

CHAPTER 2

OFFENSES AGAINST PUBLIC PEACE, SAFETY, MORALS AND PUBLIC POLICY¹

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2.01 RETENTION OF POULTRY AND ANIMALS WITHIN THE VILLAGE LIMITS

- (1) No person shall retain or keep any poultry and/or livestock of any nature whatsoever within the corporate limits of the Village of Oostburg, except the following:
 - (A) The keeping of the usual household pets and pets of children is permitted.
 - (B) This prohibition shall not apply to lots zoned agricultural.
- (2) Penalty -

Persons violating this ordinance shall pay a forfeiture not to exceed twenty-five (\$25.00) Dollars for each and every day such violation continues, and in default of the payment of such forfeiture shall be imprisoned in the County Jail for a period not to exceed ten (10) days for each day of such violation unless judgment is sooner paid.

¹Adopted as part of the "Partial General Ordinances of the Village of Oostburg". Adopted March 24, 1982, Published March 29, 1982. See Minutes of the Village Board Vol. 6, pg. 625.

2.02 REGULATION OF ANIMALS ²

(1) Definitions -

- (A) "Animal" means both the male and female sex of either wild or domesticated species.
- (B) "At large" means off the premises of the owner and not under the control of the owner or some other person. An animal shall not be deemed at large if it is attached to a leash of sufficient strength to restrain the animal or when properly restrained within a motor vehicle, or if accompanied by a person who exercises control over the animal at all times.
- (C) "Cat" means any feline animal, male or female, sexed or neutered.
- (D) "Dog" means any canine animal, male or female, sexed or neutered.
- (E) "Non-venomous reptiles" include, but are not limited to, boa constrictors, anacondas, African rock pythons and reticulated pythons.
- (F) "Owner" means any person owning, harboring, sheltering, or keeping an animal. The occupant of any premises on which an animal remains or to which it customarily returns daily for a period of ten (10) days is presumed to be harboring, sheltering, or keeping an animal within this definition.
- (G) "Venomous reptiles" include, but are not limited to, rattlesnakes, copperhead snakes, cottonmouth moccasin snakes, waglers vipers, and palm vipers.
- (H) "Vicious dog" means a dog which constitutes a physical threat to human beings or other animals by virtue of one or more attacks, injury or places a person in reasonable apprehension of bodily harm.

(2) Number of Dogs and Cats -

No person or household may own, harbor, shelter or keep more than three (3) dogs, five (5) cats, or a combination not to exceed a total number of five (5) animals thereof, over the age of five (5) months. In determining the limitation on the number of dogs and cats provided for above, any specific dog or cat which is owned or licensed on or before the effective date of this Ordinance will be grand-fathered in. Such animal may not be replaced upon death to the extent that the number of animals kept by the owner exceeds the number provided in this paragraph.

(3) Sanitary Standards -

Animals kept within or on private premises shall be so maintained as not to cause a rubbish problem, a potential rodent problem or an offensive odor problem.

(4) Rabies Vaccination Required -

No person shall keep any dog within the Village limits without securing a rabies shot and tag. Proof of the vaccination shall be on the collar or harness securely attached to the body of the dog showing that it has been vaccinated against rabies and that such vaccination is current.

(5) Dogs and Cats Running At Large -

No owner of any dog or cat shall permit such dog or cat to run at large within the Village.

(6) Keeping of Vicious Dogs -

² Modified by Ordinance 1-2003, Adopted September 8, 2003. See Minutes of the Village Board, Vol.15, pg. 1330.

(A) Confinement -

All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed or muzzled as set forth in (B) below. All structures erected to house vicious dogs shall comply with all zoning and building regulations of the Village of Oostburg. All such structures shall be kept in a clean and sanitary condition.

(B) Leash and Muzzle -

No person owning, harboring, sheltering or keeping a vicious dog may permit such dog to go outside its kennel or pen unless the dog is securely leashed with a leash no longer than four (4') feet in length. No person may permit a vicious dog to be kept on a chain, rope, or other type of leash outside its kennel or pen unless a person is in physical control of the leash. A vicious dog on a leash outside the dog's kennel may be muzzled with a device sufficient to prevent the dog from biting persons or other animals.

(C) Signage -

All owners, keepers or harborers of vicious dogs shall display in a prominent place on their premises a sign easily readable by the public, stating "Danger – Vicious Dog." A similar sign must be posted on the kennel or pen of the dog.

(D) Vicious Dog Determination -

All complaints relating to vicious dogs shall be referred to the Sheboygan County Sheriff's Department. Once notified of a formal complaint, the Village Board shall schedule a hearing, giving notice and opportunity to be heard to the owner. The Village Board, upon a majority vote, shall make a determination as to whether such a dog is vicious as defined in (1) (H) above. Upon a determination that a dog is vicious, the Village Board shall inform the owner, keeper or harborer of the dog and shall provide such person with a copy of this section.

(E) Within fifteen (15) days of a decision that a dog is vicious as determined in (6) (D) above, the owner of the vicious dog shall either comply with all provisions of this section or dispose of such dog.

"(7) Dog License Required³

The owner of a dog that is kept in the Village, which is more than five (5) months of age on January 1 of any year or five (5) months of age within the license year, shall annually, on or before the date the dog becomes five (5) months of age, obtain a dog license after paying the dog license tax (and late fees, if any) at \$5.00 more than the amount established by Sheboygan County (Chapter 32 of the Sheboygan County Code of Ordinances). The license year commences on January 1 and ends on the following December 31. Before obtaining a dog license, the applicant must have the dog vaccinated for rabies. The proof of vaccination shall be in the form showing the owner's name and address, a description of the dog, date of vaccination, rabies vaccination tag number and required vaccination date. The veterinarian shall issue a tag to the owner of the dog.

(8) Display of License and Rabies Tag -

³ Changed by Ordinance 6-2007. See Minutes of the Village Board Meeting 12/10/2007.

All dogs kept within the Village are required to wear their license and rabies tag on a collar. The fact that a dog is without a license or rabies tag attached to a collar shall be presumptive evidence that the dog does not have the requisite license or tag.

(9) Impoundment -

Any individual or authorized act as a law enforcement officer in the Village of Oostburg shall attempt to capture and restrain any dog running at large and any untagged dog. If such dog is licensed, it shall be immediately returned to the owner, and the owner shall be cited for violation of this Ordinance. If the dog is not licensed, it shall be disposed of in a humane manner.

(10) Venomous and Non-venomous Reptiles -

No person may own, harbor, shelter or keep a venomous reptile of any kind or a non-venomous reptile more than six (6') feet in length within the Village, except that alligators, crocodiles, and other similar water species shall not exceed four (4') feet in length.

(11) Penalty -

Any person violating the terms of this Ordinance shall pay a forfeiture of \$25.00 for the first offense and not more than \$100.00 for each subsequent offense.

2.03 PROHIBITING MINORS FROM BEING ON THE PUBLIC STREETS OR OTHER PUBLIC PLACES AFTER CERTAIN HOURS AT NIGHT⁴

(1) No minor shall be on the public streets or public places of the Village of Oostburg between the hours of 11:00 o'clock P.M. and 5:00 o'clock A.M., except only in the following instances:

- (A) accompanied by a parent, legal guardian or spouse;
- (B) coming from or going to a function sponsored by a school, church or other recognized authority;
- (C) being on an emergency errand for a parent;
- (D) holds a written permit from a teacher, parent or adult in charge of a group of minors;
- (E) being lawfully employed at the time.

