

**CHAPTER 9**  
**PUBLIC PEACE AND GOOD ORDER**

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## 9.01 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE

- 1) The following statutes, preceded by the prefix "9", defining offenses against the peace and good order of the State are adopted by reference to define offenses against the peace and good order of the municipality provided the penalty for the Commission of such offenses hereunder shall be limited to a forfeiture imposed under Section 25.04 of this Municipal Code, unless otherwise limited by State law, in which case such limitation shall apply.

9.101.123	Prohibited Smoking in certain places
9.254.92	Purchase or possession of cigarettes or tobacco products by person under age eighteen (18) prohibited
9.939.05	Parties to offense
9.939.22	Words and phrases defined
9.940.19(1)	Battery
9.940.34	Duty to aid victim or report crime
9.940.42	Intimidation of witness (only for municipal cases)
9.940.46	Attempt prosecuted as completed act
9.941.01	Negligent operation of vehicle
9.941.10	Negligent handling of burning material
9.941.12(2)and (3)	Interfering with firefighting
9.941.13	False alarms
9.941.20(1)	Endangering safety by use of dangerous weapon
9.941.23	Carrying concealed weapon
9.941.235	Carrying firearm in public building
9.941.237	Carrying handgun where alcoholic beverages may be sold and consumed
9.941.24	Possession of switchblade knife
9.941.2965	Restriction on use of facsimile firearms
9.941.297	Sale or distribution of imitation firearms
9.941.35	Emergency telephone calls
9.941.36	Fraudulent tapping of electric wires or gas or water meters or pipes
9.941.37(1)and (2)	Obstructing emergency or rescue personnel
9.942.01	Defamation
9.942.03	Giving false information for publication
9.942.05	Opening letters
9.943.01	Criminal trespass to property
9.943.017(1)	Graffiti
9.943.07	Criminal damage to railroad

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9.943.11	Entry into locked vehicle
9.943.125	Entry into locked coin box
9.943.13	Trespass to land
9.943.14	Criminal trespass to dwellings
9.943.145	Criminal trespass to medical facility
9.943.15	Entry onto a construction site or into a locked building, dwelling or room
9.943.20	Theft
9.943.207	Transfer of recorded sounds for unlawful use
9.943.21	Fraud on hotel or restaurant keeper
9.943.215	Absconding without paying rent
9.943.22	Use of cheating tokens
9.943.23(1), (4m) and (6)	Operate vehicle without owner's consent
9.943.24	Issuance of worthless check
9.943.26(1)	Removing or damaging encumbered real property
9.943.34(1) (a) and (2)	Receiving stolen property (Under \$1,000)
9.943.37	Alteration of property identification marks
9.943.392	Fraudulent data alteration
9.943.41	Financial transaction card crimes
9.943.45	Obtaining telecommunications services by fraud (under \$1,000)
9.943.455	Theft of cellular telephone service
9.943.46	Theft of cable TV services
9.943.47	Theft of satellite cable programming
9.943.50	Retail theft (shoplifting)
9.943.55	Removal of shopping cart
9.943.61	Theft of library materials
9.944.17	Sexual gratification
9.944.20	Lewd and lascivious behavior
9.944.30	Prostitution
9.944.31	Patronizing prostitutes
9.944.33	Pandering
9.944.36	Solicitation of drinks prohibited
9.945.01	Definitions (for gambling)
9.945.02	Gambling
9.945.04	Permitting premises to be used for commercial gambling
9.945.07	Gambling by participants in contest
9.945.12	Endless sales chains
9.946.06	Improper use of the flag
9.946.40	Refusing to aid officer
9.946.41(1), (2)	Resisting or obstructing officer

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and (3)	
9.946.42(1)and (2)	Escape
9.946.46	Encouraging violation of probation or parole
9.946.67	Compounding crime
9.946.68	Simulating legal process
9.946.69	Falsely assuming to act as public officer or employee or utility employee
9.946.70(1)	Impersonating peace officers
9.946.72(2)	Tampering with public records and notices
9.947.01	Disorderly Conduct
9.947.012	Unlawful use of telephone
9.947.0125	Unlawful use of computerized communication systems
9.947.013	Harassment
9.947.02	Vagrancy
9.947.04	Drinking in common carriers
9.947.06	Unlawful assemblies and their suppression
9.948.01	Definitions (crimes against children)
9.948.40	Contributing to the delinquency of a child (except felony provisions)
9.948.45	Contributing to truancy
9.948.55	Leaving or storing loaded firearm within the reach or easy access of a child
9.948.60	Possession of a dangerous weapon by a child (except felony provisions)
9.948.63	Receiving property from a child
9.948.70	Tattooing of children
9.951.01 thru 9.951.17	Crimes against animals (except felony provisions)
9.961.41 (3g) (em)	Possession of synthetic cannabinoids

## 2) SEVERABILITY

- (a) Each Section, subsection, paragraph, clause, phrase and provision of the foregoing Ordinance is and the same as here by declared to be severable and if any portion or provision therefore is duly determined to be invalid for any reason, such determination shall not invalidate any other portion or provision thereof.

*Established April 17, 2001, Ordinance No. 229; revised May 18, 2004, Ordinance No. 249, Ordinance 305, Ordinance 321*

## 9.02 DISCHARGE OF WEAPONS

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## 1) DEFINITION

- (a) A weapon is defined as any instrumentality from which or within which a shot, bullet, pellet, arrow or bolt may be discharged or expelled, regardless of whether the propulsion is provided by air or other compressed gas, spring or other similar mechanical device or by gunpowder or by other chemical means.
- (b) "Building" means a permanent structure used for human occupancy and includes a manufactured home, as defined in s. 101.9(2).

## 2) DISCHARGE PROHIBITED

- (a) No person, other than a police officer or other law enforcement officer in the performance of an official duty, may discharge or fire any weapon in the following locations:
  - i. On property owned or under the care, custody and control of the Town of Delavan.
  - ii. On property that is zoned as and utilized as residential land. This subsection does not apply to a person who discharges a bow and arrow or crossbow while legally hunting game in accordance to DNR regulations as long as:
    - 1. The person discharging the bow and arrow or crossbow is not within 100 yards of a building located on the land of another unless the person who owns the land on which the building is located on gives consent.
    - 2. The person hunting with the bow and arrow or crossbow discharges the arrow or bolt from the respective weapon towards the ground.
  - iii. Within three-hundred (300') feet of any building that is normally utilized for human occupancy, without the consent of the person owning or occupying the building, regardless of the zoning of the land upon which it sits. This would

include but not be limited to homes, businesses, schools, churches and public warming areas.

- iv. No person shall discharge a firearm within the right-of-way of any State, County, Town highway road or in any public park, parking area or other area marked by signs prohibiting the same.

- 3) Notwithstanding any provision of Section 9.02 2) (a) to the contrary, the Town Board or its designee may, upon written application demonstrating good cause and upon such terms and conditions as it may prescribe as to time, place and circumstance, suspend the enforcement of said paragraph.

