

CHAPTER 21
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PUBLIC NUISANCES

Sec. 21.01 Abandoned Vehicles

- 1) **ABANDONMENT OF VEHICLES PROHIBITED.** No person shall leave unattended any motor vehicle, trailer, semi-trailer or mobile home on any public street or highway or private or public property in the Village of Whiting, for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Whenever any such vehicle has been left unattended on any street or highway in the Village of Whiting or upon private or public property without the permission of the property owner or other person charged with the lawful jurisdiction thereof for more than seventy-two (72) hours, the vehicle shall be deemed abandoned and constitutes a public nuisance.
- 2) **DEFINITIONS.** For purposes of this Chapter, the following definitions shall be applicable:
 - (a) "Vehicle" shall mean a motor vehicle, trailer, semi-trailer, or mobile home, whether or not such vehicle is registered under Wisconsin Law.
 - (b) "Unattended" shall mean unmoved from its location with no obvious sign of continuous human use.
 - (c) "Street" shall have the same definition found in Chapter 340 of the Wisconsin Statutes.
- 3) **PRESUMPTIONS.** For purposes of this Section, the following irrebuttable presumptions shall apply:
 - (a) A vehicle shall be presumed unattended if it is found in the same position seventy-two hours after issuance of a traffic ticket or citation, and if such traffic ticket or citation remains placed upon the windshield during said seventy-two hours.
 - (b) Any vehicle left unattended for more than seventy-two hours on any public street or public ground or left unattended for more than seventy-two hours on any public street or public ground or left unattended for more than seventy-two hours on private property without the consent of the property owner is deemed abandoned and constitutes a nuisance; provided, that the vehicle shall not be deemed abandoned under this subsection if left unattended on private property outside of public view or if designated as not abandoned by the Sheriff's Department.
- 4) **EXCEPTIONS.** This Section shall not apply to a vehicle in an enclosed building, or a vehicle stored on a premise licensed for storage of junk or junked vehicles, or to a vehicle parked in a paid parking lot or space where the required fee has been paid.
- 5) **REMOVAL AND IMPOUNDMENT OF VEHICLES.** Any vehicle in violation of this Chapter shall be removed and impounded until lawfully claimed or disposed of under the provisions of section 7.02.
- 6) **REMOVAL, STORAGE, NOTICE, OR RECLAIMER OF ABANDONED VEHICLE.** The provisions of this Section shall apply to the removal, storage, notice, reclaimed or disposal of abandoned vehicles.
 - (a) **REMOVAL.**
 - 1) Any law enforcement officer who discovers any motor vehicles, trailers, semi-trailer or mobile home on any public street or highway or private or public property in the Village of Whiting which has been abandoned shall cause the vehicle to be removed to a suitable place of impoundment.
 - 2) Upon removal of the vehicle the law enforcement officer shall notify the Village President or his designee of the abandonment and of the location of the impounded vehicle.
 - (b) **STORAGE AND RECLAIMER.** Any abandoned vehicle which is determined by the County Sheriff's Department to be abandoned shall be retained in storage for a period of fourteen days after certified mail notice, as hereinafter provided, has been sent to the Wisconsin titled owner and/or secured party of record with the Wisconsin Motor Vehicle Division, except that if the Sheriff's Department determines an abandoned vehicle to have a value of less than \$100.00, or that the cost of towing and storage charges for impoundment will exceed the value of the vehicle, it may be junked or sold by direct sale to a licensed salvage dealer after having been retained in storage for a period of seven days and after certified mail notice, as hereinafter provided, has been sent to the Wisconsin titled owner or secured party of record with the Wisconsin Motor Vehicle Division, provided that it is first determined that the vehicle which may be lawfully reclaimed may be released upon the payment of all accrued charges, including towing, storage and notice charges and upon presentation of the vehicle title or other satisfactory evidence to the Sheriff's Department to prove an ownership or secured party interest in said vehicle.
 - (c) **NOTICE TO OWNER OR SECURED PARTY.** Certified mail notice, as referred to herein, shall notify the Wisconsin titled owner of the abandoned vehicle, if any, and/or the secured party of record with the Wisconsin Motor Vehicle Division, if any, that the vehicle has been deemed abandoned and impounded by the Village of Whiting or its authorized designee the "determined value" of the abandoned vehicle or if the cost of towing and storage charges will exceed the determined value of the vehicle; that if the vehicle is not wanted for evidence or other reason, the vehicle may be reclaimed upon the payment of all accrued charges, including towing, storage and notice charges, within fourteen days of the date of notice, unless

the vehicle has been determined to have a value may be reclaimed within seven (7) days upon the payment of the aforesaid charges; and that the owner or aforesaid secured party may, upon request, be granted a hearing relating to the determinations made with respect to said vehicle within the period that such vehicles may be reclaimed.

