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CHAPTER II

OFFENSES ENDANGERING PUBLIC SAFETY, PEACE, MORALS AND/OR PROPERTY

2.01 Offenses Endangering Public Safety.

(A) Discharging Firearms and Guns Prohibited. (W. S. 2.3) No person shall fire or discharge any gun, cannon, rifle, pistol, air gun or firearms of any kind, or use a slingshot within Village limits without having first obtained written permission from the Chief of Police, which permission shall limit the time and place of such shooting and shall be subject to revocation at any time, except that this Section shall not be construed to prohibit the discharge of firearms by the Sheriff or any of his deputies, Chief of Police or any of his subordinates or any other public officer when required and made necessary in their performance of any duty imposed by law.

(B) Carrying Concealed Weapons Prohibited. No one, except a peace officer, shall go armed with a concealed and dangerous weapon.

(C) Outdoor Burning Restricted. No person shall ignite or maintain an outdoor fire either in a container or open fire within the Village limits without permission from the Village Administrator and notification to the Village Fire District Chief and Emergency Dispatch Center. This Ordinance shall not apply, however, to a wood fire in an outdoor fireplace or a charcoal or gas fire in an appropriate containing appliance or fire pit.

(2.01(C) - Recreated 9/12/91, amended 12/17/02)

(D) Fireworks. Except as otherwise provided below, the provisions of Wisconsin Statutes Section 167.10 regarding fireworks regulation are adopted and incorporated into this Code by reference.

(1) Definitions.

(a) "Fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion, which does not have another common use.

(b) The following items are not included in the definition of "fireworks".

- (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 $\frac{1}{4}$ 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 and a tobacco product.

(ix) A sparkler on a wire or wood stick not exceeding 36 inches in length or 0.25 inches in outside diameter which does not contain magnesium, chlorate or perchlorate.

(x) A device designed to spray out paper confetti or streamers and which contains less than $\frac{1}{4}$ grain explosive mixture.

(xi) A device designed to produce an audible sound but not explode, spark, move or emit an external flame after ignition and which does not exceed 3 grams in total weight.

(xii) A device that emits smoke with no external flame and does not leave the ground.

(xiii) A cylindrical fountain not exceeding 100 grams in total weight with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke.

(xiv) A cone fountain not exceeding 75 grams in total weight, designed to sit on the ground and emit only sparks and smoke.

(2) Permit required for sale, possession or use.

(a) No person shall sell or possess with intent to sell any fireworks as defined in this Section within Village limits without having first obtained a permit from the Village President and except during the period

from June 27th to July 4th, inclusive, and to the following people:

- A public authority;
- A fair association;
- A park board;
- A civic organization;
- A group of resident or nonresident individuals;
- As otherwise authorized by Sec. 167.10(2), Wis. Stats.

(b) No person shall possess or use fireworks as defined in this Section within Village limits without having first obtained a user's permit from the Village President, which shall be granted for use on July 4th only.

- (c) Permits may be issued to the following groups:
- A public authority;
 - A fair association;
 - A park board;
 - A civic organization;
 - A group of residents or nonresidents

(E) Removal and Disposal of Abandoned Vehicles.

- (1) Declaration of Purpose; Public Nuisances. In order to promote the public health, safety, welfare, convenience, and enjoyment of the residents of the Village of West Salem, to preserve and enhance the scenic beauty of lands bordering public streets and highways within said Village and to promote the prosperity, economic well-being and general welfare of the Village, it is declared to be in the public interest to provide for the removal and disposal of abandoned vehicles and provide a forfeiture, in addition to providing for the recovery by the Village of the cost of impounding and disposing of the vehicle.
- (2) Definition. As used in this Section, "motor vehicle" includes motor vehicles, trailers, semi-trailers, or mobile homes, as defined in Section 340.01, Wis. Stats.
- (3) Abandonment of Vehicles Prohibited. No motor vehicle, as defined in Sec. 340.01(35), Wis. Stats., trailer, semi-trailer, or mobile home shall be left unattended on any public highway, private or public property, for such time and under such circumstances as to cause the vehicle to reasonably appear to be abandoned. Except as

otherwise provided in this Section, whenever any vehicle has been left unattended for more than forty-eight (48) hours, the vehicle is deemed abandoned and constitutes a public nuisance. A motor vehicle shall not be considered an abandoned motor vehicle when it is out of ordinary public view, or when designated as not abandoned by a duly authorized municipal official pursuant to municipal ordinance.

(4) Impoundment.

(a) Any vehicle in violation of this Section shall be impounded until lawfully claimed or disposed of under Subsection (4), except that if it is deemed that the cost of towing and storage charge for the impoundment would exceed the value of the vehicle, the vehicle may be junked or sold by the Village prior to expiration of the impoundment period upon determination by the Chief of Police or Sheriff having jurisdiction that the vehicle is not stolen or otherwise wanted for evidence or other reason.

(b) Upon discovery, the motor vehicle may be removed by the Village or designee to a suitable place of impoundment.

(c) The owner of any abandoned vehicle, except a stolen vehicle, shall be responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not recovered from the sale of the vehicle may be recovered in a civil action by the Village against the owner. Whether or not the Village recovers the costs of towing and enforcement, the Village shall be responsible to the towing service for requisitional towing service and reasonable charges for impoundment.

(5) Disposal of Vehicles. Any vehicle which is deemed abandoned by the Village and not disposed of under Subsection (3) shall be retained in storage for a minimum period of ten (10) days after certified mail notice has been sent to the owner and lienholders of record, to permit reclamation of the vehicle after payment of accrued charges. Such notice shall set forth the year, make, model, and serial number of the abandoned motor vehicle, the place where the vehicle is being held, and shall inform the owner and any lienholder of their rights to reclaim the

vehicle. The notice shall state that the failure of the owner or lienholders to exercise their rights to reclaim the vehicle under this Section shall be deemed a waiver of all right, title, and interest in the vehicle and consent to the sale of the vehicle. Each retained vehicle not reclaimed by its owner or lienholder may be sold. The Village may dispose of the vehicle by sealed bid or auction sale. At such sale, the highest bid for any such motor vehicle shall be accepted unless the same is deemed inadequate by a duly authorized municipal representative, in which event all bids will be rejected. If all bids are rejected, or no bid is received, the Village may either re-advertise the sale, adjourn the sale to a definite date, sell the motor vehicle at a private sale, or junk the vehicle. Any interested person may offer bids on each abandoned vehicle to be sold. If reasonable efforts fail to determine the identity or address, or both, of the owner or lienholder, if any, a public notice at the Police Department shall be in the same form as that provided for certified mail notice to be sent to determinable owners or lienholders of record. Upon sale of an abandoned vehicle, the Village shall supply the purchaser with a completed form designated by the Department of Transportation enabling the purchaser to obtain a regular certificate of title for the vehicle as provided for in Section 342.40 of the Wisconsin Statutes. The purchaser shall have ten (10) days to remove the vehicle from the storage area, but shall pay a reasonable storage fee established by the Village for each day the vehicle remains in storage after the second business day subsequent to the sale date. Ten (10) days after the sale, the purchaser shall forfeit all interest in the vehicle, and the vehicle shall be deemed to be abandoned and may be sold again. Any listing of the vehicle to be sold by the Village shall be made available to any interested person or organization which makes a written request for such list. The Village may charge a fee for the list.

- (6) Notice of Sale. Within five (5) days after the sale or disposal of a vehicle as provided for in this Section, the Village shall advise the Department of Transportation of the sale or disposition on a form supplied by the Department.

(F) Junked Vehicles and Appliances on Private and Public Property.

(1) Nuisance Declared. Storage of old, unused, stripped, junked, unlicensed, and other automobiles not in condition for normal use or in good and safe operating condition, and of any other vehicles, machinery, implements, and/or equipment and personal property of any kind which is no longer usable for the purpose for which it was manufactured, which hereinafter are collectively described as "said personalty", for a period of five (5) days or more (except in licensed junkyards) is hereby declared to be a nuisance and dangerous to the public safety.

(2) Definitions.

(a) A "junked motor vehicle" is any automobile, truck, bus, or motorcycle which is not capable of being legally operated under its own power on any public way in its present condition.

(b) The term "disassembled, inoperable, junked, or wrecked motor vehicles, truck bodies, tractors, trailers" as used in this Section is defined as follows: Motor vehicles, recreational vehicles, truck bodies, tractors, farm machinery, or trailers in such a 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 a 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.

(c) The term "unlicensed motor vehicles, truck bodies, tractors, or trailers" as used in this Section is defined as follows: Motor vehicles, truck bodies, tractors, recreational vehicles, or trailers which do not bear lawful current license plates.

(d) The term "motor vehicle" is defined in Section 340.01(35), Wis. Stats.

(e) The term "inoperable appliance" is defined as any stove, washer, refrigerator, or other appliance, which is no longer operable in the sense for which it was manufactured.

(3) Storage of Automobiles Restricted. No disassembled, inoperable, unlicensed, junked, or

wrecked motor vehicles, truck bodies, tractors, trailers, farm machinery, or appliance shall be stored unenclosed outside a building on any real estate upon private property with the Village for a period exceeding five (5) days, unless it is pursuant to a license granted in connection with an authorized business enterprise located in a properly zoned area maintained in such a manner as to not constitute a public nuisance.

- (4) Accumulation or Storage of Junk Prohibited. No person shall keep, conduct, or maintain any building, structure, yard, or place for keeping, storing, or piling in commercial quantities, whether temporarily, irregularly, or continually, or for the buying or selling at retail or wholesale or dealing in any old, used or second-hand materials of any kind, including cloth, rags, clothing, paper, rubbish, bottles, rubber, metals, or other articles which are commonly classed as junk, whether with a fixed place of business or as an itinerant buyer. Any such activity is hereby declared to be an offensive industry under Section 66.0415 of the Wisconsin Statutes. Whenever junk, as defined herein, is accumulated, collected, or received from any outside source, it shall be deemed to be in commercial quantities.
- (5) Abandonment of Any Enclosed Appliance, Box, or Structure. No person shall abandon any appliance, box, or structure, which fastens from the outside by the closing of a door and on which there is no method of internally unlocking the door from the inside at any place or grounds or in any place, whether public or private property, which might be frequented by children and in which such children might be accidentally trapped. Large article boxes or structures or appliances of any kind may not be placed on any boulevard for regular Village pickup more than five (5) days prior to said scheduled pick up date. Such placement shall constitute abandonment and will be subject to enforcement and penalties set forth in this Ordinance.
- (6) Abatement by Owner. The owner, owners, tenants, lessees, and/or occupants of any lot within the Village upon which such storage is made, and also the owner, owners, and/or lessees of said personalty involved in such storage (all of whom will hereinafter be referred to collectively as owners), shall jointly and severally abate said

nuisance by the prompt removal of said personalty to completely enclosed buildings authorized to be used for such storage purposes, or otherwise to remove it to a location outside the corporate limits of the Village, and it shall be unlawful if said owners allow said nuisances to exist or fail to abate said nuisance.

