

CHAPTER 9

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9.01 DISCHARGE OF FIREARMS - LAKE SHORE AREA.

(A) **Definition of Firearm.** Any rifle, pistol, shotgun, pellet gun or other instrument used in the propulsion of shot, shell, pellet or bullet.

(B) **Prohibition.** No person shall fire or discharge a firearm within or into the following described area in the Village of Somers:

(1) Commencing at a point where the south boundary of the Village of Somers joins the water of Lake Michigan; thence northerly along and upon the shore waters of Lake Michigan to the north boundary of the Village of Somers (Kenosha-Racine County Line); thence westward along the northern boundary of the Village of Somers to the east line of the Chicago Northwestern Railway right-of-way thence southerly along the east line of the Chicago Northwestern railway right-of-way to the south line of the Village of Somers, (north line of the City of Kenosha); thence easterly along and upon the south line of the Village of Somers to the point of beginning.

9.02 CURFEW.

No child seventeen (17) years of age or under shall loiter, idle or remain, and no parent or guardian shall knowingly permit his child or ward of such age to loiter, idle or remain in or upon the streets, alleys or public places in the Village between the hours of 11:00 p.m. and 5:00 a.m. Sunday through Thursday, and 12:00 midnight to 5:00 a.m. Friday and Saturday, unless such child is accompanied by a parent or guardian or some person of lawful age having legal custody of such child. This section shall not be construed to prohibit such child from performing an errand or duty if directed by his parent or guardian or of urgent necessity or from pursuing the duties of his employment in an expeditious and orderly manner or from going to or from places of business or amusement or private homes.

9.03 THROWING OR SHOOTING MISSILES AND PROJECTILES.

No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means, at any person or at, in or into any building, street, sidewalk, alley, highway, park playground or other public place within the Village.

9.04 SALE AND DISCHARGE OF FIREWORKS - PROHIBITED.

Section 167.10, Wis. Stats., regulating the sale and use of fireworks, exclusive of any penalty imposed thereby, is adopted by reference and made a part of this chapter as though set forth in full. Permits for said sale shall be applied for to the Village Fire Chief who shall review said request and determine the appropriateness of the permit request utilizing the provisions of §167.10, Stats., and shall impose such conditions or insurance requirements as the Village Fire Chief deems appropriate.

9.05 LOUD AND UNNECESSARY NOISE - PROHIBITED.

Between the hours of sunset and 6:00 a.m., no person shall make or cause to be made any loud, disturbing or unnecessary sounds or excessive noises which may annoy or disturb a person or ordinary sensibilities in or about any public street, alley or park or any private residence or business. Excessive noise shall include, but shall not be limited to, loud playing of phonographs, tape players, radios, television sets or other recorded music or musical instruments and construction activities which generate unnecessary or excessive noise.

9.06 LOITERING.

(A) **Loitering or Prowling Prohibited Generally.** 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 peace officer, refuses to identify himself or herself and endeavors to conceal himself or herself or any object. Unless flight by the person or other circumstances makes it impracticable, a peace officer shall prior to any arrest for an offense under this subsection, afford the person an opportunity to dispel any alarm which would otherwise be warranted by requesting him to identify himself or herself and explain his presence and conduct. No person shall be convicted of an offense under this subsection if the 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 peace officer at the time, would have dispelled the alarm.

(B) **Obstruction of Traffic by Loitering.** No person shall loiter upon the public streets, alleys, sidewalks, street crossings or bridges or in any other public place within the Village in such manner as to prevent, interfere with or obstruct the ordinary free use of such public streets, alleys, sidewalks, street crossings or bridges or other public places by persons passing along and over the same. It shall be an offense under this subsection for a person to refuse to discontinue such loitering after a request to do so by a police officer.

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

(D) **Obstruction of Entry Ways by Loitering.** No person shall loiter upon the public streets, private driveways or sidewalks or in adjacent doorways or entrances so as to obstruct the free entry of persons to the adjacent property, driveways, or other entrances to such property. It shall be an offense under this subsection for a person to refuse to discontinue such loitering after being requested to do so by a police officer.

(E) **Loitering in Places of Public Assembly or Use.** No person shall by loitering interfere with the free use of any place of public assembly or public use by others using such place of public assembly. It shall be an offense under this subsection for a person to refuse to discontinue such loitering after a request to do so by a police officer or by the person in charge of the place of public assembly.