*Established April 17, 2001, Ordinance No. 229, Ordinance 340, Ordinance 387*

### **9.03 THROWING OR SHOOTING MISSILES AND PROJECTILES**

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

*Established April 17, 2001, Ordinance No. 229*

### **9.04 FIREWORKS REGULATED**

#### **1) USE, POSSESSION AND SALES PROHIBITED**

- (a) No person may use, possess, sell, expose or offer for sale in the Town of Delavan any fireworks as described in Wisconsin Statute 167.10(1), including, but not limited to; firecrackers, bottle rockets, cherry bombs, they type of balloon which requires fire underneath to propel it, torpedoes, sky rockets, Roman candles, Ariel salutes, American or Chinese bombs or other fireworks of like construction, or any other fireworks containing any explosives of like construction, or any fireworks containing any explosives or flammable compound.
- (b) This prohibition of the use, possession or sale of fireworks within the Town of Delavan does not apply to the following type items:

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- i. Fuel or lubricant.
- ii. A firearm cartridge or shotgun shell.
- iii. A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
- iv. A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
- v. A cap containing not more than one quarter (1/4) grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
- vi. A toy snake which contains no mercury.
- vii. A model rocket engine.
- viii. Tobacco or tobacco product.
- ix. A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects or to produce audible or visible effects.
- x. A device designed to spray out paper confetti or streamers and which contains less than one quarter (1/4) grain of explosive mixture.
- xi. A fuseless device that is designed to produce audible or visible effects or audible and visible effects and contains less than one quarter (1/4) grain of explosive mixture.
- xii. A device that is designed primarily to burn pyrotechnic smoke producing mixtures, at a controlled rate, and that produces audible or visible effects or audible and visible effects.
- xiii. A cylindrical fountain that consists of one or more tubes and that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.
- xiv. A cone fountain that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.
- xv. A novelty device that spins or moves on the ground.

## **2) POSSESSION, STORAGE AND WHOLESALING**

- (a) This section does not prohibit any resident, wholesaler, dealer or jobber firm from selling

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fireworks at wholesale, provided they are shipped or delivered directly outside the Town limits.

- (b) This subsection does not apply to a person possessing fireworks who is transporting fireworks through the Town of Delavan to a city, town, village or county where the possession of fireworks is authorized by permit or ordinance as long as the fireworks are not within the limits of the Town of Delavan for any longer than 12 hours.

### **3) EXCEPTIONS FOR USE OR POSSESSION**

- (a) Permits for the use of possession of fireworks prohibited by section 9.04(1)(a) of this chapter may be given by the Town Chairperson upon application and upon his or her satisfaction as to the purpose and supervision and handling of such fireworks. A permit under this section may not be issued to a minor.

Prior to the delivery of a permit under this section, the applicant shall file in the office of the Town Clerk either an indemnity bond with good and sufficient sureties in the amount of \$1,000,000 or policy of liability insurance in the amount of \$1,000,000 for the protection of the permit reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall contain a provision or endorsement which names the Town Chair and the Town of Delavan as additional obliges or insureds.

- (b) A permit under this section may be issued only to the following:
  - i. A public authority.
  - ii. A fair association.
  - iii. An amusement park.
  - iv. A park board.
  - v. A Civic Organization.
  - vi. Any individual or group of individuals.
  - vii. An agricultural producer for protection of crops from predatory birds or animals, warning signals



disclosing the use of fireworks for crop protection.

- (c) A permit under this section shall specify all of the following:
  - i. The name and address of the permit holder
  - ii. The date, location and time frame of permitted use.
  - iii. Other special conditions prescribed by ordinance.
- (d) A copy of a permit under this section shall be given to the Fire Chief and Chief of Police at least 10 days before the date of authorized use.

**(e) Site Requirements**

- i. Use of fireworks shall not take place less than 250 feet from a place where gasoline or a volatile liquid is sold in quantities exceeding one gallon.
  - ii. The storage of flammable liquids on site is prohibited.
  - iii. Smoking is prohibited on site. Signs with the words "Fireworks - No Smoking," in letters not less than four (4) inches high, shall be posted at all entrances/exits in a plainly visible location.
  - iv. A minimum of two five-pound ABC fire extinguishers are required on site and must be mounted in plain view.
  - v. There shall be no extension cords of their temporary wiring within 25 feet of any stored fireworks.
  - vi. The area where fireworks are stored shall be clear of brush, dried vegetation, leaves, and similar combustibles for a distance of at least 30 feet.
- (f) **Operation of Fireworks Display.** Prior to fireworks display that is permitted by this section, the site will be inspected by the Fire Chief, or his/her designee, and the operators of any fireworks display shall adhere, to and have current copy on hand of the National Fire Protection Association (NFPA) Standards 1123 and 1126.
- (g) Except for permits issued under 9.04 (3) (b) (7) of this section, all entities or persons issued a fireworks permit shall return to the area of the fireworks

display within 18 hours of the display and during daylight hours to carefully search for and dispose of unexploded fireworks. The Fire Chief or Chief of Police, or their designees are authorized to enlarge the area required to be searched.

#### **4) PARENTAL RESPONSIBILITY**

- (a) No parent, guardian or other adult with delegated authority of a minor shall knowingly permit such minor to violate any section of this Chapter.

#### **5) POSSESSION AND USE; STATE STATUTES ADOPTED**

- (a) In addition to the provision of this chapter, possession and use of fireworks shall be regulated according to the provisions of § 167.10, Wis. Stats., as the same are from time to time amended, which are hereby adopted and incorporated by reference herein.

*Established April 17, 2001, Ordinance No. 229*

### **9.05 REGULATION OF LOUD AND UNNECESSARY NOISE.**

#### **1) Statement of Purpose**

- (a) The Town of Delavan recognizes that excessive noise is a serious threat to the public health and welfare, public safety, quality of life and property values. Current science and technology permit abatement of noise sources which was not available in the past. Therefore, it is the policy of the Town to prevent and abate excessive noise which may jeopardize the public health, safety or welfare or which would cause harm to property values or which would impair the quality of life within the Town.

#### **2) Definitions**

All terminology used in this ordinance, not defined below or elsewhere within the Delavan General Ordinances, shall be given the definitions provided by applicable

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publications of the American National Standards Institute (ANSI) or its successor body.

- (a) A-Weighted Sound Level: The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated as db(A) or dBA.
- (b) Ambient Noise: The all-encompassing noise associated with a given environment being usually a composite of sounds from near and far.
- (c) Authorized Emergency Vehicle: The Town hereby adopts and incorporates the definition of this term as set forth in Sec. 340.01(3), Wis. Stats. and any subsequent modification, revision, or amendment of that term as set forth in that section of the Wisconsin Statutes.
- (d) Construction: Any and all non-emergency related activity necessary or incidental to the erection, demolition, assembling, altering, installing, repairing or equipping of buildings, roadways, or utilities, including land clearing, grading, excavating and filling.
- (e) Emergency Work: Work necessary to restore property to a safe condition following a public calamity, work required to restore public utilities, or work required to protect persons or property from imminent exposure to danger.
- (f) Impulse Noise: Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulse sound include explosions, drop forge impacts and the discharge of firearms.
- (g) Muffler: Properly functioning sound dissipative device or system for abating sound of escaping gases on equipment where such device is part of the normal configuration of powered equipment.
- (h) Noise: Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological or physiological effect on humans.

- (i) Nuisance Noise: Those noises which constitute a violation of the provisions of Town nuisance ordinances.
- (j) Receiving Zone: The zoning classification district in which the real property receiving the noise is located. The zoning classifications shall be those as set forth in the applicable County or ETZ zoning ordinance.
- (k) Residential Property Maintenance Activities. Those activities of limited duration typically associated with the maintenance of residential properties, such as snow removal, lawn mowing and lawn/landscape maintenance.
- (l) Sound Level Meter: An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighing networks used to measure sound pressure levels. The instrument shall comply with the standards for Type 1 or Type 2 sound level meters as specified in the American National Standards Institute or its successor.
- (m) Source Zone: The zoning district in which is located the real property from which noise originates. The zoning classification shall be that as set forth in the applicable County or ETZ zoning ordinance.
- (n) Stationary Noise: Noise which the source thereof is either affixed to or operated upon a fixed point of land, building or other real property.
- (o) Traffic Noise: The sound emanating from the operation of motorized vehicles upon public streets and highways. The sound which emanates from the operation of motorized vehicles upon private property shall be considered as stationary noise for the purposes of this section.

