge, culvert, or railroad right-of-way unless posted by the maintaining authority but shall yield the right-of-way to all vehicular traffic.
4. On the roadway of the Village streets for special snowmobile events authorized under s. 350.04.
5. On the highways which have been designated as routes and which are required to be marked.
6. On a portion of the roadway or shoulder of a highway for a purpose of residential access or for the purpose of access from lodging if the Village within which that portion of the highway lies, enacts an ordinance under s. 350.18(3) for that portion of the highway. A snowmobile operated on a portion of the roadway or shoulder of a highway under this subdivision shall observe roadway speed limits.

(b) Snowmobiles may be operated adjacent to a roadway with due regard to safety in the following manner:

1. Along U. S. numbered highways, state, and county highways at a distance of 10 or more feet from the roadway. Travel upon the median of a divided highway is prohibited except to cross.
2. Along town highways outside of the roadway.
3. During daylight hours travel may be in either direction regardless of the flow of vehicular traffic.
4. At night travel shall conform to the direction of vehicular traffic in the nearest lane unless:
 - a. The snowmobile trail is located at least 40 feet from the roadway or is separated from the roadway by a headlamp barrier; and
 - b. The use of the snowmobile trail is approved by the Department of Transportation with respect to snowmobile trails located near or crossing state trunk highways or by the officer in charge of maintenance with respect to snowmobile trails located near or crossing other highways.
5. Whenever it is impracticable to gain immediate access to an area adjacent to a highway, other than a freeway, where a snowmobile is to be operated, the snowmobile may be operated adjacent and parallel to the roadway for the purpose of gaining access to and from the area of operation. Loading or unloading of the snowmobile shall be accomplished with due regard to safety at the nearest practical point to the area of operation.
6. Snowmobiles traveling adjacent to a roadway shall observe roadway speed limits.

(3) Snowmobiles may be operated for emergency purposes on any highway during a period of emergency when so declared by the governmental agency having jurisdiction.

(3m) A law enforcement officer may operate a snowmobile on a highway in performance of his or her official duties if the snowmobile is equipped with a flashing, oscillating or rotating blue light.

(4) Under no circumstances, except as provided in this section, is a snowmobile to be operated on the main-traveled portion of a highway or on the plowed portion.

350.03 Right-of-way.

(1) The operator of a snowmobile shall slow the vehicle to a speed not to exceed 10 miles per hour and yield the right-of-way when traveling within 100 feet of a person who is not in or on a snowmobile except as provided in ch. 346 where applicable.

(2) Subsection (1) does not apply to any of the following:

- (a) The operator of a snowmobile on a privately owned raceway facility.
- (b) The operator of a snowmobile in a sanctioned race or derby on public land, a highway or a snowmobile trail if the sponsor of the sanctioned race or derby marks the race or derby route or track to warn spectators from entering the route or track. In this paragraph, "public land" does not include the frozen surface of public waters.

350.04 Snowmobile races, derbies, and routes.

(1) The Village may block off the highways under its jurisdiction for the purpose of allowing special snowmobile events. No state trunk, highway, or connecting highway or part thereof, shall be blocked off by the Village for any snowmobile race or derby. The Village shall notify the local police department and the county sheriff's office at least one week in advance of the time and place of any snowmobile race or derby that may result in any street or part thereof of the Village being blocked off. Upon such notice, the local police department shall take such measures as it deems appropriate to protect persons and property and to regulate traffic in the designated area and its vicinity on the day of such race or derby.

(2) On state trunk bridges a sidewalk or, if no sidewalk exists, one lane of the bridge may be designated by the Village as a snowmobile route. The Village of Elkhart Lake may adopt ordinances designating highways as snowmobile routes for snowmobile operation subject to the following limitations:

- (a) Snowmobiles shall be operated on the extreme right side of the roadway.
- (b) Left turns shall be made as safely as possible from any position depending on snow cover and other prevailing conditions.
- (c) Snowmobile operators shall yield right-of-way to other vehicular traffic and pedestrians.
- (d) Highways designated for snowmobile operation shall be marked in accordance with s. 350.13.

- (e) Snowmobile operation is not permitted on state trunk highways or connecting highways except as provided under s. 350.02.
- (3) (a) The Village shall not be liable for any injury suffered in connection with a race or derby under this section, unless the injury is caused by the negligence of the Village.
(b) The Village shall post the provisions of par. (a) in a conspicuous place, readily accessible to all contestants and spectators, and shall assist in locating and identifying persons responsible for injuries that may occur.