(2) Any person who violates the provisions of this Section 2.03 shall pay a forfeiture not to exceed One-hundred (\$100.00) Dollars.

2.04 PARKING AND ACCUMULATION OF UNLICENSED MOTOR VEHICLES

(1) It shall be unlawful to park, stand, accumulate more than one unlicensed vehicle by any owner of land or occupant of any land in the Village of Oostburg, except:

- (A) for those operating properly licensed and equipped junk yards, or motor vehicle dealerships;
- (B) for those unlicensed vehicles that are being used as farm equipment, and;
- (C) for any such vehicles that are located in garages or other like structures hidden from public view.

(2) Penalty -

⁴ Changed by action of the Village Board 08/08/1994. See minutes of the Village Board pg. 1054.

Any person who shall violate or cause to be violated any provision of this section, shall upon conviction thereof, be fined not less than Ten (\$10.00) Dollars nor more than One-hundred (\$100.00) Dollars for each day said violation continues after the receipt of the written notice of removal thereof.

2.05 PROHIBITING THE CONSUMPTION OF MALT BEVERAGES AND INTOXICATING LIQUOR ON PUBLIC STREETS⁵

No Person shall drink or carry for the purpose of immediate consumption any intoxicating liquor or fermented malt beverage upon the streets, sidewalks, alleys, public parking lots, and other public ways of the village except at licensed premises. Any person carrying any open can, cup, glass, bottle or similar drinking vessel containing intoxicating liquor or fermented malt beverages upon the streets, sidewalks, alleys, public parking lots and other public ways of the village shall be in violation of this section. The provisions of this section may be waived by the Village Board for duly authorized events and for which an organization has been issued a Temporary Fermented Malt Beverage and/or Temporary Wine License for a designated area.

A violation of the provisions of this section shall subject the violator to a penalty as set forth in the Fine Schedule at Chapter 4 of the Village Ordinances, plus the costs of prosecution.

2.06 PUBLIC NUISANCE

(1) Public Nuisances Prohibited -

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Village of Oostburg, Sheboygan County, Wisconsin.

(2) Definitions -

(A) Public Nuisance

A public nuisance is a thing, act, occupation, condition, or use of property which shall continue for such length of time as to:

- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (2) In any way render the public insecure in life or in the use of property;
- (3) Greatly offend the public morals or decency;
- (4) Unlawful and substantially interfere with, obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way.

(B) Public Nuisances Affecting Health -

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances coming within the definitions of subsection A of this section:

- (1) All decayed harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;
- (2) Carcasses of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within 25 hours after death;

⁵ Changed by Ordinance 3-2017. See minutes of the Village Board Meeting 01/14/2017.

- (3) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal, or any materials whatsoever in which flies, mosquitoes, disease carrying insects, rats or other vermin may breed.
- (4) All stagnant water in which mosquitoes, flies or other insects can multiply;
- (5) Privy vaults and garbage cans which are not fly-tight;
- (6) All noxious weeds and other rank growth of vegetation;
- (7) All animals running at large;
- (8) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the Village limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property;
- (9) The burning of trash, leaves, rubbish, garbage or any other combustible material in an outside fire before the hour of 3:00 o'clock P.M. or after the hour of 10:00 o'clock P.M.
- (10) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes or other substance.
- (11) Any use of property, substances or things within the Village of Oostburg or within four (4) miles thereof, emitting or cause any foul, offensive, noisome, noxious or disagreeable odors, effluvia or stenches extremely repulsive to the physical senses of the ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Village.
- (12) All abandoned wells not securely covered or secured from public use.

(C) Public Nuisances Offending Morals and Decency -

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of subsection A of this section:

- (1) All gambling devices and slot machines;
- (2) All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the Village of Oostburg.
- (3) Any place or premises within the Village of Oostburg where Village ordinances or State Laws relating to public health, safety, morals or welfare are openly, continuously, repeatedly and intentionally violated;
- (4) Any place or premise resorted to for the purpose of drinking of intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or the ordinances of the Village.

(D) Public Nuisances Affecting Peace and Safety -

The following acts, omission, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting Public peace or safety coming within the provisions of subsection A of this section:

- (1)⁶
- a. It shall be unlawful for any person to push or deposit snow or cause snow to be pushed or deposited from his own personal driveway, sidewalks or parking area into the public streets and/or right of way so as to cause a nuisance or obstruction. The Village may cause such deposits of snow to be removed from the street, and the cost of such removal shall be charged to the property owner.
 - b. The owner, occupant or person in charge of any building fronting upon or adjoining any street and the owner or person in charge of an unoccupied dwelling or lot fronting any street shall clean the sidewalk in front of or adjoining such building or unoccupied lot or dwelling, as the case may be, of snow and ice from such sidewalk within 24 hours after the precipitation that caused the accumulation of such snow and ice on the sidewalks ceases. If the owner or occupant shall fail to clear the snow and ice as required hereunder within 72 hours after the precipitation that caused the accumulation of snow and ice and ceases, the village shall cause the same to be done by removal or by placing sand or a combination thereof and the cost thereof assessed against the property owner. The Village may, but shall not be required to, give notice to the owners of the property before providing for the Village to clear such walks.
 - c. When ice has formed on any sidewalk that is difficult or impossible to remove, the person referred to in section (b) of this section shall keep the sidewalk sprinkled with salt, sand or any other chemical ice remover.
 - d. In addition to the cost of removal of snow and/or ice assessed against the land owner, persons violating this section shall pay a forfeiture of One Hundred (\$100.00) plus court costs and fees where applicable, or as may be set forth in the Fine Schedule at Chapter 4 of the Village Ordinances.
- (2) All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds of places frequented by the public, so situated or constructed as to endanger the public safety;
 - (3) All buildings, erected, repaired or altered within the fire limits of the Village of Oostburg, in violation of the provisions of the ordinances of the Village, relating to materials and manner of construction of buildings and structures within said district;
 - (4) All unauthorized signs, signals, markings or devices which purport to be or may be mistaken as official traffic control devices placed or maintained upon or in view of any public highway or railway crossing;
 - (5) All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk;
 - (6) All limbs of trees which project over a public sidewalk, less than ten (10) feet above the surface thereof or less than fourteen (14) feet above the surface of a public street;
 - (7) All use or display of fireworks except as provided by laws of the State of Wisconsin;

⁶ Changed by Ordinance 5-2017, Adopted November 13, 2017. See Minutes of the Village Board, Vol. 27, page. 1908.

- (8) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use;
- (9) All wires over streets, alleys or public grounds which are strung less than fifteen (15) feet above the surface of the street or ground;
- (10) All loud, discordance and unnecessary noises or vibrations of any kind;
- (11) The keeping or harboring of any animal, other than dog or cat, or fowl which by frequent or habitual howling, yelping, barking, growling, or making of other noises which shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Village;
- (12) All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Village or which, although made in accordance with such ordinance, are kept or maintained for an unreasonable length of time after the purpose thereof has been accomplished;
- (13) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk;
- (14) All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside;
- (15) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks;
- (16) Repeated or continuous violations of the ordinances of the Village of Oostburg or laws of the State of Wisconsin relating to the storage of flammable liquids.
- (17)⁷ All utility and telecommunications carrier transmission and distribution facilities, including any utility pipe, pipeline, wire, cable, duct, conduit, fiber optics or radion signal transmission equipment, and associated utility plant and equipment, whether underground or above ground, and wherever located, which are abandoned, left after the installation, maintenance, or relocation project is substantially completed, or which are excess, not in use, and allowed to remain in open sight within the Village.