(F) **Loitering on Private Premises Without Invitation.** No person shall loiter on any private premises without invitation from the owner or occupant. It shall be an offense under this subsection for a person to refuse to discontinue such loitering after being requested to do so by a police officer or by the owner or occupant of said premises should it be a rental.

9.07 ANIMALS AND FOWL 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 Village. Running at large shall mean the presence of any animal or fowl off the premises of its owner or keeper on any public property, street, roadway, thoroughfare or private property, without permission of the owner and not on a leash or under the immediate control of the owner or person in charge of said animal or fowl.

9.08 STORAGE OF JUNK, ETC., REGULATED.

(A) **Restricted.** No person shall store junked or discarded property, including non-licensed, inoperable automobiles, automobile parts, trucks, tractors, aquatic vehicles, boats, snowmobiles, jetskis, refrigerators, furnaces, washing machines, stoves, machinery or machinery parts, wood, bricks, cement blocks or other unsightly building or miscellaneous debris which substantially depreciates property values in the neighborhood, except enclosed in a building or upon permit issued by the Village Board with proper zoning being in effect for such operation.

(B) **Order For Compliance.** The Village President, Village Administrator or Building Inspector or law enforcement officer may require by written order any premises in violation of this subsection to be put in compliance within the time specified in such order and, if the order is not complied with, may take such steps as are necessary to have the premises put in compliance and the cost thereof assessed as a special tax against the property.

9.09 ABANDONED VEHICLES.

(A) **Definitions.**

(1) "Owner" means the owner of any lot, premises, the occupants, the tenants or lessees thereof and of any vehicle as defined herein or mobile home.

(2) "Vehicle" means any motor vehicle, trailer, semi-trailer or mobile home

which has become so deteriorated, stripped, junked or inoperative that it is not in a good and safe operating condition.

(B) **Storage Prohibited.**

(1) No person shall permit, allow or cause to be stored a vehicle as defined herein to remain in the open upon private property within the Village for a period in excess of thirty (30) days, unless such storage shall be in connection with a duly authorized sale, repair or storage business enterprises located on a properly zoned and, if required by law, a duly licensed premises.

(2) **Vehicles stored: private property.** The owner of any lot, plot or premises within the Village upon which a vehicle, as herein defined, is stored or permitted to remain, and the owner of any such vehicle, shall jointly and severally be responsible for the prompt removal of such vehicle to a completely enclosed building or buildings authorized to be used for such storage purposes, or otherwise to remove the same to a properly licensed location for disposal.

(3) **Vehicles stored: public property.** Whenever the Village Administrator, Building Inspector or law enforcement officer shall find any vehicle placed or stored on any Village property, roads or right-of-ways such vehicle shall be removed to a licensed vehicle salvage yard and stored for a period of ten (10) days. At the end of such period, the licensed salvage yard may dispose of the vehicle, as allowed by state law, unless previously claimed by the owner. The owner of any such vehicle removed from Village properties, roads or right-of-ways shall be notified as soon as possible after such removal of the salvage yard to which the vehicle has been taken.

(4) **Notice.** Whenever the Village Administrator, Building Inspector, Village Board or law enforcement officer shall find any such vehicle placed or stored in the open upon private property within the Village, the owner of such property and the owners of the vehicle, if he can be located, shall be given a written notice, by certified mail or by personal service to remove the vehicle within ten (10) days. Should the vehicle not be removed by either the owner of the property (or tenant /occupant) or owner of the vehicle, the Building Inspector, the Village Board or the law enforcement officer shall, by judicial process, take such steps as are necessary to have the vehicle removed by a licensed salvage yard and the cost of removal shall be assessed jointly and severally against the owner of the property upon which the vehicle had been placed or stored and the owner of the vehicle.

(5) **Sale and cost.** When any such vehicle has been removed and placed in storage by the Village, as herein provided, and such vehicle is not claimed by its owner, the vehicle shall be sold by the Village pursuant to state statute and the proceeds there from, if any, shall be used to pay the costs for the removal and storage, the owner of the land and the owner of the vehicle to be jointly and

severally liable for the balance of the costs, and should the proceeds be in excess of the costs, the balance shall be paid to the owner of the vehicle, if he can be found, or the owner of the premises.