350.05 Operation by youthful operators restricted.

- (1) PERSONS UNDER 12. No person under the age of 12 years old may operate a snowmobile unless the person is accompanied either by a parent or guardian or by a person over 18 years of age.
- (2) PERSONS AGED 12 AND OLDER; SNOWMOBILE SAFETY CERTIFICATES AND PROGRAM.
 - (a) No person who is at least 12 years of age and who is born on or after January 1, 1985, may operate a snowmobile unless he or she holds a valid snowmobile safety certificate.
 - (b) Any person who is required to hold a snowmobile safety certificate while operating a snowmobile shall carry the certificate on the snowmobile and shall display the certificate to a law enforcement officer on request. Persons enrolled in a safety certification program approved by the department may operate a snowmobile in an area designated by the instructor.
- (3) EXCEPTIONS. This section does not apply to the operation of snowmobiles upon lands owned or leased by the operator's parent or guardian. As used in this section, "leased lands" does not include lands leased by an organization of which said operator or the operator's parent or guardian is a member.
- (4) DEFINITION. For purposes of this section, "accompany" means to be on the same snowmobile as the operator.

350.08 Owner permitting operation.

No owner or other person having charge or control of a snowmobile may knowingly authorize or permit any person to operate the snowmobile if the person is prohibited from operating a snowmobile under s. 350.05, if the person is incapable of operating a snowmobile because of physical or mental disability or if the person is under the influence of an intoxicant.

350.09 Headlamps, tail lamps, and brakes, etc.

(1) Any snowmobile operated during the hours of darkness or operated during daylight hours on any highway right-of-way shall display a lighted headlamp and tail lamp.

(2) The headlamp on a snowmobile may be of the single beam or multiple beam type, but in either case shall comply with the following requirements and limitations.

(a) The headlamp shall be an electric headlamp and the current shall be supplied by a wet battery and electric generator, by a current-generating coil incorporated into the magneto or by a generator driven directly by the motor by means of gears, friction wheel, chain, or belt.

(b) The headlamp shall display a white light of sufficient illuminating power to reveal any person, vehicle, or substantial object at a distance of 200 feet ahead.

(c) If the snowmobile is equipped with a multiple beam headlamp, the upper beam shall meet the minimum requirements set forth in par. (b) and the lower most beam shall be so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead.

(d) If the snowmobile is equipped with a single beam lamp, such lamp shall be so aimed that when the vehicle is loaded none of the high intensity portion of the light, at a distance of 25 feet ahead, projects higher than the level of the center of the lamp from which it comes.

(3) The tail lamp on a snowmobile must display a red light plainly visible during darkness from a distance of 500 feet to the rear.

(4) Every snowmobile shall be equipped with at least one brake operated either by hand or by foot, capable of bringing the snowmobile to a stop, under normal conditions, within 40 feet when traveling at a speed of 20 miles per hour with a 150 pound driver on a level hard-packed snow surface, or capable of locking the track on a level, hard-packed snow surface. The design shall permit simple and easy adjustment to compensate for wear. There shall be no other control linked to the brake which impairs braking operation.

(5) All snowmobiles manufactured after July 1, 1972, and offered for sale or sold in this state shall be equipped with side marker reflectors meeting the visibility requirement of society of automotive engineers standards or reflex material standards in compliance with federal specifications.

(6) No snowmobile shall be manufactured, sold, offered for sale, or operated unless it is equipped with a muffler in good working order, which blends the exhaust noise into the overall engine noise and is in constant operation to prevent excessive or unusual noise.

(7) Every snowmobile manufactured after July 1, 1972, and offered for sale or sold in this state shall be so constructed as to limit total vehicle noise to not more than 82 decibels of A sound pressure at 50 feet, as measured by society of automotive engineers standards. No snowmobile shall be modified by any person in any manner that shall amplify or otherwise

increase total noise emission above that emitted by the snowmobile as originally constructed, regardless of date of manufacture.

(8) Subsection (7) does not apply to snowmobiles competing in a sanctioned race or derby or to snowmobiles being tested by manufacturers, distributors, or dealers on lands under their control.

(8m) No person may operate, offer for sale, or sell a snowmobile that is manufactured after May 7, 1994, if the width of the snowmobile exceeds 48 inches.

(9) All snowmobiles competing in a sanctioned race or derby shall be equipped with a device wired into the motor's electrical system that will shut off the motor if the operator falls from the snowmobile or otherwise leaves the operator's position. The device shall be capable of being attached to the body of the operator and shall be so attached when the snowmobile is being operated.