(3) Abatement of Public Nuisances -

(A) Inspection of Premises -

Whenever complaint is made to the Village Board that a public nuisance exists within the Village of Oostburg, they shall promptly notify the Village President, health officer or building inspector who shall forthwith make an inspection or cause it to be inspected, and shall make a written report of his findings to the Village Board. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Clerk.

(B) Summary Abatement -

(1) Notice to Owner -

If the inspecting officer shall determine that a public nuisance exists on private property and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Village President shall direct that notice

⁷ Added by Ordinance 5-2005, Adopted September 12, 2005. See Minutes of the Village Board, Vol. 17, pg. 1405.

be served on the owner or; if the owner cannot be found, on the occupant or person causing, permitting or maintaining such premises. Such notice shall direct the owner, occupant or person causing, permitting or maintaining such nuisance to abate or remove such nuisance within twenty-four (24) hours and shall state that unless such nuisance is abated, the Village will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the same as the cause may be.

(2) Abatement by Village -

If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisances cannot be found, the health officer, in case of health nuisances, Sheriff's Department or Village President, in other cases, shall cause the abatement or removal of such public nuisance.

(C) Abatement by Court Action -

If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall file a written report of his findings with the Village President who shall cause an action to abate such nuisance to be commenced in the name of the Village in the Circuit Court of Sheboygan County in accordance with the provisions of Chapter 823 of the Wisconsin Statutes of 1979- 80.

(D) Other Methods Not Excluded -

Nothing in this ordinance shall be construed as prohibiting the abatement of public nuisance by the Village of Oostburg or its officials in accordance with the laws of the State of Wisconsin.

(1) Cost of Abatement -

In addition to any other penalty imposed by this ordinance for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as other special taxes.

(2) Penalty -

The penalty for violation of this section shall be a forfeiture not to exceed the sum of twenty-five (\$25.00) Dollars for each day of violation.

2.07 PROPERTY MAINTENANCE CODE⁸

(1) TITLE. This section shall be known as "The Property Maintenance Code," and may be referred to in this section as "this code".

(2) FINDINGS AND DECLARATION OF POLICY. It is hereby found and declared that there exist, in the Village, structures which are, or may become in the future, substandard with respect to structure, equipment or maintenance or, further, that such conditions, including structural deterioration, lack of maintenance and appearance of exterior of premises, infestation and existence of fire hazards constitute a menace to the health, safety, welfare and reasonable comfort of the citizens of the Village. It is further found and declared that, by reason of lack of maintenance and because of progressive deterioration, certain properties have the further effect of creating blighted conditions and that if the

⁸ Adopted by Ordinance 1-2012, See Minutes of Village Board dated May 14, 2012.

same are not curtailed and removed, these conditions will grow and spread and will necessitate, in time, the expenditure of large amounts of public funds to correct and eliminate such conditions, and that, by reason of timely regulations and restrictions contained in this code, the desirability and amenities of uses and neighborhoods may be enhanced and the public health, safety and welfare protected and fostered.

(3) **PURPOSE.** The purpose of this code is to protect the public health, safety and welfare by establishing minimum standards governing the maintenance, appearance and condition of premises; to fix certain responsibilities and duties upon owners and operators and distinct and separate responsibilities and duties upon occupants; to authorize and establish procedures for the inspection of premises; and to provide for the enforcement of this code through penalty and abatement procedures.

4) **DEFINITIONS.** The following words and terms, wherever used or referred to herein, shall have the respective meanings assigned to them unless a different meaning clearly appears from the context.

(a) **Designated Driveway.** The clearly defined roadway leading from the street which is surfaced by asphalt, concrete, gravel or similar material not to exceed 24 feet in width, or otherwise as shown on village approved building or site plans approved by the building inspector. Where there is curbing and gutter at the street, the driveway must have an approved curb cut.

(b) **Designated Parking Area.** The clearly defined area designed for parking which is surfaced by asphalt, concrete, gravel or similar material and located in the side or rear yard area.

(c) **Deterioration** The condition of a building or part thereof characterized by holes, breaks, rot, crumbling, peeling, rusting or other evidence of physical decay or neglect, lack of maintenance or excessive use. All exterior wood and composition surfaces shall be properly protected from the elements and against decay by paint, stain or other protective coating applied in a workmanlike manner.

(d) **Elements.** Any element, whether created by nature or by man, which, with reasonable foreseeability, could carry litter from one place to another. Elements shall include air current, rain, water current and animals.

(e) **Exterior of the Premises.** Open space on the premises outside of any building thereon.

(f) **Garbage.** Decayed and decomposed animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food. (See also Refuse and Rubbish.)

(g) **Inoperable Vehicle.** Any vehicle that is not licensed for the current year as required by law or which exhibits any of the following characteristics: cannot legally travel on a public street due to any broken, damaged, or missing fender, door, bumper, hood, wheel, steering wheel, exhaust system, windshield, or other glass customary to the vehicle; lacking an engine or other means of power suitable to the design, one or more wheels, or other structural parts which renders the vehicle incapable of both forward and reverse movement in the manner for which it was designed; and/or has become a habitat for rats, mice, snakes, insects, or other vermin.

(h) **Infestation.** The presence of insects, rodents, vermin or other pests on the premises which constitute a health hazard.

(i) **Litter.** Includes any uncontainerized man-made or man-used waste which, if deposited within the Village otherwise than in a litter receptacle, tends to create a danger to public health, safety and welfare or to impair the environment of the citizens of the Village. Litter may include, but is not limited to, any garbage, trash, refuse, confetti, debris, grass clippings or other lawn or garden waste, newspaper, magazine, glass, metal, plastic or paper container or other construction material, motor

vehicle part, furniture, oil, carcass of a dead animal or nauseous or offensive matter of any kind or any object likely to injure any person or create a traffic hazard.

(j) Motor Vehicle or Vehicle. A currently licensed motorized or non-motorized conveyance that includes, but is not limited to, an automobile, car, truck, trailer, camper, motorcycle, watercraft, in operable condition, but does not include bicycles.

(k) Nuisance.

1. Any public nuisance, as defined by statute or this municipal code.

2. Physical conditions dangerous to human life or detrimental to the health of persons on or near the premises where the conditions exist.

(l) Operator. Any person who has charge, care or control of a dwelling or premises, or part thereof, whether with or without the knowledge and consent of the owner.

(m) Owner. Any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof. Any person who is a lessee subletting or reassigning any part or all of any dwelling or dwelling unit shall be deemed to be a co-owner with the lessor and shall have joint responsibility over the portion of the premises sublet or assigned by said lessee.

(n) Parking Lot. Any property with provisions for parking vehicles to which the public is invited or which the public is permitted to use or which is visible from any public place or private premises.

(o) Premises. A lot, plot or parcel of land, including the buildings or structures thereon.