### **3) Maximum Permissible Sound Levels**

- (a) General Limitations: Effective upon the enactment of this ordinance, in the following zoning districts the sound emitted from any source of stationary noise shall not exceed the following limits at any point within a receiving zone which point is outside of the property line

of the source of the stationary noise, unless otherwise provided herein:

<b>Receiving Zone Classification</b>	<b>Source Zone Classification</b>	<b>Maximum dBA 10:00 pm to 7:00 am</b>
Residential, Conservancy	All zoning districts	50 dBA
Business, Industrial, Commercial	All zoning districts	65 dBA
Agricultural	All zoning districts	65 dBA

- (b) The Maximum dBA levels set forth in subsection (a) shall not take effect until 11:00 pm on Friday, Saturday, any legal holiday as defined in section 995.20 of the Wisconsin statutes or the day preceding any such holiday.
- (c) During all other hours not specified in paragraph (a) or (b) above, no person shall make or cause to be made any unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public street, alley or park or any private residence.
- (d) Additional Restrictions on Impulse Noise. A reduction of 5 dBA will apply to each of the limitations set forth under sub. 3) (a) and above for all impulse noises.
- (e) Special provisions for Construction Noise.
  - i. Monday through Saturday. No person shall operate or permit the operation of any equipment used in construction work between the hours of 7:00 p.m. and 7:00 a.m., from Monday through Saturday, in such a manner as to unreasonably interfere with the peace, comfort and quality of life of neighboring persons of ordinary sensibilities, except as otherwise provided in this subsection (e).
  - ii. Sunday. On Sunday, no person shall operate or permit the operation of any equipment used in construction work before 10:00 a.m. and after 7 p.m. in such a manner as to unreasonably interfere with the peace, comfort and quality

of life of neighboring persons of ordinary sensibilities, except as otherwise provided in this subsection (e).

iii. Operation of Construction Equipment Outside of Permitted Hours. The provisions of this ordinance shall not apply to the operation of construction machinery when engaged in bona fide, temporary construction work between the hours of 7:00 p.m. and 7:00 a.m. from Sunday evening through Saturday morning, or between the hours of 7 p.m. Saturday and 10:00 a.m. on Sunday, if the Town Board approves temporary construction work during this period following public hearing. A notice of such public hearing shall be sent at least ten (10) days prior to the date of the hearing to all owners of record, and to all post office addresses of property, in whole or in part, situated within three hundred (300) feet of the boundaries of the properties of the properties on which the construction is to take place.

iv. Emergencies. The hour limitations in this subsection (e), shall not apply to emergencies where immediate action is required.

**4) Exemptions.** The provisions of this ordinance shall not apply to the following:

- (a) The emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work, or the emission of sound brought about by emergency conditions where such sound is a byproduct of activities necessary for the preservation of public safety or the protection of the health, safety and welfare of any person or property.
- (b) Warning devices necessary for the protection of public safety, the emission of any noise necessary for the protection of the health, safety, or welfare of person or property or to any noise which is either necessary or required by law.
- (c) The operation of authorized emergency vehicles.
- (d) Outdoor gatherings, public dances, shows, and sporting and entertainment events sponsored or authorized by the

Town or for which a special event permit is required and obtained pursuant to Town ordinances, subject to the terms of such permit.

- (e) Public works projects as authorized by the United States government, the State of Wisconsin and/or other political subdivisions.
- (f) Any fireworks display licensed under and operated in compliance with any and all Town licensing and permit requirements.
- (g) Any bells or chimes of any building clock, public or private school building, church, synagogue, or other place of religious worship.
- (h) Any emission of sound associated with the ordinary and reasonable use, maintenance or enjoyment of residential property.
- (i) Any emission of sound associated with the ordinary and reasonable conduct of an agricultural use as defined in section 91.01(2), Wisconsin statutes.
- (j) Any emission of sound associated with the ordinary and reasonable maintenance of non-residential property.

## **6) Determining Sound Levels**

Sound levels shall be measured using the following procedures:

- (a) All persons conducting sound measurements to assess compliance with this ordinance must be trained in the current techniques and principles of sound measurement equipment and instrumentation.
- (b) Instruments used to measure sound levels must, as a minimum standard, conform to the specifications of the American National Standard Institute ANSI S1.4-1 983 (Revised 2001) with Amendments S1.4A-1 995 for Type 1 or Type 2 sound level meters. Sound level meters shall be capable of both fast and slow meter response.

(c) The following steps must be followed when preparing to take sound level measurements:

i. The instrument manufacturer's specific instructions for preparation and use of the instrument shall be followed.

ii. The sound level meter shall be calibrated periodically, in accordance with the manufacturer's instructions.

iii. When outdoor measurements are taken, a windscreen shall be placed over the microphone of the sound level meter in accordance with the manufacturer's instructions.

iv. The sound level meter shall be placed at an angle to the sound source, as specified by the manufacturer's instructions, and placed at least four (4) feet above the ground. The meter shall be placed so as not to be interfered with during the taking of sound measurements.

v. Measurements shall be taken at any point within a receiving zone which point is outside of the property line of the source of the stationary noise.

vi. Impulsive noise shall be measured with the sound level meter set for fast meter response, all other noise shall be measured with the sound level meter set for slow meter response.

vii. Under this section, noises capable of being accurately measured are those noises which cause no more than (+ or -) two decibels fluctuation of the sound level meter or, in the case of impulsive noise, the mean average of four peak readings measured over the period of an hour.

## **7) Variance for Ambient Noise.**

When the ambient noise at the site of a stationary or fixed noise producing device equals or exceeds the decibel limits provided in this section, the owner or operator of a stationary or fixed noise producing device may seek a variance from the noise limitations herein. Application for a variance from the noise limitation in a zoning district



shall be made to the Plan Commission. The Plan Commission shall hear all applications for a variance under this subsection and make recommendations regarding the same to the Town Board. The Town Board may grant the variance where the Board finds that the ambient noise equals or exceeds the decibel limits for the receiving property and that the combination of the ambient noise and the noise from the stationary or fixed noise device does not exceed the limit for the receiving affected property by not more than 10 db.

#### **8) Nonconforming Use**

Any nonconforming stationary or fixed noise producing device which existed lawfully at the time of the adoption of this ordinance and which remains nonconforming, and any stationary or fixed noise producing device which shall become nonconforming upon the adoption of this ordinance, or of any subsequent amendments thereto, may be continued to be used, as provided in this subsection.

- (a) Any nonconforming stationary or fixed noise producing device shall not be modified, altered, added to, or enlarged in any manner unless such modifications, alterations, additions, or enlargements thereto are made to conform with all of the noise control regulations applicable to the device.
- (b) Any nonconforming stationary or fixed noise producing device which is discontinued for a period of six (6) months shall not be used unless the use is made to conform with all of the noise regulations applicable to the device.
- (c) Any nonconforming stationary or fixed noise producing device shall not be repaired or restored to the extent that the cost of repair or restoration exceeds fifty percent (50%) of the full market value of the device. In the event that damage or destruction requires repairs or restoration which is less than fifty percent (50%) of such market value, repairs or restoration may be made if work is commenced within one year from the date of the partial destruction and is diligently prosecuted to completion.