(C) **Abandoned Motor Vehicles.** No person shall abandon or leave unattended any motor vehicle, trailer, semi-trailer, or mobile home on any public highway or private or public property for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned and any vehicle that has been left unattended and without the permission of the property owner for more than twenty-four (24) hours within the Village shall be deemed abandoned and constitute a public nuisance, except that a motor vehicle shall not be considered an abandoned motor vehicle when it is out of ordinary public view or when designated as not abandoned by a law enforcement officer requested by the Village to inspect said vehicle placement. A vehicle which constitutes a hazard to traffic may be removed immediately by order of any law enforcement officer. The County Sheriff shall immediately be advised of the description of the vehicle and the place of impoundment.

(1) **Impoundment.** Any vehicle in violation of this section shall be impounded until lawfully claimed or disposed of as set forth in this section, except that if the Village Administrator, Building Inspector or law enforcement officer determine that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked or sold by the Village pursuant to state statute.

(D) **Public Nuisance.** Any vehicle defined in this section shall be declared to be a public nuisance and an action to abate such nuisance shall be in addition to any penalties hereinafter set forth.

9.10 INTOXICATING BEVERAGES IN PUBLIC PLACES.

(A) Except as otherwise provided herein, no person shall bring, sell or consume any beer, fermented malt beverage, liquor or any other intoxicating beverages in any public place, park or beach. Upon permit duly issued by the Village Board, a bona fide club, civic organization, lodge or society that has been in existence for at least six (6) months prior to the date of application may sell and consume fermented malt beverages at a particular designated area during a particular picnic or similar public gathering or at any meeting of such organization. The Village Board may grant the permitted sale and consumption of fermented malt beverages with such conditions as the Board may deem fit and proper as to the handling, selling and consumption, and the cleanup of area after the event.

(B) It shall be unlawful for any person to sell or serve or give to another person, or offer to sell, serve or give to another person any fermented malt beverage or intoxicating liquor while upon any public street, sidewalk, parking lot or with any parked motor vehicle located on any street within the Village.

(C) It shall be unlawful for any person to consume any fermented malt beverage or intoxicating liquor or to possess the same in anything other than a sealed container while upon any public

street, sidewalk or parking lot or with any parked vehicle located on any street within the Village.

9.11 POSSESSION OF LIQUOR ON SCHOOL GROUNDS PROHIBITED.

(A) **Definitions.**

(1) "Motor vehicle" means a motor vehicle owned, rented or co-signed to a school.

(2) "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.

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

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

(B) **Liquor Prohibited.** Except as provided by sub. (c), no person may possess or consume intoxicating liquor:

(1) on school premises;

(2) in a motor vehicle, if a pupil attending the school is in the motor vehicle; or

(3) while participating in a school sponsored activity.

(C) **Exceptions.** Intoxicating liquor 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 and ordinances.

(D) **Penalties.** A person who violates this section is subject to a forfeiture of not more than Two Hundred (\$200.00) Dollars except that the disposition and proceeding against a person under eighteen (18) years of age shall be as provided by §48.335, Wis. Stats.

9.12 POSSESSION OF MARIJUANA.

(A) No person shall have in his possession, use or keep any tetrahydrocannabinol, Cannabis Sativa L or marijuana, unless such person possesses a prescription from a licensed physician for the same.

(B) Any person who violates this section shall, upon conviction, be subject to a forfeiture of not less than Two Hundred (\$200.00) Dollars nor more than Two Hundred Fifty (\$250.00) Dollars and, in default of payment, shall be imprisoned in the County Jail for not less than thirty (30) days nor more than ninety (90) days.

9.13 DRUG PARAPHERNALIA.

(A) **Definition.** Drug paraphernalia means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this chapter. Drug paraphernalia includes, but is not limited to the following:

(1) Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(3) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment used, intended for use or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

(5) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances;

(6) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

(7) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;

(8) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;

(9) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;

(10) Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body; and

(11) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

- (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: meaning 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; or
- (m) Ice pipes or chillers.

(B) **Determination.** In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) Prior convictions, if any, of an owner, or of anyone in control of the object,

under any state or federal law relating to any controlled substances;

(3) The proximity of the object, in time and space to a direct violation of this chapter;

(4) The proximity of the object to controlled substances;

(5) The existence of any residue or controlled substances on the object;

(6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

(7) Instructions, oral or written, provided with the object concerning its use;

(8) Descriptive materials accompanying the object which explain or depict its use;

(9) National and local advertising concerning the object's use;

(10) 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 distributor of tobacco products;

(11) Expert testimony concerning its use.