(7) Exceptions. 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, is properly licensed, has set business hours, and is situated in a properly zoned area when necessary to the operation of such business enterprise, in a storage place or depository maintained in a lawful place and manner, or seasonal use vehicles such as snowmobiles, race cars, motorcycles, motor scooters, and non-motorized campers, provided such vehicles are stored in compliance with the Ordinances of the Village. Also excepted are motor vehicles registered pursuant to Sections 341.265 and 341.266, Wis. Stats.

(8) Enforcement.

(a) Whenever the Police Department shall find or receive complaints of any vehicles or appliances, as described herein, placed or stored in the open upon public or 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 (5) days, the Police Department shall cause to be issued a citation to the property owner or tenant of the property upon which said vehicle or appliance is stored or to the property owner or tenant responsible for said vehicle or appliance placed on public property.

(b) If such vehicle or appliance is not removed within ten (10) days after issuance of a citation, the Chief of Police shall cause the vehicle or appliance to be removed and impounded, and it shall thereafter be disposed of as prescribed in Section 2.01(E) (4) by the Chief of Police or his or her duly authorized representative. If entry is

refused, the officer may seek an inspection warrant pursuant to Sec. 66.0119, Wis. Stats. 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 assessment charge on the tax roll.

- (c) 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 herein. Any person who shall violate any of the provisions of this Section or amendments thereto shall, upon conviction thereof, be required to forfeit not less than \$100 nor more than \$500 together with the cost of prosecution and, in default of payment thereof, shall be committed to the County Jail for a period not to exceed sixty (60) days. Said forfeiture may be amended from time to time by Village Board action. Each day's continuance of such violation shall constitute a separate offense. Each motor vehicle or appliance involved shall constitute a separate offense.

(Deleted and re-created 8/16/05)

- (G) Clinging to a Moving Vehicle. (Stealing rides W. S. 2.35).

(1) No person of minor age shall attach himself or cling to a moving motor vehicle on any portion thereof not designed or intended for the use of the passengers.

(2) No operator of any motor vehicle shall permit any person to attach himself or cling to a moving motor vehicle on any portion thereof not designed or intended for the use of passengers.

- (H) Obstructing Street and Sidewalks Prohibited.

(1) No person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the Village in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of

business or amusement, church, public hall or meeting place.
(Ord. (W.S. 237)

(2) No person shall permit any wagon, sleigh, or other vehicle or equipment, tools, machines or construction materials to remain or stand upon any street, alley, highway, or public ground of the Village of West Salem. (W. S. Sec. 2.37)

(3) Aisles and passageways in public halls. The owner or lessee of any public place of amusement shall not obstruct, or allow others to obstruct, any of the aisles or passageways in or to the auditorium of such halls or places of amusement by placing therein any benches, chairs, stools or other articles that may tend to prevent free ingress or egress during the time that said places may be open to the public.

(I) Minor Prohibited Use or Possession of Tobacco Products.

Pursuant to the statutory authority contained in Wisconsin Statutes 254.92(4), all provisions of Section 254.92, Wisconsin Statutes, as amended from time to time, which define and prohibit use and possession of cigarettes and tobacco products by children, are hereby adopted and by reference made a part of the Code of Ordinances as if fully set forth herein.

(2.01(I) - Created 9/10/92; update Wis. Stat. Sec. 12/13/04)

(J) Restrictions on Sale or Gift of Tobacco Products.

Pursuant to the statutory authority contained in Wisconsin Statutes 134.66(5), all provisions of Section 134.66, Wisconsin Statutes, as amended from time to time, which restrict sale or gift of cigarettes or tobacco products, are hereby adopted and by reference made a part of the Code of Ordinances as if fully set forth herein.

(2.01(J) - Created 9/10/92)

(K) Smoke Free Dining Ordinance.

(1) Purpose. The purpose of this Section is to promote and protect the health, safety, and general welfare of the residents of the Village of West Salem.

(2) Definitions. The following definitions shall apply to this Section:

(a) Accessory Seating: Accessory seating shall include tables and chairs or booths in the immediate vicinity of a full service bar.

(b) Documentation: Documentation shall be no

less than a letter from the business establishment's accountant that identifies the source of sales derived from food, alcohol, and other categories.

- (c) Full Service Bar: A full service bar is defined as a counter-like object with accessory seating for customers, over which fermented malt beverages, intoxicating liquors or wine are sold for consumption upon the premises. A service bar without accessory seating for customers shall not be considered a full service bar.
- (d) Full Service Bar Area: A full service bar area is the full service bar and the area immediately adjacent to the full service bar.
- (e) Private Club: A private club is defined as churches, religious, fraternal, youth, and patriotic organizations, service clubs, or civic organizations, which prepare and service or sell meals to members and guests only. When a private club is open to the public, it does not meet this definition.
- (f) Restaurant: A restaurant shall mean an establishment as defined in Section 254.61(5), Wis. Stats.
- (g) Review Committee: The Review Committee shall consist of the Village Board of Trustees.
- (h) Separately Ventilated: A separately ventilated area shall mean that the area is ventilated so that there is a negative air pressure in the designated smoking area.
- (i) Service Bar: A service bar is an area without accessory seating for customers at which fermented malt beverages or intoxicating liquors are prepared for service with meals.
- (j) Smoking: Smoking shall mean to smoke or carry a lighted pipe, cigar, cigarette, or tobacco-related product in any form.

(3) Unlawful Smoking. Except as provided in Section (4) below or any other provisions of the Village of West Salem Code of Ordinances, it shall be unlawful for any person to smoke tobacco products in all enclosed, indoor areas of restaurants.

(4) Exceptions. Exceptions to this Ordinance shall apply to the following:

- (a) A full service bar area and accessory seating.

- (b) The owner or proprietor may designate a smoking room which is separately ventilated from each and every other area of the establishment.
- (c) Restaurants.
 - (1) Restaurants with a seating capacity of fifty (50) persons or less.
 - (2) Restaurants whose sale of alcoholic beverages account for more than fifty (50%) percent compared to the sale of food for the most recent alcohol licensing year shall comply with Sec. 101.123, Wis. Stats., the Clean Indoor Air Act.
 - (3) Upon request of the Chief of Police or the Village Clerk's office, owners of restaurants shall provide the necessary documentation to the Review Committee to apply for exception under Section (4)(c)(1).
- (d) Private Clubs shall provide a nonsmoking section for customers and otherwise comply with Sec. 101.123, Wis. Stats., the Clean Indoor Air Act.
- (e) An owner of a restaurant may be granted an exception from the requirements of this Ordinance by:
 - 1. Showing that the business has experienced a loss of fifteen (15%) percent in the first three (3) months this Ordinance is in effect compared to the same three months of the previous year.
 - 2. Showing that any decrease in business has resulted to the business of the restaurant as a result of complying with the provisions of this Ordinance for a period of not less than six (6) months. Written proof by an accountant not employed by the business establishment shall be required. The owner shall provide a comparison of sales receipts during said six (6) months of compliance as compared with sales receipts for the same six (6) months of the year prior to compliance; or
 - 3. It shall be the responsibility of the owner of the restaurant to demonstrate that the restaurant has complied with this Ordinance and that any business

losses were the result of compliance with this Ordinance and not as a result of other factors unrelated to this Ordinance.

4. Application for exemption shall be made to the Review Committee.
5. This hardship provision shall only be effective for a period twelve (12) months after the effective date of this Ordinance. Applications for hardship may be received until February 1, 2004; however, the provision shall only apply to losses incurred prior to, and including December 31, 2003.
6. Once hardship is determined it will be in force for five (5) years and then a reapplication process must occur.

(f) The persons subject to this Ordinance who are required to remodel or make changes required by this Ordinance who provide in writing three written estimates indicating that the cost of such is in excess of four thousand (\$4,000.00) dollars are hereby given an exemption from such requirement until such time as the County of La Crosse approves a similar ordinance, provided said exemption shall be granted only upon review and approval by the Review Committee.

(5) Signs.

(a) Signs promoting, prohibiting except in designated areas, or permitted smoking, as the case may be, shall be posted conspicuously at every entrance and in prominent locations throughout the premises by the proprietor or other person in charge of each building, structure, or public place. Signs shall contain a reference that regulation is by Ordinance, such as "No Smoking - Village Ordinance 2.01(K)", "Smoking Prohibited by Village Ordinance Except in Designated Areas", or equivalent. The proprietor or other persons in charge of premises regulated hereunder shall further make reasonable efforts to prevent smoking in prohibited areas by:

- (1) Approaching smokers who fail to voluntarily comply with this Section and request that they extinguish their smoke and to refrain from smoking upon witnessing the same or upon request of any person.
- (2) Any other means which may be deemed

appropriate by said proprietor, including refusal of service to anyone smoking in a prohibited public area.

- (b) Restaurants shall post, in a conspicuous place at each entrance normally used by the public, a sign not smaller than eleven by eight and one-half inches (11" X 8½") indicating whether they are smoke-free. Each sign shall contain a non-emergency number for the Village Police Department.
- (c) It shall be unlawful for any person to remove, deface, or destroy any legally required "No Smoking" sign, or to smoke in any place where any such sign is posted.
- (d) It shall be the duty of the Chief of Police or designee, and they shall have the power, whenever they may deem it necessary, to enter upon the premises described in this Section to ascertain whether signs required are posted, and to order the posting of such signs where required. A compliance time of not less than one (1) week shall be granted. Upon failure to comply with such written or verbal order, a citation may be issued. This enforcement procedure shall be supplementary to any other remedies provided by law.

(6) Penalty.

- (a) Any owner or proprietor of any establishment who violates any provision of this Section shall be required to forfeit not less than ten (\$10) dollars nor more than fifty (\$50) dollars plus costs. Each day of violation shall constitute a separate violation. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

2.01(K) (6) (b)

- (b) Any customer of an establishment who violates any provision of this Section for the first time shall be required to forfeit not less than fifty (\$50) dollars nor more than one hundred (\$100) dollars plus costs. For a violation committed within twelve (12) months

of a previous violation, a customer shall be required to forfeit not less than one hundred (\$100) dollars nor more than two hundred (\$200) dollars plus costs. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

- (c) Any person not designated in subsections (6) (a) and (b) above who violates any provision of this Ordinance for the first time shall be required to forfeit not less than ten (\$10) dollars nor more than fifty (\$50) dollars plus costs. For a violation committed within twelve (12) months of a previous violation, a person shall be required to forfeit not less than twenty-five (\$25) dollars nor more than one hundred (\$100) dollars plus costs. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

(7) Severability. The provisions of this Section are severable. If any provision of this Section is held to be invalid or unconstitutional or if the application of any provision of this Section to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the other provisions or applications of this Section, which can be given effect without the valid or unconstitutional provisions or applications. It is hereby declared to be the intent of the Village Board of Trustees that this Section would have been adopted had any invalid or unconstitutional provision or applications not been included herein. **(2.01(K) created 1/21/03)**

(L) Restriction of Access to Public Utility Areas. No person, other than a Village employee, officer, or an agent authorized by the Village, shall enter or go upon Village utilities, including waste treatment plant, well houses, or reservoir, nor upon the Village owned property surrounding those facilities for a distance up to 25 feet from said respective facility exterior.
(2.01(K) - Created 2/16/95)

(M) Stormwater Management Ordinance.

- (1) Authority. This Ordinance is adopted under the Authority granted by Wis. Stats. Sec. 62.11(5).