#### **8) Effect of Zoning Change of Affected Property**

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When the zoning classification of a receiving property is changed in a manner which would result in an existing noise source being in noncompliance with this ordinance, the noise source shall be considered a nonconforming use and shall be subject to the provisions of subsection 7).

**9) OPERATION OF MOTOR VEHICLES**

It shall be a violation of this section for a person to operate a motor vehicle so as to cause the tires thereof to squeal, the horn to blow excessively or the motor to race excessively.

**10) Penalties**

Any person who violates the provisions of this ordinance shall, upon conviction, be subject to the penalty provided in section 9.18. Each day a violation exists or continues shall constitute a separate offense which shall subject the violator to a separate penalty.

*Established April 17, 2001, Ordinance No. 229, Ordinance 343, Ordinance 399*

**9.06 REGULATION OF ALARMS**

**1) DEFINITIONS**

- (a) **ALARM** shall mean any signal generated by any device designed to be activated by some physical act, fire, emergency or malfunction and intended to alert the police and/or result in the response of emergency services whether it be by police, fire, rescue or combination thereof.
- (b) **BURGLAR/FIRE ALARM** shall mean any device which, when activated by a criminal act, fire, or other emergency requiring police response, transmits a signal to an alarm panel at a police dispatch center, to an alarm receiving firm, or produces an audible or visible signal designed to alert the public within the audible or visual range of the signal.
- (c) **FALSE ALARMS** shall mean a signal from a burglar/fire alarm resulting in the response by the police department, fire department, rescue unit or any combination thereof when an emergency situation does not exist. Excepted from this definition shall be

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errant alarms which are storm related or the result of malfunctions due to problems with or interruptions of power at its sources, in electrical lines or due to activity at the alarm site where the possibility of errant alarms during a specific period has been made known to the Police Department.

- (d) **AUTOMATIC TELEPHONE CALLING DEVICE** shall mean any device which, upon activation, is capable of automatically selecting a telephone line and causing it to be transmitted over such line a pre-recorded message.
- (e) **ANSWERING SERVICE** shall mean a facility equipped with incoming and outgoing telephone communications and operated by a natural person who acts to receive and interpret information through incoming telephone communications and to relay such information to another, by means of an outgoing person-to-person telephone communication.

## **2) PERMISSIBLE ALARMS**

- (a) Burglar/Fire alarms which are not audible to the public and which can be properly connected to an alarm panel at a police dispatch center or to an alarm receiving firm are deemed to be permissible alarms and they shall be so maintained so as not to produce false alarms.

## **3) ALARM SYSTEMS PROHIBITED**

- (a) Outside burglar/fire alarm systems whose alarms are or would be audible to the public, whether for business, industry or residential or any other use. Outside systems that were installed prior to the effective date of this ordinance may continue in operation; but when the system is in need of replacement, the replacement system shall conform to this ordinance.

## **4) USE OF AUTOMATIC TELEPHONE CALLING DEVICE REGULATED**

- (a) No person shall install or use, or permit the installation or use upon property owned by such person of an automatic telephone calling device in a manner that such device is capable of automatic selection of

a telephone line to the Town of Delavan Police Department.

- (b) Nothing in this section shall prohibit the use or installation of an automatic telephone calling device in a manner such that said device is capable of automatic selection of a telephone line to an answering service other than the Town of Delavan Police Department.

#### **5) REGISTRATION OF ALARM SYSTEMS AND KEYHOLDERS**

- (a) Every alarm system operated within the Town of Delavan shall be registered prior to the time such system becomes operable, and annually, on or before the 30<sup>th</sup> day of January, in each succeeding calendar year. Registration shall be upon forms provided by the Town of Delavan Police Department and shall include information required by said Department. The owner and the operator of such alarm system shall be responsible individually for such registration.
- (b) In registering an alarm system as required by this paragraph, the operator and/or the owner thereof shall provide to the Town of Delavan Police Department the names and telephone numbers of not less than two (2) other persons who can be contacted by telephone at any and all times, day or night, who are authorized to respond to an alarm given by the alarm system. Persons who can open and enter the premises wherein the alarm system is located, and who have the capability of terminating the alarm being emitted by the alarm system.

#### **6) NOTIFICATION OF DURATION OF MAINTENANCE OF ALARM SYSTEM**

- (a) Any person providing maintenance with respect to any alarm system which might reasonably be expected to cause such system to emit a false alarm, or to cause such system to be deactivated so as to be incapable of emitting an alarm shall give notice to the Town of Delavan Police Department of the intention of such person to provide such maintenance not less than twenty-four (24) hours in advance as required herein, unless it is impossible or impractical, the person providing such maintenance shall give the greatest

prior notice, with respect to such maintenance, which is reasonably possible under the circumstances. In providing such notice, the location of the alarm system to be maintained and approximate length of time required for such maintenance shall be disclosed.

## **7) FALSE ALARMS**

### **(a) GENERAL**

- i. Each false alarm requires the response of public safety personnel, involves unnecessary expense to the Town, increases the risk of injury to persons and/or damage to property and dilutes the overall public safety protection to the Town. Such false alarms constitute a public hazard and nuisance and must be abated.

## **8) PENALTIES FOR NON-INTENTIONAL FALSE ALARMS**

- (a) **ADMINISTRATION CHARGES** are any person, business, corporation or other entity having a permissible alarm system with alarm devices at one (1) or more locations in accordance with this ordinance shall pay to the Town a charge for false alarms responded to by the Police, Fire Department or Rescue Unit according to the following schedule for each calendar year, for each location connected, separate accounts shall be kept for false alarms as to criminal activity, fire, and other emergencies.

### **i. FEE SCHEDULE (POLICE/RESCUE RESPONSE)**

1. First two (2) false alarms per calendar year - NO CHARGE
2. Third in calendar year -\* three hundred fifty dollars (\$350) each
3. Fourth in calendar year - four hundred fifty dollars (\$450) each
4. Fifth in a calendar year - five hundred fifty (\$550) dollars each

5. Sixth and all subsequent false alarms in a calendar year - six hundred fifty dollars (\$650) each

**ii. FEE SCHEDULE (FIRE DEPARTMENT RESPONSE)**

1. First two (2) false alarms in calendar year - NO CHARGE
2. Third, fourth & fifth false alarms in calendar year - one-hundred (\$100) dollars each
3. Sixth & all subsequent false alarms in calendar year - two-hundred-fifty (\$250) dollars each

- (b) This section is designed to impose a strict liability on the person, business, corporation or other entity responsible for the alarm connection to either a police dispatch facility or alarm receiving firm to which the emergency services department(s) of the Town have responded and shall be applied regardless of the cause of the FALSE ALARM. Failure to pay such administrative charge(s) in and of itself shall constitute a violation of this section and such charge(s) shall be collectible as forfeiture upon prosecution and conviction thereof together with any additional forfeiture(s) which may be imposed by the Court in compliance with Section 25.04 of the Municipal Code.

*Established April 17, 2001, Ordinance No. 229. Ordinance 389*

**9.07 LITTERING PROHIBITED**

- 1) No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the Town or upon any private property or upon the surface of any body of water within the Town.
- 2) It shall be unlawful to deliver any handbills or advertising material to any premises in the Town except by being handed to the recipient, placed on the porch, stoop or entrance way of the building or firmly affixed to a building so as to prevent any such articles from being blown about, becoming scattered or in any way causing litter.

