

CHAPTER 9  
ORDERLY CONDUCT

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**9.01 DISCHARGING AND CARRYING FIREARMS AND GUNS PROHIBITED.** No person, except a sheriff, constable, police officer or their deputies, shall fire or discharge any firearm, rifle, spring or air gun of any description, bow and arrow or sling shot within the Village or have any firearm, rifle, spring or air gun in his possession or under his control, unless it is unloaded and knocked down or unloaded and enclosed within a carrying case or other suitable container, provided this section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries authorized by the Village Board except as herein provided:

(1) The firing or discharging of BB guns upon private premises with the owner's consent by persons over 16 years of age or under the direct supervision of a parent or guardian.

(2) Gun and/or cannon salutes, using blank cartridges, as a special function at a parade, program or funeral.

(3) The firing of small bore rim-fire firearms, or bows and arrows, sling shots or BB guns are permitted in the basements of residences with the owner's permission.

**9.02 THROWING OR SHOOTING OF ARROWS, STONES AND OTHER MISSILES PROHIBITED.** No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the Village.

**9.03 REGULATION OF FIREWORKS.** (1) Section 167.10 of the Wisconsin Statutes entitled Regulation of Fireworks is adopted by reference and made a part of this section as though set forth in full. The current and future statutory provisions of Wisconsin Statute 167.10 exclusive of any provision therein relating to penalties are adopted and by reference made a part of this Code as if fully set forth herein. Any act required to be performed or prohibited by any current or future statute incorporated herein by reference is required or prohibited by this section. Any future additions, amendments, revisions or modifications of Wisconsin Statute 167.10 incorporated herein are intended to be made a part of this code.

- (2) Definition of Fireworks. Fireworks mean:
- a. 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:
1. Fuel or a lubricant.
  2. A firearm cartridge or shotgun shell.
  3. A flare used or possessed or sold for use as a signal in any emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
  4. A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
  5. 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.
  6. A toy snake which contains no mercury.
  7. A model rocket engine.
  8. Tobacco and a tobacco product.
  9. 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.
  10. A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.
  11. 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.
  12. A device that emits smoke with no external flame and does not leave the ground.

13. A cylindrical fountain not exceeding 100 grams in total weight with an inside tube diameter not exceeding .075 inch, designed to sit on the ground and emit only sparks and smoke.
14. A cone fountain not exceeding 75 grams in total weight, designed to sit on the ground and emit only sparks and smoke.

(3) **Bond Required.** An indemnity bond with good and sufficient sureties in the minimum amount of \$1,000,000.00 or policy of liability insurance in the minimum amount of \$1,000,000.00 for payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks shall be required by the Village of Sussex when a fireworks permit is issued by them. The bond or policy shall be taken in the name of the Village.

This bond or policy, together with a copy of the permit shall be filed in the office of the Village Clerk of the Village of Sussex.

(4) **Penalties.** Any person who shall have violated the provisions of this Ordinance shall be subject to and forfeit and pay to the Village of Sussex an amount not to exceed \$10,000.00. In addition, any parent or legal guardian of a minor who consents to the use of fireworks by the minor shall forfeit not more than \$10,000.00.

**9.04 OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED.** No person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the Village in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place after being requested not to do so by any police officer.

**9.05 DISORDERLY CONDUCT PROHIBITED.** No person shall within the Village:

(1) In any public or private place engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or other disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to cause or provoke an immediate disturbance of public order or tends to disturb or annoy any other person or persons.

(2) Intentionally abuse, provoke or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

**9.06 CONSUMPTION OF ALCOHOL BEVERAGES IN PUBLIC PLACES PROHIBITED.**

(1) No person shall possess any open container of or use, consume, sell or convey any alcohol beverage in or upon the following:

- a. Any property, building or other structure owned or operated by the Village, or its public school districts.
- b. Any public street, alley, sidewalk, street crossing, bridge, public playground, public park or public parking lot.
- c. Any premises held out to the public for the use or parking of their motor vehicles, whether such premises are publicly or privately owned. This definition shall include, but not be limited to, the parking lots of all fermented malt beverages or liquor licenses, shopping centers, restaurants, bowling alleys.

(2) The prohibition in sub. (1) shall not apply to community functions or events authorized by specific action of the Village Board.

(3) All purchases of intoxicating liquor or fermented malt beverages by the glass or in open containers shall be consumed in the licensed premises where served, and shall not be removed therefrom or consumed in or upon any of the places described in sub. (1).

(4) The prohibition of consumption of alcoholic beverages in public places set forth in this section shall not apply to the operation of Outdoor Establishments with valid Outdoor Establishment permits and valid alcohol licenses which have been extended by the Village Board to include the respective outdoor dining and seating areas as set forth in Section 12.10.