- 7) **DISPOSAL OF ABANDONED VEHICLES.** Any abandoned vehicle impounded by the Village which has not been reclaimed or junked or sold by direct sale to a licensed salvage dealer pursuant to the provisions of this Chapter, may be sold by public auction sale, or public sale calling for the receipt of sealed bids. Class 1 notice, including the description of the vehicle, the name, and address (es) of the Wisconsin titled owner and secured party of record, if known, and the time of sale, shall be published before the sale.
- 8) **REPORT OF SALE OR DISPOSAL.** Within five days after the direct sale or disposal of a vehicle as provided for herein, the Village Marshal or the County Sheriff's Department shall advise the State of Wisconsin Department of Transportation, Division of Motor Vehicles, of such sale or disposal on a form supplied by said Division. A copy of the form shall be given to the purchaser of the vehicle.
- 9) **OWNER RESPONSIBLE FOR IMPOUNDMENT AND DISPOSAL COSTS.**
 - (a) The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not covered from the sale of the vehicle may be recovered in a civil action by the Village against the owner.
 - (b) Payment of removal and impoundment costs is not required when the vehicle has been impounded for purposes of law enforcement investigation.
- 10) **CONFLICT WITH OTHER CODE PROVISIONS.** In the event of any conflict between this section and any other provisions of this Code of Ordinances, this Chapter shall control.

Sec. 21.02 Junked Vehicles and Appliances on Private Property

- 1) **Definitions.**
 - (a) The term "disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractor, trailers" as used in this Section is defined as follows; motor vehicles, truck bodies, tractors, farm machinery or trailers in such state of physical or mechanical ruin as to be incapable of propulsion, being operated upon the public streets or highways or which is otherwise not in safe or legal condition for operation on public streets or highways due to missing or inoperative parts, flat or removed tires, expired or missing license plates, or other defects.
 - (b) The term "unlicensed – motor vehicles, truck bodies, tractors or trailer" as used in this Chapter is defined as follows: motor vehicles, truck bodies, tractors or trailers which do not bear lawful current license plates.
 - (c) The term "motor vehicle" is defined in Section 340.01 (35), Wis. Stats.
 - (d) The term "inoperable appliance" is defined as any stove, washer, or refrigerator which is no longer operable in the sense of which it was manufactured.
- 2) **Restriction.** No disassembled, inoperable, unlicensed, junked, or wrecked motor vehicles, truck bodies, tractors, trailers, farm machinery, or appliances shall be stored or allowed to remain in the open upon private property within the Village for a period exceeding twenty (20) days.
- 3) **License.** No person, firm, partnership or corporation shall carry on or conduct the business of wrecking or dismantling any motor vehicle, or accumulate and store junked automobiles or the parts thereof outside of buildings in the Village of Whiting unless licensed by the Village and except in accordance with the provisions of this Section. The license fee shall be Twenty-five (\$25.00) Dollars.
- 4) **Location.** The business of wrecking and storage of motor vehicles shall be considered a nonconforming use of the property on which the business is conducted. And may be continued at the location where such business is presently located by persons presently operating such business or their successors or assigns, and at no other location. Expanding the present limits of operation to adjacent property or elsewhere shall be considered a violation of this Section, and shall result in forfeiture of the license to operate in the Village. Specifically, the locations covered by this Section are Lot 2A except the N 37' of the E 100. Thereof; also that part of Lot 2B lying between the EL of the W 140 thereof & the WL of Lot 14 – all in Block 3 – Assessor Plat of McDill and Lot 3, Block 32, Assessor's Plat.
- 5) **Screening.** All premises used for the purposes of wrecking, storing or accumulating junked automobiles or the parts thereof, inoperable appliances or other unsightly refuse must be nearly fenced by a fence not less than seven feet high set back at least five feet from the lot line. The area between the fence and the lot line shall be planted with evergreen plants kept neatly trimmed so as not to encroach on neighboring lots or by other screening method approved by the Building inspector. No junk automobiles shall be parked outside the fenced area.