(p) Private Premises. Any structure designed to be used, either wholly or in part, for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, mailbox or other structure belonging or appurtenant to such structure.

(q) Public Place. All streets, boulevards, avenues, lanes, alleys or other public ways and parks, squares, plazas, grounds and buildings frequented by the general public, whether publicly or privately owned.

(r) Refuse. All decayed and decomposed solid waste, except body wastes, including garbage, rubbish, ashes, dead animals, abandoned automobiles and solid wastes. (See also Garbage and Rubbish.)

(s) Recreational Vehicle. A currently licensed motorized or non-motorized conveyance that includes, but is not limited to, motor homes, travel trailers, folding tent trailers, truck campers removed from a truck, horse trailers, boat trailers with or without boats, utility trailers, and similar vehicles.

(t) Rubbish. Solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, pallets, glass, bedding and similar materials. (See also Garbage and Refuse.)

(u) Turf Grass. Grass commonly used in regularly cut lawns or play areas such as, but not limited to, blue grass, fescue and rye grass-blends.

(v) Natural Lawn. Any land managed to preserve or restore native Wisconsin grasses and forbes, native trees, shrubs, wild flowers and aquatic plants.

(w) Noxious Weeds. Canada Thistle and all other thistle varieties, Leafy Spurge, Field Bindweed (Creeping Jenny), Purple Loosestrife, Multiflora Rose, Burdock, Ragweed, Garlic Mustard, all weeds enumerated in §§23.235 and 66.0407, Wis. Stats.

(5) APPLICABILITY. Every premises within the Village shall comply with the provisions of this code, whether or not such premises shall have been constructed, altered or repaired before or after the enactment of this code.

(6) DUTIES AND RESPONSIBILITIES OF OWNERS AND OPERATORS.

(a) Maintenance of Exterior of Premises. The exterior of the premises and all structures thereon shall be kept free of all nuisances and any hazards to the safety of the occupant, pedestrians and other persons utilizing the premises, and free of unsanitary and unsightly conditions, and any of the foregoing shall be promptly removed and abated by the owner or operator. It shall be the duty of the owner or operator to keep the premises free of the following:

1. Refuse, such as brush, weeds, broken glass, stumps, filth, garbage, rubbish, litter, trash and debris.

2. Natural growth, such as dead and dying trees and limbs or other natural growth which, by reason of rotting or deteriorating conditions or storm damage, constitute a hazard to persons in the vicinity. Trees shall be kept pruned and trimmed to prevent such conditions. Stacked firewood is allowed in rear and interior side yard. Necessary building materials required for a construction project for which a valid building permit has been obtained, kept in a sightly condition and kept within 20 feet of the project are allowed.

3. Overhangs, such as loose and overhanging objects which, by reason of location above ground level, constitute a danger of falling on persons in the vicinity.

4. Sources of infestation.

5. In any residential district, disassembled or inoperable vehicles which are visible from adjoining properties or public right-of-way.

6. The exterior of the premises, the exterior of structures and the condition of accessory structures shall be maintained so that the premises and structures do not appear blighted.

7. Discarded, salvaged, obsolete, or inoperable fixtures, machinery, appliances, vehicle parts, scrap metal, or other material.

(b) General Maintenance. The exterior of every structure except accessory farm structures, including fences or enclosures, shall be maintained in good repair. The same shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint, loose or missing boards or siding or other conditions reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated and adjoining properties protected from blight.

(7) LITTER CONTROL.

(a) Litter Collection and Storage Area. Every premises owner, occupant or lessee shall maintain litter collection and storage areas in a clean condition and insure that all litter is properly containerized, kept free from infestation, and removed weekly.

(b) Duty to Collect Litter Before it is Carried From the Premises. All litter that is subject to movement by the elements shall be secured by the owner, operator, or person in control of the premises where it is found before the litter is allowed to be removed from the premises by the elements.

(c) Neglected Premises Visible to the Public. Any person owning or controlling any premises visible from any public place or private premises shall maintain such premises in a reasonably clean and orderly manner. It shall be a violation of this subsection to abandon, neglect or disregard the condition or appearance of any premises so as to permit it to accumulate litter.

(d) Construction Sites. The property owners and the prime contractors in charge of any construction site shall maintain the construction site in such a manner that litter will be prevented from being carried from the premises by the elements. All litter from construction activities or any related activities shall be picked up at the end of each workday and placed in containers which will prevent litter from being carried from the premises by the elements.

(e) Maintaining Sidewalks and Alleys. Persons owning, occupying or in control of any premises shall keep the sidewalks and alleys adjacent thereto free of litter. Owners or occupants shall clean off the sidewalks abutting their premises as often as may be required to keep the walk reasonably free from dirt, paper and waste.

(f) Abandoned Garbage. Any person who is in control of any premises upon which is located or on whose behalf there is maintained any container of refuse, waste or garbage, which has been containerized in accordance with a contract for its removal shall not allow that refuse, waste or garbage to remain uncollected for longer than 7 days or sooner if that refuse, waste or garbage creates an offensive condition.

(g) Animal Excreta.

1. *Allowing Discharge Regulated.* It is unlawful for any owner, keeper or walker of any dog, cat or similar domestic animal to have discharged such animal's feces upon any property within the Village other than the property of the owner of such animal if such owner, keeper or walker does not immediately thereafter remove and clean up the feces from the property.

2. *Carrying Feces Scoop Required.* No person shall walk a dog beyond the limits of his own property without carrying or having in his possession a scoop, bag or other items designed to pick up and remove dog feces.

3. *Disposal.* It is unlawful for any person to dispose of dog feces on property other than one's own without the express consent of the property owner.

4. *Exception.* This subsection shall not apply to persons having control of specially trained guide dogs.

(8) **LAWN AND YARD MAINTENANCE.**

(a) General Lawn Requirements. Except as provided in paragraph (b) below, the owner or occupant of any premises in the Village shall install and maintain landscaping, plantings and other decorative surface treatments, including turf grass, so as to present an attractive appearance in all court and yard areas in accordance with generally accepted landscaping practices in the Village. Lawns shall be maintained to a height not to exceed eight (8) inches. Plantings shall be maintained so as not to present hazards to adjoining properties or to persons or vehicles traveling on public ways and shall be maintained so as to enhance the appearance and value of the property on which located and thereby the appearance and value of the neighborhood and the Village.

(b) Natural Lawn Exception; Registration and Fee. Any owner or occupant of a lot or parcel subject to paragraph (a) above and desiring a natural lawn may register with the Building Inspector for a natural lawn where grasses and forbes exceed 12 inches in height, provided that such plantings meet the requirements of this subsection. The Building Inspector shall provide registrants with a copy of this subsection. Registrants must submit a lot survey showing the area to be planted, a list of plants, seeds or forbes to be planted, and whether the property will be cultivated prior to planting or have plugs inserted in the area. The registration shall be accompanied by a fee of \$15.00.

(c) Maintenance of Setbacks and Drainage Swales. A 10-foot setback on any street frontage and a 5-foot side and rear setback of all natural lawns shall be maintained. In addition, all drainage swales shall be free of plantings and maintained in accordance with paragraph (a) above. Adjacent neighbors may agree to waive setbacks for encroachment on setbacks outside drainage swales; such waivers shall be in writing and filed with the Building Inspector. The setback area shall have a height of no more than 12 inches, excluding trees and shrubs.