**9.07 LOUD AND UNNECESSARY NOISE PROHIBITED.** (1) No person shall make or assist in making any noise tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof unless the making and continuing of the same cannot be prevented and is necessary for the protection or preservation of property or of the health, safety, life or limb of some person.

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

(3) **DELIVERIES.** No person shall make deliveries to or pick-up products from any business, where the building is located within 200 feet of a platted subdivision, between the hours of 9:00 p.m. and 6:00 a.m.

**9.08 ALARM SYSTEM REQUIREMENTS AND FALSE ALARMS PROHIBITED.**

(1) **INTENT.** Although the Village of Sussex recognizes that alarm systems serve a public purpose, it is the intent of this section to establish standards and regulations for all alarm systems as defined in this section in the Village of Sussex and to prevent carelessness, improper maintenance or any other cause which results in false alarms from privately owned, commercially owned, leased or contracted alarm systems in that a large number of such false alarms are received by the Village of Sussex. Such false alarms initiate police and/or fire department personnel and vehicle response which result in unnecessary expense to the Village, increases the risk of damage to property or injury to persons and dilutes the police and fire protection available to other areas of the Village. Such false alarms, therefore, constitute a public nuisance which must be abated and/or penalized.

(2) **DEFINITIONS.**

(a) Private alarm system is defined as any device, designed and installed solely for the purpose of detecting and signaling the police and/or fire department, directly or via a central alarm station, to make an emergency response to the signal's location.

1. Direct private alarm system is any private alarm system which is in any way linked to the police and/or fire department.
2. Indirect private alarm system is any private alarm system which is in any way linked to a central alarm station.

(b) False alarm is a signal, regardless of how received, resulting in a response by the police and/or fire department when an emergency situation does not exist. The determination of a False Alarm is made by the Village Administrator in consultation with the Fire Chief or Director of Police Services.

- (c) Local alarm system is any system which emits either an audible or visual signal, or both, on the exterior of any property, and is not connected to any other location by any means. This does not include any device designed solely for the purpose of alerting a building's occupants of fire, smoke or illegal entry, or any alarm devices on automobiles.
- (d) Person shall mean any individual, partnership, corporation or other entity.
- (e) Central alarm station shall mean any facility which receives signals from alarm systems and alerts the police and/or fire department of the need to make an emergency response to the signal.

(3) CENTRAL ALARM STATION DUTIES. Any person, company, organization or other entity providing a central alarm station monitoring service of alarms covered by this section shall be capable of having a service representative or other authorized key holder respond to the alarm location within thirty (30) minutes after activation.

(4) ALARM CONDITIONS. Alarms shall not be installed without meeting the following conditions:

- (a) The alarm system has the approval of the Underwriters Laboratories or other nationally recognized testing service.
- (b) The alarm system has or will be installed in accordance with any applicable requirements of the Village Electrical Code, including necessary permits.
- (c) The local alarm system shall have a device which will shut off any audible signal automatically within fifteen (15) minutes after activation.
- (d) Person's shall follow regular alarm testing procedures set forth by the Village Fire Chief.
- (e) For indirect private alarm systems the following additional requirements apply:
  1. Equipment must meet at least minimum standards as set forth in the Federal Bank Protection Act of 1968.
  2. Person's shall remove the alarm system when the service is disconnected.
  3. Person's shall install at his or her expense at the Police or Fire Department switchboard termination point, equipment which is designated by the Chief of Police or Fire Chief.
- (f) No person, firm or corporation shall use or cause to be used, any telephone or electronic device or attachment which automatically selects a public primary telephone trunk line of the police or fire department, and then reproduces any pre-recorded message to report any intrusion, robbery or other emergency. Nor will the installation or a private telephone and trunk line for this purpose be allowed.

(5) False Alarm Fees. Any false alarm from an alarm system responded to by the Village's Police or Fire Services in excess of two in the twelve (12) month period of January 1 through December 31 will incur a special charge for current services rendered. Such charge shall be approved as part of the fees resolution of the Village of Sussex and may be adjusted from time to time by the Village Board as deemed appropriate. The Village shall send a bill for the amount of the charge, to the property owner, and if applicable also to the tenant or other occupant of the property where the false alarm occurred. Such charges that remain unpaid on November 15th of the current year shall become a lien, and shall automatically be extended upon the tax roll as a special charge against the property served pursuant to

Section 66.0627 of the Wisconsin Statutes, regardless of whether the resident individual or business causing the alarm is the property owner.

(6) **EXEMPTIONS.** Property owned or leased by the Village of Sussex and the Hamilton School District are excluded from the provisions of this chapter.

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

**9.10 GAMBLING, LOTTERIES, FRAUDULENT DEVICES AND PRACTICES PROHIBITED.** All forms of gambling, lotteries and fraudulent devices and practices unless authorized by State Law are prohibited within the Village. Any police officer or policeman of the Village may seize anything devised solely for gambling or found in actual use for gambling within the Village and dispose thereof after a judicial determination that such device was used solely for gambling or found in actual use for gambling.