- 6) **Burning Prohibited.** The burning of auto bodies, upholstery, tires, or other parts of junked automobiles is prohibited.
- 7) **Neatness.** Accumulations of oil, grease, old upholstery and other waste material must be cleaned up at all times, and in such a manner as to prevent the danger of fire or the attraction of vermin.
- 8) **Revocation.** The license provided herein shall be revocable at any time by the Village Board after a hearing at which it has been found that the licensee has failed or refused to comply with the terms of the Section of the lawful orders issued hereunder. The revocation hearing shall be held by the Village Board upon its own motion or upon a complaint in writing signed by the complainant. Such complaint shall state the nature of the alleged failure to comply with this Section. A copy of the complaint shall be served on the licensee not less than ten days prior to the hearing.
- 9) **EXCEPTIONS.**
 - (a) This Section shall not apply to any motor vehicle or motor vehicle accessories stored within an enclosed building or on the premises of a business enterprise operated in a lawful place and manner when in compliance with the appropriate zoning district, in a storage place or depository maintained in a lawful place and manner, or seasonal use vehicles such as snowmobiles, motorcycles, motor scooters and non-motorized campers, provided such vehicles are stored in rear yard areas. Such business enterprises shall include licensed auto junk yards, but shall not include automobile service stations or tire, battery, and accessory sales stores, except those service stations which operate a duly licensed wrecker service.
 - (b) Also excepted are motor vehicles registered pursuant to Section 341.265 and 341.266, Wis. Stats. In other situations the Village Board may issue permits permitting an extension of not to exceed an additional thirty days time to comply with this section where exceptional facts and circumstances warrant such extensions.
- 10) **ENFORCEMENT.**
 - (a) Whenever the Building Inspector or law enforcement officer shall find any vehicles or appliances, as described herein, placed or stored in the open upon private property within the Village, they shall notify the owner of said property on which said vehicle or appliance is stored of the violation of this section. If said vehicle or appliance is not removed within five days, the law enforcement officer or Building Inspector shall cause to be issued a citation to the property owner or tenant of the property upon which said vehicle or appliance is stored.
 - (b) If such vehicle or appliance is not removed within twenty days after issuance of a citation, the law enforcement officer or Building Inspector shall cause the vehicle or appliance to be removed and impounded and it shall thereafter be disposed of as prescribed in this Municipal Code by the law enforcement officer, Building Inspector, or their duly authorized representative. Any cost incurred in the removal and sale of said vehicle or appliance shall be recovered from the owner. However, if the owner of the vehicle or appliance cannot readily be found, the cost of such removal shall be charged to the property from which it is removed, which charges shall be entered as a special charge on the tax roll.
- 11) **PENALTY.** Any person who shall interfere with the enforcement of any of the provisions of this section and shall be found guilty thereof shall be subject to a penalty as provided in this Municipal Code. Each motor vehicle or appliance involved shall constitute a separate offense.

Sec. 21.03 Public Nuisances Prohibited

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

- 1) **PUBLIC NUISANCE DEFINED.** A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:
 - (a) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
 - (b) In any way render the public insecure in life or in the use of property;
 - (c) Greatly offend the public morals or decency;
 - (d) Unlawfully and substantially interfere with, obstruct, or tend to obstruct, or render dangerous for passage any street, alley, highway, navigable body of water, or other public way or the use of public property.
- 2) **PUBLIC NUISANCES AFFECTING HEALTH.** The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances:
 - (a) **ADULTERATED FOOD.** All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
 - (b) **UNBURIED CARCASSES.** Carcasses of animals, birds, or fowl not intended for human consumption or foods which are not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours after death.

- (c) BREEDING PLACES FOR VERMIN, ETC. Accumulations of decayed animals or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
- (d) STAGNANT WATER. All stagnant water in which mosquitoes, flies or other insects can multiply.
- (e) PRIVY VAULTS AND GARBAGE CANS. Privy vaults and garbage cans which are not fly-tight.
- 3) INOPERABLE, WRECKED, OR DISCARDED VEHICLES.
 - (a) STORAGE PROHIBITED. No person owning or having custody of any partially dismantled, inoperable, wrecked, junked, or discarded motor vehicle shall allow such vehicle to remain on any public street, parking lot, or ramp longer than seventy-two hours after notification thereof by a law enforcement officer. Notification shall be accomplished by placing in a conspicuous place on the vehicle and by mailing or serving upon the owner or occupant in charge of the premises a written notice setting forth briefly the applicable provisions of this Section and the date of the notice. Any vehicle so tagged which is not removed within twenty-four hours after notice is declared to be a public nuisance and may be removed as provided in this Municipal Code.
 - (b) EXEMPTIONS. This Section shall not apply to a motor vehicle in an appropriate storage space or depository maintained in a lawful place and manner authorized by the Village.
- 4) NOXIOUS WEEDS. All noxious weeds and other tank growth of vegetation. All weeds and grass shall be kept cut to a height of not to exceed eight inches.
- 5) WATER POLLUTION. The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery, or industrial wastes or other substances.
- 6) NOXIOUS ODERS, ETC. Any use of property, substances, or things within the Village emitting or causing any foul, offensive, noisome, nauseous, noxious, or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Village.
- 7) STREET POLLUTION. Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk, or public place within the Village.
- 8) ANIMALS AT LARGE. All animals running at large.
- 9) ACCUMULATIONS OF REFUSE. Accumulations of old cans, lumber, elm firewood, and other refuse.

Sec. 21.04 Public Nuisances Offending Morals and Decency

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency enumerated herein:

- 1) DISORDERLY HOUSES. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and building or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- 2) GAMBLING DEVICES. All gambling devices and slot machines.
- 3) UNLICENSED SALE OF LIQOUR AND BEER. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured, or rectified without a permit or license as provided for by the ordinances of the Village.
- 4) CONTINUOUS VIOLATION OF VILLAGE ORDINANCES. Any place or premises within the Village where Village ordinances or state laws relating to public health, safety, peace, morals, or welfare are openly, continuously, repeatedly and intentionally violated.
- 5) ILLEGAL DRINKING. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the state of Wisconsin or ordinances of the Village.