- (2) Title. This Ordinance shall be known as, referred to, and may be cited as "Stormwater Management Ordinance", and is hereinafter referred to as "the Ordinance".
- (3) Findings and Declarations of Policy. The Village of West Salem finds that urbanizing land uses have accelerated the process of soil erosion, runoff, and sedimentary deposition in the waters of the Village of West Salem. It is, therefore, declared to be the policy of the Village, and the purpose of this Ordinance to provide for the control of, and, if possible, the prevention of soil erosion, and thereby to preserve the natural resources, control floods, and prevent impairment of dams and reservoirs, protect the quality of public waters, preserve wildlife, protect the tax base, and protect and promote the health, safety, and general welfare of the residents of the Village of West Salem.
- (4) Intent and Purpose. The purpose of this Ordinance is to promote the public health, safety, prosperity, and general welfare of the citizens of the Village of West Salem, and to conserve the soil, water, and related resources and control erosion and sedimentation.
- (5) Abrogation and Greater Restrictions. It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing covenants, deed restrictions, agreements, 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 govern.
- (6) Interpretation. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements and shall be liberally construed in favor of the Village and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- (7) Severability of Ordinance Provisions. If any section, provisions, or portion of this Ordinance is adjudged unconstitutional or invalid by a court, the remainder of this Ordinance shall not be affected thereby.
- (8) Definitions. The following terms, whenever they occur in this Ordinance, are defined as follows:
 - (a) "Agricultural land use" includes use of land for planting, growing, cultivating, and harvesting of crops for human or livestock

consumption and pasturing or yarding of livestock, including sod farms and tree nurseries, but does not include the construction of buildings or facilities used for agriculture.

- (b) "Best management practice" or "BMP" means a structural or non-structural practice, technique, or measure, facility, system or practices or device that reduces soil, sediment or pollutants carried in runoff to waters of the State to a level compatible with the pollution control requirements of this Ordinance.
- (c) "Village Engineer" means the Village employee designated by the Village Board to administer this Ordinance.
- (d) "Construction site" means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.
- (e) "Control Plan" means a comprehensive plan developed to address runoff and pollution caused by erosion and sedimentation of soil particles or rock fragments during construction or after development.
- (f) "Erosion" means the detachment and movement of soil, sediment particles or rock fragments by water, wind, ice, or gravity.
- (g) "Excavation" means any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed, and shall include the resulting conditions.
- (h) "Existing Grade" means the vertical location of the existing ground surface prior to excavation or filling.
- (i) "Fill" means any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved by humans to a new location and shall include the resulting conditions.
- (j) "Final stabilization" means that all land disturbing construction activities at the

construction site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least 70% of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.

- (k) "Grading" is altering the elevation of the land surface by stripping, excavating, filling, or stockpiling of soil materials or any combination thereof, and shall include altering the elevation of the land from which the material was taken or upon which it was placed.
- (l) "Governing body" means the Village Board of the Village of West Salem.
- (m) "Infiltration system" means a device or practice such as a basin, trench, rain garden, or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
- (n) "Land disturbing construction activity" means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the State. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, but does not include agricultural land uses, silviculture activities or routine maintenance for project sites that involve under one (1) acre of land disturbance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.
- (o) "Land Treatment Measures" means structural or vegetative practices—or a combination thereof—used to control erosion and sediment production, including areas to be protected by fencing.

- (p) "Landowner" means any person holding fee title, an easement or other interest in property, which allows a person to undertake land disturbing construction activity on the property.
- (q) "Minor-impact permit" means a stormwater permit required for a land-disturbing activity of a small enough scope or impact that a formal control plan and full permit fee may not be necessary. The definition of such activities shall be at the discretion of the Village Engineer.
- (r) "Pollutant" has the meaning in s. 283.01 (13), Stats.
- (s) "Pollution" has the meaning in s. 281.01 (14), Stats.
- (t) "Predevelopment condition" means the state and condition of the land prior to the construction of any improvements, including grading.
- (u) "Public Lands" means all lands that are subject to regulation by the Village, including but not limited to all lands owned or controlled by the Village, or all lands within the boundaries or extraterritorial control of the Village which are owned by another unit of government that is acting in a proprietary rather than governmental function.
- (v) "Recurrence Interval" of a storm's given intensity and duration means the average periods between storms of the same duration and equal or greater intensity.
- (w) "Runoff" means storm water or precipitation including rain, snow or ice melt that moves on the land surface via sheet or channelized flow.
- (x) "Sediment" means settleable soil, rock fragments and other solids carried in runoff.
- (y) "Separate storm sewer" means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria: Is designed or used for collecting water or conveying runoff; is not part of a combined sewer system; is not draining to a storm water treatment device

or system; and discharges directly or indirectly to waters of the State.

- (z) "Site" means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.
- (aa) "Storm Runoff" means the portion of a rainfall that reaches a stream, lake or other water body during and soon after a storm.
- (bb) "Structural Measures" means works of improvement for land stabilization to prevent erosion, sediment or runoff, including but not limited to gully control structures, grass waterways, riprap, detention basins, sediment basins, flood retention dams, diversions, living channels with rock, concrete or other materials. Contour strip cropping is not a structural measure.
- (cc) "Technical standard" means an established minimum criterion for planning, performance, design, operation or maintenance for a BMP.
- (cc) "Waters of the State" has the meaning in s. 283.01 (20), Stats.

(9) Scope of Geographic Coverage

- (a) Within The Village. Unless specifically excluded herein, this Ordinance applies to all division of land, land disturbing, and land developing activities occurring within the corporate limits of the Village.
- (b) Within The Extraterritorial Area. This Ordinance shall apply to the division of land within the Village's extraterritorial plat approval jurisdiction.
- (c) Exclusions. The following activities are generally excluded from coverage under this Ordinance:
 - (1) State-funded or conducted activities that are subject to the State Site Erosion Control and Stormwater Runoff Plan.
 - (2) Agricultural land uses as defined in this Ordinance and quarries except where the Village Engineer determines that erosion or runoff from such uses is likely to occur which will threaten watercourses or

other environmentally sensitive areas unless control measures are taken.

- (3) Small land disturbing activities such as gardens, minor landscaping modifications, and minor repair of sidewalks, paths, or driveways, except where the Village Engineer determines that erosion or runoff is likely to occur which will threaten watercourses or other environmentally sensitive areas unless control measures are taken.

(10) Land Disturbing Activities Subject To Stormwater Management. The following activities require a stormwater permit:

(a) Land disturbing activities on public lands as defined in s. 2.01(M)(8)(n).

(b) Land disturbing activities on all private lands shall be subject to this Ordinance if the land disturbing activity will be:

- (1) A residential development having a gross aggregate area of one (1) acre or more;
- (2) New construction of houses or apartment buildings on an existing subdivision, certified survey, or other development with a gross aggregate area of one (1) acre or more;
- (3) A residential development having a gross aggregate area of less than one (1) acre having 50% or more of the area as impervious surfaces including roads, buildings, parking facilities, and other improvements;
- (4) New construction of houses or apartment buildings on an existing subdivision, certified survey or other development with a gross aggregate area of less than one (1) acre having 50% or more of the area as impervious surfaces including road, buildings, parking facilities, and other improvements;
- (5) An industrial or commercial development with a gross aggregate area of 0.5 acres or more;

- (6) Any other type of development with a gross aggregate area of one (1) acre or more; or
 - (7) Any development not covered above the runoff of which, in the opinion of the Village Engineer, will increase the downstream flood hazard, will cause undue channel erosion or an undue increase in water pollution by increased scour and transport of particles, or will otherwise endanger the downstream property owners or their property.
- (c) Notwithstanding any other provisions of this Ordinance, it shall be a violation of this Ordinance for any person to create, permit, establish, maintain, or allow to be maintained any condition or activity that causes excessive runoff or erosion to adjacent land, public streets, or water bodies. Penalties and remedies may be sought for such activities. Erosion and runoff is excessive when, in the opinion of the Village Engineer or Building Inspector, an unsafe condition results in the streets, sedimentation occurs in lakes and streams, environmentally-sensitive lands are threatened, runoff endangers downstream property, or the public health, safety, or general welfare of the citizens of the Village is otherwise threatened or harmed. Compliance with the standards and criteria in this Ordinance shall not bar a nuisance action or other civil action brought by an injured public or private party for damage to property or other rights that were damaged by runoff.
- (d) On existing commercial, business, institutional, school, or industrial developments located on Village streets which contain underground storm sewers wherein the said development discharges amounts of surface drainage in excess of that which the municipal storm sewer street surface drains can accommodate, thus causing excess ponding of water, then, upon the recommendation of the Village Engineer, the Village Board is authorized to issue an order to the development owner to install at owner's expense an adequate private underground storm sewer to collect the surface water on the development site and convey it underground to connect into the

existing storm sewer system in an underground main. Upon failure of the said property owner to comply with that order within 90 days, the Village is authorized to enter said property and contract for the said installation and place the cost thereof as a property tax levy lien on the property involved.

(11) Best Management Practices (BMPs). The control plan shall include all of the following BMPs that are relevant and practicable for each development. Where these procedures are found to be unacceptable or infeasible by the Village Engineer or where adequate stormwater facilities have been provided by the Village downstream of the proposed development, the applicant shall be required to make a suitable alternative contribution as determined in negotiation with the Village Engineer and Public Works Director. All control measures shall be maintained by the permittee in a satisfactory manner to ensure adequate performance and to prevent nuisance conditions during the period of land disturbance. The permit may require a longer period of maintenance time. If the Village accepts a public dedication of a control measure, the Village will then physically maintain the measure unless otherwise agreed in writing. The method of payment of any or all maintenance costs may be determined by the Village Board as appropriate.

- (a) All roof drainage shall discharge to either pervious surfaces to the extent practicable or an infiltration device.
- (b) All driveways shall slope to adjacent lawns to the extent practicable.
- (c) The stormwater drainage system for the development shall include grassed swales for area drainage and/or underground perforated drainage pipe for storm runoff conveyance. The applicant shall be responsible for documenting to the Village Engineer areas to be exempted from these measures, in which cases other means may be accepted.
- (d) Residential developments of one (1) acre or greater and commercial or industrial sites with more than half an acre of impervious area shall discharge to one or more wet detention basins. These basins shall have an aggregate area of at least three (3%) percent of the impervious area draining to it.
- (e) Regardless of the proposed land use, the proposed development shall limit peak flow rates of storm runoff after development to one

hundred (100%) percent of that which would have resulted from the same storm occurring over the site with the land in its predevelopment condition for storms of 24-hour duration and recurrence intervals of 2, 5, 10, 25, 50, and 100 years. Determination of peak flow rates, volume runoff, and on-site detention volumes shall be computed by procedures based on those established by the Natural Resource Soil Conservation Service in its National Engineering Handbook or the technical publication entitled "Urban Hydrology for Small Watersheds, TR-55."