(d) Noxious Weeds and Plants Prohibited. The owners and occupants of all natural lawns shall destroy all noxious weeds.

(e) Review and Approval of Land Management Plans. The Building Inspector shall review the list of all registered properties within 30 days of the submittal and notify in writing the owner or occupant of any noncompliance of this subsection. The person receiving such notice of noncompliance shall comply with the requirements of this subsection within 10 days of such notification.

(f) Enforcement. In the event any previously approved natural lawn fails to comply with the requirements of this subsection, such premises shall be deemed a nuisance under this chapter and the Building Inspector may order the nuisance abated pursuant to subsection (10) below.

(g) Appeal. Any person aggrieved by the written determination of the Building Inspector to revoke such registration or to abate a nuisance thereto may file a written appeal within 7 days of receiving such written determination with the Safety Committee of the Village Board. The appeal shall state the reasons for reviewing the determination of the Building Inspector. After giving notice, the Committee shall hold a hearing and decide the matter within a reasonable time. The Committee may reverse, affirm or modify the determination of the Building Inspector and issue an order accordingly.

(9) WEED CONTROL

(a) Noxious Weeds and Rank Growth Prohibited. No owner or occupant of any lot or parcel shall allow such property to become overgrown with any weeds or grass so as to constitute a public nuisance. Every owner or occupant shall destroy all noxious weeds on all lands within the Village of Oostburg which he shall own, occupy or control, including any terraces and/or ditches abutting said property.

(b) Enforcement. If a property owner fails to control the growth of such weeds or rank growth of vegetation on his property, the Village shall serve upon him notice as to this fact. If such owner fails to abate this nuisance within three (3) days after service of the notice, the Village shall take action to abate such public nuisance pursuant to subsection (11) below.

(10) MOTOR VEHICLES

(a) It shall be unlawful for any person to offer a motor vehicle or motor vehicle parts for sale on any property, except where licensed, unless offered for sale within the following conditions:

(i) No more than one vehicle at any one time or two vehicles in any one calendar year period shall be offered for sale. The maximum amount of time a vehicle may be offered for sale shall be thirty (30) days.

(ii) Any such vehicle offered for sale shall be owned by a resident of the property on which such vehicle is located.

(iii) No vehicle shall be offered for sale that exceeds 10,000 pounds GVW.

(iv) No farm or construction vehicle shall be offered for sale.

(v) Any vehicle offered for sale must be parked on a driveway, designated parking area, or immediately adjacent to a driveway.

(b) On property residentially zoned, or property occupied by a single family residence or duplex, or within 100 feet of the property lines, it shall be considered a public nuisance to allow the parking or storing of:

(i) More than four (4) motor vehicles, but not including any recreational vehicles, unmounted camper or truck caps, motor homes, trailers and boats over 14 feet in length; provided, however, that if the number of licensed drivers who reside at said residence and whose driver's license address is that of the residence, is greater than four, then the number of licensed vehicles registered at said residence may be one more than that of the number of licensed drivers whose driver's license address is that of the residence.

(ii) A total of not more than three (3) combined number of recreational vehicles, motor homes, trailers, unmounted camper or canopy shells, boats over 14 feet in length, provided the vehicle, recreational vehicle, trailer, boat, camper, or motor home must be currently licensed and in operable condition.

(iii) Any vehicle totaling more than 35 feet in length.

(c) All motor vehicles shall be kept on a designated driveway or designated parking area as defined in this ordinance. A total of not more than two recreational vehicles, unmounted camper or truck caps, motor homes, trailers and boats over 14 feet in length may be parked, stored, or located anywhere else on the property within the side or rear yards and within 20 feet of the residence or detached garage, subject to requirements of the zoning, building and fire codes. This section does not apply to the following:

(i) Any vehicle parked within 20 feet of a driveway or designated parking area when winter parking restrictions are in effect.

(ii) Any vehicle, including recreational vehicles, motor vehicles, trailers, camper shells, or boats when they are kept or located in any lawfully permitted and constructed building;

(iii) Any property or situation where a development regulation applies. For example, the limitation on number of vehicles would not apply at an apartment constructed pursuant to an approved building plan and permit with approved parking plans. For further example, parking would not be allowed in an approved landscaped area.

(iv) Parking of motorcycles is exempt from this section.

(d) Notice to Owner. If the Building Inspector determines that a violation of Section (10) exists, he shall provide notice to the person causing, permitting or maintaining such a violation or the owner or occupant of the premises where such violation exists. The notice shall direct the person causing, permitting or maintaining such violation or the owner or occupant to abate or remove such violation within three (3) days. If such owner fails to abate this nuisance within three (3) days after service of the notice, the Village shall take action to abate such public nuisance pursuant to subsection (11) below.

(11) ENFORCEMENT OF PROPERTY MAINTENANCE CODE.

(a) Inspection of Premises. Whenever a complaint is made to the Building Inspector, Village Board or Village Clerk that a violation of the Property Maintenance Code exists, the Building Inspector or Chairperson of the Safety Committee shall promptly inspect the premises complained of and report to the Village Board.

(b) Notice to Owner. If the Village Board determines that a violation exists, it shall provide written notice identifying the violations to the person causing, permitting or maintaining such a violation or the owner, operator, or occupant of the premises where such violation exists. The notice shall direct the person causing, permitting or maintaining such violation or the owner, operator, or occupant to abate or remove such violation within thirty (30) days, except for Sections (9) and (10), which provide for a three (3) day abatement period. The notice shall also state that unless such violation is so abated, the Village shall seek abatement of the same and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the violation. The Village may take enforcement measures or seek penalties against the owner, occupant or operator, without providing additional notice, for any reoccurrence of the same violation within twelve (12) months from the date the Village gave notice.

(c) Separate Offense. After the expiration of the abatement period in subsection (b), above, each day a violation of this code continues to exist shall be considered a separate offense.

(d) Abatement by Court Order. If the violation is not abated within the time provided or if the owner, occupant or person causing the violation cannot be found, the Village shall seek the abatement or removal of such violation pursuant to a court order.

(e) Cost of Abatement. In addition to any other penalty imposed by this section, the cost of abating a violation by the Village, including reasonable attorneys fees, shall be collected as a special charge from the owner, occupant or person causing, permitting or maintaining the violation. If such charges are not paid by November 15 of the year in which they are billed, such charges, together with an additional administrative fee for collection equal to 10% of the total of such charges, shall be extended on the next succeeding tax roll as a tax charged against the property affected and collected in the same manner as are other taxes, pursuant to §66.0627, Wis. Stats.

(f) Other Methods Not Excluded. In the event it is determined that a violation of this code is a public nuisance, nothing herein shall be construed as prohibiting the abatement as a public nuisance under the Village Code or laws of the State of Wisconsin.

(12) PENALTIES. Any person who violates any provision of this code, after having received notice as provided in Section (11), shall be subject to a forfeiture of not less than \$50.00, nor more than \$500 for each offense, together with the costs of prosecution.

2.07 OBSCENE MATERIAL AND LITERATURE TO MINOR(S)⁹

(1) Definitions. As used in this section:

A. "Minor" means any person under the age of eighteen (18) years.

⁹Added by Ordinance 1-1987, Adopted January 12, 1987, Published March 5, 1987. See Minutes of the Village Board, Vol. 7, pg. 733, 733A(1) - (3).