Sec. 21.05 Public Nuisances Affecting Peace and Safety

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency enumerated herein:

- 1) SIGNS, BILLBOARDS, ETC. All signs and billboards, awning and other similar structures over or near streets, sidewalks, public grounds, or places frequented by the public, so situated, or constructed as to endanger the public safety.
- 2) ILLEGAL BUILDINGS. All buildings erected, repaired, or altered in violation of the construction of buildings and structures within the Villages.
- 3) UNAUTHORIZED TRAFFIC SIGNS. All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or many be

- mistaken as an official traffic control device, railroad sign or signal or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any such device, sign or signal.
- 4) **OBSTRUCTION OF INTERSECTIONS.** All trees, hedges, billboards or other obstruction which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic which approaching an intersection or pedestrian crosswalk.
 - 5) **TREE LIMBS.** All limbs of trees which project over any public sidewalk, street, or other public place and present a safety hazard.
 - 6) **DANGEROUS TREES.** All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
 - 7) **FIREWORKS.** All use or display of fireworks except as provided by the laws of the state of Wisconsin and ordinances of the Village.
 - 8) **DILAPIDATED BUILDINGS.** All buildings or structures so old dilapidated or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human use.
 - 9) **WIRES OVER STREETS.** All wires over streets, alleys, or public grounds which are strung less than 15 feet above the surface thereof.
 - 10) **NOISY ANIMALS OR FOWL.** The keeping or harboring of any animals or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Village.
 - 11) **OBSTRUCTIONS OF STREETS: EXCAVATIONS.** All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Village or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or do not conform to the permit.
 - 12) **OPEN EXCAVATIONS.** All open and unguarded pits, wells, excavations, or unused basements accessible from any public street, alley, or sidewalk.
 - 13) **ABANDONED REFRIGERATORS.** All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
 - 14) **FLAMMABLE LIQUIDS.** Repeated or continuous violations of the ordinances of the Village or laws for the State relating to the storage of flammable liquids.
 - 15) **UNREMOVED SNOW.** All snow and ice not removed or sprinkled with ashes, sawdust, sand and other chemical removers, as provided in this Municipal Code.
 - 16) **JUNKED VEHICLES.** Any storage or accumulation of junk cars or the parts thereof, including unlicensed, abandoned, or nonfunctional motor vehicles discarded metal, glass, wood, or other personal property.

Sec. 21.06 Abatement of Public Nuisances

- 1) **INSPECTION OF PREMISES.** Whenever complaint is made to the Village President that a public nuisance exists within the Village of Whiting, he shall promptly notify the Building Inspector who shall forthwith inspect or cause to be inspected the premises complained of and shall make a written report of this findings to the Village President. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Village Clerk-Treasurer.
- 2) **SUMMARY ABATEMENT.** If the inspecting officer determines that a public nuisance exists with the Village and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Village President may direct the Building Inspector to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is cause, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within twenty-four (24) hours and shall state that unless such nuisance is so abated, the Village will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
- 3) **ABATEMENT AFTER NOTICE.** If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within (10) days. If such nuisance is not removed within such ten (10) days, the proper officer shall cause the nuisance to be removed as provided herein.
- 4) **ABATEMENT BY COURT ACTION.** If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall file a written report of his findings with the

Village President who shall cause an action to abate such nuisance to be commenced in the name of the Village in the Circuit Court of Portage County in accordance with the provisions of the Wisconsin Statutes.

- 5) OTHER METHODS NOT EXCLUDED. Nothing in this Chapter shall be construed as prohibited the abatement of public nuisances by the Village or its officials in accordance with the laws of the State of Wisconsin.
- 6) COSTS. In addition to any other penalty imposed by this Chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining, the nuisance, and if notice to abate the nuisance has been given to the other, such cost shall be assessed against this real estate as a special charge.

Sec. 21.07 Public Nuisances

The following statutes 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 Village provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under the general penalty provisions of this Municipal Code. Any future amendments, revisions, or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code.

287.81	Littering
175.25	Illegal Storage of Junked Vehicles
940.01	Negligent Operation of a Vehicle off Highway
941.03	Highway Obstruction
941.10	Negligent Handling of Burning Materials
941.12	Interfering With or Failing to Assist in Fire Fighting
941.13	False Alarms and Interference with Fire Fighting
941.35	Emergency Telephone Calls
941.36	Fraudulent tapping of Electric Wires or Gas or water Meters or Pipes
943.01(l)	Criminal Damage to Property
944.34	Keeping Place of Prostitution
945.02	Gambling
945.03	Commercial gambling
945.04	Permitting Premises to be used for Commercial Gambling
946.40	Refusing to Aid Officer
946.41	Resisting or Obstructing Officer
946.69	Falsely Assuming to Act as Public Officer or Employee
946.72	Tampering with Public Records and Notices
947.01	Disorderly Conduct
947.012	Unlawful Use of Telephone
947.047	Littering Shores
947.06	Unlawful Assemblies