(f) The following general principles shall be incorporated during development:

- (1) The smallest practical area of land shall be exposed at any given time.
- (2) Such minimum area exposure shall be kept to as short a duration of time as possible.
- (3) If at all practicable, temporary vegetation, mulching, or other cover shall be used to protect areas during development.
- (4) Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development according to the standards contained in this Ordinance.
- (5) Permanent, final plant covering or structures shall be installed as soon as possible.
- (6) Natural plant covering shall be retained and protected and shall be deemed a dominating factor in developing the site.
- (7) Water pumped from the site shall be treated by temporary sedimentation basins or other appropriate control measures. Water may not be discharged in a manner that causes erosion of the site, a neighboring site, or the bed or banks of the receiving water. Dewatering or other pumping activities shall not discharge directly into a storm sewer system.
- (8) All waste and unused building material and construction debris shall be properly disposed of and not allowed to be carried off site by wind and/or runoff into a receiving channel or storm sewer system.

- (9) Each site shall have a graveled entrance pad of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Sediment reaching a public or private road shall be removed by street cleaning (not hydraulic flushing) before the end of each workday.
 - (10) Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if determined practical by the Village Engineer.
 - (11) All activities on the site shall be conducted in such a sequence as to minimize the area of bare soil exposed at any one time and the amount of soil leaving the site.
 - (12) All disturbed ground and soil or dirt storage piles shall be contained on the site by filter barriers or other suitable means. The containment measures shall be installed as soon as the disturbance takes place. The containment measures shall remain in place until the site is adequately stabilized as determined by the Village Engineer.
 - (13) Filter fences, straw bales, or equivalent control measures shall be placed continuously along all sideslope and downslope side of the site. If a channel or area of concentrated runoff passes through the site, filter barriers shall be placed continuously along the channel edges to reduce sediment reaching the channel.
 - (14) Affected storm drain inlets shall be protected with a straw bale, filter fabric, or equivalent barrier as approved by the Village Engineer.
- (12) Stormwater Permits.
- (a) Permit Required. Unless specifically excluded by this Ordinance, no land occupier or land user may undertake a land disturbing activity subject to this Ordinance without receiving a permit from the Village Engineer prior to commencing the proposed activity. The Building Inspector shall determine whether a permit is required under this Ordinance, and if necessary, shall not issue a building permit or

construction site permit until the stormwater permit is issued. The developer shall submit a permit application with the appropriate fee as adopted by the Village Board of the Village of West Salem.

(b) Control Plan Required. Unless specifically exempted by this Ordinance, every applicant for a stormwater permit shall develop and submit a plan to control runoff that would result from the proposed activity. Should any development requiring a permit be required to develop a stormwater control plan for the Wisconsin Department of Natural Resources or other governmental authority, the Village Engineer may accept that authority's acceptance of the control plan as meeting the intent of this Ordinance. If, however, this Ordinance contains more stringent requirements than those of the other governmental body, the Village reserves the right to enforce this Ordinance. If the developer has received approval from the DNR for a control plan, this control plan and evidence of DNR approval shall accompany the permit application. A minor-impact permit may be issued for developments not described under section 2.01 (M)(10)(a) and (b) 1-7, in which case a less formal control plan may be accepted.

(c) Control Plan Contents. The control plan shall contain any such information the Village Engineer may need to determine the requirements for runoff control. Any required map shall be at a scale appropriate for the site as approved by the Village Engineer, but shall not be smaller than 1" = 100'. The Village Engineer may require the following information and other information, which, in his or her opinion, is needed to evaluate the control plan.

(1) The following items will be required to show existing conditions:

(a) A site map showing the location of the predominant soil types, existing vegetative cover, and existing impervious surfaces and structures.

(b) A topographic map of the site location and site boundaries, including enough of the adjacent contiguous properties to show existing drainage patterns and watercourses that may affect or be affected by the proposed development of the site.

Existing topography shall be shown as contours at an interval suitable to the site and as approved by the Village Engineer up to a maximum of a one (1) foot contour interval.

- (2) A site plan showing proposed conditions shall include the following:
- (a) The name, address, and phone number of the land occupier, as well as the name and phone number of the party responsible for maintaining erosion control structures. The site plan shall also include the limits of the 100-year natural floodplain, if any.
 - (b) The proposed vertical topography at a contour interval appropriate for the site and approved by the Village Engineer up to a maximum five-foot contour interval. It is preferred that this drawing show the same scale contours as the topographic map of the predevelopment conditions.
 - (c) The location of the proposed land disturbing activity, disturbance of protective cover, any proposed additional structure on the site, areas to be left seeded or mulched, areas to be vegetatively stabilized, and areas to be left undisturbed. It shall include the finished grade, stated in feet horizontal to the vertical, or cut and fill slopes.
 - (d) Existing and proposed structures, utilities and paved areas, as well as the proposed type of cover on areas not covered by any buildings, structures, or pavement. The description shall be in terms such as lawn, turf grass, shrubbery, trees, forest cover, riprap, mulch, etc.
 - (e) A detailed description on on-site detention facilities and provisions provided which will carry runoff to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way. Calculations determining the size and depth of any required detention facility shall accompany the control plan.

(f) A summary of provisions for maintenance of control facilities, including easements if necessary, inspection schedule, maintenance cost estimate, and identifying the party responsible for such maintenance.

(d) Review of Application. The Village Engineer shall receive and review all permit applications that are accompanied by the appropriate fee and control plan if required. The Village Engineer shall determine whether measures included in the

plan to control erosions, sedimentation and runoff during and after the land disturbing activities are adequate to meet all applicable standards. The Village Engineer shall, within thirty (30) calendar days from the receipt of the permit application, control plan and appropriate fee, inform the applicant in writing whether the plan is approved, disapproved, or approved conditionally. Should the applicant modify a conditionally approved plan, there shall be no additional permit fee. The Village Engineer has thirty (30) days to review the modified plan and issue a decision. Failure to render a written decision within thirty (30) days shall be deemed to mean approval of the plan as submitted, and the applicant may proceed as if a permit has been issued. If a plan is disapproved, the applicant may resubmit a new control plan or may appeal the Village Engineer's decision to the Village Board.

(e) Consultant Services. If the Village retains the services of professional consultants to assist the Village in its review of a proposed permit application and/or control plan, the applicant may be required to reimburse the Village for the costs incurred by the Village to retain such services. Such reimbursement shall be in addition to the permit fees and other fees paid by the applicant. Such consultants may include, but are not limited to, planners, engineers, architects, attorneys, and/or environmental specialists. The Village may require the applicant to enter into an agreement providing for the reimbursement to the Village of said costs, which may be appropriate sureties equal to the cost of said services.

(f) Permit Conditions. All permits issued under this Ordinance shall be subject to the following

conditions and requirements. Any permittee shall be deemed to accept all of these conditions.

- (1) That all disturbances, construction, and development shall be done pursuant to the control plan as approved by the Village Engineer.
- (2) That the permittee shall give at least two (2) working days notice to the Village Engineer in advance of the start of any land disturbing activity.
- (3) That the permittee shall file a notice of completion of all land disturbing activities and/or the completion of installation of all onsite detention facilities within ten (10) days after completion.
- (4) That approval in writing must be obtained prior to any modifications to the approved control plan.
- (5) That the permittee shall be responsible for maintaining all roads, rights of way, runoff and drainage facilities and drainageways as specified in the approved plan until they are accepted and become the responsibility of the Village.
- (6) That the permittee will be responsible for repairing any damage at his or her expense to all adjoining surfaces and drainageways caused by runoff and/or sedimentation resulting from activities not in compliance with the permit.
- (7) That the permittee must provide and install at his or her expense all drainage and runoff control improvements as required by this Ordinance and the approved control plan. The permittee must also bear his or her proportionate cost of off-site improvements to drainageways based upon the existing developed drainage area or planned development of the drainage area.
- (8) That no portion of the land which undergoes the land disturbing activity will be allowed to remain uncovered for more than two (2) weeks after notice is given to the Village Engineer that the land disturbing activity is completed.

- (9) That the permittee agrees to allow the Village Engineer to enter onto the land regulated under this Ordinance for the purposes of inspecting for compliance with the approved control plan and permit.
- (10) That the permittee authorized the Village Engineer to perform any work or operations necessary to bring the condition of the lands into conformity with the approved control plan and further consents to the Village billing the permittee the total costs and expenses of such work and operations.

(g) Permit Duration. Permits issued under this Ordinance shall be valid for a period of one (1) year from the date of issuance, and all work must be completed prior to the expiration date. However, the Village Engineer is authorized to extend the expiration date of the permit if the extension is justified by the large scope of the project or situations beyond the permittee's control, and if he or she finds that such an extension will not cause an increase in runoff. The Village Engineer is further authorized to modify plans if necessary to prevent any increase in runoff resulting from any extension.

(h) Permit Fee. The owner and occupier of public lands are exempt from paying any permit fees. All permit applications filed under this Ordinance shall be accompanied by a fee as set forth in Appendix "A" Fee Schedule for any development listed under Section 2.01(M)(10)(a) and (b) (1-7) of this Ordinance. This fee may be reduced if the permittee has received DNR approval for a control plan, thereby minimizing the review required by the Village. The fee may also be reduced if only a minor-impact permit is required.

(i) Administration. The Village of West Salem Village Board hereby designates the Village Engineer to administer and enforce the provisions of this Ordinance under the direction of the Village Board. The Village Engineer may appoint assistants to aid in the performance of duties and may seek technical advice from State and County agencies. In the administration and enforcement of this Ordinance, the Village Engineer shall keep an accurate record of all plan data received, plans approved, permits issued, inspections made, and other official actions. He or she shall review all

plans and permit applications received when accompanied by the necessary information and the appropriate fee, and shall issue the permits required if appropriate. The Village Engineer shall investigate all complaints made concerning the application of this Ordinance. He or she shall revoke any permit granted under this Ordinance if it is found that the holder of the permit has misrepresented any material fact in his or her permit applications or plan, or has failed to comply with the plan as approved, or has violated any of the other conditions of the permit as issued.

(j) Inspection Authority. The Village Engineer is authorized to enter upon any public or private lands affected by this Ordinance to inspect the land prior to permit issuance for the purpose of determining whether to approve the plan and after permit issuance to determine compliance with this Ordinance. If the Village Engineer cannot receive permission from the landowner or user, entry shall be according to Wis. Stats. 66.0119.

(k) Enforcement Authority. The Village Engineer is authorized to post a stop work order upon land which has had a permit revoked or to post a stop work order upon land which is currently undergoing any land disturbing activity in violation of this Ordinance. The Village Engineer shall supply a copy of each stop work order to the Village Attorney. In lieu of the stop work order, the Village Engineer may issue a written cease and desist order to any land occupier or land user whose activity is in violation of this Ordinance. These orders shall specify that the activity must be ceased or brought into compliance with the Ordinance within seven days. Any revocation, stop work order, or cease and desist shall remain in effect unless retracted by the Village Board, the Village Engineer, or by a court of general jurisdiction; or until the land disturbing activity is brought into compliance with the Ordinance. The Village Engineer is authorized to refer any violation of this Ordinance or of a stop work order or cease and desist order issued pursuant to this Ordinance to the Village Attorney for the commencement of legal proceedings.

