

## CHAPTER 9

### ORDERLY CONDUCT

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**9.01 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE.** The following Statutes following the prefix “9” defining offenses against the peace and good order of the State are adopted by reference to define offenses against the peace and good order of the Town, provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under sec. 20.04 of this Code.

9.346.935	Drinking in Motor Vehicles on Highway
9.940.19(1)	Battery
9.940.225(3m)	Sexual Assault or Sexual Contact
9.940.34	Duty to Aid Endangered Crime Victim
9.941.01	Negligent Operation of Vehicle
9.941.03	Highway Obstruction
9.941.10	Negligent Handling of Burning Materials
9.941.12	Interfering With or Failing to Assist in Firefighting
9.941.13	False Alarms and Interference With Firefighting
9.941.20	Reckless Use of Weapon
9.941.21	Disarming a Police Officer Prohibited
9.941.22	Possession of Pistol by Minor
9.941.23	Carrying Concealed Weapon
9.941.237	Carrying a Handgun Into Taverns
9.941.24	Possession of Switch Blade Knife
9.941.35	Emergency Telephone Calls
9.941.37	Obstruction of Emergency Vehicles Prohibited
9.943.01(1)	Criminal Damage to Property
9.943.06	Molotov Cocktails
9.943.11	Entry Into Locked Vehicle
9.943.125	Entry Into Locked Coin Box
9.943.13	Criminal Trespass to Land
9.943.14	Criminal Trespass to Dwellings
9.943.15	Entry Onto a Construction Site
9.943.20	Theft
9.943.22	Use of Cheating Tokens
9.943.24	Issue of Worthless Checks
9.943.34(1)	Receiving Stolen Property
9.943.35	Receiving Property From Children
9.943.37	Alteration of Property Identification Marks
9.943.50	Shoplifting
9.944.20	Lewd and Lascivious Behavior
9.944.23	Making Lewd, Obscene or Indecent Drawings
9.944.30	Prostitution
9.944.31	Patronizing Prostitutes
9.944.33	Pandering
9.944.34	Keeping Place of Prostitution
9.944.36	Solicitation of Drinks
9.945.02	Gambling
9.945.03	Commercial Gambling
9.945.04	Permitting Premises to be Used For Commercial Gambling
9.946.40	Refusing to Aid Officer
9.946.41	Resisting or Obstructing Officer
9.946.42	Escape
9.946.44	Assisting or Permitting Escape
9.946.65	Obstructing Justice

9.946.70	Impersonating Peace Officer
9.946.72	Tampering With Public Records and Notices
9.947.01	Disorderly Conduct
9.947.013	Harassment Prohibited
9.947.015	Bomb Scares
9.947.047	Littering Shores
9.947.06	Unlawful Assemblies
9.947.15	Contributing to the Neglect of a Minor
9.948.15-.62	Crimes Against Children
9.951.01-16	Crimes Against Animals

**9.02 POSSESSION AND USE OF FIREARMS AND OTHER DANGEROUS WEAPONS.** (1) DEFINITIONS. For the purpose of this section, the following definitions shall apply:

- (a) *Firearm.* Any weapon which acts by force of gunpowder.
- (b) *Other Dangerous Weapon.* Includes air guns, BB guns, bows and arrows, crossbows, sling shots, blow guns and other similar weapons.
- (c) *Public Building.* Any building owned by the Town, the County or the School District.

(2) POSSESSION OF FIREARMS IN PUBLIC PLACES PROHIBITED. In addition to the provisions of sub. (3) below, no person, except duly authorized city, village, town, county, State or Federal law enforcement officers specifically authorized by law to carry firearms, shall possess a firearm while in any public building, as defined in sub. (1)(c) above, within the Town as provided in §941.235, Wis. Stats., in any tavern within the Town as provided in §941.237, Wis. Stats., or within any school zone as provided in §948.605, Wis. Stats.

(3) DISCHARGE OF FIREARMS AND DANGEROUS WEAPONS. Pursuant to §941.20(1)(d), Wis. Stats., no person may discharge a firearm or other dangerous weapon when the lands of another are within 300 feet of any building devoted to human occupancy.