(C) **Possession of Drug Paraphernalia.**

(1) No person may use, or possess with the 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 chapter. Any person who violates this section shall be subject to a penalty as is provided in the provisions of this Code.

(2) Any person who violates this section who is under eighteen (18) years of age is subject to a forfeiture of not more than Twenty-five (\$25.00) Dollars and to a disposition under §48.335, Wis. Stats., as may be amended from time to time.

(D) **Delivery of Drug Paraphernalia to a Minor.**

(1) Any person eighteen (18) years of age or over who violates the provisions

of this Code by delivering, drug paraphernalia to a person under eighteen (18) years of age who is at least two (2) years younger than the violator shall be subject to a fine of not less than One Hundred (\$100.00) Dollars and not more than Five Hundred (\$500.00) Dollars.

(2) Any person who violates this section who is under eighteen (18) years of age is subject to a forfeiture of not more than Twenty-five (\$25.00) Dollars and to a disposition under §48.335, Wis. Stats., as may be amended from time to time.

9.14 "LOOK-ALIKE" CONTROLLED SUBSTANCES.

(A) No person may knowingly deliver, attempt to deliver or cause to be delivered a non-controlled substance and expressly or impliedly represent to the recipient:

(1) The substance is a controlled substance; or,

(2) The substance is of a nature, appearance or effect that will allow the recipient to display, sell, distribute or use the non-controlled substance as a controlled substance.

(B) Proof of any of the following is prima facie evidence of a representation specified in paragraph (A)(1) or (2):

(1) The physical appearance of the finished product containing the substance is substantially the same as that of a specific controlled substance.

(2) The substance is unpackaged or is packaged in a manner normally used for the illegal delivery of a controlled substance.

(3) The substance is not labeled in accordance with 21 U.S.C. 352 or 353.

(4) The person delivering, attempting to deliver or causing delivery of the substance to be made states to the recipient that the substance may be resold at a price that substantially exceeds the value of the substance.

(C) "Controlled substance", for purposes of this section, shall have the same meaning as found in §961.01(4), Wis. Stats., as may be amended from time to time.

(D) A person convicted of violating this subsection may be fined not more than Two Hundred (\$200.00) Dollars.

9.15 TOXIC INHALANTS.

(A) **Definitions.** "Toxic inhalants" shall mean any glue, gasoline, aerosol, adhesive cement or any similar substance containing one or more of the following volatile substances: Acetone, benzene, butyl alcohol, cyclohexane, ethyl acetate, ethyl alcohol, ethylene dichloride, hexane, isopropyl alcohol, methyl alcohol, methyl celosove, acetate, methyl ethyl ketone, methyl isobutyl ketone, pentachlorophenol, petroleum ether, trichlorethylene, tricresylphosphate, toluene, toluol, or any other chemical capable of producing intoxication when inhaled.

(B) **Inhalation of Vapors or Fumes From Toxic Inhalants Prohibited.** No person shall inhale or otherwise introduce into his respiratory tract any toxic vapors or fumes which may be released from any toxic inhalants with the intent of becoming intoxicated, elated, excited, stupefied, irrational, paralyzed, or of changing, distorting, or disturbing his eyesight, thinking process, judgment, balance or muscular coordination.

(C) **Limitations on Sales, Transfers and Possession of Toxic Inhalants.** No person shall, for the purpose of violating or aiding another to violate any provision of this section, possess, buy, sell, transfer possession or receive possession of any toxic inhalants.

9.16 OBSCENE MATERIAL.

(A) **Distribution of Obscene Material Prohibited.** It shall be unlawful for any person to cause to be sent or brought into the Village for sale or distribution any material deemed to be obscene as hereinafter defined. It shall also be unlawful for any person to prepare, publish, print, exhibit, distribute, or offer for sale any obscene material.

(B) **Definitions.**

(1) "Obscene" shall apply to any work or material commonly referred to as hard core, which depicts or describes acts of sexual intercourse, normal or perverted, actual or simulated; acts of masturbation; fellatio; cunnilingus; acts of excretory function; lewd exhibition of the genitals, especially in a stimulated condition; and sexual relations between humans and animals, any of which taken as a whole by the average person applying contemporary community standards would be found to:

(a) Appeal to the prurient interest in sex; and

(b) Portray sexual conduct in a patently offensive way; and

(c) In addition to findings of fact applying contemporary community standards required by sub (a) and sub (b), there shall also be a finding applying contemporary national standards, that said work or material shall not have serious literary, artistic, political or scientific value.

