

9.01 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE. (Am. 06-006) The following statutes with the prefix "9" defining offenses against the peace and good order of the State are adopted by reference to define offenses against the peace and good order of the Town, provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under §25.04 of this Code.

9.50.58	Careless Smoking
9.134.71	Pawnbrokers and Secondhand Dealers
9.144.42(6)	Tampering With Pollution System
9.161.41(2m)	Unlawful Manufacture/Delivery of Controlled Substance
9.161.14(3);	Possession of Controlled Substance
9.167.31	Use and Transportation of Firearms
9.167.32	Safety at Sporting Events
9.175.25	Illegal Storage of Junked Automobiles
9.218.0145 & 9.218.0146	Used Cars/Prohibited Acts
9.218.0147	Motor Vehicles/Sale to Minors
9.254.76	Careless Smoking
9.285.30	Tampering with Pollution System
9.939.05	Parties to Crime
9.939.22	Words and Phrases Defined
9.939.32	Attempt
9.940.19(1)	Battery
9.940.32	Stalking
9.941.01	Negligent Operation of Vehicle
9.941.10	Negligent Handling of Burning Material
9.941.12(2);(3)	Interfering With Fire Fighting
9.941.13	False Alarms
9.941.20(1)	Reckless Use of Weapon
9.941.23	Carrying Concealed Weapon
9.941.235	Carrying Firearm in Public Building

9.941.237	Possession of Handguns in Taverns
9.941.24	Possession of Switchblade Knife
9.941.26(4)	Use of Pepper Spay
9.941.36	Fraudulent Tapping of Electric Wires, Gas or Water Meters or Pipes
9.941.37	Obstructing Emergency or Rescue Personnel
9.943.01(1)	Criminal Damage to Property (\$1,000 or Less)
9.943.07(1),(2),(3)	Criminal Damage to Railroad
9.943.07(4)	Depositing Debris on Railroad
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
9.943.15	Entry Into Construction Site, Locked Building, Dwelling or Room
9.943.20	Theft (\$1,000 or Less)
9.943.21	Fraud on Hotel or Restaurant Keeper (\$1,000 or Less)
9.943.23	Operating Vehicle Without Consent
9.943.24	Issue of Worthless Checks (\$1,000 or Less)
9.943.34(1)	Receiving Stolen Property With Value (\$1,000 or Less)
9.943.37	Alteration of Property Identification Marks
9.943.41(2), (3)(a)-(d),(4)(b)	Credit Card Crimes
9.943.46	Theft of Cable Television Service
9.943.50	Retail Theft (Shoplifting)
9.944.15	Fornication
9.944.17	Sexual Gratification
9.944.20	Lewd and Lascivious Behavior
9.944.205	Photos/Videos Showing Nudity
9.944.30	Prostitution

9.944.31	Patronizing Prostitutes
9.944.32	Soliciting Prostitutes
9.944.33(1)	Pandering
9.944.36	Solicitation of Drinks Prohibited
9.945.01	Definitions Relating to Gambling
9.945.02	Gambling
9.945.04	Permitting Premises to be Used for Commercial Gambling
9.946.06	Improper Use of Flag
9.946.32	False Swearing
9.946.40	Refusing to Aid Officer
9.946.41	Resisting or Obstructing Officer
9.946.42(1)	Escape
9.946.69	Falsely Assuming to Act as Public Officer or Employee
9.946.70	Impersonating Peace Officer
9.946.72(2)	Tampering With Public Records
9.947.01	Disorderly Conduct
9.947.012	Unlawful Use of Telephone
9.947.013	Harassment
9.947.06	Unlawful Assemblies
9.948.10	Exposing Sex Organ
9.948.11(1), (2)(b),(c),(3)	Exposing a Child to Harmful Material
9.948.40	Contributing to Delinquency of Child
9.948.51(1), (2),(3)(c)	Hazing
9.948.60	Possession of a Dangerous Weapon by a Child
9.948.605	Gun-free School Zone
9.948.61	Dangerous Weapons Other Than Firearms on School Premises

Ch. 951	Crimes Against Animals
9.961.14(3)	Possession of Controlled Substance
9.961.41(2m)	Manufacture/Delivery of Controlled Substance

9.02 USE OF FIREARMS AND BOW AND ARROWS. (Rep. & Rec. 99-486)

(1) Except as provided below, no person shall fire, discharge or use any firearm, such as a rifle, pistol, or revolver of any caliber, or CO2 pistols/rifles, other compressed air pistols/rifles, spring or air guns of any description, or any instrument which impels a missile or pellet by compressed air, spring or other means, within the Town.