- B. "Harmful to minors" means that quality of any description or representation in whatever form, or nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it:
 - 1. predominately appeals to the prurient, shameful or morbid interest of minors, and
 - 2. is potentially offensive to prevailing standards in the adult community as a whole as to what is suitable material for minors, and
 - 3. is utterly without redeeming social importance for minors.
- C. "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernible turgid state.
- D. "Sexual conduct" means act of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person is a female, breast.
- E. "Sexual excitement" means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.
- F. "Sadomasochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed.
- G. "Knowingly" means having general knowledge of, or reason to know, or a belief or grounds for belief which warrants further inspection or inquiry of both:
 - 1. The character and content of any material described therein which is reasonably susceptible of examination by the person charged with violation of this ordinance, and
 - 2. The age of the minor, provided however, that an honest mistake shall constitute an excuse from liability hereunder if the person charged with a violation hereof made a reasonable bona fide attempt to ascertain the true age of such minor.
- H. "Material" means any book, magazine, newspaper, pamphlet, poster, picture, figure, image or description.
- I. "Person" means any individual, partnership, association, corporation, or other legal entity of any kind.
- J. "A reasonable bona fide attempt" means an attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate or other governmental or educational identification card or paper and not relying solely on the oral allegations or apparent age of the minor

(2) Restrictions.

- A. Involving Sale or Display. No person shall engage in the business of selling, lending, giving away, showing, advertising for sale or distributing to any minor nor shall have in his possession with intent to engage in said business or to otherwise offer for sale or commercial distribution to any minor, nor shall any person display at any news stand or any other business establishment or place frequented by minors or where said minors are or may be invited as a part of the general public:
 - 1. Any picture, photograph, drawing, sculpture or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors.
 - 2. Any book, pamphlet, magazine, printed matter however reproduced, which

contains any matter enumerated in paragraph A. of Section (1) hereof, or explicit and detailed verbal description or narrative account of sexual excitement, sexual conduct or sado-masochistic abuse and which, taken as a whole, is harmful to minors.

3. Any book, magazine, or other publication in which there is prominently featured an act of crime and which depicts by the use of drawings, cartoons, or photographs, the commission or attempted commission of the crimes of arson, assault with caustic chemicals, assault with a deadly weapon, burglary, kidnapping, mayhem, murder, rape, robbery, theft or voluntary manslaughter.
- B. Involving Acts of Minors. No minor shall:
1. Have in his/her possession the materials listed in (2) A. 1., 2., 3. above.
 2. Misrepresent either orally or in writing, that he is not under the age of 18 years, or who presents or offers to any person any evidence of age and identity which is false or not actually his own for the purpose of ordering, obtaining, viewing, or otherwise procuring or attempting to procure or view any harmful material, is guilty of a violation of this ordinance.
- C. Exceptions to restrictions.
1. This section shall not apply to those accounts of crime which are part of the general dissemination of news nor to such drawings or photographs used to illustrate such accounts.
 2. For any sale or exhibition to a minor where such person had reasonable cause to believe that the minor involved was 18 years old or more, and such minor exhibited to such person a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that such minor was 18 years old or more.
 3. The material involved was displayed, presented or disseminated to a minor at a recognized and established school, church, museum, medical clinic, hospital, public library, governmental agency, quasi-governmental agency and persons acting in their capacity as employees or agents of such persons or organizations, and which institution displays, presents or disseminates such material or performance for a bona fide governmental, educational or scientific purpose.
 4. For purpose of this section, it is not a display if such reading material behind or adjoining a checkout counter or cash register stand, although visible to customers, is displayed on a rack, stand or ledge which has opaque screen or border of sufficient reading material - exposing only the title - is visible.

(3) Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance. The Village Board hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more section, subsection, sentence, clause or phrase had been declared invalid or unconstitutional.

(4) Penalties.

- A. Any violation of Section (2), A., a forfeiture of not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00), and in default of payment thereof, imprisonment for not exceeding thirty (30) days.
- B. Any violation of Section (2) B., 1., 2., a forfeiture of not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00)."

2.08 Oostburg Parks And All Public Parking Area Regulations¹⁰

1. Purpose. The purpose of this regulation shall be to secure for the public the quiet, orderly and suitable use and enjoyment of the Oostburg parks and all public parking areas located in the Village of Oostburg.

2. Use of Parks.¹¹

Oostburg Parks are open for use by the public between the hours of 6 a.m. and 10 p.m. During the hours when Veterans Park and the Trailhead Building are open, the food stand and Jaycee Shelter at Veterans Park and the Trailhead Building may be reserved by contacting the Village Clerk at 920-564-3214. Such permission shall be granted after the Park Reservation Form has been received by the Village Clerk. This form will not be considered received until it is entirely filled out and is accompanied by the appropriate fee as follows:

A. Non-refundable Fee Schedule:

1) Village Residents	\$50.00
2) Non-residents	\$100.00
3) "For Profit" Village Businesses	\$100.00
4) "For Profit" Non-Village Businesses	\$150.00
5) Non-profit Organizations	No Fee

B. Cleanup. The person making the reservation shall be responsible for cleaning the food stand and the surrounding area by restoring them to their condition prior to such use.

3. CONDUCT IN THE PARKS. No person shall engage in any disorderly conduct, nor in any lewd or lascivious talk, act or behavior in the parks; all refuse paper or waste materials shall be placed in receptacles provided therefore; apparatus, property or shrubbery shall not be destroyed or mutilated.

4. REGULATIONS. The Property Committee may adopt such additional rules and regulations for the use of the parks as above stated, which shall take effect upon passage by the Oostburg Village Board and posting in the parks, and are made a part hereof by reference.

5. NOTICE TO THE PUBLIC. The hours of operation of the parks and notification that use is subject to regulation as posted, shall be erected on appropriate signs at the main entry ways to the parks.

6. PENALTY. A violation of any of the provisions of this Section or any of the rules and regulations incorporated in this Section by reference shall subject the violator to a penalty of not less than \$50.00 (Fifty Dollars), nor more than \$100.00 (One Hundred Dollars), plus the cost of prosecution.

2.09 Private Property Loitering Prohibited¹²

(1) Restrictions-

(A) No person shall loiter in or about any private premises or adjacent doorways or entrances or upon private property held out for public use including, but not limited to, business or industry parking lots or shopping malls without invitation from the owner or occupant or by any person in authority at such places. No person shall loiter in or about the doorway, stairway, steps, or entrance of any business place or

¹⁰ Added by Ordinance 6-1994, Adopted September 12, 1994, Published September 17, 1994. See Minutes of the Village Board, Vol 10, pg. 1056, 1058a-b.

¹¹ Adopted by Ordinance 9-2011. Adopted by Village Board on November 14, 2011.

¹² Added by Ordinance 5-1998, Adopted May 11, 1998. See Minutes of the Village Board, Vol 12, pg. 1154.

private residence without the express consent of the owner thereof, or at any time other than usual business hours. Under this subsection, business place shall include public buildings at such times that the same shall be closed for the usual and normal business conduct thereat.