(l) Appeals. The Village Board shall hear and decide appeals when it is alleged that there is an error in any order, requirement, decision, or

determination made by the Village Engineer in administering this Ordinance. The Board may authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to public interest, where owing to special conditions a literal enforcement of this Ordinance will result in unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. The rules, procedures, duties, and powers established by the Village Board shall apply to appeals under this Ordinance. Appeals may be made by any person aggrieved or by any officer, department, board, or bureau of the Village affected by the order, requirement, decision or determination made by the Village Engineer. For the purpose of this Ordinance, an aggrieved person may include a permit applicant and property owners of land subject to this Ordinance.

2.01(N) Possession of Marijuana. No person shall possess any amount of marijuana, tetrahydrocannabinol, or any derivative thereof, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a licensed physician or pharmacist for a valid medical purpose.

2.01(O) Possession, Manufacture, and Delivery of 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, selling, distributing, delivering, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body, a controlled substance, as defined in Chapter 961, 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 is a controlled substance can be derived.

(b) Kits used, intended for use, or designed for use, in manufacturing, selling, distributing,

- delivering, 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 packing 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, or 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; or
- (13) Ice pipes or chillers.

(2) Determination of Drug Paraphernalia. In determining whether an object is drug paraphernalia, the following shall be considered, without limitation of such other considerations a court may deem relevant:

- (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 substance on the object.
- (f) Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this Section. The innocence of an owner, or of anyone in control of this 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 that 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 sale of the business enterprise.
- (l) The existence and scope of legitimate uses for the object in the community; and
- (m) Expert testimony concerning its use.

(3) No person under the age of 17 may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture,

compound, convert, product, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this Ordinance.

- (4) No person under the age of 17 may deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be primarily 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 Ordinance.
- (5) No person under the age of 17 shall violate Sec. 961.574, Wis. Stats., by delivering drug paraphernalia to a person under 17 years of age who is at least three (3) years younger than the violator.
- (6) Penalties. Any person who violates this Section shall, upon conviction, be subject to disposition under Sec. 938.344(2)(e), Wis. Stats.

2.02 Offenses Endangering Public Peace and Good Order.

(A) Disturbances. No person shall willfully, maliciously, or wantonly interrupt or in any way molest or disturb any private or public school or religious meeting, or create or encourage any noise or disturbance at, in, or near the same, which shall disturb or hinder the exercises, or shall molest or interrupt any lawful assemblage of people or public entertainment.

(B) Disorderly Conduct. (W.S. 2.11) No person, in a public or private place, shall engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance.

(C) No person shall use vulgar, profane or obscene language in any public place within Village limits without provocation and so as to create a public nuisance.

(D) Loud Noises Prohibited.

(1) No person shall create, assist in creating, permit, continue or permit the continuance of any unreasonably loud, disturbing or unnecessary noise in the Village such as produces annoyance, inconvenience, discomfort, or hurt to any

person, or to the enjoyment of property or comfort of any person, or affects the safety, health or morals of the public.

(2) No person shall operate any mechanical device driven by gasoline, diesel or otherwise, without having the same equipped and using thereon a muffler, in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke and no person shall use a muffler cutout, bypass or similar device.

(E) Other State Laws Against Public Peace and Good Order Adopted.

There are also adopted by reference the following sections of the Wisconsin Statutes, but the penalty for violation thereof shall be limited to a forfeiture pursuant to Section 2.05 of this Code:

Section 947.012 Unlawful Use of Telephone

Section 947.015 Bomb Scares

Section 947.02 Vagrancy

Section 947.06 Unlawful Assemblies and Their Suppression

(2.02 (E) - Created 11/25/93)

(F) Park Hours.

(1) Park Hours. Subject to certain exceptions listed below, all Village parks shall be closed from 11:00 p.m. to 6:00 a.m. The Director of Public Works is authorized to post appropriate signs giving notice thereof. It is unlawful for any person, other than Village personnel conducting Village business therein, to occupy or be present in a park during the hours the park is not open to the public.

(2) Park Closing and Opening Dates. The Village Administrator, or designee, will have full authority to open and close any park, facility, or area because of season, condition, construction, or when, in the interest of public safety, it is deemed necessary.

(3) Exceptions to Closing Hours. Village Park Hours shall not apply to athletic facilities, regularly scheduled athletic events authorized and approved by the Recreation Director, or to public celebrations or events authorized or sponsored by the Village. The Village Board may modify closing hours for particular events. The Village Administrator may grant written permission to conduct an activity or use specific facilities or buildings for an activity which extends beyond the regular park closing hours.

(4) Penalty. The penalty imposed shall not be less than Ten (\$10.00) Dollars and not more than Two Hundred (\$200.00) Dollars, and said penalty may be adjusted from time to time by Village Board approval and as set forth in

2.03 Offenses Endangering Public Morals and Decency.

(A) Gambling and Lotteries Prohibited.

All forms of gambling or lotteries are hereby prohibited unless otherwise authorized by Wis. Stats. Ch. 945.

(B) Loitering Prohibited.

(1) Loitering. A person commits a violation if he loiters or prowls 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 actor takes flight upon appearance of a peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the actor or other circumstances makes it impracticable, a peace officer shall, prior to any arrest for an offense under this section, afford the actor 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 any offense under this Section if the peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and if believed by the peace officer at the time, would have dispelled the alarm.

(2) Penalties. Any person who violates any provisions of this Ordinance or fails to comply with any of the requirements shall, upon conviction thereof, be subject to a forfeiture of not less than Fifty (\$50.00) Dollars and not more than Three Hundred (\$300.00) Dollars. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

(C) Curfew.

(1) No child 17 years of age or under shall loiter, idle or remain, and no parent or guardian shall knowingly permit their child or ward of such age to loiter, idle or remain in or upon any of the streets, alleys or public places in the Village of West Salem between the hours of 11:00 p.m. and 5:00 a.m., Sunday through Thursday and between the hours of 12:00 midnight and 5:00 a.m., Friday and Saturday, (meaning Saturday morning and Sunday morning), unless such child is accompanied by a parent, guardian or some person of lawful age having legal custody of such child. This

ordinance shall not be construed to prohibit such child from performing an errand or duty if directed by a parent or guardian or of pursuing the duties of their employment in an expeditious manner or from going to or from places of business or authorized activities such as school, or religious functions, or private homes.

(2) Penalties. Any person violating any provision of this Section shall upon conviction thereof forfeit not less than Ten (\$10.00) Dollars nor more than Two Hundred (\$200.00) Dollars and the costs of prosecution, and in default of payment of such forfeiture and the costs of prosecution shall be imprisoned in the county jail until payment of such forfeiture and costs of prosecution, but not exceeding ninety (90) days for each violation. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

(D) Animal Abuse. No person shall cruelly beat, wound, ill-treat, abuse, or injure any animal within the Village limits.

(E) Discrimination in Housing Prohibited (Ord. 235).

(1) Declaration of Policy. It is hereby declared to be the policy of the Village of West Salem, pursuant to the United States and Wisconsin Constitution and its power to protect the public health, safety and general welfare, that all persons, regardless of sex, race, color, physical condition, developmental disability as defined in Wisconsin Statutes Section 51.01(5), sexual orientation as defined below, religion, national origin or ancestry, are entitled to fair and equal access to housing; and to that end the Village of West Salem hereby enacts the following Ordinance, which prohibits any person, not herein exempted, from discriminating against any other person by impairing to any degree, access to any housing or housing accommodations on the basis of sex, race, color, physical condition, developmental disability or sexual orientation; and creates a commission with the power and duty to enforce equal opportunity in housing for all citizens of West Salem.

(2) Definitions.

(a) "Accommodations" shall include any room, apartment, house, building or structure, any part of which is used for human habitation on a temporary or permanent basis.

(b) "Commission" shall mean the West Salem Commission on Equal Opportunities in Housing and "Commissioner" shall mean a member thereof.

(c) "Complainant" shall mean any person who files a Complaint with the Commission pursuant to Sections (7)(a) through (e) of this Ordinance.

(d) "Discriminate" and "Discrimination" mean to segregate, separate, exclude or treat any person unequally only because of sex, race, color, physical condition, developmental disability as defined in Wis. Stat. Sec. 51.01(5), sexual orientation as defined below, religion, national origin or ancestry. It is intended that the factor set forth herein shall be the sole basis for prohibiting discrimination.

(e) "Hearing" shall mean a hearing under the jurisdiction of the Commission except where otherwise indicated.

(f) "Housing" means any improved property, including any mobile home as defined in Section 11.04(A) of this Code, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as a home or residence.

(g) "Owner-occupied dwelling" shall mean a building used for human habitation in which the owner thereof maintains his permanent living quarters.

(h) "Probable cause" shall mean reasonable grounds to believe that a violation of Section (5) of this Ordinance, not exempted by Section (7), may have occurred or may be occurring.

(j) "Respondent" shall mean any person who, according to the allegations contained in any complaint filed with the Commission, has violated this Ordinance and has been named in the complaint as a respondent.

(k) "Sexual Orientation" having a preference for heterosexuality, homosexuality or bisexuality, having a history of such a preference or being identified with such a preference.

(l) "Single-occupancy room" shall mean any room, which the owner has leased or rented, or in any way offered to lease or rent, to a sole individual; provided, however, that the owner

permanently occupies living quarters in the same dwelling.

(3) Commission Formation. The purpose and provisions of this Ordinance shall be implemented by:

(a) The West Salem Commission on Equal Opportunities in Housing whose five members shall be appointed by the Village President subject to confirmation by the Village Board to serve 5-year terms.

(b) Initial terms of Commission members shall be as follows:

One shall be initially appointed for one year; one shall be initially appointed for two years; one shall be initially appointed for three years; one shall be initially appointed for four years, and one shall be initially appointed for five years. Thereafter all Commissioners shall be appointed to serve 5-year terms. Any appointments to fill vacancies on the Board shall be for the duration of the unexpired term only. A member of the Commission may be removed by the Village President, only for inefficiency, neglect of duty, misconduct or malfeasance in office; provided, however, the Commissioner is first given written statement of the charges and an opportunity to be heard thereon. Commission members shall be reimbursed for all actual and necessary expenses approved by the Village Board, but shall receive no other compensation.

(4) Commission Powers and Duties. The West Salem Commission on Equal Opportunities in Housing shall have the following powers and duties:

(a) To adopt, amend, publish and rescind rules for governing its meeting and hearings;

(b) To adopt, amend, publish, and rescind regulations consistent with, and for the enforcement of this Ordinance;

(c) To appoint such other employees, agents and staff as are necessary to promote the purposes of this Ordinance, and to prescribe their duties;

(d) To receive, initiate and investigate all complaints alleging any discriminatory practice prohibited by this Ordinance;

(e) To appoint mediators who initially shall seek a settlement agreeable to both the complainant and the respondent by means of informal conferences;

(f) If necessary to hold hearings after efforts at settlement, based on complaints made against any person and a determination of probable cause; to administer oaths and take testimony; to compel the production of books, papers, and any other documents relating to any matters involved in the complaint; and to subpoena witnesses and compel their attendance. If a witness either fails or refuses to obey a subpoena issued by the Commission, the Commission may order attendance. At any time after it has issued such an order, the Commission may petition a court of competent jurisdiction for its enforcement;

(g) To issue, after hearing, such final orders as are necessary to promote the purposes of this Ordinance;

(h) To issue temporary orders effective for a maximum of twenty days, absent extraordinary circumstances, restraining the respondent from taking any action which would tend to render ineffectual or unenforceable any order which the Commission might issue;

(i) To refer orders, pursuant to Section (7) of this Ordinance, to the Village Attorney to be enforced by him in the name of the Village of West Salem;

(j) To make available to the public, in writing, copies of:

(i) transcripts of all of its proceedings except initial settlement efforts by its mediators;

(ii) all temporary and final orders, and

(iii) all decisions and opinions rendered;

(k) To require a written report of the manner of compliance with any final order it may issue; and

(i) To recommend to the Village President and the Village Board any legislation necessary to further promote the purposes of this Ordinance, and

(ii) To file annual written reports of its work to the Village President and the Village Board.