(2) (a) A shotgun, muzzle loader or bow and arrow may be used in the Town only for hunting purposes providing written permission is obtained from the property owner of the land to which the hunting is to be confined. Written permission shall be carried on the person while hunting. While hunting, a person shall not discharge an arrow, shot, slug or ball which passes beyond the property line of the area to which the hunting is confined.

(b) No person shall discharge a bow and arrow within 150 feet of any building or roadway within the Town. No person shall discharge a shotgun or muzzle loader within 300 feet of any building or roadway within the Town.

(c) No person shall discharge a bow and arrow or firearm within 660 feet of any Town park, or within 1,700 feet of any hospital or school within the Town.

(d) A person may target practice with a bow and arrow on their own property within the Town, provided it is done in accordance with the restrictions set forth in Sections (2)(B) and (2)(C).

(e) No person may discharge any firearm as described in Section 1, nor shall any person discharge a shotgun or muzzle loader within lands that are part of a platted subdivision in the Town of Delafield.

(3) Subsection (1) of this section shall not apply to any of the following:

(a) Any duly authorized law officer in the performance of his duties;

(b) Any citizen lawfully defending life or property;

(c) Any supervised rifle or pistol range or shooting gallery authorized by the Town;

(4) (a) No shotgun, no muzzle loader, no firearm as defined above in Section (1), nor any bow and arrow, shall be carried or transported in a vehicle or outside of a designated hunting area unless the shotgun, muzzle loader, firearm or bow and arrow is unloaded and enclosed within a carrying case.

(b) Any property owner may carry an uncased weapon from their residence to the designated hunting area as long as the weapon is unloaded, if the designated hunting area is immediately adjacent to the property owner's residence and the restrictions set forth in Sections (2)(A), (2)(B), (2)(C) and (2)(E) are followed.

(5) (a) Exceptions to this Ordinance may, under limited circumstances, be granted in writing at the discretion of the Town law enforcement officer with approval from the Town Board. Any exception will only be granted after consideration for the purposes of health, safety, general

welfare of the public or the operation of a business, and after due consideration is given to the location and close proximity of other buildings, roadways, parks, hospitals and/or schools. Any exception to this Ordinance will only be granted for a predetermined amount of time.

(b) Each person granted an exception under this Section shall sign an agreement to indemnify and to hold the Town, its officers, agents and employees harmless from any loss or damage legally imposed upon them, or any of them, as a result of an act or omission of the person granted such an exception. Such indemnification shall include any judgement rendered against the Town, its officers, agents and employees, or any of them, together with costs of suit and costs of defense.

(6) Any person violating this Section shall be subject to a penalty as provided in Section 25.04 of this Code.

9.03 BURNING. (Rep. & rec. #94-383, #95-389) No burning of any material shall be permitted within the Town except in strict compliance with the provisions of Section 5.01 of the Town Code. In addition, no person shall burn any material in a negligent manner such that a fire causing a fire run results.

9.04 LOUD AND UNNECESSARY NOISE.

(1) PROHIBITED . No person shall make or cause to be made any loud, disturbing or 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.

(2) 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.

9.05 LOITERING PROHIBITED.

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

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

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

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

9.08 LITTERING PROHIBITED. No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks or other of the Town or upon any private property or upon the surface of any body of water within the Town.

9.09 CONSUMPTION OF ALCOHOL BEVERAGES IN PUBLIC PLACES PROHIBITED.

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

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

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

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

9.10 DRUG PARAPHERNALIA.

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

- (a) Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
- (b) Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.
- (c) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.
- (d) Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
- (e) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.
- (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances.
- (g) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana.
- (h) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.

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

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

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

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

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

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

- (a) Statements by an owner or by anyone in control of the object concerning its use.
- (b) Prior convictions, if any, of an owner or of anyone in control of the object under any city, State or federal law relating to any controlled substance.
- (c) The proximity of the object in time and space to a direct violation of this section.
- (d) The proximity of the object to controlled substances.
- (e) The existence of any residue of controlled substances on the object.

(f) Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons whom the person knows or should reasonably know intent to use the object to facilitate a violation of this section. The innocence of an owner or of anyone in control of the object as to a direct violation of this section shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.

(g) Oral or written instructions provided with the object concerning its use.

(h) Descriptive materials accompanying the object which explain or depict its use.

(i) National and local advertising concerning its use.

(j) The manner in which the object is displayed for sale.

(k) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise.

(l) The existence and scope of legitimate uses for the object in the community.

(m) Expert testimony concerning its use.

(3) PROHIBITED ACTIVITIES .

(a) Possession of Drug Paraphernalia . No person may use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section.