**9.11 PROSTITUTION PROHIBITED.** No person shall operate or be an inmate in a house of prostitution or engage in prostitution within the Village.

**9.12 LOITERING PROHIBITED.** (1) **OBSTRUCTION OF HIGHWAY BY LOITERING.** No person shall obstruct any street, bridge, sidewalk or crossing by lounging or loitering in or upon the same after being requested to move on by any police officer.

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

(3) **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.

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

**9.13 DISTRIBUTION OF HANDBILLS PROHIBITED.** No person within the Village shall distribute or place or cause to be distributed or placed on any premises any handbill or any printed or advertising matter unless permitted by the occupant of the premises. Political and religious matter are specifically exempt from this requirement.

**9.14 OBSCENE MATERIALS OR PERFORMANCES.** (1) **DEFINITIONS.** (a) "Obscene material or performance" means any material or performance, whether through pictures, tangible objects, photographs, drawings, writings, printings, cartoons, recordings, films, video tapes or another medium or a live exhibition before an audience, irrespective of the number of persons present, which:

1. The average person, applying contemporary state standards, would find appeals to the prurient interest if taken as a whole;

2. The average person, applying contemporary state standards, would find describes or shows sexual conduct in a patently offensive way; and

3. Lacks serious literary, artistic, political or scientific value if taken as a whole, as determined by objective, nongeographical standards.

(b) "Sell" means import, advertise, exhibit or transfer.

(c) "Sexual conduct" means actual or stimulated: Sexual intercourse, sodomy, sexual bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus or exhibition of human genitals, human anus or exhibition of a minor in provocative pose.

(2) Whoever intentionally sells, offers or agrees to sell or possesses with intent to sell obscene material or advertises, produces, directs or performs in an obscene performance shall be subject to a penalty as provided in Chapter 25 of the Municipal Code.

(3) Proof that a person sold, offered or agreed to sell or possessed with intent to sell obscene material in the course of business is prima facie evidence that the person knew of the content or character of the obscene material.

**9.15 OBSCENE DEVICES.** (1) DEFINITIONS. (a) "Obscene device" means an object marketed for the stimulation of human genitals or an object designed for the stimulation of human genitals which has no other common and accepted use.

(2) Whoever intentionally sells, offers or agrees to sell or possesses with intent to sell an obscene device shall be subject to a penalty as provided in Chapter 25 of the Municipal Code.

(3) Proof that a person sold, offered or agreed to sell or possessed with intent to sell an obscene device in the course of business if prima facie evidence that the person knew of the character of the obscene device.

**9.16 PROHIBITION OF THE SALE, POSSESSION, MANUFACTURE, DELIVERY AND ADVERTISEMENT OF DRUG PARAPHERNALIA.**

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

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

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

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

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

(e) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.

(f) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances.

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

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

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

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

(k) Hypodermic syringes, needles and other objects used, intended for use or designed for use in perennally injecting controlled substances into the human body.

(l) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, including but not limited to:

1. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.
2. Water pipes.
3. Carburetion tubes and devices.
4. Smoking and carburetion masks.
5. Objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.
6. Miniature cocaine spoons and cocaine vials.
7. Chamber pipes.
8. Carburetor pipes.
9. Electric pipes.
10. Air-driven pipes.
11. Chillums.
12. Bongs.
13. Ice pipes or chillers.

(2) DETERMINATION OF DRUG PARAPHERNALIA. In determining whether an object is drug paraphernalia, the following shall be considered:

(a) Statements by an owner or by anyone in control of the object concerning its use.

(b) Prior convictions, if any, of an owner or of anyone in control of the object, under any city, state or federal law relating to any controlled substance.

(c) The proximity of the object in time and space to a direct violation of this section.

(d) The proximity of the object to controlled substances.

- (e) The existence of any residue of controlled substances on the object.
- (f) Direct or circumstantial evidence of the intent of any owner or of anyone in control of the object to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of an owner or of anyone in control of the object as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.
- (g) Oral or written instructions provided with the object concerning its use.
- (h) Descriptive materials accompanying the object which explain or depict its use.
- (i) National and local advertising concerning its use.
- (j) The manner in which the object is displayed for sale.
- (k) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise.
- (l) The existence and scope of legitimate uses for the object in the community.
- (m) Expert testimony concerning its use.
- (3) PROHIBITED ACTIVITIES:
  - (a) Possession of Drug Paraphernalia. No person may use, or possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, product, 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.
  - (b) Manufacture, Sale or Delivery of Drug Paraphernalia. No person may sell, deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section.
  - (c) Delivery of Drug Paraphernalia to a Minor. Any person 18 years of age or over who violates par. (b) by delivering drug paraphernalia to a person under 18 years of age is guilty of a special offense.
  - (d) Advertisement of Drug Paraphernalia. No person may place in any newspaper, magazine, handbill or other publication, or upon any outdoor billboard or sign, any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
  - (e) Exemption. This subsection does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Chapter 161, Wis. Stats. This section does not prohibit the possession, manufacture or use of hypodermics, in accordance with Chapter 161, Wis. Stats.
- (4) PENALTIES. (a) Any drug paraphernalia used in violation of this section shall be seized and forfeited to the VILLAGE OF SUSSEX.