(2) "Materials" or "work" shall mean any book, magazine, newspaper, or

other printed or written material, or any picture, drawing, photograph, motion picture, video tape, or other pictorial representation.

(3) "Person" shall mean any individual, partnership, firm, association, corporation or other legal entity.

(4) "Distribute" shall mean any transfer or possession with intent to transfer, whether with or without consideration.

(C) **Penalties.** Any person convicted of violating this section shall, upon conviction, forfeit the sum of not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars. Upon a conviction of a second offense within a twelve (12) month period, any person shall forfeit not less than Two Hundred (\$200.00) Dollars nor more than Five Hundred (\$500.00) Dollars and in lieu of payment shall be confined to the County Jail for a period of not less than five (5) nor more than thirty (30) days. Each work or piece of material defined herein shall constitute a separate offense under this Chapter.

9.17 LITTERING PROHIBITED.

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

9.18 OBEDIENCE TO OFFICERS.

No person shall resist or interfere with any officer of the Village while such officer is doing any act in his official capacity and with lawful authority, nor shall any person refuse to assist an officer in carrying out his duties when so requested by the officer.

9.19 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 except during continuous construction. 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 such design, size and weight that the same cannot be removed by small children. During continuous construction all excavations shall be properly fenced to protect persons coming onto the premises.

9.20 ABANDONED OR UNATTENDED REFRIGERATORS, 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 ice box, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside unless such door or lid, snap lock or other locking device has been removed from such ice box, freezer, refrigerator or container or unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened. Abandoned refrigerators, freezers or any freon containing appliances or hazardous material shall be disposed of as required by the Wisconsin Department of Natural Resources.

9.21 DISORDERLY CONDUCT.

(A) No person shall engage in disorderly conduct in the Village. Any of the following acts constitute disorderly conduct:

- (1) Making, aiding or assisting in making any improper noise, riot, disturbance, breach of the peace or diversion tending to breach the peace.
- (2) Assaulting, striking or deliberately injuring another person.
- (3) Engaging in or aiding or abetting any fight, quarrel or other disturbance.
- (4) Disturbing any religious service, funeral, public or private meeting, place of amusement, or assembly of persons.
- (5) Collecting in crowds for unlawful purposes, or for any purpose to the annoyance or disturbance of other persons.
- (6) Loitering continuously in public places or being idle or dissolute and going about begging.
- (7) Being intoxicated in public places, or in any place to the annoyance and disturbance of other persons.
- (8) Resisting or obstructing the performance of one known to be a law officer or any authorized act within the law officer's official capacity; or impersonating a law officer.
- (9) Assisting any person in official custody of a peace officer to escape or furnishing any weapon, drugs, liquor to any such person.
- (10) Assembling with two (2) or more other persons for the purpose of using force or violence to disturb the public peace.
- (11) Failing to obey a lawful order of dispersal by a person known to be a

peace officer, where three (3) or more persons are committing acts of disorderly conduct in the immediate vicinity, which acts are likely to cause substantial harm or serious inconvenience, annoyance or alarm.

(12) Lodging in out-houses, sheds, barns, stables or unoccupied buildings, or being a vagrant.

(13) Engaging in any fraudulent scheme, device or trick to obtain money or other valuable thing, or the practice of fortune telling, palmistry, card reading, astrology, clairvoyancy or other scheme to obtain money or other value.

(14) Giving any false alarm of fire, danger or disturbance to any person, or false information to any peace officer or fireman or any Village officer.

(15) Making a telephone call with intent to annoy another, whether or not conversation ensue or using a computer to send messages for the purpose of annoying another.

(16) Engaging in obscene or indecent activities or entertainment, or any lewd or lascivious behavior, or appearing in public in a state of nudity.

(17) Maintaining or being in houses of ill repute or gaming houses, or engaging in or soliciting unlawful sexual actions.

(18) Using any obscene, profane, threatening or inciting language in any public or private place.

(19) Throwing stones or missiles in public places or at any person or property.

(20) Damaging or defacing trees, bushes, gardens, fences, windows, signs, buildings, monuments, or vehicles or engaging in any acts of vandalism.