350.10 Miscellaneous provisions for snowmobile operation.

(1) No person shall operate a snowmobile in the following manner:

- (a) At a rate of speed that is unreasonable or improper under the circumstances.
- (b) In any careless way so as to endanger the person or property of another.
- (c) Without complying with all stop signs, yield signs, or other regulatory signs established by rule under s. 350.13 that are located along snowmobile routes, snowmobile trails, or other established snowmobile corridors that are open to the public.
- (d) In such a way that the exhaust of the motor makes an excessive or unusual noise.
- (e) Without a functioning muffler.
- (f) On the private property of another without the consent of the owner or lessee. Failure to post private property does not imply consent for snowmobile use. Any other motor-driven craft or vehicle principally manufactured for off-highway use shall at all times have the consent of the owner before operation of such craft or vehicle on private lands.
- (g) Between the hours of 10:30 P.M. and 7:00 A.M. when within 150 feet of a dwelling at a rate of speed exceeding 10 miles per hour.
- (h) In any forest nursery, planting area, or on public lands posted or reasonably identified as an area of forest or plant reproduction when growing stock may be damaged.
- (i) On the frozen surface of public waters within 100 feet of a person not in or upon a vehicle or within 100 feet of a fishing shanty unless operated at a speed of 10 miles per hour or less.
- (j) On a slide, ski, or skating area except for the purpose of serving the area, crossing at places where marked, or after stopping and yielding the right-of-way.
- (k) On or across a cemetery, burial ground, school, or church property without consent of the owner.
- (l) On the lands of an operating airport or landing facility except for personnel in performance of their duties or with consent.

(m) On Indian lands without the consent of the tribal governing body or Indian owner. For purposes of this paragraph, "Indian lands" means lands owned by the United States and held for the use or benefit of Indian tribes, bands, or individual Indians and lands owned by Indian tribes, bands, or individual Indians which are subject to restrictions on alienation. Failure to post Indian lands does not imply consent for snowmobile use. Any other motor driven craft or vehicle principally manufactured for off highway use shall at all times have the consent of the owner before operation of such craft or vehicle on private lands.

(2) Subsection (1)(c) does apply to a person operating a snowmobile on land under the management and control of the person's immediate family.

350.12 Registration of snowmobiles; trail use stickers.

(1) REGISTRATION REQUIREMENT. After January 1, 1979, no person shall operate, and no owner shall give permission for the operation of any snowmobile within this state unless the operation of the snowmobile complies with sub. (3)(a)(intro.) or (5)(cm) or is exempt from registration. No political subdivision shall have authority to register or license snowmobiles.

(3j) TRAIL USE STICKERS.

(a) 1. In this paragraph, "public snowmobile corridor" means a snowmobile trail or other established snowmobile corridor that is open to the public but does not include a snowmobile route.

2. Except as provided in par. (d), no person who is the owner of a snowmobile may operate, or give permission for another person to operate, a snowmobile on a public snowmobile corridor in this state unless a trail use sticker issued under this subsection is displayed on the snowmobile.

(5) REGISTRATION DECALS AND TRAIL USE STICKERS TO BE DISPLAYED.

(a) The owner of the snowmobile shall attach the registration decals to the snowmobile in a prominent place, and shall maintain the registration decals in a legible condition at all times. Decals shall be not larger than three inches in height and six inches in width. Registration decals are to be applied on both sides of the cowling of the snowmobile. The owner of the snowmobile shall attach the trail use sticker to the snowmobile in the manner promulgated by rule by the department.

(b) The registration certificate or, for an owner who purchased a snowmobile and who has received a validated registration receipt but who has not yet received the registration certificate, the validated registration receipt shall be in the possession of the person operating the snowmobile at all times.

(c) The registration certificate or, for an owner who purchased a snowmobile and who has received a validated registration receipt but who has not yet received the registration certificate, the validated registration receipt shall be exhibited, upon demand,

by the operator of the snowmobile for inspection by any authorized to enforce this section as provided under s. 350.17(1) and (3).

(cm) A person may operate a snowmobile without having the registration decals displayed as provided under par. (a) if the owner has received a validated registration receipt and if the operator of the snowmobile complies with pars. (b) and (c).

(d) At the end of the registration period, the department shall send the owner of each snowmobile a renewal application. The owner shall sign the renewal application and return or present the application and the proper fee to the department or present the application and fee to an agent appointed under sub. (3h)(a)3.

(e) This subsection does not apply to any snowmobile to which a reflectorized plate is attached as required under sub.(3)(c)3.

(6) CHANGE OF ADDRESS. Whenever the owner of a registered snowmobile changes his or her address, the owner shall within 15 days thereafter notify the department in writing of the new address and of the registration numbers awarded to the owner. At the same time the owner shall endorse the new address on the owner's registration certificates.