(b) Any person who violates sub 3-a., b. or d. shall, upon conviction, be subject to a forfeiture of not more than \$500.00, together with the costs of prosecution, and upon default of payment be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed 20 days.

(c) Any person who violates sub 3-c. shall upon conviction, be subject to a forfeiture of \$1,000.00, together with the costs of prosecution, and upon default of payment be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed 40 days.

**9.17 DESTRUCTION OF PROPERTY PROHIBITED.** No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature belonging to the Village or its departments, or to any private person, without the consent of the owner or proper authority.

**9.18 BURNING.** (1) PERMISSION REQUIRED. No person shall burn any combustible material in any street, alley or vacant lot except with permission of the Fire Chief. Such burning shall be done in screened, metallic receptacles approved by the Fire Chief and under proper safeguards directed by him, provided, the Fire Chief may issue a general permit by publication during certain seasons of the year for the burning of leaves or other like material where conducted during daylight hours and with an adult in constant attendance.

(2) PROHIBITED ON PUBLIC PROPERTY. No person shall start or maintain a fire in the public parks or upon public property within the Village except in accordance with this section.

**9.19 LITTERING AND ILLEGAL DUMPING PROHIBITED.**

(1) No person shall throw any grass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the Village or upon any private property or upon the surface of any body of water within the Village.

(2) No person shall dump, leave or otherwise deposit any dirt, stone, debris, refuse or any other material upon the streets, alleys, highways, public parks or other property of the Village or upon any private property or upon the surface of any body of water or in any public or private garbage dumpster within the Village without first obtaining the permission of the Village of Sussex, in the case of Village property, or from the property owner, in the case of private property.

**9.20 REGULATIONS REGARDING SCHOOL PROPERTY.**

(1) At all times, no persons, students or employees of the Hamilton School District shall be in the building(s) or grounds of any district school without legal permission.

(2) Any person who is in the school building or on the school grounds in violation of subsection (1) above subsequently refusing to leave said building or grounds after being requested to do so by the principal or his representative shall be deemed in violation of this ordinance.

(3) Subsections (1) and (2), above, shall not pertain to an elector entering said school building/grounds to cast his/her vote; guardians/parents of students enrolled while on official school business or other persons engaged in school business and adhering to school policies.

(4) No person shall smoke or use any tobacco products in any Hamilton School District school or on school grounds according to the Wisconsin Clean Indoor Air Act (Wis. Stats. 101.123)

(5) The following prohibitions are specifically included among the activities prohibited by subsection (1) above:

(a) No person not in official attendance, or on official business, shall enter in, congregate, loiter, wander, stroll, stand, or play in any school building in the Village or in or about any playground area or parking area adjacent thereto during the hours that school classes are in session on official school days, provided this section shall not apply to one who is a guest or invitee of the school authorities.

(b) No student who is scheduled to be in class at any location or school, but is not in class, shall enter, congregate, loiter, wander, stroll, stand, or play in any school building in the Village or in or about any playground area or parking area adjacent thereto while classes are in session on official school days.

(6) Any person who is younger than 18 years of age who is found to be in violation of this section, and who is of sufficient age to be subject to the Village ordinance enforcement, in accordance with state law, shall be fined \$25.00 plus court costs for each violation. Any person who is 18 years old or older who is found to be in violation of this section shall be fined \$50.00 plus court costs for each violation.

**9.21 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 Village.

**9.22 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.

**9.23 ABANDONED OR UNATTENDED REFRIGERATORS, FREEZERS, 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, freezer 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 ice box, refrigerator, freezer or container unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

**9.24 LOITERING OF MINORS.**

(1) DEFINITIONS.

(a) Public place. Public place, as used herein, means a place to which the public or a substantial group of the public has access, including but not limited to public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(b) Legal guardian. Legal guardian, as used herein, means a person who, under court order, is the guardian of the child, and also a person or public agency or private agency with whom the child has been placed by a court.

(2) HOURS LIMITED.

(a) General rule. No child under the age of seventeen (17) years shall congregate, loiter, wander, stroll, stand or play in or upon any public place, as defined herein, between the hours of 11:00 P.M. and 5:00 A.M. the following day, subject to the limitations described in subsections (b) and (c) below.