(21) Sell or offer for sale any article, food or beverage, or perform or offer to perform any service for hire in any public park or athletic field within the Village without first obtaining a written permit to carry on such activity. Applications for such permits shall be addressed to the Village Board on forms to be provided by the Village Clerk/Treasurer, and the Village Clerk/Treasurer shall issue such permit only upon approval of the application by the Village Board.

(22) Obstruct, interfere or resist any member of the Fire Department, Rescue Squad or Public Works Department while engaging in or traveling to or from or otherwise engaging in the performance of any duty or official function, or to willfully damage or destroy any property belonging to the Village's Fire Department, Rescue Squad or Public Works Department or any member thereof, or to commit any assault, battery or throw any object upon any member of the Fire

Department, Rescue Squad or Public Works Department while engaged in any official function.

9.215 RESISTING OR OBSTRUCTING OFFICER.

(A) Whoever knowingly resists or obstructs an officer while such officer is doing any act in an official capacity and with lawful authority is guilty of a violation of this ordinance.

(1) In this section:

(a) "Obstructs" includes without limitation knowingly giving false information to the officer or knowingly placing 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.

(b) "Officer" means a peace officer or other public officer or public employee having the authority by virtue of the officer's or employee's office or employment to take another into custody.

(B) Whoever by violating this section hinders, delays or prevents an officer from properly serving or executing any summons or civil process, is civilly liable to the person injured for any actual loss caused thereby and to the officer or the officer's superior for any damages adjudged against either of them by reason thereof.

9.216 STATE LAWS ADOPTED.

(A) **Purpose.** Chapter 943 of the Wisconsin Statutes, as may be amended from time to time, is hereby adopted in order to secure regulation of a variety of prohibited activities within the Village.

(B) **State Laws Adopted.** All provisions of Chapter 943, Wis. Stats., are hereby adopted by reference. Violations shall be subject to the provisions contained in §9.25(A) of these Ordinances.

9.22 USE OF POWER CYCLES AND SNOWMOBILES RESTRICTED.

(A) **Definitions.**

(1) "Moped" means a bicycle type motor vehicle with fully operative pedals for propulsion by human power which has an engine certified by the manufacturer at not more than 50 cubic centimeters and an automatic transmission, the maximum

designed speed shall not exceed thirty (30) miles per hour on level ground.

(2) "Motor Bicycle" means a bicycle to which a motor with a horsepower capacity of one (1) horsepower or less has been added to permit the vehicle to travel at a speed of twenty-five (25) miles per hour or less. A motor bicycle is distinguished from a power driven cycle, motorcycle or moped in which the motor is an integral part of the original vehicle.

(3) "Motor Driven Cycle" means any motor vehicle designed to travel on not more than three (3) wheels in contact with the ground and having a seat for the use of the rider including motorcycles and motor driven cycles but excluding tractors, motor bicycles and mopeds.

(4) "Motorcycle" means a motor driven cycle which does not come within the definition of power driven cycle, and a power driven cycle means a motor driven cycle weighing between one hundred (100) and three hundred (300) pounds fully equipped but without gasoline or oil and designed to travel not more than thirty-five (35) miles per hour with a one hundred fifty (150) pound rider on a dry, level and hard surface with no wind.

(5) "Snowmobile" means any engine driven vehicle which utilizes sled-type runners or skis or an endless belt tread, or any combination thereof, or similar means of contact with the surface when operated.

(6) "A.T.V." All Terrain Vehicles means any three (3) or four (4) wheel vehicles which is designed for off road use that does not meet the definitions listed above.

(B) **Operation Restricted.**

(1) No person shall operate a moped, motor bicycle, motor driven cycle, motorcycle, snowmobile or A.T.V. within the Village of Somers except on public streets, public highways or on trailways specifically laid out, developed and marked for use by such vehicles and as may be permitted by statutes of the State of Wisconsin. The operation of the described vehicles on private property is prohibited unless the operation of such vehicle shall be by the owner of the property or have in his possession written consent of the property owner.

(2) Section 9.05 of this Code relating to loud and unnecessary noise shall apply to the use and operation of the vehicles defined herein.