**9.03 THROWING OR SHOOTING OF ARROWS, STONES AND OTHER MISSILES PROHIBITED.** No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile by hand or by any other means at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the Town. However, the Town Board may designate a public area where recreational shooting is permitted upon issuing a conditional use permit.

**9.04 POSSESSION OF MARIJUANA.** (1) PROHIBITED. Subject to sub. (2) below and subject to the exception provided in §66.0107(1)(bm), Wis. Stats., no person shall possess marijuana, as defined in §961.01(14), Wis. Stats.

(2) EXCEPTIONS. This section shall not apply to a person who possesses more than 25 grams of marijuana or to a person who is charged with possession of any amount of marijuana following a conviction for possession of marijuana in this State.

(3) PENALTY. Any person who shall violate sub. (1) above, except as provided in sub. (2) above, shall, upon conviction, be subject to a forfeiture as provided in sec. 20.04 of this Code.

**9.05 SALE AND USE OF FIREWORKS REGULATED.** (1) **DEFINITIONS.** For purposes of this section, “legal fireworks” means those items which from time to time are excluded from the definition of “fireworks” as set forth in §167.10(1), Wis. Stats., specifically:

(a) A cap containing not more than 1/4 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.

(b) A toy snake which contains no mercury.

(c) A sparkler on a wire or wood stick not exceeding 36 inches in length or 0.25 inch in outside diameter which does not contain magnesium, chlorate or perchlorate.

(d) A device designed to spray out paper confetti or streamers and which contains less than 1/4 grain of explosive mixture.

(e) A device designed to produce an audible sound, but not explode, spark, move or emit an external flame after ignition and which does not exceed 3 grams in total weight.

(f) A device that emits smoke with no external flame and does not leave the ground.

(g) A cylindrical fountain not exceeding 100 grams in total weight with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke.

(h) A cone fountain not exceeding 75 grams in total weight, designed to sit on the ground and emit only sparks and smoke.

(2) **SALE REGULATED.** The sale of legal fireworks within the Town is prohibited unless such sales are made as part of the indoor sales of goods by an established place of business having the appropriate zoning, occupancy, sanitary, seller’s and other permits and licenses necessary for the operation of the business within the Town.

(3) **USE REGULATED.** Except as provided in §167.10(3), Wis. Stats., no person shall possess or use fireworks without a user’s permit.

(4) **USER’S PERMIT** The Town Chairperson may, in his discretion, issue user permits to Town residents and organizations.

(5) **USE OF CERTAIN DEVICES REGULATED.** No person may use fireworks or devices listed in §167.10(1)(e) to (g) and (i) to (n), Wis. Stats., including, but not limited to, caps, toy snakes, model rocket engines, sparklers or cone fountains at a fireworks display for which a permit has been issued if the display is open to the general public.

**9.06 LOITERING PROHIBITED.** (1) **LOITERING OR PROWLING.** No person shall loiter or prowl in a place at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this section,

afford the person an opportunity to dispel any alarm which would otherwise be warranted by requesting him to explain his presence and conduct. No person shall be convicted of an offense under this subsection if the police or peace officer did not comply with the preceding sentence, or if it appears, at trial, that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.

(2) **OBSTRUCTION OF HIGHWAY BY LOITERING.** No person shall obstruct any street, highway, bridge, sidewalk or crossing by lounging or loitering in or upon the same after being requested to move on by any police or peace officer.

(3) **OBSTRUCTION OF TRAFFIC BY LOITERING.** No person shall loaf or loiter in groups or crowds upon the public streets, alleys, sidewalks, street crossings or bridges or in any other public place within the Town in such manner as to prevent, interfere with or obstruct the ordinary free use of such public sidewalks, streets, street crossings and bridges or other public places by persons passing along and over the same.

(4) **LOITERING AFTER BEING REQUESTED TO MOVE.** No person shall loaf or loiter in groups or crowds upon the public streets, sidewalks or adjacent doorways or entrances, street crossings or bridges or in any other public place or on any private premises without invitation from the owner or occupant after being requested to move by any police officer or by any person in authority at such places.

(5) **LOITERING IN PUBLIC PLACES.** No person shall loiter, lounge or loaf in or about any dance hall, restaurant, store, public sidewalk, public parking lot or other place of assembly or public use after being requested to move by the owner or person in charge or any police officer. Upon being requested to move, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.