(5) Discrimination Prohibited. It is unlawful for any person to discriminate:

(a) By refusing to sell, lease, finance or contract to construct housing or by refusing to discuss

the terms thereof;

(b) By refusing to permit inspection or exacting a different or more stringent price, terms or conditions for the sale, lease or rental of housing;

(c) By refusing to finance or sell an unimproved residential lot or to construct a home or residence upon such lot;

(d) By publishing, circulating, issuing or displaying, or causing to be published, circulated, issued, or displayed, any communication notice, advertisement or sign in connection with the sale, financing, lease or rental of housing, which states or indicates a discrimination in connection with the housing.

(6) Representations Designed to Induce Panic Sales. It is unlawful to induce or attempt to induce any person to sell, rent, or lease any dwelling by representations regarding the present or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin or economic status, or by representations to the effect that such present or prospective entry will or may result in:

(a) The lowering of real estate values in the area concerned;

(b) A deterioration in the character of the area concerned;

(c) An increase in criminal or antisocial behavior in the area concerned; or

(d) A decline in the quality of the schools or other public facilities serving the area.

(7) Requiring References. Nothing in this Section shall be deemed to prohibit an owner, or agent, from requiring that any person who seeks to buy, rent or lease housing supply information concerning family, marital, financial and business status but not concerning race, color, physical condition, developmental disability as defined in Wisconsin Statute Section 51.01(5), sexual orientation, as defined above, or creed.

(8) Enforcement Procedure.

(a) Complaint. Any complaint alleging any discriminatory practice prohibited by this Ordinance shall be in writing. Such complaints may be initiated by:

(i) The complainant, who may mail his complaint to the Commission or dictate it to an agent of the Commission;

(ii) Any agent of the complainant, including any agent who himself has solicited offers to buy, lease, rent or in any other manner seek access to any interest in any part of any housing or housing accommodation, for the complainant; or

(iii) Any member of the Commission on his own initiative. All Complaints shall contain the following:

(a) the name and address of the complainant;

(b) the name and address of the respondent or respondents;

(c) a statement setting forth the particulars of the alleged discrimination or discriminatory practice; and

(d) the date or dates of the alleged discrimination or discriminatory practice.

(b) Where Filed. Complaints shall be filed with the West Salem Commission on Equal Opportunities in Housing, c/o Village Administrator, Community Center, West Salem, Wisconsin, by the complainant, his duly authorized agent or member or duly authorized agent of the Commission, and may be filed in person or by mail.

(c) When Filed. Complaints alleging any discriminatory practice prohibited by this Ordinance shall be filed no later than ninety days after the complainant knew or should reasonably have known that the alleged act or acts occurred.

(d) Notice to Respondent. Upon the filing of a complaint, the Commission shall serve a copy thereof upon the respondent within ten days of said filing.

(e) Amendment and Withdrawal. A complaint may be amended or withdrawn at any time subject to the approval of the Commission or its designated agent and under such terms as the Commission or agent shall direct.

(f) Investigations, Hearings, Determinations, Appeal.

(i) An agent designated by the Commission shall promptly investigate all duly filed complaints. Within thirty (30) days of the filing

of each complaint, said agent shall issue to the complainant and respondent an initial determination in writing of whether probable cause, as defined in this Ordinance, exists, and setting forth the basis of the determination.

(ii) Should a determination be made that there is no probable cause to believe discrimination in violation of this Ordinance has been, or is being committed, the complainant shall be afforded an opportunity to appeal such decision to the full Commission. Should the full Commission decide that there is no probable cause, the complainant may appeal to the Circuit Court of the county in which the property or property interest is located.

(iii) Should a determination be made that there is probable cause to believe discrimination in violation of this Ordinance has been or is being committed, an agent designated by the Commission shall endeavor by means of conference, conciliation or persuasion to eliminate the alleged discriminatory practice.

(iv) In any case where efforts at settlement have failed to eliminate the discriminatory practice alleged by the Complaint, the Commission shall promptly cause to be issued a notice of hearing before a hearing examiner, acting as an agent of the Commission, to determine the merits of the complaint.

(v)

(a) If after a hearing, and on the basis of the official record made therein, the examiner finds that the respondent has engaged in, or is engaging in any discrimination prohibited by this Ordinance, he shall make and recommend to the Commission written finding of fact and conclusions thereon and shall recommend such action to be taken by the respondent and where necessary, by the complainant, as will affect the purposes of this Ordinance by eliminating the discrimination found.

(b) A certified copy of such recommended findings, conclusions and orders, together with a summary of the findings of fact, shall be mailed to the last known address of the complainant and respondent.

(c) If within thirty (30) days following

the mailing of the examiner's decision the Commission does not receive notice of appeal, the findings, conclusions and orders of the examiner shall be the findings, conclusions and orders of the full Commission.

(d) If within thirty (30) days following the mailing of the examiner's decision, the complainant or respondent serves notice of appeal, such appeal may be had to the full Commission. The Commission shall have the power to affirm, reverse, or modify the determination of the hearing examiner. After final determination by the Commission, either party may appeal by certiorari to a court of competent jurisdiction.

(e) Transfer of Proceedings. At any time after a finding or probable cause the Commission, with appropriate notice to the complainant and respondent, may transfer the proceedings to itself.

(f) Disqualification of Commissioners. No Commissioner who, pursuant to Section (8) (A) of this Ordinance, has filed a complaint on his own initiative shall participate in any subsequent hearing or proceeding except as witness, nor shall he participate in the deliberation of the Commission in such case.

(g) Judicial Enforcement. Whenever in the judgment of the Commission, judicial enforcement of a Commission order is necessary, the Commission shall in writing request the Village Attorney to commence proceedings in a court of competent jurisdiction to enforce such orders in the name of the Village of West Salem. Upon receipt of any such request, the Village Attorney shall have the duty to seek the enforcement of such orders in a court of competent jurisdiction.

(9) Remedies and Penalties.

(a) Remedies. The Commission shall have the power and duty, after investigation and hearing, to issue and implement such orders as may be necessary to effect the purposes of this Ordinance. Such orders may include:

- (i) Cease and desist orders;
- (ii) Compensatory damages to the complainant;
- (iii) Affirmative action by the respondent and, where necessary, by the complainant; and
- (iv) Any other orders which may be necessary to effect the purposes of this act.

(b) Penalties. Any person who willfully violates this Ordinance or any lawful order issued hereunder shall, for each such violation, on order of the Commission, forfeit not less than Ten (\$10.00) Dollars or more than Two Hundred (\$200.00) Dollars. Payment of any such forfeiture shall be stayed during the period in which any appeal may be taken and while any appeal is pending. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

(c) No person shall file or cause to be filed any complaint that is not valid or is blatantly untrue, for the purpose of defamation, and with intent to expose any respondent to hatred, contempt, ridicule, degradation or disgrace in society.

(F) **Truancy**.

(1) Definitions. For the purpose of this Section, the following definitions shall be applicable:

- (a) Acceptable Excuse is as defined in Sections 118.15 and 118.16(4), Wis. Stats.
- (b) Act of Commission or Omission. Anything that contributes to the truancy of a juvenile, whether or not the juvenile is adjudged to be in need of protection or services, if the natural and probable consequences of that act would be to cause the child to be truant.
- (c) Habitual Truant. A pupil who is absent from school without an acceptable excuse for part or all of five (5) or more days on which school is held during a school semester.
- (d) Truancy. Any absence of part or all of one (1) or more days from school during which the school attendance officer, principal, or teacher has not been notified of the legal cause of such absence by the parent or legal guardian of the absent pupil. Intermittent attendance carried on for the purpose of defeating the intent of Sec. 118.15, Wis. Stats., shall also be considered truancy.

(2) Prohibition Against Habitual Truant. Any person attending school in the Village between the ages of six (6) and eighteen (18) years, subject to the exceptions found

under Sec. 118.15, Wis. Stats., is prohibited from becoming a habitual truant as the term is defined in this Section. Any police officer in the Village of West Salem is authorized to issue a citation to any such person who is determined to be a habitual truant under the terms of this Section.

(3) Preconditions to Issuance of Citation.

(a) By this Section, the Village of West Salem does prohibit any student within its jurisdiction from being a habitual truant as the term is defined in this Section. The West Salem Police Department is authorized to issue a municipal citation to any such student found within its jurisdiction who is determined to be habitually truant under the terms of this Section.

(b) Prior to the issuance of any citation, the West Salem School District shall certify that it has done the following:

1. Met with or attempted to meet with the juvenile's parent or legal guardian to discuss the juvenile's truancy;
2. Provided an opportunity for educational counseling to the juvenile and considered curriculum modifications;
3. Evaluated the juvenile to determine whether learning problems are the cause of the truancy, and, if so, taken steps to overcome the learning problems; and
4. Conducted an evaluation to determine whether social problems may be a cause of the child's truancy, and, if so, taken appropriate actions or made appropriate referrals.

(c) Any citation issued shall be returnable in the Court in the same manner as all ordinance citations are returnable. The citation is to state on its face that it is a "must appear" citation, and no forfeiture amount is to be written on the face of the citation.

(2.03(F) - created 10/15/02)

2.04 Offenses Against Public and Private Property.

(A) Destruction of Property. No person shall willfully, maliciously, or wantonly break the glass on any street light, or in any window or skylights, or destroy, remove, throw down or injure any fence or other enclosure on land belonging to or lawfully occupied by another, or interfere with any gate or bars

in any such enclosure, or destroy, deface, or injure any building, signboard, fence or railing, being the property of another, or destroy, injure or carry away any tree or any plants, shrubs, vegetables or any other growing things on premises lawfully occupied by another, or walk or run upon the roof of any building not his own, or scratch, mark, write, inscribe upon, or in any manner mutilate or injure any public or private property.

(B) Posting Bills. No person shall post any bill, poster or notice on any telephone or light pole or on any building, fence, gate or tree without the permission of the owner or lessee of the property.

(C) Shoplifting.

(1) The provisions of Wis. Stat. Sec. 943.50 and any amendments, revisions and modifications of that statute, exclusive of any provisions therein relating to the fines to be imposed, are hereby adopted by reference.

(2) Penalty. Any person who violates this Section, including the provisions of Wisconsin Statutes incorporated by reference, shall upon conviction thereof, forfeit no less than Twenty (\$20.00) Dollars or more than Two Hundred (\$200.00) Dollars. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

(D) Littering. No person shall throw or cause or allow the same, deposit, dump or discharge any glass, rubbish, filth or debris upon the streets, alleys, public parks, or other Village property, or upon any private property not owned by him.