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- 3) No Person shall place or deposit, nor shall any person authorize the placement or deposit of leaves, grass clippings or similar yard waste in or on any navigable body of water within the Town or within 20 feet of the ordinary high water mark of Delavan Lake.

*Established April 17, 2001, Ordinance No. 229; Revised May 15, 2001, Ordinance No. 230*

#### **9.08 RADIO OR TELEVISION INTERFERENCE PROHIBITED**

- 1) No person shall operate any machine or equipment which causes interference with radio or television interception, when such interference can be prevented by repairs, adjustments, and the installation of corrective appliances or other practicable alterations, at a reasonable expense.

*Established April 17, 2001, Ordinance No. 229*

#### **9.09 LOITERING PROHIBITED**

##### **1) LOITERING OR PROWLING**

- (a) No person shall loiter or prowl in a place, at a time or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify him/herself or manifestly endeavors to conceal him/herself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall prior to any arrest for an offense under this section afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting the person to identify themselves and explain their presence and conduct. No person shall be convicted of an offense under this subsection if the police or peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.

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## **2) OBSTRUCTION OF HIGHWAY BY LOITERING**

- (a) 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.

## **3) OBSTRUCTION OF TRAFFIC BY LOITERING**

- (a) No person shall loaf or loiter in groups or crowds upon the public streets, alleys, sidewalks, street crossing, bridges or in any other public places within the Town in such manner as to prevent, interfere with or obstruct the ordinary free use of said public streets, sidewalks, streets, street crossings, bridges or other public places by persons passing along and over the same.

## **4) LOITERING AFTER BEING REQUESTED TO MOVE**

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

## **5) LOITERING IN PUBLIC PLACES**

- (a) 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. 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.

## **6) LOITERING IN SCHOOL AND PLAYGROUND AREAS**

- (a) No person not in official attendance or on official school business shall enter into, congregate, loiter, wander, stroll, stand or play in any school building



or in or about any playground area adjacent thereto within the Town between 8 a.m. and 4 p.m. on official school days.

*Established April 17, 2001, Ordinance No. 229*

## **9.10 RECYCLING ORDINANCE**

### **1) PURPOSE**

- (a) The purpose of this ordinance is to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided in Chapter 287, Wisconsin Statutes and the Wisconsin Administrative Code.

### **2) STATUTORY AUTHORITY**

- (a) This ordinance is authorized under Section 287.09, Wisconsin Statutes.

### **3) ABROGATION AND GREATER RESTRICTIONS**

- (a) It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this ordinance imposes greater restrictions, the provisions of this ordinance shall apply.

### **4) DEFINITIONS**

- (a) For the purposes of this ordinance, the words and phrases used herein shall be as defined in Section 287.01, Wisconsin Statutes, and Section 287.17, Wisconsin Statutes.

### **5) TOWN OF DELAVAN AS RESPONSIBLE UNIT**

- (a) Pursuant to Section 287.09, Wisconsin Statutes, the Town of Delavan shall be the responsible unit charged with all duties and responsibilities required by Chapter 287, Wisconsin Statutes. The Town Board may, pursuant to Section 66.0301, Wisconsin Statutes,

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designate another unit of government or a solid waste management system under Section 59.70(2), Wisconsin Statutes, to be the responsible unit in lieu of the Town.

**6) PROHIBITIONS ON DISPOSAL AND INCINERATION**

**(a) BATTERIES, MAJOR APPLIANCES AND OIL, NO PERSON MAY:**

- i. Dispose of a lead acid battery or a major appliance in a solid waste disposal facility in this state, except that a person may dispose of a microwave oven in a solid waste disposal facility in this state if the capacitor has been removed and disposed of in accordance with Section 299.45(7) Wisconsin Statutes, if applicable.
- ii. Burn a lead acid battery or a major appliance in a solid waste treatment facility in this state.
- iii. Dispose of waste oil in a solid waste disposal facility or burn waste oil without energy recovery in a solid waste treatment facility in this State.

**(b) YARD WASTE**

- i. No person may dispose of yard waste in a solid waste disposal facility, except in a land spreading facility approved in accordance with Chapter 289 Wisconsin Statutes, or burn yard waste without energy recovery in a solid waste facility in this state.

**(c) GENERAL DISPOSAL RESTRICTIONS**

- i. No person may dispose of in a solid waste disposal facility, or burn without energy recovery in a solid waste treatment facility in this State any of the following:
  - 1. An aluminum container
  - 2. Corrugated paper or other container board
  - 3. Foam polystyrene packaging
  - 4. A glass container
  - 5. A magazine or other material printed on similar paper

6. A newspaper or other material printed on newsprint
7. Office paper
8. A plastic container
9. A steel container
10. A waste tire, as defined in Section 289.55(1) (c), Wisconsin Statutes.
11. A container for carbonated or malt beverages that is primarily made of a combination of steel and aluminum.

(d) **GENERAL INCINERATION RESTRICTIONS**

- i. No person may convert into fuel or burn with energy recovery at a solid waste treatment facility in this State any of the following:
  1. An aluminum container
  2. Corrugated paper or other container board
  3. Foam polystyrene packaging
  4. A glass container
  5. A magazine or other material printed on similar paper
  6. A newspaper or other material printed on newsprint
  7. Office paper
  8. A plastic container
  9. A steel container
  10. A waste tire, as defined in Section 289.55(1) (c), Wisconsin Statutes.
  11. A container for carbonated or malt beverages that is primarily made of a combination of steel and aluminum

(e) **EXCEPTIONS**

- i. Exceptions to the foregoing prohibitions shall be as set forth in Section 287.07(7), Wisconsin Statutes.

**7) RELATED LEGISLATION**

(a) **HAULER LICENSING**

- i. No person or corporation shall engage in the business of hauling recyclables within the Town of Delavan without being licensed by the DNR under Section NR 500.06, Wisconsin Administrative Code, and by the Town of Delavan, pursuant to this Municipal Code.

(b) **PROCESSING FACILITIES**

- i. Any contractor operating in the Town of Delavan shall not transport for processing any recyclables to a processing facility unless the contractor notifies the Town of Delavan which facility they are using and said facility is certified by the Wisconsin Department of Natural Resources.

**8) PROPER DISPOSAL OF GARBAGE AND RECYCLABLES**

(a) **ANTI-SCAVENGING OR UNLAWFUL REMOVAL OF RECYCLABLES**

- i. It shall be unlawful for any person, unless under contract with or licensed by the Town of Delavan, to collect or remove any recyclable material that has been deposited or placed at the curb or in a container adjacent to a home or nonresidential building for the purposes of collection for recycling.
- ii. It shall be unlawful for an person to place for disposal or incinerated any of the following devices unless the device is of a kind exempted by a rule promulgated pursuant to the provisions of Section 287.17(10)(i) of the Wisconsin Statutes:
  - 1. A consumer computer
  - 2. A peripheral
  - 3. A facsimile machine
  - 4. A digital video disc player
  - 5. A digital video player that does not use a disc and that is not a camera
  - 6. A consumer video display device
  - 7. A consumer printer
  - 8. Another kind of electronic device identified by the department pursuant to the provisions

of Section 287.17(10)(i) of the Wisconsin Statutes.