(b) Defenses: It is a defense to arrest, detention and prosecution under Subsection (a) that the child was:

- (i) *Accompanied by Parent.* Subsection (a) does not apply to a child who is accompanied by his or her parent, legal guardian or other adult person authorized by a parent or legal guardian of such child to take the parent's or legal guardian's place in accompanying said child for a designated period of time and purpose within a specified area.
- (ii) *Emergencies.* Subsection (a) does not apply to a child who is in violation of subsection (a) due to an unforeseen circumstance (including but not limited to fire, natural disaster, or automobile accident) that calls for immediate action to prevent or respond to serious bodily injury or loss of life.
- (iii) *Own Property.* Subsection (a) does not apply to a child who is on a sidewalk abutting the child's residence.
- (iv) *Interstate travel.* Subsection (a) does not apply to a child who is in a motor vehicle that is engaged in interstate travel.
- (v) *Parental errand.* Subsection (a) does not apply to a child who is on an errand at the request and direction of the child's parent or legal guardian, without any detour or stop.
- (vi) *Employment.* Subsection (a) does not apply to a child who is performing a function that is required to be done at that time by the child's employment, or going to or returning home from such employment activity, without any detour or stop.
- (vii) *Supervised functions.* Subsection (a) does not apply to a child who is attending an educational, religious, or recreational activity that is supervised by adults and sponsored by a school, the Village of Sussex, a civic organization, a religious organization, or another similar entity that takes responsibility for the minor at all times during the hours described in subsection (a), or going to or returning from the same without any detour or stop.
- (viii) *Emancipated minors.* Subsection (a) does not apply to a child who is married, or has otherwise had the disabilities of minority removed by court order of a court of competent jurisdiction.
- (ix) *Permitted protected activities.* Subsection (a) does not apply to a child who is exercising First Amendment rights protected by the United States Constitution and/or related rights protected by the State of Wisconsin Constitution, including free exercise of religion, freedom of speech and the right of assembly.

(c) Enforcement. No arrest, citation or other enforcement action shall be taken under this section unless the person issuing the citation or complaint reasonably believes, based

upon all circumstances, that an offense has occurred, and the child has no defense described in subsection (b).

(3) RESPONSIBILITY OF PARENTS.

(a) General rule. No parent, legal guardian or other person having care, custody and control of a child under the age of seventeen (17) years shall permit or, by inefficient control, allow such child to violate the provisions of subsection (2), above.

(b) Exception. The requirements of subsection (a) do not apply against any person described in subsection (a) who notifies the Village Police Department or Waukesha County Sheriff's Department that the child subject to their care, custody or control is missing; provided that this exception only applies during the time that said child continues to be missing after said notification.

(4) RESPONSIBILITY OF OPERATORS OF ESTABLISHMENTS.

(a) No person operating any privately owned place of business operated for a profit to which the public is invited (including but not limited to any place of public amusement or entertainment, and any hotel, motel, lodging or rooming house) or any agent, servant or employee of any such person shall knowingly permit any child to violate the provisions of subsection (2), above.

(b) Exception. The requirements of subsection (a) do not apply against any person described in subsection (a) who notifies the Village Police Department or Waukesha County Sheriff's Department that the subject child is on the premises and fails to leave when requested to do so; provided that this exception only applies during the time that said child continues to be on the premises after said notification.

**9.25 THEFT OR RETAINING POSSESSION OF LIBRARY MATERIALS.** (1) No person shall fail, on demand, to return any book, periodical, pamphlet, picture, audio-visual material or other article or property belonging to or in charge of the Sussex Public Library according to the rules and regulations duly made and adopted by the Library Board; and, no person shall remove from the library any book, periodical, pamphlet, picture, audio-visual material or other article or property without first having it charged as provided by such rules and regulations.

(2) No person shall mar, deface or in any other way damage or mutilate any book, periodical, pamphlet, picture, audio-visual material or other article or property belonging to or in charge of the Sussex Public Library.

(3) Any person violating any of the provisions of this section shall forfeit not less than \$25.00 nor more than \$100.00 together with costs of prosecution and in default of payment there of shall be imprisoned in the County Jail until such forfeiture and costs are paid but not more than 30 days. Where there is more than one book, periodical, pamphlet, picture, audio-visual material or other article or property involved in any violation, each such item shall constitute a separate offense.

**9.26 CIVIL TRESPASS.** (1) CIVIL TRESPASSING PROHIBITED. No person shall go upon the premises owned, occupied, or possessed by another, without an invitation, express or implied, extended by such owner, occupant, or possessor, and solely for his own pleasure, advantage, or purpose.

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

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

**9.27 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE.** Except as otherwise specifically provided in this Code, the current and future statutory provision in Chapters 938 through 948, Section 48.983, 86.06, 86.192, 134.66, 161.41 and 161.47 through 161.62, Wisconsin Statutes, describing and defining regulation against the peace and good order of the State, exclusive of any provisions therein relating to penalties to be imposed and exclusive of any regulations for which the statutory penalty is a term of imprisonment, are adopted and by reference made a part of this Code as if fully set forth herein. Any act required to be performed or prohibited by any current or future statute incorporated herein by reference is required or prohibited by this Code. Any future amendments, revisions or modifications of the current of future statutes incorporated herein are intended to be made part of this Code in order to secure uniform statewide regulation of peace and good order of the State.