Littering Penalty. Any littering incident that involves in excess of one (1) cubic foot of litter shall be penalized with a fine twice the ordinary fine for littering and any second offense or more of any littering shall be penalized with a fine three times the ordinary fine for littering.

(2.04 (D) - Amended 12/16/93)

(E) Refuse. (V.W.S. Code 3.01-.05)

(1) Garbage. The owner or occupant of any house or other building located within Village limits, in which food is kept, shall provide, keep and maintain at all times, for such house, or other building, an adequate metal or plastic container which shall be water tight with a close-fitting cover, have a capacity of not less than 10 nor more than 20 gallons, and shall have no handles. Polyethylene refuse container liners having a nominal gauge of 1.5 mils minimum with proper tie or closure may also be used. The owner or

operator of any multiple dwelling consisting of three (3) or more units shall be required to provide a dumpster or dumpsters of appropriate size for the deposit of refuse. Refuse deposited in said dumpsters shall be collected and removed on a weekly basis. Garbage containers shall be placed upon the boulevard on pickup days or twelve (12) hours preceding. All garbage shall be deposited within these containers, except that hazardous materials shall not be placed in garbage containers. Any collector may refuse to remove such waste after calling the attention to the Village Administrator to the improper placement of the same. "Hazardous materials" means any substance or mixture or substances, including a toy or other article intended for use by children, which is toxic, is corrosive, is an irritant, is a strong sensitizer, is flammable or combustible, or generates pressure through decomposition, heat or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, as defined in Sec. 100.37, Wis. Stats., except that pesticides are included in hazardous materials. (products containing 2, 4, 5-T, silvex and Polychlorinated biphenyls are intended to be included).

(2) Other Refuse. All other waste and refuse must be disposed of at proper times at the property owner's or occupant's expense, except that in the spring, the Village Board shall designate an appropriate schedule for clean-up days and during those days, all articles too large to place in containers, and other refuse placed in proper receptacles for convenient handling shall be hauled away at the expense of the Village if placed upon the boulevard for removal.

(3) Exception. The foregoing subsections of this Section shall not apply to manure, excrement, offal or carrion. Excrement, offal, or carrion must be removed from premises by owners or occupants within 48 hours. Stable manure must be removed from premises by owners or occupants twice weekly during the months from May to October, inclusive.

(4) Putrid Substances. It shall be a nuisance to bring, deposit or leave within Village limits any putrid carcass or other unwholesome substance.

(F) Trespass.

(1) Trespasses Prohibited. It shall be unlawful for any person to trespass within this municipality upon either public or private property.

(2) Specifically Enumerated Trespasses. Without constituting any limitation upon the provisions of Section 1 hereof, any of the following acts by any person shall be deemed a trespass in violation of the provisions of said Section 1, and appropriate action may be taken hereunder at any time, or from time to time, to prevent or punish any violation or violations of this Ordinance.

The aforesaid enumerated acts shall include:

(a) A knowing entry upon the premises, or any part thereof, of another, including any public property in violation of a notice posted or exhibited at the main entrance to said premises or at any point of approach or entry or in violation of any notice, warning or protest given orally or in writing, by any owner or occupant thereof; or

(b) The pursuit of a course of conduct or action incidental to the making of an entry upon the land of another in violation of a notice posted or exhibited at the main entrance to said premises or at any point of approach or entry, or in violation of any notice, warning or protest given orally or in writing by any owner or occupant thereof; or

(c) A failure or refusal to depart from the premises of another in case of being requested either orally or in writing by any owner or occupant thereof; or

(d) An entry into or upon any vehicle, aircraft or watercraft made without the consent of the person having the right to the possession or control thereof, or a failure or refusal to leave any such vehicle, camping trailer, aircraft or watercraft after being requested to leave by the person having such right.

(3) Severance Clause. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance.

(4) Penalties. Any person violating any of the provisions of this Ordinance shall, upon conviction thereof, be fined in an amount not exceeding Five Hundred (\$500.00) Dollars. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

(G) Trespass on Business Parking Lots.

(1) Definitions. As used in this Ordinance, the following terms shall have the following meaning, unless the context clearly indicates a different meaning.

Business parking lot: Any privately owned parking lot providing free parking during business hours adjacent to any store, office building, commercial building or industrial building, for the convenience of employees and customers or patrons.

(2) Trespassing After Hours. No person shall enter or stay on any business parking lot at any time that staying or entering the lot is prohibited by the owner, as shown by a sign at the parking lot. No person shall place or leave any vehicle on any business parking lot at any such time.

(3) Signs. The prohibition set out in Section 2 of this Ordinance shall be in effect at any business parking lot where the owner or person lawfully in charge has posted a sign or signs clearly stating the prohibition. Signs must be placed so that they can be seen either at all entrances to the lot or at prominent locations. Each sign may contain substantially the following language: NO PARKING OR TRESPASSING BETWEEN 10:00 P.M. AND 6:00 A.M.

(4) Exceptions. The following uses of a parking lot shall not be violations of this Ordinance:

(a) Temporary entrance to a business parking lot in an emergency or to avoid an accident.

(b) Entrance by a police officer or officers in the course of duty.

(c) Entrance by fire, ambulance, and other emergency personnel and equipment, in the course of duty.

(d) Entrance by an owner, tenant or employee of any owner or tenant of any establishment served by the parking lot.

(e) Entrance by any Village inspector in the course of duty.

(5) Special Events. The owner or person in charge of any parking lot may grant temporary permission to use the lot during any specified hours when parking or trespassing is normally prohibited, by posting temporary signs or posters to

that effect. The owner or person in charge shall notify the police department of any such temporary permission.

(6) Penalty. Any person violating any provision of this Ordinance shall be fined not less than Five (\$5.00) Dollars nor more than Five Hundred (\$500.00) Dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

(H) Recycling of Garbage and Refuse Required.

(1) Commencing July 1, 1991, the owner and/or resident of each residence, residential unit, apartment, condominium or place of business shall cooperate in the recycling of garbage and refuse by performing the following:

(a) All recyclable material shall be separated from other garbage and refuse and separated into categories of recyclables. Recyclable materials shall consist of:

(i) Aluminum cans, foil, wrappers and containers for prepared dinners;

(ii) Steel or tin cans; and

(iii) Glass, being all products made from silica or sand, ash, limestone, being transparent and being used for bottling of various materials shall be separated by color (clear, green, and brown).

NOTE: Blue glass, flat glass (window glass) ceramics, china, light bulbs, and TV tubes **ARE NOT RECYCLABLE** and should be disposed of in the regular weekly garbage collection.

(b) All motor oil shall be recycled by Village resident delivery to private local disposal sites.

(c) All yard and garden wastes from grass, leaves, and garden plants shall be delivered by Village residents to the Village disposal site located on West Avenue North just north of the Village Garage or may be properly composted in resident's backyard.

(d) All tree limbs and brush are to be cut into manageable lengths of six feet or less and left curbside for Village disposal upon schedule adopted by the Village.

(e) All appliances, used auto tires, used truck tires, or tractor tires, and items of furniture may be placed curbside immediately prior to special large article pickup schedule adopted by the Village. Fees for appliance and tire pickups are as set forth in Appendix "A" Fee Schedule, and all fees must be paid in advance at the Village Administration Office.

(f) All construction or demolition waste must be deposited in a private dumpster which the Village resident must rent from a disposal company.

(g) All non-recyclable materials and items not referred to above will be collected by the Village contractor curbside. Such material must be in clear plastic bags except that newspaper and flattened cardboard may be stacked and bound in bundles not to exceed 30 pounds. Included in this category are plastic materials and non-recyclable glass, such as blue glass, flat window glass, ceramics, china, light bulbs, TV tubes, and Pyrex glass.

(2) It shall be unlawful for any person, firm or corporation to remove, carry away or disturb recyclable materials or garbage and refuse from pick up locations by anyone except the designated recycle or refuse contractor.

(3) Other Disposal Prohibited.

(a) No person shall place any garbage, refuse, demolition material or any other material upon any boulevard, street, sidewalk, alley, or other public way, or upon the property in the possession of another without the possessor's consent, except as provided in this Section.

(b) No person shall accumulate garbage or refuse outside of any building unless it is placed in a metal or plastic container, which is securely closed.

(c) No person who is not a resident of the Village shall transport any garbage, refuse, or demolition material within the Village with the intent to dispose of it within the Village.

(4) Penalty. Any person who violates any provision of Section 2.04(H) shall be required to forfeit not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) Dollars together with the cost of prosecution, and in default of payment shall be imprisoned in the County Jail until such forfeiture and costs are paid, not exceeding thirty (30) days. Each day a violation of this Section

continues shall constitute a separate offense. A continued violation of this Section shall constitute a public nuisance. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

(5) All Ordinance provisions in conflict with the foregoing are hereby repealed.

(2.04(H) - Created 6/27/91)

I. Blowing Grass Clippings and Raking Leaves into Streets.

In the interests of public safety, health and general welfare, community appearance, and efficiency of operation, it shall be unlawful to rake, place, or mow fallen tree leaves or grass clippings onto the pavement or into the gutter of any public street. No person shall permit grass clippings from mower swaths to remain upon sidewalks, street pavements, gutters of any public street, or on abutting property not owned or occupied by him. The penalty for violating this Ordinance is set forth in Section 2.05, and penalties may be adjusted from time to time by Village Board action.

(2.04(I) - Created 7/19/05)

2.05 Penalties.

Any person who violates any Section of this Chapter in which no specific penalty is provided shall be punished by a fine of not less than Ten (\$10.00) Dollars or more than Two Hundred (\$200.00) Dollars. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

2.6 Recycling Ordinance

A. Title. Recycling Ordinance for Village of West Salem, Wisconsin.

B. Purpose. The purpose of this ordinance is to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided in §159.11, Wis. Stats., and chapter NR 544, Wis. Administrative Code.

C. Statutory Authority. This ordinance is adopted as authorized under §287.09(3)(b), Wis. Stats., and incorporated into the Village Code of Ordinances.

D. Abrogation and Greater Restrictions. 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.

E. Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this ordinance is required by Wisconsin Statutes, or by a standard in Chapter NR 544, Wis. Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Chapter NR 544 standards in effect on the date of the adoption of this ordinance, or in effect on the date of the most recent text amendment to this ordinance.

F. Severability. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

G. Applicability. The requirements of this ordinance apply to all persons within the Village Limits of the Village of West Salem, Wisconsin.

H. Administration. The provisions of this ordinance shall be administered by West Salem Village Administrator.

I. Effective Date. The provisions of this ordinance shall take effect on January 1, 1995.

- J. Definitions. For the purpose of this ordinance:
1. **"Bi-metal container"** means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.
 2. **"Container board"** means corrugated paperboard used in the manufacture of shipping containers and related products.
 3. **"Foam polystyrene packaging"** means packaging made primarily from foam polystyrene that satisfied one of the following criteria:
 - a. Is designed for serving food or beverages.
 - b. Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
 - c. Consists of rigid materials shaped to hold

and cushion the packaged article in a shipping container.

4. **"HDPE"** means high-density polyethylene, labeled by the SPI code #2.

5. **"LDPE"** means low density polyethylene, labeled by the SPI code #4.

6. **"Magazines"** means magazines and other materials printed on similar paper.