9.23 CRUELTY TO ANIMALS - PROHIBITED.

(A) No person shall:

- (1) Willfully or maliciously inflict unnecessary or needless cruelty, abuse or cruelly beat any animal including any act or omission or neglect whereby unnecessary or unjustified pain, suffering or death is rendered to said animal, whether said animal shall belong to the person or to anyone else.
- (2) Abandon any animal on any public street, road or premises other than that of the owner.
- (3) Torment, badger, throw stones or materials at any animals that have been tied, caged or confined to an enclosed area.
- (4) Use any type of collar on an animal that is spiked or pronged unless such collar is being used for training purposes by a animal trainer.
- (5) Leave any animal in a motor vehicle without proper ventilation during the months of May through October.
- (6) Nothing in this ordinance shall prevent a person from using reasonable force to drive off a vicious or trespassing animal except that no person may intentionally kill a dog or cat unless the person is threatened with serious bodily harm by the dog or cat and other restraining actions were tried and failed or immediate action is necessary. This ordinance shall not apply to a law enforcement officer, humane officer or veterinarian or a person killing his or her own dog or cat in a proper and humane manner.

(B) **Food And Shelter.**

- (1) No person owning or responsible for confining or impounding any Animal shall refuse or neglect to supply the animal with sufficient supply of food to maintain the animal in good health and a supply of potable water at all times in sufficient quantity for the health of the animal.
- (2) **Proper shelter.** No person owning or responsible for confining or impounding any animal shall fail to provide any such animal with proper shelter, which for indoor standards shall, at a minimum, mean shelter to include the ambient temperature compatible with the health of the animal and adequate ventilation by natural or mechanical means to provide for the health of the animal at all times.
- (3) **Outdoor standards.** Minimum outdoor standards of shelter shall include shelter from sunlight when it is likely to cause heat exhaustion of an animal. There shall be sufficient shade by natural or artificial means to provide the animal with protection from direct sunlight, and there shall be natural or artificial shelter appropriate as may be necessary for the health of the animal.

Nothing in this section shall be construed as posing shelter requirements or standards for farm animals more stringent than normally accepted husbandry practices in this environment.

(4) **Dogs shelter**. In the case of dogs which can be tied or confined out of doors under weather conditions which adversely affect the health of the dog, a shelter shall be of suitable size to accommodate the dog and allow a retention of body heat. Said shelter shall be made of a durable material with a solid floor of not less than two (2") inches from the ground with an entrance to the shelter covered by a flexible wind proof material. In addition, the structure shall be provided with sufficient quantity of bedding to provide insulation and protection against adverse weather.

(C) **Sanitation**. The owner or person responsible for confining or impounding any animal shall maintain a minimum standard of sanitation for both indoor and outdoor enclosures which shall include a periodic cleaning for the removal of animal wastes and other waste materials, dirt and trash which would constitute a health hazard to the animal.

(D) **Confinement of Female Dog or Cat**. Any person owning or responsible for keeping a female dog or cat shall, when such female dog or cat is in season, keep said animal confined in a building or secure kennel enclosure, a veterinary hospital or boarding kennel, during such time as said female animal is in such season.

(E) **Enforcement**. Any law enforcement officer or humane officer, may remove and impound in a suitable impoundment any animal found to be kept in neglect or in violation of the standards set forth in this ordinance. The officer shall immediately notify the owner of said animal, if the owner can be found, of such impoundment and said owner shall be responsible for any costs or expenses connected with the care, keeping and medical attention connected with the treatment of any impounded animal. If an owner cannot be found or is unknown the animal shall be treated as a stray as provided by Wisconsin Statutes.

(F) **Law Enforcement Officer**. This ordinance, §12.02 and §12.03 of Chapter 12 may be enforced by any peace officer, or humane officer appointed by resolution of the Village Board.

(G) **Penalties**. Any person convicted of violation of this ordinance shall pay all costs connected with impoundment and prosecution as provided by Wisconsin Statutes together with a forfeiture of not less than Twenty-five (\$25.00) Dollars or more than Two Hundred (\$200.00) Dollars for the first offense and not less than One Hundred (\$100.00) Dollars or more than Five Hundred (\$500.00) Dollars for the second offense within one (1) year.

9.24 SANITATION.

(A) It shall be unlawful for any person, except the visually or physically handicapped, to cause or permit a dog to be on property, public or private, not owned or possessed by such person

unless such person has in his immediate possession an appropriate device for scooping excrement and an appropriate depository for the transmission of excrement to a receptacle located upon the property owned or possessed by such person.