**9.28 TRUANCY PROHIBITED.**

(1) Compulsory School Attendance Required. Sections 118.15 and 118.16, Wis. Stats., as amended from time to time, are hereby adopted by reference as through fully set forth herein.

(2) Truancy by Children Prohibited. Section 48.19(1)(d)10., Wis. Stats., as amended from time to time is hereby adopted by reference as through fully set forth herein.

(3) School Absences Regulated. No student shall be absent from school without an acceptable excuse, as provided under Section 118.15, Wis. Stats. In this section, the term schools shall include all public and private primary and secondary schools located in the Village of Sussex.

(4) Any person who is younger than 18 years of age who is found to be in violation of this section, and who is of sufficient age to be subject to the Village ordinance enforcement, in accordance with state law, shall be fined \$25.00 plus court costs for each violation. Any person who is 18 years old or older who is found to be in violation of this section shall be fined \$50.00 plus court costs for each violation.

**9.29 PROHIBITION AGAINST POSSESSION OF MARIJUANA.**

(1) DEFINITION. "Marijuana" means all parts of the plants of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin, including tetrahydrocannabinols. "Marijuana" does include the mature stalks if mixed with other parts of the plant, but does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake or the sterilized seed of the plant which is incapable of germination.

(2) No person may possess 25 grams or less of marijuana as defined herein unless the person obtains the marijuana directly from, or pursuant to a valid prescription or order of, a practitioner who is acting in the course of his or her professional practice, or unless the person is otherwise authorized by Wisconsin Statutes Chapter 961 to possess the marijuana.

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

(4) This section is adopted pursuant to the authority described in Section 66.051(1)(bm), Wisconsin Statutes. Any future additions, amendments, revisions or modifications of Section 66.051(1)(bm), Wis. Stats., or the statutes cited therein, are intended to be made a part of this section in order to secure uniform regulation of possession of small amounts of marijuana.

**9.30 REGULATION OF EXCESSIVE NOISE.**

(1) DEFINITIONS. For purposes of this ordinance, certain words or phrases shall be defined as follows.

A-weighted Sound Level. dB(A), in decibels, a frequency weighted sound pressure level, determined by the use of the metering characteristics and A-weighted network specified in ANSI §.4-1971 (R. 1976) "Specifications for Sound Level Meters" and the latest revisions thereof.

C-weighted Sound Level. In decibels, a frequency weighted sound pressure level, determined by the use of the metering characteristics and C-weighted network specified in ANSI §.4-1971 (R. 1976) "Specifications for Sound Level Meters" and the latest revisions thereof.

Daytime. The hours of the day between 7:00 a.m. and 10:00 p.m.

Decibel (dB). A unit of measure, on a logarithmic scale to the base 10, of the ratio of the magnitude of a particular sound pressure to a standard reference pressure, which, for purposes of this Ordinance, shall be 20 micronewtons per square meter (uN/m<sup>2</sup>).

Excessive Noise. Exceeding any of the following applicable requirements shall be deemed to be excessive noise:

(a) Affecting residential property. Noise that is emitted to any residential property at the property line and/or at any point within the interior of the affected residential property in excess of the following:

i. Daytime. During daytime hours, excessive noise shall mean noise that exceeds the following sound levels:

Octave Band Center Frequency (Hertz)	Allowable Octave Band Sound Pressure Levels (dB) of Sound Emitted to any Residential Property from	
	<u>Non-Residential Property</u>	<u>Residential Property</u>
31.5	75	72
63	74	71
125	69	65
250	64	57
500	58	51
1000	52	45
2000	47	39
4000	43	34
8000	40	32

- ii. Nighttime. During nighttime hours, excessive noise shall mean noise that exceeds the following sound levels:

Octave Band Center Frequency (Hertz)	Allowable Octave Band Sound Pressure Levels (dB) of Sound Emitted to any Residential Property from	
	<u>Non-Residential Property</u>	<u>Residential Property</u>
31.5	69	63
63	67	61
125	62	55
250	54	47
500	47	40
1000	41	35
2000	36	30
4000	32	25
8000	32	25

- (b) Affecting non-residential property. Noise that is emitted to any non-residential property at the property line and/or at any point within the interior of the affected non-residential property in excess of the following:

Octave Band Center Frequency (Hertz)	Allowable Octave Band Sound Pressure Levels (dB) of Sound Emitted to any Non-Residential Property from	
	<u>Non-Residential Property</u>	<u>Residential Property</u>
31.5	80	72
63	79	71
125	74	65
250	69	57
500	63	51
1000	57	45
2000	52	39
4000	48	34
8000	45	32

- (c) Impulse noise. Impulse noise that is emitted to any residential property at the property line and/or at any point within the interior of the affected residential property in excess of the following:

	Allowable A-weighted Sound Levels in Decibels of Impulse Noise Emitted to Any Residential Property from	
	<u>Non-Residential Property</u>	<u>Residential Property</u>
Daytime	56	50
Nighttime	46	45

Impulse noise. A sound of short duration, usually less than one second, with an abrupt onset and rapid decay, with an interval between sounds of longer than 0.5 seconds.