7. **"Major appliance"** means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, stove, furnace, boiler, dehumidifier, or water heater.

8. **"Multiple-family dwelling"** means a property containing three (3) or more residential units, including those which are occupied seasonally.

9. **"Newspaper"** means a newspaper and other materials printed on newsprint.

10. **"Non-residential facilities and properties"** means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple family dwellings.

11. **"Office paper"** means high grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.

12. **"Other resins or multiple resins"** means plastic resins labeled by the SPI code #7.

13. **"Person"** includes any individual, corporation, partnership, association, local governmental unit, as defined in §66.0131(1)(a), Wis. Stats., state agency or authority or federal agency.

14. **"PETE"** means polyethylene terephthalate, labeled by the SPI code #1.

15. **"Plastic container"** means an individual, separate, rigid plastic bottle, can, jar or carton,

except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.

16. **"Postconsumer waste"** means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in §291.01(7), Wis. Stats., waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in §289.01(17), Wis. Stats.

17. **"PP"** means polypropylene, labeled by the SPI code #5.

18. **"PS"** means polystyrene, labeled by the SPI code #6.

19. **"PVC"** means polyvinyl chloride, labeled by the SPI code #3.

20. **"Recyclable materials"** includes lead acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines; newspaper; office paper; rigid plastic containers; including those made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins; steel containers; waste tires; and bi-metal containers.

21. **"Solid waste"** has the meaning specified in §289.01(33), Wis. Stats.

22. **"Solid waste facility"** has the meaning specified in §289.01(35), Wis. Stats.

23. **"Solid waste treatment"** means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. "Treatment" includes incineration.

24. **"Waste tire"** means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

25. **"Yard waste"** means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than 6 inches in diameter. This term does not include stumps, roots or

shrubs with intact root balls.

K. Separation of Recyclable Materials. Occupants of single family and 2 to 4 unit residences, multiple-family dwellings and non-residential facilities and properties shall separate the following materials from postconsumer waste:

1. Lead acid batteries
2. Major appliances
3. Waste oil
4. Yard waste
5. Aluminum containers
6. Bi-metal containers
7. Corrugated paper or other container board
8. Foam polystyrene packaging
9. Glass containers
10. Magazines
11. Newspaper
12. Office paper
13. Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins
14. Steel containers
15. Waste tires

L. Separation Requirements Exempted. The separation requirements of Section K. do not apply to the following:

1. Occupants of single family and 2 to 4 unit residences, multiple-family dwellings and non-residential facilities and properties that send their postconsumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in Section K. from solid waste in as pure a form as is technically feasible.

2. Solid waste which is burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplemental fuel.

3. A recyclable material specified in Section K. 5. through 15. for which a variance has been granted by the Department of Natural Resources under §287.11(2M), Wis. Stats..

M. Care of Separated Recyclable Materials. To the greatest extent practicable, the recyclable materials separated in accordance with Section K. shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including but not limited to household hazardous waste, medical waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions.

N. Management of Lead Acid Batteries, Major Appliances, Waste Oil and Yard Waste. Occupants of single family and 2 to 4 unit residences, multiple-family dwellings and non-residential facilities and properties shall manage lead acid batteries, major appliances, waste oil, and yard waste as follows:

1. Lead acid batteries shall be disposed of at any battery recycling location.

2. Major appliances, together with residential and commercial furnaces, boilers, dehumidifiers, water heaters, and microwaves will be picked up curbside by the Village on scheduled pick up times for a fee as established from time to time by its Village Board and properly disposed of.

3. Waste oil shall be disposed of by delivery to a full service gas station or automobile repair center maintaining a private recycling program.

4. Yard waste consisting of leaves, grass clippings and garden refuse shall be composted on site or delivered to the Village disposal sight on West Avenue North, just north of the Village garage.

5. Large and bulky items excluding items in 2. above will be picked up curbside on scheduled dates by the Village.

O. Preparation and Collection of Recyclable Materials.
Except as otherwise directed by Village of West Salem, occupants of single family and duplex-unit residences shall do the following for the preparation and collection of the separated materials specified in Section K. 5. through 15.:

1. Aluminum containers shall be placed in the property owners recycling bin and placed curbside for regularly scheduled pickup by Village contractor.

2. Bi-metal containers shall be placed in the property owners recycling bin and placed curbside for regularly scheduled pickup by Village contractor.

3. Corrugated paper or other container board shall be placed in clear plastic bags and will be picked up curbside on regular schedule by Village garbage contractor.

4. Foam polystyrene packaging shall be placed in clear plastic bags and will be picked up curbside on regular schedule by Village garbage contractor.

5.a. All glass containers shall be placed in property owners recycling bin and placed curbside for regularly scheduled pickup by Village garbage contractor.

5.b. Glass in form of window glass, ceramics, china, light bulbs and TV tubes shall be placed in clear plastic bags and will be picked up on regular schedule by the Village garbage contractor.

6. Magazines shall be placed in clear plastic bags and will be picked up on regular schedule by the Village garbage contractor.

7. Newspaper shall be placed in property owner's recycling bin and placed curbside for regularly scheduled pickup by Village garbage contractor.

8. Office paper shall be placed in clear plastic bags and will be picked up on regular schedule by the Village garbage contractor.

9. Rigid plastic containers of all kinds shall be placed in clear plastic bags and will be picked up on regular schedule by the Village garbage contractor.

10. Steel containers shall be placed in clear plastic bags and will be picked up on regular schedule by the Village garbage contractor.

11. Waste tires shall be disposed of in the regularly scheduled curbside pickup for major appliances for a fee to be established from time to time by the Village Board.

P. Responsibilities of Owners or Designated Agents of Multiple-Family Dwellings.

1. Owners or designated agents of multiple-family dwellings shall do all of the following to recycle the materials specified in Section K. 5. through 15.

a. Provide adequate, separate containers for the recyclable materials.

b. Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the established recycling program.

c. Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.

d. Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

2. The requirements specified in 1. do not apply to the owners or designated agents of multiple-family dwellings if the postconsumer waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in Section K. 5. through 15. from solid waste in as pure a form as is technically feasible.

Q. Responsibilities of Owners or Designated Agents of Non-Residential Facilities and Properties.

1. Owners or designated agents of non-residential facilities and properties shall do all of the following to recycle the materials specified in Section K. 5. through 15.:

a. Provide adequate, separate containers for the recyclable materials.

b. Notify in writing, at least semi-annually, all users, tenants and occupants of the properties about the established recycling program.

c. Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.

d. Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

2. The requirements specified in 1. do not apply to the owners or designated agents of non-residential facilities and properties of the postconsumer waste generated within the facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in Section K. 5. through 15. from solid waste in as pure a form as is technically feasible.

R. Prohibitions on Disposal of Recyclable Materials Separated for Recycling.

No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in Section K. 5. through 15. which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

S. Enforcement.

1. For the purpose of ascertaining compliance with the provisions of this ordinance, any authorized officer, employee or representative of Village of West Salem, Wisconsin, 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 Village of West Salem, Wisconsin, who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.

2. Any person who violates a provision of this ordinance may be issued a citation by Village of West Salem, Wisconsin, to collect forfeitures. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any ordinance or law relating to the same or any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this paragraph.

3. Penalties for violating this Ordinance may be assessed as follows:

- a. Any person who violates Section R. may be required to forfeit Fifty (\$50.00) Dollars for the first violation, Two Hundred (\$200.00) Dollars for a second violation, and not more than Two Thousand (\$2,000.00) Dollars for a third or subsequent violation. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.
- b. Any person who violates a provision of this Ordinance, except Section R. may be required to forfeit not less than Ten (\$10.00) Dollars nor more than One Thousand (\$1,000.00) Dollars for each violation. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

T. Inconsistencies. All provisions contained in this

ordinance shall supersede any provisions of Code 2.04 (H), which may be inconsistent with this ordinance.

U. Proper Disposal of Garbage and Recyclables.

(1) Antiscavenging or Unlawful Removal of Garbage and Recyclables. It shall be unlawful for any person, unless under contract with or licensed by the Village, to collect or remove any recyclable material or garbage and/or refuse 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 and garbage disposal.

(2) No Dumping. It shall be unlawful for any person to dispose of or dump garbage or refuse in any street, alley or other public place within the Village 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. No person shall place for collection any garbage at the curb not owned or occupied by such person.

(3) No Burning or Burying. It shall be unlawful to open burn or bury solid waste and recyclables.

(4) Garbage from Outside the Village. It shall be unlawful to bring refuse for disposal (and recyclables) from outside the corporate limits into the Village unless authorized by agreement with the Village.

V. Hauler Specifications.

(1) Hauler Restrictions. Haulers may not dispose in a landfill or burn in a solid waste facility any recyclable materials generated in Village that have been separated for recycling.

(2) Right to Reject Materials. The hauler has the right to reject or leave at the curb any recyclable material that is not prepared according to the specifications in this ordinance or in education material provided by the contractor to the service recipients. Materials may also be left if not separated from solid waste, placed in the proper container, or are not designated recyclable materials for collection. The hauler also has the right to refuse to pick up any solid waste if it contains recyclable containers and material. In such cases, the hauler or attendant shall notify the generator of the materials about the reasons for rejecting the items either in writing or verbally. The hauler shall also keep

a list of such occurrences and provide it to the Village.

(3) Hauler Licensing. Haulers who collect solid waste or recyclables in the Village 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 Village.

(4) Reporting Requirements. The recycling haulers and processors operating in the Village are required to maintain records and report in writing to the Village Administrator or other designee at least by a stipulated time each year. Reports shall include: the amount of solid waste and recyclables processed and/or marketed by item type from the Village; and the final disposal location of solid waste and recyclable material. Failure to report shall be cause for the municipality to revoke any license or sever any contract with the hauler/processor.

W. Other Provisions.

1. **Establish Fees.** The Village Board, from time to time, shall establish fees for service recipients for the payment of collection services for solid waste and recyclables.

2. **Ownership of Recyclables and Refuse.** Recyclable materials and refuse, upon placement at the curb, shall become the property of the Village. Recyclable materials, upon collection by any permitted collector, shall become the property of the contractor.

3. **Exemptions.** The Village 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 Village or its contractors. The Village shall provide written notice to its service recipients of this declaration. Currently all combustibles, except newspapers, are exempt from recycling.

4. **Collection Schedule.** The Village shall establish the time of collection of solid waste and recyclables and the Administrator shall publish and provide written notice of the collection schedule at least once in the spring and fall of each year and at any time when the collection schedule is changed.

5. **Specified Containers.** Solid waste shall be placed for collection in clear plastic bags.

Recyclables shall be placed for collection in Village designated containers.

All solid waste and recyclables shall be placed as herein required at the specified collection point no sooner than twelve (12) hours prior to the regularly scheduled collection time or be allowed to remain at the curb longer than 12 hours thereafter.

6. Placement of Recyclables and Solid Waste for Collection. Except as otherwise specifically directed or authorized by the Village, solid waste and recycling containers shall be placed at the street curb line, adjacent to the premises owned or occupied by the person, of the street designated in the published collection schedule for collection. Materials shall be placed out for collection according to the scheduled days established and published by the Village.

(updated 07/02/2002)