Sec. 21.08 Regulation of Weapons in certain places

- 1) The statutory provisions of sections 167.30 through 167.31 and 941.23 through 941.24 of the Wisconsin Statutes describing and defining regulations with respect to possession of certain weapons, exclusive of any provisions therein relating to penalties to be imposed, are hereby adopted and by reference made a part of this code as if fully set forth herein. Any act required to be performed or prohibited by statute incorporated herein by reference is required or prohibited by this code. Any future amendments, revisions, modifications, or renumbering of the statute incorporated herein are intended to be made part of this code in order to secure uniform regulation of the possession of certain weapons.
- 2) Unless authorized by a permit or license issued by the Village Board, or otherwise permitted under state law, no person may discharge or cause the discharge of any missile from any firearm, spring or air gun, sling shot, crossbow, or bow and arrow of any description within the Village of Whiting or have any firearm, rifle, spring or air gun, or bow and arrow in his or her possession unless transported in accordance with state law.
- 3) This section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries authorized by the Village Board, or the firing or discharging of BB guns, air guns, bow and arrow or crossbow upon private premises by persons over sixteen years of age or under the direct personal supervision of a parent or legal guardian.

- 4) The provisions in subsection (1) shall not apply to any person discharging an archery arrow or crossbow bolt for purposes of hunting provided that:
 - (a) Any person hunting with a bow and arrow or crossbow must discharge the arrow or bolt from the respective weapon downwards toward the ground; and
 - (b) The person discharging the arrow or bolt either does so at least 225 feet (75 yards) from all buildings located on land owned by another person, or obtains written permission from such landowners to discharge an arrow or bolt less than 225 feet from any building located on land owned by the person providing such written permission.
- 5) This section does not apply to peace officers, U.S. armed forces, or National Guard personnel who go armed in the line of duty or to any person duly authorized by the Village Board or the Sheriff to possess a firearm in a public building, as defined under section 941.235 of the Wisconsin statutes.
- 6) The provisions of this section shall not apply to any person taking rough fish on the McDill Pond (general description being to the North and East of Bus. 51 bridge to the Stevens Point City Limits of the McDill Pond) with a bow and arrow in compliance with the provisions of Wis. Stat. 29.405.
- 7) Bow hunting shall not be allowed on municipal owned property.

Sec. 21.09 Possession, Sale, And Manufacture Of Certain Weapons Prohibited

- 1) No person shall sell, manufacture, purchase, possess, or carry a “Numchuk” (also called a “Nunchaku”) or a “Churkin” or a “Sucbai” or similar weapon, within the Village.
- 2) For the purpose of this Section the following definitions shall apply:
 - (a) “Numbhuk” or “Nunchaku.” An instrument consisting of two or more sticks, clubs, or rods connected by a rope, cord, wire, or chain.
 - (b) “Churkin.” A round throwing knife consisting of several sharp points protruding from a rounded disc.
 - (c) “Sucbai.” A short length of wood, metal, or similar material which when gripped in the hand protrudes on either side of the fist. Such prohibited instrument may or may not have spikes or short pointed protrusions from either end.
- 3) Any such device shall be seized by a law enforcement officer and destroyed or turned over the State of Wisconsin Crime Laboratory for destruction, or otherwise lawfully disposed of.

Sec. 21.10 Throwing or Shooting of Arrows, Stones, And Other Missiles Prohibited

- 1) Notwithstanding other provisions of this Municipal Code, it shall be unlawful for any person to discharge or throw any dangerous missile, object, arrow, stone, snowball, or other missile in or at any dwelling or building or any public park, playground, street, enclosure or other public place within the Village.
- 2) Upon written application to the Village board, a person may be granted permission by the Village Board to construct and maintain approved archery ranges if in the opinion of the Village Board the construction of such ranges will in no way endanger the public health and safety.

Sec. 21.11 Obstructing Streets and Sidewalks Prohibited

- 1) **OBSTRUCTING STREETS.** No person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, bridge or public ground within the Village in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place.
- 2) **BLOCKING SIDEWALK PROHIBITED.** No person shall block any sidewalk by obstructing the same so that it is impossible for a pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street.
- 3) **FREE SPEECH.** This Section shall not be interpreted as prohibiting any person from stopping on any sidewalk to talk or to make a speech, provided that such person shall not stand in such a location that it is impossible for any pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the sidewalk without leaving the sidewalk and walking on adjacent property or on the street. If two or more persons are engaged in talking while stopped on a sidewalk, they shall not stand in such location as to completely prevent any pedestrian from passing them on the sidewalk.
- 4) **DEFINITIONS.** As used in this section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
 - (a) **Block:** To interfere with unobstructed travel by any means, including but not limited to standing on the part of the walk that is fit for travel, or placing any object or vehicle whatsoever on such walk.

- (b) Sidewalk: Any sidewalk owned or maintained by the Village. The term shall not include sidewalks or walkways on private property in shopping centers, apartment complexes, office building sites or any other private property.