(B) It shall be unlawful for any person in control of any dog, except the visually or physically handicapped, causing or permitting any dog to be on any property, public or private, not owned or possessed by such person to fail to scoop and remove excrement left by such dog to a proper receptacle located on property owned or possessed by such person.

9.245 PROHIBITION ON POSSESSION OF FIREARMS IN VILLAGE-OWNED BUILDINGS.

(A) **Prohibition.** It shall be unlawful for any person, except law enforcement officers who shall include a deputy sheriff, a police officer, a University of Wisconsin-Parkside police officer, a sworn employee of the Wisconsin Department of Justice or a sworn employee of an agency of the federal government or state government who is licensed to carry a firearm, to possess while in any building owned by the Village a firearm whether concealed or unconcealed. For purposes of this section, a “building owned by the Village of Somers” shall include the Village Hall, any fire station, public works garage or facility or other Village-owned building to which an occupancy permit has been issued.

(B) **Penalties.** Any person convicted of a violation of this ordinance shall pay all costs connected with the prosecution of the action together with a forfeiture of not less than those sums described in Section 9.25 of the Code of Ordinances.

9.25 PENALTIES AND FORFEITURES.

(A) Except for subsection 9.23 (Cruelty to animals), any person who shall be found guilty of the violation of any section of this provision shall be subject to a forfeiture of not less than Fifty (\$50.00) Dollars but not more than Two Hundred (\$200.00) Dollars for the first offense and One Hundred (\$100.00) Dollars but not more than Three Hundred (\$300.00) Dollars for the second offense within one (1) year of conviction of the first offense.

9.26 EXCESSIVE POLICE CALLS TO ASSIST WITH SHOPLIFTERS.

(A) **Purpose.** The purpose of this article is to provide administrative and civil remedies against businesses that permit, allow, or fail to prevent excessive calls for police services related to shoplifting and businesses that habitually fail to file a criminal complaint against an alleged shoplifter after making a call for police service, all of which compromise the public health, safety and welfare of the Village.

(B) **Definitions.** As used herein, the following terms shall have the meanings

indicated:

- (1) **Board**. Village Board of the Village of Somers.
- (2) **Business**. Any individual, sole proprietor, corporation, limited liability company and any other type of business entity which engages in business or commercial activities, including the sale of goods, within the Village.
- (3) **Calendar Month**. The period which begins on the first day of one of the months as named in the calendar and which ends on the last day of that same month as named in the calendar.
- (4) **Manager**. The individual or entity that is responsible for management of a business as defined herein.
- (5) **Owner**. The individual or entity which owns a business as defined herein.
- (6) **Police**. The Kenosha County Sheriff's Department.
- (7) **Police Service Cost**. The costs as established in Section (C) below.
- (8) **Police Service Cost Invoice**. The invoice to be produced pursuant to Section (E) below.
- (9) **Shoplifting**. Theft of merchandise or goods from a business as defined herein.
- (10) **Shoplifting Call**. A call made to the police by a representative of a business to report an incident, or suspected incident, of shoplifting.
- (11) **Shoplifting Incident**. A citation filed in Municipal Court or criminal charges filed in Circuit Court by a witness to a shoplifting event alleging a shoplifting event.
- (12) **Village**. Village of Somers, Kenosha County, Wisconsin.

(C) **Cost Recovery Required for Excessive Shoplifting Calls**.

- (1) Every owner and/or manager responsible for the management and regulation of a business is required to pay police service costs of Five Hundred (\$500.00) Dollars for:
 - (a) each shoplifting call in excess of twenty (20) within a calendar month; and/or

(b) each shoplifting call which does not result in the filing of a municipal citation by the business in excess of two (2) within a calendar month.

(D) **Notice.** Prior to the issuance of a police service cost invoice, the Village shall provide the business owner with notice that the business is approaching the threshold amount of shoplifting calls and/or shoplifting calls which do not result in the filing of a municipal citation which will result in the business' responsibility for police service costs.

(E) **Billing.** Police service costs due in accordance with this article shall be billed to the owner and/or manager with responsibility to manage the business by the Village through a police service cost invoice and shall be due and payable within thirty (30) days of such billing.

(F) **Term.** This agreement shall be in effect for a period of one (1) year following the date of its adoption and then shall no longer be in effect unless renewed for additional terms by the Village Board of Trustees.