(b) **NO DUMPING**

- i. It shall be unlawful for any person to dispose of or dump garbage in any street, alley, or other public place within the Town of Delavan or in any receptacles or private property without the owner's consent unless it is placed in bags or containers in the manner and at the times specified by this ordinance.
- ii. No person shall place for collection any garbage at the curb not owned or occupied by such person.

(c) **NON-DIPOSABLE MATERIALS**

- i. It shall be unlawful for any person to place for disposal any of the following wastes: Hazardous and toxic wastes, chemicals, explosives, flammable liquids, paint, trees and stumps, construction debris, carcasses, medical wastes (except personal needles which shall be contained in rigid plastic containers to eliminate injury to collection personnel).
- ii. It shall be unlawful for any person to place for disposal or incineration any of the following devices unless the device is of a kind exempted by a rule promulgated pursuant to the provisions of section 281.17 (10) (i) of the Wisconsin Statutes:
  1. A consumer computer.
  2. A peripheral.
  3. A facsimile machine.
  4. A digital video disc player.
  5. A digital video player what does not use a disc and that is not a camera.
  6. A consumer video display device.
  7. Another kind of electronic device identified by the department pursuant to the provisions of Section 287.17(10)(i) Wisconsin Statutes.

**9) HAULER SPECIFICATIONS**

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(a) **HAULER RESTRICTIONS**

- i. Haulers may not dispose in a landfill or burn in a solid waste facility any recyclable materials generated in the Town of Delavan that have been separated for recycling.

(b) **HAULER LICENSING**

- i. Haulers who collect solid waste or recyclables in the Town of Delavan for storage, treatment, processing, marketing or disposal shall obtain and maintain all necessary municipal and state permits, licenses and approvals prior to collecting any materials in the Town of Delavan.

(c) **REPORTING REQUIREMENTS**

- i. The recycling haulers and processors operating in the Town of Delavan are required to maintain records and report in writing to the Town Clerk at least twice (2) each year. Reports shall include: the amount of solid waste and recyclables processed and/or marketed by item type from the Town of Delavan, and the final disposal location of solid waste and recyclable material. Failure to report shall be cause for the Town of Delavan to revoke any license or permit of the hauler/processor.

**10) OTHER PROVISIONS**

- (a) The Town of Delavan reserves the right to designate additional solid waste materials as recyclable or currently collected materials as no longer recyclable in accordance with State law and to either add or delete them from any collection services provided by the local haulers.

**11) ENFORCEMENT AND PENALTIES**

- (a) For the purpose of ascertaining compliance with the provisions of this ordinance, any authorized officer, employee or representative of the Town of Delavan may inspect recyclable materials separated for recycling,

postconsumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and non-residential facilities and properties, and any records relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee or authorized representative of the Town of Delavan who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.

- (b) Any person who violates a provision of this ordinance may be issued a citation by the Town of Delavan. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this paragraph.
- (c) Any person who shall violate this Section shall be subject to a penalty for each offense, as set forth in Section 25.04 of the Municipal Code of the Town of Delavan.

*Established April 17, 2001, Ordinance No. 229*

## **9.11 BURNING REGULATED**

### **1) PURPOSE**

- (a) This section is intended to promote the health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the Town of Delavan, Walworth County, Wisconsin, by reducing air pollution and fire hazards of open burning, outdoor burning and refuse burning.

### **2) APPLICABILITY**

- (a) This section applies to all outdoor and refuse burning within the Town of Delavan, except:
  - i. Except as expressly provided herein, the general burning restriction of this section do not apply to

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- grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- ii. This section does not apply to burning in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation unless the material being burned includes refuse as defined herein.
  - iii. This section does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

### 3) DEFINITIONS

- (a) **"CAMPFIRE" or "BONFIRE"** means an outdoor fire intended for recreation or cooking, not a fire intended for disposal of waste wood or refuse, not to exceed a 4' fire ring or fire pit, nor more than 2' high.
- (b) **"CLEAN WOOD"** means natural wood which has not been painted, varnished or coated with a similar material has not been pressure treated with preservatives and does not contain resins or glue as in plywood or other composite wood products.
- (c) **"FIRE CHIEF"** means the Chief of the Town of Delavan Fire Department or other person authorized by the Fire Chief to act in the Fire Chief's place.
- (d) **"OUTDOOR BURNING"** means open burning or burning in an outdoor wood furnace.
- (e) **"OPEN BURNING"** means setting or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney for an enclosed fire.
- (f) **"OUTDOOR WOOD FURNACE"** means a wood-fired furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.
- (g) **"PATIO"** means an outdoor space for dining or recreation that adjoins a residence is often paved.
- (h) **"REFUSE"** means any waste material except clean wood.

### 4) GENERAL PROHIBITION



- (a) Open burning, outdoor burning and refuse burning are prohibited in the Town of Delavan unless the burning is specifically permitted by this section.

#### **5) MATERIALS THAT MAY NOT BE BURNED**

- (a) Unless specific written approval has been obtained from the Department of Natural Resources, the following material may not be burned in an open fire, incinerator, burn barrel, furnace stove, or any other indoor or outdoor incineration or heating device.
- (b) Rubbish or garbage including but not limited to food wastes, food wraps, food packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business waste.
- (c) Waste oil or other oily waste except used oil burned in a heating device for energy recovery, subject to the restrictions in Ch. N.R. 592, Wisconsin Administrative Code.
- (d) Asphalt and products containing asphalt.
- (e) Treated or painted wood including, but not limited to plywood, composite wood products or wood product that are painted, varnished or treated with preservatives.
- (f) Any plastic material including, but not limited to nylon, PVC ABS, polystyrene or urethane foam, and synthetic fabrics, films, and containers.
- (g) Rubber: including tires and synthetic, rubber-like products.
- (h) Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled in accordance with the Town of Delavan recycling ordinance, except as provided or otherwise allowed.

#### **6) OPEN BURNING**

- (a) Open burning of leaves, weeds, brush, stumps, clean wood and other vegetative debris is prohibited except in accordance with the following provisions:
  - i. All allowed open burning shall be conducted in a safe manner, when wind and weather conditions are such as to minimize adverse effects and not create a health hazard of a visibility hazard on roadways, railroads or airfields.

- ii. Open burning shall be conducted in conformance with all local and state fire protection regulations.
- iii. Except for barbecue, gas and charcoal grills, no open burning shall be undertaken during periods when the Fire Chief or the Wisconsin Department of Natural Resources has issued a burning ban applicable to the area.
- iv. Open burning of weeds or brush on agricultural lands is allowed if conducted in accordance with applicable provision of this ordinance
- v. Fires set for forest or wildlife habitat management are allowed if conducted in accordance with other applicable provision of this ordinance.
- vi. Outdoor campfires and small bonfires for cooking, ceremonies or recreation are allowed provided that the fire is confined by a control device or structure such as a fire ring or fire pit.
- vii. Burning of trees, limbs, stumps, brush or weeds for clearing or maintenance of rights-of-way is allowed if approved by the Fire Chief and if in accordance with other provisions of this section.
- viii. Burning in emergency situations such as natural disasters is allowed if approved by the Department of Natural Resources.
- ix. Except for campfires, open burning under this section shall only be conducted at a location at least fifty (50') feet from the nearest building that is owned by a person other than the person maintaining the fire or by the owner of the real property on which the fire is burning.
- x. Except for campfires and permitted bonfires, open burning shall only be conducted from the hours of 7:00 a.m. until 8:00 p.m., from September 15 through June 15.
- xi. Open burning shall be constantly attended and supervised by a competent person of a t least eighteen (18) years of age until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary to extinguish the fire.
- xii. No materials may be burned upon any street, curb, gutter or sidewalk, ditch or on the ice of any lake, pond or stream located in the Town of Delavan.