Sec. 21.12 Loitering Prohibited

- 1) Loitering. No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding citizens, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity, in any public way, street, highway, place, alley, sidewalk, mall or that portion of private property utilized for public use, and refuse to obey the lawful command of a police officer to move on or provide to said police officer a lawful reason for remaining on said public way, street, highway, place, alley, sidewalk, mall or that portion of private property utilized for public use if the alleged loitering by said person would create or cause to be created any of the following:
 - (a) Danger of a breach of the peace;
 - (b) The unreasonable danger of a disturbance to the comfort and repose of any person acting lawfully on or in a public way, street, highway, place, alley, sidewalk, mall or that portion of private property utilized for public use reserved for pedestrians;
 - (c) The obstruction or attempted obstruction of the free normal flow of vehicular traffic or the normal passage of pedestrian traffic upon any public way, street, highway, place, alley, sidewalk, mall or that portion of private property utilized for public use;
 - (d) The obstruction, molestation, interference, or attempt to obstruct, molest or interfere with any person lawfully on or in a public way, street, highway, place, alley, sidewalk, mall or that portion of private property utilized for public use to fear for his or her safety.
- 2) Unlawful Assembly. No person who is a member of a group of three or more persons who are loitering or prowling in a place, at a time or in a manner not usual for law abiding citizens, under circumstances that warrant or justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity, in a public way, street, highway, place, alley, sidewalk, mall or that portion of private property utilized for public use shall refuse the lawful command of a police officer to move or provide to said police officer a lawful reason for remaining in a public way, street, highway, place alley, sidewalk, mall or that portion of private property utilized for public use, whether said group is stationary or in transit, if the alleged loitering would create or cause to be created any of the following:
 - (a) Danger of a breach of the peace;
 - (b) The unreasonable danger of a disturbance to the comfort and repose of any person acting lawfully on or in a public way, street, highway, place, alley, sidewalk, mall or that portion of private property utilized for public use reserved for pedestrians;
 - (c) The obstruction or attempted obstruction of the free normal flow of vehicular traffic or the normal passage of pedestrian traffic upon any public way, street, highway, place, alley, sidewalk, mall or that portion of private property utilized for public use;
 - (d) The obstruction, molestation or interference or attempt to obstruct, molest or interfere with any person lawfully on or in a public way, street, highway, place, alley, sidewalk, mall or that portion of private property utilized for public use, in a manner that would cause a reasonable person or pedestrian of a public way, street, highway, place, alley, sidewalk, mall or that portion of private property utilized for public use to fear for his or her safety.
- 3) No person shall be convicted under this section if the law enforcement officer failed to comply with the procedure outlined herein.
- 4) No person shall be convicted under this section if it appears at trial that the explanation given by the person is true and, if believed by the law enforcement officer would:
 - (a) Have dispelled the fear for human safety;
 - (b) Have dispelled the concern for safety of property;
 - (c) Have dispelled the fear of a breach of the peace;
 - (d) Have provided a justifiable reason for obstructing vehicular or pedestrian traffic, subject to the discretion of the court.
- 5) If a person takes flight upon appearance of a law enforcement officer who identifies himself as such, or refuses to identify himself or herself, or attempts to conceal himself or herself, said police officer has probable cause to believe a violation of this section has occurred and is hereby duly authorized to make an arrest.

Sec. 21.13 Loud and Unnecessary Noise

- 1) **LOUD AND UNNECESSARY NOISE PROHIBITED.** It shall be unlawful for any person to make, continue, or cause to be made or continued any loud and unnecessary noise.
- 2) **TYPES OF LOUD AND UNNECESSARY NOISES.** The following acts are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive:
 - (a) **Horns and signaling devices.** The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the Village for longer than three seconds in any period of one minute or less, except as a danger warning; the creation of any unreasonable loud or harsh sound by means of any signaling device and the sounding of any plainly audible device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust and the use of any signaling device when traffic is for any reason held up.
 - (b) **Locomotives.** No railroad company or any of its agents or employees shall blow, or cause to be blown, any whistle or horn within the limits of the Village, except in those cases as described by the laws of the State, but nothing in this Section shall be construed as forbidding or prohibiting the blowing of any whistle or horn as a signal or warning in case of peril, fire, collision or other imminent danger to life and/or property.
 - (c) **Idling of locomotive engines.** No railroad engineer, railroad employee or other person in charge shall allow a railroad engine to stand idling for more than 15 minutes within the limits of the Village.
 - (d) **Refrigerated boxcars.** No railroad engineer, railroad employee or other person in charge shall allow a refrigerated car or any other noise creating train car to stand running for more than 15 within the limits of the Village.
 - (e) **Radios, phonographs, similar devices.** The using, operating or permitting to be played, used or operated any radio receiving set; musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a loud and unnecessary manner. The operation of any set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at the property line of the building , structure or vehicle in which it is located shall be prima facie evidence of a violation of this Section.
 - (f) **Loudspeakers, amplifiers for advertising.** The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.
 - (g) **Animals and birds.** The keeping of any animal or bird which by causing frequent or long continued unnecessary noise.
 - (h) **Steam whistles.** The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of proper Village authorities.
 - (i) **Exhausts.** The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor boat except through a muffler or other device which will effectively prevent loud or explosive noises there from.
 - (j) **Construction or repair of buildings.** The erection (including excavation), demolition, alternation or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or any other similar equipment attended by loud or unusual noise, other than any other similar equipment attended by loud or unusual noise, other than between the hours of 7:00 a.m. and 10:00 p.m. on weekdays; provided, however, the Clerk-Treasurer shall have the authority, upon determining that the loss of inconvenience which would result to any party in interest would be extra-ordinary and of such nature as to warrant special consideration, to grant a permit for a period necessary within which time such work and operation may take place within the hours of 10:00 p.m. to 7:00 a.m.
 - (k) **Schools, courts, churches, hospital.** The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while in use, or adjacent to any hospital, which unreasonably interferes with the normal operation of that institution, or which disturbs or unduly annoys patients in the hospital provided that conspicuous signs are displayed in those streets indicating a school, hospital or court street.
 - (l) **The provisions of this section shall not apply to:**
 - 1) Any vehicle of the Village while engaged in necessary public business.