(b) Manufacture, Sale or Delivery of Drug Paraphernalia . No person may sell, deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia knowing that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section.

(c) Delivery of Drug Paraphernalia to a Minor . Any person 18 years of age or over who violates par. (b) by delivering drug paraphernalia to a person under 18 years of age is guilty of a special offense.

(d) Advertisement of Drug Paraphernalia . No person may place in any newspaper, magazine, handbill or other publication or upon any outdoor billboard or sign any advertisement knowing that the purpose of the advertisement in whole or in part is to promote the sale of objects designed or intended for use as drug paraphernalia.

(e) Exemption . This subsection does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ch. 161, Wis. Stats. This section does not prohibit the possession, manufacture or use of hypodermics in accordance with Ch. 161, Wis. Stats.

(4) PENALTIES .

(a) Any drug paraphernalia used in violation of this section shall be seized and forfeited to the Town.

(b) Any person who violates pars. (3)(a) (b) or (d) shall, upon conviction, be subject to a forfeiture of not more than \$500, together with the costs of prosecution and, upon default of payment, be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed 20 days.

(c) Any person who violates par. (3)(c) shall, upon conviction, be subject to a forfeiture of \$1,000, together with the costs of prosecution and, upon default of payment, be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed 40 days.

9.11 (repealed in its entirety 06-006)

9.12 LAWN FERTILIZER APPLICATION CONTROL (Cr. #2004-01)

(1) "**Applicator**" defined . For purposes of this ordinance, applicator shall be defined as any firm, corporation, franchise, a commercial or noncommercial applicator for hire engaged in the business of landscaping or lawn care, and the application of fertilizer in conjunction therewith, or any individual property owner or renter.

(2) **RESTRICTIONS ON FERTILIZER CONTENT . Fertilizer Content.** No applicator shall topically apply any lawn fertilizer, liquid or granular, within the Town of Delafield which contains more than 3% phosphorous or other compound containing phosphorous. This restriction does not pertain to the use of phosphorous fertilizer on lands zoned agricultural and when used for crop production.

(3) **REGULATION OF APPLICATION .**

(a) Time of application . No applicator may apply lawn fertilizer when the ground is frozen or when conditions exist which will promote or create runoffs.

(b) Impervious surfaces and drainage ways . No applicator shall apply fertilizer to impervious surfaces; such as driveways, sidewalks and streets or areas within drainage ditches or waterways. In cases where fertilizer unintentionally lands on a sidewalk, street or driveway, the applicator or person shall be required to sweep it off that surface.

(c) Buffer Zone . No fertilizers containing phosphorus may be applied below the ordinary high water lines of any stream or water body as established by the Wisconsin Department of Natural Resources.

(4) **PENALTIES .** Violations of this section shall carry penalties as provided in 25.04 of this Municipal Code.

9.13 EMERGENCY VEHICLE LANE ON PRIVATE ROADS.

(a) Definition. "Private road" is every way or place in private ownership and used for vehicular traffic only by the owners and those having express or implied permission from the owners. A private road as used in this section does not include a driveway which provides access to a single residence or parcel, or parking lots.

(b) Establishment. An emergency vehicle lane is established on all private roads within the Town.

1. If the private road is less than 20 feet wide, the emergency vehicle lane shall be the entire width of the roadway.

2. If the private road is more than 20 feet wide, the emergency vehicle lane shall be that half of the road which is the most northern or eastern lane depending on the orientation of the road.
- (c) Parking Prohibited.
1. Parking is prohibited on all private roads anywhere within the emergency vehicle lane.
 2. Exception. Permission for parking in the emergency vehicle lane may be given by the Town Fire Department upon written request, which includes the address of the property, filed at least 72 hours before the date requested, for special situations in which additional parking is required, such as for loading and unloading moving vans, large gatherings or similar events. This permission is restricted to 3 requests per calendar year.
- (d) Posting.
1. The Town shall post a sign regarding these regulations in the public road right-of-way nearest or immediately adjacent to the intersection of the private road and the public highway for all private roads existing on the date the ordinance enacting this section is effective.
 2. For private roads proposed and constructed after the effective date of this section, the property owner or developer shall post these regulations in accord with subdivision 1.
- (e) Violations of this section shall be subject to the penalties and procedures found in §25.04, of the Town Code.

SECTION 2: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

9.15 PENALTY.

(1) Except as otherwise provided in this chapter, any person who shall violate any provision of this chapter shall be subject to a penalty as provided in §25.04 of this General Code.

(2) In addition to any penalty imposed for violation of this chapter, any person who shall cause physical damage to or destroy any public property shall be liable for costs of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who damages or destroys any public property may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with §895.035, Wis. Stats.