Leq. Equivalent continuous sound pressure level in decibels: ten times the logarithm to the base ten of the ratio of a time-mean-square sound pressure to the square of reference sound pressure. The reference sound pressure is 20 micronewtons per square meter.

Nighttime. The hours between 10:00 p.m. and 7:00 a.m. of the following day.

Non-residential property. A lot of record in the Village, no part of which includes a lawful residential use.

Person. Any individual, firm or corporation.

Property line. A line along the ground surface, and its vertical extension, which separates the real property owned by one person from the real property owned by another person.

Residential property. A lot of record in the Village that is lawfully used, or is used in part, for residential purposes.

Sound level. In decibels, a weighted sound pressure level, determined by the use of the metering characteristics and frequency weightings specified in ANSI §1.4-1971 (R. 1976) "Specifications for Sound Level Meters" and the latest revisions thereof.

Sound pressure level. In decibels, 20 times the logarithm to the base 10 of the ratio of the magnitude of a particular sound pressure to the standard reference pressure. The standard reference pressure is 20 micronewtons per square meter.

(2) EXCESSIVE NOISE PROHIBITED. No person shall produce excessive noise, or cause excessive noise to be produced, or permit excessive noise to be produced on premises under the person's ownership or control.

(3) MEASUREMENT. The Village may adopt procedures which set forth criteria for the measurement of sound. Such procedures shall be in substantial conformity with the standards and recommended practices established by the American National Standards Institute, Inc. (ANSI) and the latest revisions thereof, including ANSI 1.1-1960, ANSI 1.8-1969, ANSI 1.2-1962, ANSI 1.6-1967, ANSI 1.4-1971- Type I Precision, ANSI 1.11-1966, and ANSI 1.13-1971 Field Method, and the latest revisions thereof. Such procedures may be revised from time to time by separate resolution of the Village Board to reflect current engineering judgment and advances in noise measurement techniques. In the event leq averaging is used, the reference time shall be one hour. All such measurements shall correct or provide for the correction of such emissions for the presence of ambient noise as defined in ANSI S1.13-1971, and the latest revisions thereof.

(4) PUBLIC NUISANCE. Excessive noise is hereby deemed and declared to be a public nuisance.

(5) EXCEPTIONS. This ordinance shall not apply to the following, provided the following are being conducted in accordance with all other applicable Village of Sussex, County of Waukesha, State of Wisconsin, and federal government ordinances, statutes, codes, rules, regulations and orders, and in accordance with the conditions of any license or permit that may apply:

- (a) Non-commercial public speaking and public assembly activities conducted on any public property;
- (b) Noise which is either necessary or required by law or is made for the protection or preservation of property or of the health, safety or protection of persons, including emergency vehicle sirens;

- (c) Construction sites, public utilities and public works projects and operations during any day, from Monday through Saturday inclusive; provided, however, that the noise emitted to any residential or non-residential property at the property line and/or at any point within the interior of the affected residential or non-residential property shall not exceed 86 dBA, without the prior written approval of the Village Administrator;
- (d) Emergency short term operations which are necessary to protect the public health, safety and welfare of the citizens, including emergency utility and public works operations;
- (e) Emergency electrical generators used during a power failure, or during maintenance of the same in preparation for the risk of power failure, provided, however, that the noise emitted to any residential or non-residential property at the property line and/or at any point within the interior of the affected residential or non-residential property shall not exceed 65 dBA, without the prior written approval of the Village Administrator;
- (f) Any noise emitted from emergency warning devices and unregulated safety relief valves;
- (g) Loading or unloading operations or other handling of boxes, crates, containers, building materials, garbage cans or similar objects during the daytime;
- (h) Stationary bells, chimes, sirens, whistles or similar devices, intended primarily for emergency purposes, except industrial whistles; provided, however, that no such device shall be sounded more than five (5) minutes in any hourly period, nor a total of thirty (30) minutes in any twenty four (24) hour period;
- (i) Domestic power tools, including any mechanically powered saw, drill, sander, lawn or garden tool, snowblower or similar device, used during the daytime;
- (j) Industrial whistles, provided that the sounding of any such whistle is to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of the Village;
- (k) Parades;
- (l) Aircraft operations;
- (m) Fireworks;

In the event of dispute regarding the applicability of any of the foregoing exceptions to any particular noise, the matter shall be submitted to the Village Board, and the Village Board shall have the authority to make the final decision of whether the exception applies.