- (B) No person shall sit, lie, or otherwise recline upon or against any parked motor vehicle without the express consent of the owner thereof, whether such motor vehicle be parked upon a public street, alley, parking lot, driveway, or private premises.
- (2) Compliance Upon being requested to move by any such person in authority or by any law enforcement officer, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.
- (3) Penalty Any person who shall violate or cause to be violated any provision of this section, shall upon conviction thereof, be fined not less than Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$ 100. 00), plus the cost of prosecution.

2.10¹³ Adoption of State Law by Reference Relating to Resisting or Obstructing an Officer.

- (1) The statutory provisions of Wis. Stat. § 946.41, exclusive of any statutory criminal and penalty classification, are hereby adopted and by reference made a part of this code as if fully set forth herein.
- (2) The penalty for the first violation of this section shall be \$50.00 (Fifty Dollars) plus all applicable court costs, and \$100.00 (One Hundred Dollars) plus all applicable court costs for all subsequence violations.

2.11¹⁴ Adoption of State Law by Reference Relating to Disorderly Conduct.

- (1) The statutory provisions of Wis. Stat. § 947.01, exclusive of any statutory criminal and penalty classification, are hereby adopted and by reference made a part of this code as if fully set forth herein.
- (2) The penalty for the first violation of this section shall be \$50.00 (Fifty Dollars) plus all applicable court costs, and \$100.00 (One Hundred Dollars) plus all applicable court costs for all subsequence violations.

2.12 SEXUAL OFFENDER RESIDENCY RESTRICTIONS¹⁵

(1) *Finding and intent.*

(a) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses; and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(b) It is the intent of this article not to impose a criminal penalty but rather to serve the Village's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the Village by creating areas around locations where children regularly congregate in

¹³ Added by Ordinance -2001, Adopted October 8, 2001, Published October 16,2001. See Minutes of the Village Board, Vol 13, pg 1248.

¹⁴ Added by Ordinance -2001, Adopted October 8, 2001, Published October 16,2001. See Minutes of the Village Board, Vol 13, pg 1248.

¹⁵ Adopted by Ordinance 11-2008. See Miniutes of Village Board Meeting Dated October 13, 2008.

concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

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

- (a) **Child** means a person under the age of 16 for the purposes of this article.
- (b) **Designated Offender** means: any person who is required to register under Wis. Stat. § 301.45 for any sexual offense against a child or any person who is required to register under Wis. Stat. § 301.45 and who has been designated a Special Bulletin Notification (SBN) sex offender pursuant to Wis. Stat. §§ 301.46(2) and (2m).
- (c) **Minor** means a person under the age of 17.
- (d) **Permanent Residence** means a place where the person abides, lodges, or resides for 14 or more consecutive days.
- (e) **Temporary Residence** means a place where the person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.

(3) Sexual offender and sexual predator residence; prohibition; penalties; exceptions.

- (a) *Prohibited location of residence.* It is unlawful for any designated offender to establish a permanent residence or temporary residence within 2,000 feet of any school, licensed day care center, park, recreational trail, playground or place of worship.
- (b) *Prohibited activity.* It is unlawful for any designated offender to participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this paragraph. Participation is to be defined as actively taking part in the event.
- (c) *Measurement of distance.*
 - (1) For the purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to nearest outer property line of a school, licensed day care center, park, recreational trail, playground or place of worship.
 - (2) The Village Engineer shall prepare, maintain and file with the Village Clerk an official map showing prohibited locations as defined by this article. The Engineer shall update the map at least annually to reflect any changes in the location of prohibited zones and file said updated map with the Village Clerk. These shall be designated on the map as child safety zones.
- (d) *Penalties.* A person who violates any provision of this article shall be punished by a forfeiture not exceeding \$500.00. Each day a person maintains a residence in violation of this article constitutes a separate violation. The Village of Oostburg may also seek equitable relief.

(e) *Exceptions.* A designated offender residing within a prohibited area as described in Section 2.12(3)(a) does not commit a violation of this section if any of the following apply:

- (1) The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. § 301.45 before the effective date of this article.
- (2) The person is a minor and is not required to register under Wis. Stat. § 301.45 or § 301.46.
- (3) The school, licensed day care center, park, recreational trail or playground within 2,000 feet of the person's permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. § 301.45.
- (4) The residence is also the primary residence of the person's parents, grandparents, siblings, spouse or children, provided that such parent, grandparent, sibling, spouse or child established the residence at least two years before the designated offender established residence at the location.

(4) *Property owners prohibited from renting real property to certain sexual offenders and sexual predators; penalties.*

(a) It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to this article, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in Section 2.12(3)(a), and not subject to an exception set forth in Section 2.12(3)(e) above.

(b) A property owner's failure to comply with this section shall constitute a violation of this article, and shall subject the property owner to the penalties set forth in Section 2.12(3)(d).

(5) *Appeal.* The above 2,000 foot requirements may be waived upon approval of the Safety Committee and Village Board through appeal by the affected party. Such appeal shall be made in writing to the Village Clerk's Office, who shall forward the request to the Village Board for referral to the Safety Committee, which shall receive reports from law enforcement agencies on such appeal. The Safety Committee shall convene and consider the public interest as well as the affected party's presentation and concerns. After deliberation, the Safety Committee shall forward its recommendation to the Village Board for consideration. The Village Board shall forward its decision in writing via the minutes or otherwise to the Sheboygan County Sheriff's Department for their information and action. A written copy of the decision shall be provided to the affected party.

2.13 Transient Merchants¹⁶

(1) Registration required. It shall be unlawful for any transient merchant to engage in sales within the village without being registered for that purpose as provided herein.

(2) Definitions: In this chapter:

(a) "Charitable organization" means and includes any benevolent, philanthropic, patriotic, or eleemosynary person, association or cooperation, or one purporting to be such.

¹⁶ Adopted by Ordinance No. 6-2009. See Minutes of Village Board Meeting dated September 14, 2009.

(b) "Clerk" shall mean the village clerk.

(c) "Merchandise" means and includes personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of goods by a donor or prospective customer.

(d) "Permanent merchant" means any person who, for at least six months prior to the consideration of the application of this chapter to said merchant: (a) has continuously operated an established place of business in the local trade area among the communities bordering the place of sale, or (b) has continuously resided in the local trade area among the communities bordering the place of sale and now does business from his/her residence.

(e) "Transient merchant" means any individual who engages in the retail sale of merchandise at any place in this state temporarily, and who does not intend to become and does not become a permanent merchant of such place. For purposes of this section, sale of the merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received, but does not include a farm auction sale conducted by or for a resident farmer or personal property used on the farm, or the sale of produce or other perishable products at retail or wholesale by a resident of this state.

(3) Exemptions: The following shall be exempt from all provisions of this chapter:

(a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes:

(b) Any person selling merchandise at wholesale to dealers in such merchandise;

(c) Any person selling agricultural products which the person has grown;

(d) Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within the country and who delivers such merchandise in their regular course of business;

(e) Any person who has an established place of business where the merchandise being sold is offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit by said person;

(f) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;

(g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;

(h) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;

(i) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the clerk proof that such charitable organization is registered under Section 440.41, Wisconsin Statutes. Any charitable organization engaging in the sale of merchandise and not registered under Section 440.41, Wisconsin Statutes, or which is exempt from that statute's registration requirements, shall be required to register under this chapter;

(j) Any person who claims to be a permanent merchant, but against whom complaint has been made to the clerk that such person is a transient merchant; provided, that there is submitted to the clerk proof that such person has leased for at least one year, or purchased, the premises from which he/she has conducted business in the market area for at least six months prior to the date the complaint was made;

(k) Any individual licensed by an examining board as defined in Section 15.01(7), Wisconsin Statutes;

(l) This chapter does not apply to transient merchants while doing business at special events authorized by the village board.