**9.07 DESTRUCTION OF PROPERTY.** No person shall destroy, mutilate, deface, injure or remove the property of another without permission.

**9.08 CONSUMPTION OF FERMENTED MALT BEVERAGES AND INTOXICATING LIQUOR ON PUBLIC PROPERTY AND PARKING LOTS PROHIBITED.**

(1) **DEFINITION, LICENSED PREMISES.** The area within a building or structure which is licensed pursuant to ch. 12 of this Code, but not including parking lots, sidewalks, roadways or land which is adjacent to the building or structure and within the property boundary lines, unless authorized by the Town Board.

(2) **CONDUCT PROHIBITED OUTSIDE LICENSED PREMISES.** No person who has purchased opened fermented malt beverages or intoxicating liquor from any licensed premises shall consume said beverages or liquor outside of, but within the property boundary lines of, such premises.

(3) **EXCEPTIONS.** (a) The prohibitions in sub. (2) above shall not apply to those events or activities which are otherwise permitted or licensed pursuant to ch. 12 of this Code.

(b) The prohibitions in sub. (2) above shall not apply to those persons who transport unopened fermented malt beverages or intoxicating liquor from a point of purchase to their destination unless it is in violation of §346.93, Wis. Stats.

**9.09 ANIMALS AND POULTRY NOT TO RUN AT LARGE.** No person having in his possession or under his control any animal or fowl shall allow the same to run at large within the Town.

**9.10 KEEPING OF LIVESTOCK AND POULTRY REGULATED.** No person shall keep or maintain any livestock such as horses, cattle, sheep, goats, rabbits or poultry, except in Agricultural Districts.

**9.11 LITTERING.** (1) **PROHIBITED.** No person shall deposit any mud, glass, refuse or waste, filth or other litter upon the streets, highways, alleys, parks or other property of the Town or upon any private property or into or upon any body of water or stream within the Town.

(2) **PENALTY.** Any person found guilty of violating this section shall be subject to a forfeiture, as provided in sec. 20.04 of this Code, plus the cost of cleanup. Each day a violation continues shall constitute a separate violation.

**9.12 BURNING REGULATIONS.** (1) **RESIDENTIAL TRASH BURNING.** No person shall kindle or cause to be kindled any fire in or upon any street, alley, public way, park or any public or private ground within any Residential District within 25 feet of any building unless the same is confined within an outside fireplace or grill, metal or concrete incinerator, wire refuse burner, basket or metal enclosure with a cover attached to prevent the escape of sparks and burning material. No garbage, rags, rubber, wet paper or other materials producing a foul smell shall be burned.

(2) **OPEN BURNING REGULATED.** No bonfire, brush fire or any other open burning shall be permitted until notice has been given to the Waubeka Volunteer Fire Department. The fire shall be attended by a responsible person until it is extinguished. The Chief may declare a burning ban during periods of dry and windy conditions.

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

**9.14 ABANDONED OR UNATTENDED ICEBOXES, ETC., PROHIBITED.** No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock, or other locking device which may not be released from the inside, without first removing such door or lid, snap lock or other locking device from such icebox, refrigerator or container unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

**9.15 ACCIDENTAL SPILLS OF HAZARDOUS OR DETRIMENTAL SUBSTANCES.** (1) **HAZARDOUS SUBSTANCE SPILLS.** (a) *DNR Notification Required.* Any person who possesses or controls a "hazardous substance," as defined in §291.01(7), Wis. Stats., which has been discharged or spilled, or who causes the discharge or spilling of such hazardous substance, shall immediately notify the Wisconsin Department of Natural Resources of any such spill or discharge as required in §292.11, Wis. Stats.

(b) *County Notification.* In addition to the notification required in par. (a) above, the owner or the person causing the discharge of a hazardous substance shall immediately notify the County Sheriff's Department of such spill or discharge.

(2) **DETRIMENTAL SUBSTANCE SPILLS; NOTIFICATION.** Any person who possesses or controls a discharged or spilled material, or causes a discharge or spill, which, although not a "hazardous substance," may be detrimental to the general, safety and welfare of Town residents shall immediately notify the County Sheriff's Department. Such detrimental substances may include, without limitations, food products and nitrates.