(6) WAIVER. The requirements of this ordinance may be waived for particular time periods on particular properties, in accordance with the following procedures.

- (a) Application. Each application for a waiver must be filed in writing with the Village Clerk, and shall include the following information:
  - (i) Name and address of the applicant;
  - (ii) Address and description of the subject property;
  - (iii) The reason why the applicant is requesting a waiver;

- (iv) The dates and times during which the applicant requests the waiver apply;
  - (v) A list of the names and addresses of all persons residing within 200 feet of the subject property, and of all persons owning property that lies within 200 feet of the subject property; and
  - (vi) Any and all additional information required by the Village Board.
- (b) Village Board Hearing. Waiver requests shall be heard by the Village Board at a public hearing held in accordance with the Wisconsin open meetings laws. Notice of the public hearing shall be given by publication as a class 2 notice. In addition, notice shall be given to all persons residing within 200 feet of the subject property, and to all persons owning property that lies within 200 feet of the subject property, by mail to the last known address. The applicant shall be given notice of the hearing by mail to the last known address. All interested persons will be permitted to speak to the issues presented, in person and/or by legal counsel.
  - (c) Authority. The Village Board may grant a waiver application upon finding that the waiver will not be contrary to the public interest, provided the spirit and purposes of this ordinance are preserved and public safety, welfare and justice is secured; and provided the time and duration of the waiver is carefully tailored in accordance with the competing interests of the applicant and the affected property owners; and provided it is objectively reasonable to grant the waiver.
  - (d) Decision. The Village Board shall decide all waiver requests in writing within a reasonable time not to exceed 90 days after the public hearing, and shall transmit a signed copy of the decision to the applicant.
  - (e) Conditions. Reasonable conditions may be placed upon any waiver that is granted. In the event a waiver is granted, the waiver shall terminate 6 months from the date of the decision unless the decision otherwise indicates. Non-compliance with any condition of the waiver shall terminate the waiver. Application for extension of time or modification of any conditions of the waiver shall be treated the same as a new application.

(7) APPEAL. Any person aggrieved by the Village Board decision, or otherwise aggrieved by the application of this ordinance, is entitled to pursue an appeal pursuant to the procedures described in Chapter 68, Wisconsin Statutes.

(8) VIOLATIONS. In addition to any other penalties or remedies that may apply by law, including the penalties described in sections 9.33 and 25.04 of this Code, persons violating this ordinance are subject to all of the following:

- (a) Enforcement by injunction. Order of injunction issued by a court of competent jurisdiction may be issued at the suit of the Village or one or more owners of real estate situated within an area affected by a violation of this ordinance.
- (b) License or permit revocation. The Village Board may consider a violation of this ordinance as cause for revocation of any applicable license or permit that the Village may have issued for the subject property, including but not limited to conditional or special use permits.

**9.31 MANDATING OF EMPLOYEE WAGE AND BENEFITS FOR EMPLOYERS.** Unless otherwise required by Federal or State Law or Section 9.32, no ordinance of the Village of Sussex nor any other municipal ordinance, rule, or regulation shall mandate that any employer shall provide certain wages or benefits to its employees or set forth the amount or type of any employee wages or benefits that must be provided by an employer located within the Village limits.

**9.32 VILLAGE BOARD'S POWER TO ESTABLISH EMPLOYEE STAFFING, PAY AND BENEFITS.** The Village Board has the sole and exclusive power to determine whether to adopt any municipal ordinance, rule, or regulations related to the establishment of staffing, wages and other forms of compensation of Village employees except as may be required by State Statute or Federal Law or as assigned by the Village Board to the Village Administrator under Chapter 1.15 of the Municipal Code of Ordinances. Prior to exercising this authority, the Village Board shall ensure that it is well informed and fully advised in order to best serve the government and good order of the Village, for the Village's commercial benefit, and for the health, safety, and welfare of the public. To ensure that the Village Board is well informed and fully advised, the Village Board may conduct all such investigation(s) as the Village Board may deem necessary and appropriate, which may include: Authorizing the preparation of studies related to economics, marketing, employee retention and feasibility; Referring the matter to Village Staff for report and recommendation; Submitting the matter to review by Village committees and commissions; Investigating alternatives with other municipal entities; Submitting the matter for review by other governmental entities having jurisdiction; and/or seeking such additional information and advice as the Village Board deems to be necessary and appropriate.

**9.33 PENALTIES.** Any person who shall violate any provision of this Chapter shall be subject to penalties as follows:

(1) Any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Section 25.04 of this Municipal Code.

(2) In addition to any penalty imposed for violation of Section 9.17 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 or parents of any unemancipated minor child who violates Section 9.17 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with Section 895.035, Wis. Stats.