(4) Registration.

(a) Applicants for registration must complete and return to the clerk a registration form furnished by the clerk which shall require the following information:

1. Name, permanent address and telephone number, and temporary address if any;

2. Age, height, weight, color of hair and eyes;

3. Name, address and telephone number of the person, firm, association or corporation that the transient merchant represents or is employed by, or whose merchandise is being sold;

4. Temporary address and telephone number from which the business will be conducted, if any;

5. Nature of business to be conducted and a brief description of the merchandise, and any services offered;

6. Proposed methods of delivery of merchandise, if applicable;

7. Make, model and license number of any vehicle to be used by applicant in the conduct of his/her business;

8. Most recent cities, villages, towns, not to exceed three, where applicant conducted his/her business;

9. Place where applicant can be contacted for at least seven days after leaving this village;

10. Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicants transient merchant business within the last five years, and the nature of the offense and the place of conviction.

(b) Applicants shall present to the clerk for examination:

1. A driver's license or some proof of identity as may be reasonably required;

2. A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;

3. A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application license is made.

(c) At the time the registration is returned, a fee of fifty dollars (\$50.00) shall be paid to the clerk to cover the cost of processing said registration. Upon payment of said fee, the clerk shall register the applicant as a transient merchant and date the entry. Said registration shall be valid for a period of one year from the date of the entry, subject to subsequent refusal as provided in Section 5(b).

(5) Investigation.

(a) Upon receipt of each application, the clerk may refer it immediately to the policing authority for the village who may make and complete an investigation of the statements made in such registration.

(b) The clerk shall refuse to register the applicant if it is determined, pursuant to the investigation above, that the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the most recent cities, villages and towns, not exceeding three, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of Section 4(b).

(6) Appeal. Any person refused or denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the village board, or if none has been adopted, under the provisions of Section 68.07 through 68.16, Wisconsin Statutes.

(7) Regulation of transient merchants.

(a) Prohibited Practices.

1. A transient merchant shall be prohibited from: calling at any dwelling or other place between the hours of nine p.m. and nine a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing words "No Peddlers," "No Solicitors" or words or similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

2. A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity, or characteristics of any merchandise offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of the merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.

3. No transient merchant shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all

traffic and parking regulations shall be observed.

4. No transient merchant shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred (100) foot radius of the source.

5. No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

(b) Disclosure Requirements.

1. After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of merchandise or services he/she offers to sell.

2. If any sale or merchandise is made by a transient merchant, or any offer for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than twenty-five dollars (\$25.00), in accordance with the procedure as set forth in Section 423.203, Wisconsin Statutes; the seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Sections 423.203(1)(a), (b) and (c), (2) and (3), Wisconsin Statutes.

3. If the transient merchant takes a sales order for the later delivery of merchandise, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance whether full, partial, or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date, and whether a guarantee or warranty is provided and, if so, the terms thereof.

(8) Records. The village policing authority shall report to the clerk all convictions for violations of this chapter and the clerk shall note any such violation on the record of the registrant convicted.

(9) Revocation of registration.

(a) Registration may be revoked by the village board after notice and hearing, if the registrant made any material omission or materially inaccurate statements in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in transient sales, violated any provision of this chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in selling.

(b) Written notice of the hearing shall be served on the registrant at least seventy-two (72) hours prior to the time set for the hearing; such notice shall contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

(10) Penalty. Any person adjudged in violation of any provision of the Transient Merchants Ordinance shall forfeit not less than Ten Dollars (\$10.00) nor more than One Thousand Dollars (\$1,000.00) for each violation per day plus costs of prosecution. Each violation shall constitute a separate offense.

2.14 Regulating Smoking in Buildings and Vehicles Owned or Leased by the Village of Oostburg¹⁷

(a) *Definition.* For the purpose of this section, “smoking” shall mean to smoke or carry a lighted pipe, cigar, cigarette or tobacco-related product of any form.

(b) *Public buildings.* No person shall smoke in any village-owned or leased public building or within 25 feet of a main entrance thereof at any time, including, but not limited to, the following:

- (1) Municipal office, 927 Center Avenue.
- (2) Department of Public Works/Fire Department/Ambulance, 1118 Superior Avenue,
- (3) Wastewater Treatment Facility, 816 N 10th Street.
- (4) Public Library/Civic Center, 213 N 8th Street.

(c) *Motor Vehicles.* No person shall smoke in any village owned or leased motor vehicle.

(d) *Village Board Meetings.* No person shall smoke while in attendance at any public meeting of the village board or in any of its authorized committees regardless of the location of the meeting.

(e) *General areas.* No person shall smoke in any of the following places:

- (1) Common areas of buildings which contain rental units owned by the Village of Oostburg;
- (2) Public rest rooms located on or in village property;

(f) *Smoking paraphernalia.* Ashtrays, cigarette machines and other smoking paraphernalia shall not be placed in non-smoking areas.

(g) *Notification signs:*

- (1) Signs prohibited smoking shall be posted conspicuously at every entrance and in prominent locations throughout the premises by the Department of Public Works.
- (2) It shall be unlawful for any person to remove, deface or destroy any legally required “No Smoking” sign or to smoke in any place where any such sign is posted.

(h) *Penalties.* Any person who violates the provisions of this section shall be subject to a forfeiture of not less than \$100.00 nor more than \$1,000.00, together with the costs of prosecution, and in default of payment thereof, to imprisonment in the county jail until such forfeiture and costs are paid, but not to exceed 80 days. Second and subsequent convictions under this section within 12-month period shall result in forfeitures of not less than \$200.00, nor more than \$1,000.00, together with the costs of prosecution, and in default of payment thereof, to imprisonment in the county jail until such forfeiture and costs are paid, but not to exceed 80 days.

¹⁷Adopted by Ordinance 7-2009. See Minutes of the Village Board Dated November 9, 2009.

2.15 Regulating Engine Braking on Village Streets¹⁸

- A.** The purpose of this ordinance is to establish the prohibition of the use of engine brakes, also known as “Jake brakes” on motor vehicles in order to prevent unnecessary noise.
- B.** No person shall use motor vehicles brakes on Village of Oostburg streets that are in any way activated or operated by the use of engine compression of any such motor vehicle or any such unit or part thereof, except in cases of emergency or necessary for the protection of persons or property. Emergency situations are defined as circumstances that could not reasonably be foreseen by an alert motor vehicle operator.
- C.** Enforcement and Penalty: The provisions of this ordinance can be enforced by the proper law enforcement authorities having jurisdiction in the Village of Oostburg including but not limited to the Sheboygan County Sheriff’s Department and the Wisconsin State Patrol. The penalty fine is \$250 plus court costs and fees where applicable or as may be set forth in the Fine Schedule at Chapter 4 of the Village Ordinances.

¹⁸ Adopted by Ordinance No. 2-2017. See Minutes of Village Board dated July 10, 2017.