- 2) Excavations or repairs of streets or other public construction by or on behalf of the Village, County, State at night when public welfare and convenience renders it impossible to perform such work during the day.
- 3) The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character.
- 3) STATIONARY NOISE LIMITS.
 - (a) Maximum Permissible Sound Levels.
 - 1) Noise from a stationary source shall not exceed the following standards for maximum sound pressure levels measured at the property line.

<u>Zone</u>	<u>Noise Rating-Daytime</u>	<u>Noise Rating-Nighttime</u>
Residential	60 db	50 db
Commercial	70 db	70 db
All Other Zones	75 db	75 db

- 2) Ambient noise is the all-encompassing noise associated with a give source, usually being a composite of sounds with many sources near and far, but excluding the noise source being measured. Ambient noise is a factor and the subject noise shall exceed the ambient noise by 5 db in any octave band to be designated excessive.
- 3) Pure tones and impulsive noises are factors. Five noise rating numbers shall be taken from the table in (a) above, if the subject noise consists primarily of a pure tone or if it is impulsive in character.
- 4) Construction Noise. Construction equipment in any zone may be operated between the hours of 7:00 a.m. to 7:00 p.m. provided that said equipment does not exceed a maximum sound pressure level of 80 decibels measured at the property line of the location at which said equipment is in use.
- (b) Noise in Residential Districts. In Residential Zones, the person in violation of this Section shall be ordered to reduce the sound pressure to acceptable levels immediately by the monitoring officer.
- (c) Operation of Certain Equipment. Lawnmowers, chainsaws, powered garden equipment, electric insect killing/repelling devices, and other non-construction maintenance equipment shall be operated only during the hours between 7:00 a.m. and 9:00 p.m. unless within the specified noise levels measured at the property line of the location at which said equipment is in use.
- 4) NIGHTTIME NOISE FROM AIR CONDITIONERS.
 - (a) No person shall, operate, or use any residential air-conditioner which creates a noise level in a sleeping room in any dwelling unit located on any adjacent premises in the excess of five decibels above the ambient noise level at the location being measured.
- 5) Compression Brake Prohibition. No person shall use motor vehicle brakes within the Village of Whiting, which are in any way activated or operated by the compression of the engine of a motor vehicle, or any unit or part thereof unless the vehicle has a properly designed exhaust and muffle system to regulate the noise created by the utilization of compression as part of the braking process. A person shall not be deemed in violation of this ordinance is it is necessary to use engine compression to stop a vehicle in the event of an emergency.
- 6) Exemptions. Operation of emergency equipment shall be exempt from this Chapter. Snow blowers not operated on a commercial basis shall be exempt from this Chapter when used to gain access to a Village street. Emergency equipment shall include ambulance, police, fire, snow removal, civil defense sirens, etc., necessary for the health, safety, and protection of the citizens of the Village.
- 7) Methods of Measuring Noise.
 - (a) dB(A). The decibel A filter method shall be used to measure decibels (dB).
 - (b) Equipment. Noise measurement shall be made with a sound level meter.
 - (c) Location of Nose Meter. Noise measurement shall be made at the nearest lot line of the premises from which a noise complaint is received. The noise meter shall be placed at a height of at least three feet away from walls, barriers, obstructions, and all other sound reflective surfaces.

Sec. 21.14 Disorderly Conduct

- 1) DISORDERLY CONDUCT PROHIBITED. No person, within the Village of Whiting, shall:
 - (a) In any public or private place engage in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to annoy or disturb any other person.
 - (b) Intentionally cause, provoke, or engage in any fight, brawl, riot, or noisy altercation other than a bona fide athletic contest.

- 2) **DISORDERLY CONDUCT WITH MOTOR VEHICLE.** No person shall make unnecessary and annoying noises with a motor vehicle, including facilities, upon any sidewalk, street, alley, public parking lot, park, playground, cemetery, or other public area within the Village, or upon any primate property in open view of the public, or in the halls, stairways, or elevators of public or commercial buildings.