- xiii. There shall be no burning with one-hundred (100') feet of a body of water or lake.
- xiv. Burning is not allowed with twenty-five (25) feet of any building.
- xv. Grills for cooking are not allowed on any patios above the ground floor except that electric grills may be so used.
- xvi. Except for barbecue, gas and charcoal grills, no burning shall be undertaken within twenty-five (25') feet from any combustible material, combustible wall or portion, exterior window opening, exit access or exit unless authorized by the Fire Chief.

#### **7) BURN BARRELS**

- (a) A burn barrel may be used in the Town of Delavan only in accordance with the following:
  - i. Only branches and small amounts of yard debris may be burned in a burn barrel.
  - ii. The burn barrel shall not be used to burn any of the prohibited materials listed in Subsection 5) of this section and may only be used in accordance with Subsection 6) of this section.
  - iii. The burn barrel shall be located at least fifty (50') feet from a neighboring property owner's building.
  - iv. The burn barrel shall have vent holes above the ash line for combustion air.
  - v. The burn barrel shall not serve a business.
  - vi. Use of burn barrels shall be permitted year-round.

#### **8) FIRE DEPARTMENT PRACTICE BURNS**

- (a) An existing building may be burned only by the Town of Delavan Fire Department and only if the Fire Chief determines that the burning is necessary for practice and instruction of firefighters or testing of firefighting equipment
- (b) Asphalt shingles and asphalt or plastic siding shall be removed prior to the practice burn unless the Fire Chief determines that they are necessary for the fire practice burn.

- (c) All other material prohibited by Subsection (5) if this section shall be removed prior to the practice burn.
- (d) All demolition notification shall be submitted to the Department of Natural Resources and all asbestos removed prior to the practice burn.
- (e) All ash shall be disposed of in an approved landfill or at an alternative location approved by the Department of Natural Resources.

**9) EXEMPTION FOR BURNING CERTAIN PAPERS**

- (a) Notwithstanding Subsection (5)(g) of this section, paper and cardboard products may be used as a starter fuel for a fire that is allowed under this section.
- (b) Small quantities of confidential papers from a residence may be burned if necessary, to prevent the theft of financial records, identification or other confidential information.
- (c) Confidential papers from a commercial enterprise shall be shredded and destroyed in a manner other than burning.
- (d) A fire set for burning a small quantity of confidential papers shall comply with the provisions herein.

**10) FIRE CHIEF AUTHORITY TO DECLARE OPEN BURNING MORATORIUM**

- (a) The Fire Chief may declare a moratorium on open burning when the Fire Chief determines that it is warranted by burning conditions.
- (b) The Fire Chief may authorize variances from the provision of this section 9.11 on a case by case basis.

**11) LIABILITY**

- (a) A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

**12) RIGHT OF ENTRY AND INSPECTION**

- (a) The Fire Chief or any authorized officer of the Town of Delavan Fire Department who presents proper credentials may inspect any property for purposes of ascertaining compliance with the provision of this section.

**13) ENFORCEMENT AND PENALTIES**

- (a) The Fire Chief, the Town Chairperson, or their designee, are authorized to enforce the provision of this section.
- (b) The penalty for violation of any portion of this section shall be forfeiture under Section 25.04 of the Town of Delavan Municipal Code plus the cost of prosecution. Penalties shall be doubled for second and subsequent offenses.

*Established April 17, 2001, Ordinance 229, Amended January 19, 2007, Ordinance 292, Ordinance 374*

**9.12 SALE AND CONSUMPTION OF INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES IN PUBLIC PLACES PROHIBITED WITHOUT PERMIT**

**1) DEFINITIONS**

- (a) For the purpose of this section, intoxicating liquor, wine and fermented malt beverages shall be defined as defined in Section 125.02, Wisconsin Statutes.

**2) OPEN INTOXICANTS AND FERMENTED MALT BEVERAGES**

- (a) Except as allowed by license, permit or the Municipal Code of the Town of Delavan, no person shall have on or about his person, or anytime dispense, sell, open or consume upon or in any public street, parkway, square, sidewalk, stadium, park or beach area, municipal building, library building, shrine, vehicle or any drives or parking areas for business held out to the public in the Town of Delavan any open container which has in it any fermented malt beverage, intoxicating liquor or other intoxicant.

**3) EXCEPTION**

- (a) The provisions of this Section as to fermented malt beverages or wine shall not apply to a public place during the period covered by a special permit issued by the Town Board, or such other person as the Town Board shall designate.
- (b) The Special Picnic Beer Permit Fee shall be \$25 and the Special Picnic Wine Permit Fee shall be \$25.
- (c) The Special Picnic Beer Permit Fee shall be \$100 yearly and Special Wine Permit shall be \$100 yearly for the Recreational Activities (Volleyball, horseshoes, etc.)

*Established April 17, 2001, Ordinance No. 229, Ordinance 328, Ordinance 339*

### **9.13 FALSE I.D. CARDS, USE OF PROHIBITED**

#### **1) FALSE IDENTIFICATION**

- (a) No person shall use any false identification card, certificate, or any other means of misrepresenting his/ her age, for the purpose of gaining unlawful admission to any place where intoxicating liquors or fermented malt beverages are sold, or for the purpose of unlawfully asking for, or unlawfully receiving, any intoxicating liquors or fermented malt beverages.

#### **2) MISREPRESENTATION OF AGE**

- (a) No person shall provide any other person with a false identification card, certificate, or any other means of misrepresenting age, which is to be used for any of the purposes prohibited in Subsection 1).

*Established April 17, 2001, Ordinance No. 229*

### **9.14 CURFEW**

#### **1) CURFEW ESTABLISHED**

- (a) No child under the age of eighteen (18) years shall loiter, idle or remain upon any street, alley or other public place in the Town between 11:00 p.m. and 4:00 a.m. Sunday evenings through Friday mornings and between 12:00 midnight and 4:00 a.m. Friday evenings through Sunday morning, unless such child is

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accompanied by his parent, guardian or other adult person having legal custody of such child.

## **2) EXCEPTIONS**

- (a) The following exceptions shall not permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets. This section shall not apply to a child:
- i. Who is performing an errand as directed by his parent, guardian or person having lawful custody?
  - ii. Who is on his own premises or in the areas immediately adjacent thereto?
  - iii. Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours?
  - iv. Who is returning home from a supervised school, church or civic function?

## **3) PARENTAL VIOLATION**

- (a) No parent, guardian or other person having legal custody of a child under the age of eighteen (18) years shall permit such child to loiter, idle or remain upon any street, alley or other public place in the Town between the hours in Subsection 1) above unless such child is accompanied by his parent, guardian or other adult person having legal custody of such child.

## **4) RESPONSIBILITY OF OPERATORS OF PLACES OF AMUSEMENT**

- (a) No person operating a place of amusement or entertainment within the Town or any agent, servant or employee of such person, shall permit a child under the age of eighteen (18) years to enter or loiter in such place of amusement or entertainment between the hours specified in Subsection 1) unless such child is accompanied by his parent, guardian or other adult person having legal custody of such child.

## **5) RESPONSIBILITY OF OPERATORS OF HOTELS, MOTELS AND ROOMING HOUSES**

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- (a) No person operating a hotel, motel, lodging or rooming house within the Town, or any agent, servant or employee of such person, shall permit any child under the age of eighteen (18) years to visit, idle, wander or stroll in any portion of such hotel, motel, lodging or rooming house between the hours specified in Subsection 1) unless such child is accompanied by his parent, guardian or other adult person having legal custody of such child.