(3) **CLEANUP REQUIRED.** Any person responsible for the discharge or spill of any hazardous or detrimental substance shall be responsible for cleanup within a time reasonable under the circumstances. In the event such cleanup is not completed within a reasonable time, the Town shall clean up and bill the person responsible.

(4) **PENALTY.** Any person responsible for a spill or discharge who does not provide the notification required under subs. (1)(b) and (2) above shall be subject to a forfeiture as provided in sec. 20.04 of this Code.

**9.16 UNIFORM CITATION METHOD ADOPTED.** (1) **CREATION.** Pursuant to §66.0113, Wis. Stats., the Town hereby elects to use the citation method of enforcement of ordinances, including those for which a statutory counterpart exists.

(2) **CITATION.** The citation shall contain the following:

- (a) The name and address of the alleged violator.
- (b) Factual allegations describing the alleged violation.
- (c) The time and place of the offense.
- (d) The section of the ordinance or the municipal code violated.
- (e) A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so.
- (f) The time at which the alleged violator may appear in court.
- (g) A statement which, in essence, informs the alleged violator, as follows:
  1. A cash deposit of a specified amount may be made which shall be delivered or mailed to the Clerk of Courts prior to the time of the scheduled court appearance.
  2. If such a deposit is made, the alleged violator need not appear in court unless he is subsequently summoned.
  3. If a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have tendered a plea of no contest and submitted to a forfeiture and a penalty assessment imposed under the Wisconsin Statutes, not to exceed the amount of the deposit or, if the court does not accept the plea of no contest, a summons shall be issued demanding him to appear in court to answer the complaint.

4. If no cash deposit is made and the alleged violator does not appear in court at the time specified, an action may be commenced to collect the forfeiture and the penalty assessment imposed under the Wisconsin Statutes.

(h) A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under par. (g) above has been read. Such statement shall be sent or brought with the cash deposit.

(i) Such other information as the Town Board deems necessary.

(3) DEPOSITS. (a) Each citation issued under this section, except those to which par. (d) below applies, shall specify a cash deposit as set forth in the Uniform Deposit and Misdemeanor Bail Schedule of County or, where applicable, the Town Deposit Schedule, which is hereby adopted by reference, which consists of the appropriate forfeiture, the current penalty assessment, the jail assessment, the automation fee, the municipality ordinance fee and court costs.

(b) Deposits shall be made in cash, money order or check to the County Clerk of Courts, who shall provide a receipt therefor.

(c) The penalty assessment imposed by §165.87, Wis. Stats., the jail assessment imposed under the Wisconsin Statutes shall be added to all forfeitures hereunder, except where said forfeitures are derived from citations issued for violations of ordinances for which State law controls or for ordinances involving nonmoving traffic violations. Said assessments shall be in an amount determined after deducting the court costs.

(d) The deposit, including costs, pertaining to any minor receiving a citation under this section shall in no event exceed the maximum penalties provided in Ch. 48, Wis. Stats., plus the penalty assessment imposed under the Wisconsin Statutes, except that costs and penalties shall not be assessed against minors unless Wisconsin law so provides.

(4) DEPOSIT SCHEDULE. Every peace officer or other Town officer issuing a citation for any violation of this Code shall indicate on the citation the amount of the deposit, as provided in sub. (3) above, that the alleged violator may make in lieu of court appearance.

(5) ISSUANCE OF CITATION. Any peace officer may issue citations authorized under this section. In addition, Town Code Enforcement Officer, the Building Inspector, the Zoning Administrator and the Fire Chief may issue citations for violations within their respective jurisdictions.

(6) PROCEDURE. Section 66.0113(3), Wis. Stats., relating to a violator's options and procedure on default, is hereby adopted and incorporated herein by reference.

(7) NONEXCLUSIVITY. (a) *Other Ordinances*. Adoption of this section does not preclude the Town Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.

(b) *Other Remedies*. The issuance of a citation hereunder shall not preclude the Town or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

**9.20 PENALTY.** Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in sec. 20.04 of this Code. In addition to any penalty imposed for violation of sec. 9.943.01(1) of this chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent of any unemancipated minor child who violates sec. 9.943.01(1) may also be held liable for the cost of repairing such damaged or destroyed property in accordance with §895.35, Wis. Stats.