Sec. 21.15 Fishing

- 1) It shall be unlawful for any person to fish from any bridge, dam, or spillway within the Village limits.
- 2) It shall also be unlawful for any person to fish from any roadway.

Sec. 21.16 Swimming/Wading/Water Activities

It shall be unlawful for any person to swim, wade, or engage in any other water related activities within 25 feet of any dam, bridge, or spillway within the Village. This includes, but is not limited to, diving or jumping from any bridge, dam, or spillway.

Sec. 21.17 Destruction Of Property Prohibited

- 1) No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature within the Village and belonging to the Village or its departments, the School District, or to any private person, without the consent of the owner or proper authority.
- 2) Pursuant to Sec. 895.035, Wis. Stats., the parents of an unemancipated minor shall be liable for the damage of property caused by the willful, malicious, or wanton act of such child; such liability shall not exceed One Thousand (\$1,000.00) Dollars.

Sec. 21.18 Littering Prohibited

- 1) **LITTERING PROHIBITED.** 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 Village, or upon property within the Village owned by the School District or any private person, or upon the surface of any body of water within the Village.
- 2) **LITTER FROM CONDUCT OF COMMERCIAL ENTERPRISE.**
 - (a) **Scope.** The provisions of this Subsection shall apply to all sales, promotions and other commercial ventures that result in litter being deposited on any street, alley, or other public way.
 - (b) **Litter to be cleaned up.** Any person, firm, corporation or association fails to pick up any litter as required herein within the time specified, the Village shall arrange to have the same picked up by Village crews or by private enterprise. Applicable bidding procedures shall be used for any arrangement for the use of private enterprise to pick up such litter. The entire expense of picking up such litter, together with an additional charge of twenty (20%) percent for administrative expenses, shall be charged to the person, firm, corporation, or association that did the littering. If such sum is not promptly paid, steps shall be taken, with the advice of the Village Attorney's office, to collect the same. This charge shall be in addition to any forfeiture or other penalty for violation of this Section.
- 3) **DUMPING OF REFUSE AND GRASS IN GUTTERS.** No person shall deposit any refuse, leaves, or grass clippings in any gutters along any public street, road, alley, or highway.
- 4) **HANDBILLS.**
 - (a) **Scattering Prohibited.** It shall be unlawful to deliver any handbills or advertising matter to any premises in the Village except by being handed to the recipient, placed on the porch, stoop or entrance way of the building or firmly affixed to a building or vehicle so as to prevent any such articles from being blown about, becoming scattered or in any way causing litter.
 - (b) **Papers in Public Places Prohibited.** It shall be unlawful to leave any handbills, advertising matter or newspapers unattended in any street, alley, public building or other public place, provided that this shall not prohibit the sale of newspapers in vending machines.

Sec. 21.19 Open Cisterns, Wells, Basements and 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.

Sec. 21.20 Abandoned Refrigerators 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 said door or lid, snap lock or other locking device from said 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.

Sec. 21.21 Disturbing Cemetery Property

No person except the owner of the cemetery lot or cemetery employee shall cut, remove, injure or carry away flowers, trees, plants or vines from any cemetery lot or property; nor shall any person deface, injure or mark upon any cemetery markers, headstones, monuments, fences or structures; nor shall any person other than the owner injure, carry away or destroy any vases, flower pots, urns or other objects which have been placed on any cemetery lot.

Sec. 21.22 Adult Entertainment

- 1) Prohibited Exposure. No licensed business establishment or public gathering place within the Village of Whiting shall suffer or permit any person to appear on such licensed premises in such manner or attire as to expose to view any portion of the pubic area, anus, vulva, or genitals, or any simulation thereof, nor shall suffer or permit any female to appear on licensed premises in such manner or attire as to expose to view any portion of the breast below the top of the areola, or any simulation thereof.
- 2) Prohibited Acts. No licensed business establishment or public gathering place within the Village of Whiting shall permit any person to perform acts of or acts which simulate:
 - (a) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
 - (b) The touching, caressing or fondling on the breast, buttocks, anus, or genitals.
 - (c) The displaying of the public hair, anus, vulva, or genitals.
- 3) Prohibited Reproductions. No licensed business establishment or public gathering place within the Village of Whiting shall permit any person to show film, still pictures, electronic reproduction, or other visual reproductions depicting:
 - (a) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
 - (b) Any person being touched caressed or fondled on the breast, buttock, or genitals.
 - (c) Scenes wherein a person displays the vulva, the anus, or the genitals.
 - (d) Scenes wherein artificial devises or inanimate objects are employed to depict or drawings are employed to portray, any of the prohibited activities described above.
- 4) Penalty. Any person violating any subsection of this ordinance shall be subject to a forfeiture of not less than one hundred (\$100) dollars nor more than five hundred (\$500) dollars, exclusive of fees and costs. Each day of violation shall constitute a separate offense. Failure or refusal to pay forfeiture shall result in imprisonment for a period of not more than five (5) days for each offense.