(2) ADDITIONAL REGULATIONS. Except as provided in section 350.02, Wisconsin Statutes, no person shall operate any snowmobile upon any public park, street, alley, or sidewalk in the Village, or upon any private property without the express written consent of the owner of said property, except upon clearly marked trails as established by the Municipal Planning and Civic Development Committee.

(3) DESIGNATION OF SNOWMOBILE ROUTE. Except as provided in sections 350.02 and 350.04, Wisconsin Statutes, no person shall operate any snowmobile upon any public park or Village street or road in the Village of Elkhart Lake, or upon any private property without the express written consent of the owner of said property, except upon clearly marked routes as established by the Village of Elkhart Lake in cooperation with area snowmobile clubs. The designated route shall commence at the north limits of the Village of Elkhart Lake east of Highway 67 and continue to the south limits of the Village of Elkhart Lake. The route shall not coincide with any Village streets or roads with the exception that the said route shall cross Rhine Street. The route shall be clearly marked by area snowmobile clubs as designated by the Chief of Police of the Village of Elkhart Lake.

(4) On the snowmobile route as designated and marked in accordance with subparagraph (3), no person shall operate a snowmobile at a speed in excess of 25 miles per hour.

(5) PENALITES.

(a) Any person who violates this section shall forfeit not more than \$250.00, together with costs of prosecution and may be ordered to pay restitution and complete community service, except as provided in subsections (b) and (c).

(b) Any person operating a snowmobile while intoxicated shall forfeit not more than \$550.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

(c) Any person operating a snowmobile without a trail use sticker shall forfeit not more than \$1,000.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

8.33 TRANSFER OF LEAVES AND RUBBISH

(1) No person shall transfer rubbish, leaves, or grass from any property onto any streets in the Village.

(2) **PENALTIES.** Any person who violates this section shall forfeit not more than \$250.00, together with the cost of prosecution and may be ordered to pay restitution and complete community service.

8.34 ABANDONED ICE BOXES, REFRIGERATORS, AND FREEZERS

(1) No person shall permit or allow a discarded refrigerator, ice box, freezer, or other self-locking container to remain in any place accessible to children unless the latching or locking mechanism on the door or doors of the same has been removed or unless the door or doors of the same are bolted and locked in such a manner so it is impossible to open said doors by the use of the hands.

(2) **Penalties.** Any person who violates this section shall forfeit not more than \$300.00, together with the cost of prosecution and may be ordered to pay restitution and complete community service.

8.35 CAMPING AND TEMPORARY HOUSING PROHIBITED

(1) Camping and temporary housing prohibited as described below:

(a) No person shall erect or place in position any camping tent or structure to be used as temporary housing facilities within the Village.

(b) No person shall occupy any temporary camping tent or structure for housing facilities.

(c) No person shall use a vehicle or portion thereof for sleeping accommodations while parking within the Village.

(d) No person shall occupy a sleeping bag or bed roll as sleeping accommodations within the Village.

(2) Nothing in this section shall prevent the Boy Scouts of America or other local civic organizations from conducting their regular activities pertaining to camping.

(3) Penalties. Any person who violates this section shall forfeit not more than \$250.00, together with the costs of prosecution and may be ordered to pay restitution and complete community service.

8.36 SMOKING REGULATIONS – SMOKING PROHIBITED. Section 101.123, Wis.

Stats., as amended from time to time, is adopted by reference and incorporated as though fully set forth herein, except for the definition of “Enclosed Place”, “Smoking” and “Tobacco Product”.

(1) Definitions. In this section:

(a) “Smoking” means burning or holding, or inhaling or exhaling smoke from, any of the following items containing tobacco and an electronic smoking device that can be used to deliver nicotine or any other substance to the person inhaling from the device, any of the following:

1. A lighted cigar.
2. A lighted cigarette.
3. A lighted pipe.
4. Any other lighted smoking equipment.
5. An electronic cigarette.
6. An electronic cigar.
7. An electronic pipe.

(b) “Tobacco and tobacco related devices” mean any form of tobacco prepared in a manner suitable for smoking but not including a cigarette and shall include electronic cigarettes as defined as any electronic-smoking device that can be used to deliver nicotine or any other substances to the person inhaling from the device. The term shall include such devices whether they are manufactured as electronic cigarettes, electronic cigars, electronic pipes or any other product name.

(2) Smoking Prohibited.

(1) Smoking, as defined in 8.36(1), is prohibited on school grounds, in village municipal buildings, and in public places.

(2) PENALTIES. Any person who violates this section shall forfeit not more than \$250.00, together with the costs of prosecution and may be ordered to pay restitution and complete community service.