#### **6) DETAINING A CHILD**

- (a) A child believed to be violating the provision of this section shall be taken to the Police Department or the County Sheriff's Department for proper identification. Any law enforcement officer on duty may detain any child violating Subsections 1), 3), 4) or 5) until such time as the parent, guardian or other adult person having legal custody of the child has been immediately notified and the person so notified has, as soon as reasonably possible thereafter, reported to the Police Department or the Sheriff's office for the purpose of taking the child into custody and has signed a release for said child.

#### **7) WARNING**

- (a) The first time a child is detained by law enforcement officers as provided in Subsection 6), the parent, guardian or person having legal custody shall be advised as to the provisions of this Section; and any violation of this Section occurring thereafter by this child or any other child under such adult's care or custody shall result in a penalty being imposed as provided in Subsection 8).

#### **8) GENERAL PENALTY**

- (a) Any parent, guardian or person having legal custody of a child described in Subsections 1), 3), 4) or 5) who has been warned in a manner provided in Subsection 7) and who thereafter violates any of the provisions of this section shall be subject to a penalty as provided in Section 25.04 of this Municipal Code.



- (b) Any child who violates this section after being detained and released under Subsection 6) may be subject to the provisions of Chapters 48 and 938, Wisconsin Statutes.

*Established April 17, 2001, Ordinance No. 229*

### **9.15 Possession of Marijuana and Synthetic Cannabinoids**

**1) Marijuana.** No person shall possess, attempt to possess, keep or maintain any amount of marijuana, as defined in Section 961.01 (14), Wisconsin Statutes, subject to the exceptions of Section 961.41 (3g) Wisconsin Statutes; except that if a criminal complaint is issued regarding an allegation of possession of more than 25 grams of marijuana, or possession of any amount of marijuana following a conviction in this state for possession of marijuana, the subject of the complaint may not be prosecuted under this paragraph for the same action that is the subject of the criminal complaint unless the charges are dismissed or the District Attorney declines to prosecute the case.

**2) Synthetic Cannabinoids.** No person shall possess, attempt to possess, keep or maintain any amount of a controlled substance specified in s. 961.14 (4) (tb), or a controlled substance analog of a controlled substance specified in s. 961.14(4) (tb); except that if a criminal complaint is issued regarding an allegation of possession of a controlled substance specified in s. 961.14 (4) (tb) following a conviction in this state for possession of a controlled substance, the subject of the criminal complaint may not be prosecuted under this paragraph for the same action that is the subject of the complaint unless the charges are dismissed or the District Attorney declines to prosecute the case.

*Established April 17, 2001, Ordinance No. 229*

### **9.155 POSSESSION MANUFACTURE, DELIVERY OR ADVERTISEMENT OF DRUG PARAPHERNALIA PROHIBITED**

**1)** The Town of Delavan hereby adopts by reference Sections 961.571, 961.572, 961.573 (1) and (2), 961.574 (1) and (2),

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961.575 (1) and (2) Wisconsin Statutes. Maximum penalties shall be as provided therein, unless otherwise restricted pursuant to Section 25.04 of this Municipal Code.

*Adopted January 21, 2003, Ordinance No. 238, Amended June 20, 2006 Ordinance 276*

## **9.16 PROHIBITED DISCHARGES**

### **1) PROHIBITED DISCHARGES**

- (a) No person, firm or corporation shall discharge or cause to be discharged, leaked, leached or spilled upon any public street, alley, public property, or onto the ground, surface waters, subsurface waters, aquifers, or on any private property within the Town, except those areas specifically licensed for waste disposal or landfill activities and to receive such materials, any explosive, flammable or combustible solid liquid or gas, any radioactive material at or above Nuclear Regulatory Restriction levels, etiologic agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid or gas having a deleterious effect on the environment.

### **2) CONTAINMENT, CLEANUP AND RESTORATION**

- (a) Any person, firm, or corporation in violation of the above section shall, upon direction of any Emergency Government Officer, begin immediate actions to contain, cleanup and remove to an approved repository the offending material(s) and restore the site to its original condition, with the offending person, firm or corporation being responsible for all expenses incurred. Should any person, firm or Corporation fail to engage the necessary personnel and equipment to comply or to complete the requirements of this section, the Office of Emergency Government may order the required actions to be taken by public or private resources and allow the recovery of any and all costs incurred by the Town of Delavan.

### **3) SITE ACCESS**

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- (a) Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to Emergency Government officers and staff and to Town Police and Fire Department personnel for the purpose of evaluating the threat to the public and monitoring containment, cleanup and restoration activities.

#### **4) PUBLIC PROTECTION**

- (a) Should any prohibited discharge occur that threatens the life, safety or health of the public at, near, or around the site of a prohibited discharge, and that the situation is so critical that immediate steps must be taken to protect life and limb, the Coordinator of Emergency Government, his/her assistant, or the senior Town Police or Fire official on the scene of the emergency may order an evacuation of the area or take other appropriate protective steps for a period of time until the Town Board can take appropriate action.

#### **5) ENFORCEMENT**

- (a) The Coordinator of Emergency Government and his/her deputies, as well as the Town Police officers, shall have authority to issue citations or complaints under this Section.

#### **6) CIVIL LIABILITY**

- (a) Any person, firm or corporation in violation of this Section shall be liable to the Town of Delavan for any expenses incurred by the Town for loss or damage sustained by the Town by reason of such violations.

#### **7) PENALTIES**

- (a) Any person, firm, L.L.C., L.L.P., or corporation in violation of this Section shall be subject to a penalty as set forth in Section 25.04 of this Municipal Code.

*Established April 17, 2001, Ordinance No. 229*

### **9.17 LANDFILL SITES**

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## **1) LANDFILL SITES PROHIBITED**

- (a) No person, firm or corporation shall create or operate a landfill site or permit waste disposal or landfill activities on any property within the Town.

## **2) CLEANUP AND RESTORATION**

- (a) Any person, firm or corporation in violation of the above section shall, upon direction of the Town Board, immediately cease and desist conducting such activities and shall begin immediate actions to clean up and remove any offending materials and restore the site to its original condition, with the offending person, firm or corporation being responsible for all expenses incurred. Should any person, firm or corporation fail to engage the necessary personnel and equipment to comply or to complete the requirements of this section, the Town Board of the Town of Delavan may order the required actions to be taken by public or private resources and allow the recovery of any and all costs incurred by the Town.

## **3) CIVIL LIABILITY**

- (a) Any person, firm, or corporation in violation of this section shall be liable to the Town of Delavan for any expenses incurred by the Town for loss or damage sustained by the Town by reason of such violation.

## **4) PENALTIES**

- (a) Any person, firm, L.L.C., L.L.P. or corporation in violation of this section shall be subject to a penalty as set forth in Section 25.04 of this Municipal Code.

*Established April 17, 2001, Ordinance No. 229*

## **9.18 PENALTIES**

- 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. In addition to any penalty imposed for violation of Section 9.943.01(1) Wisconsin Statutes, any

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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 un-emancipated minor child who violates Section 9.943.01(1) Wisconsin Statutes may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with Section 895.035, Wisconsin Statutes. This provision shall not apply to a Section herein if the enabling State Statute for this Chapter provides for a lower forfeiture.

*Established April 17, 2001, Ordinance No. 229*

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