

CHAPTER II

GOOD ORDER AND CRIME PREVENTION

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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. No person, except a law enforcement officer in the performance of an official duty, shall fire or discharge any firearm, rifle, spring gun, air gun, pneumatic pellet gun, slingshot or bow and arrow of any description in his or her possession or under his or her control within Village limits of West Salem without having first obtained written permission from the Chief of Police. Permission from the Chief of Police 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.

Shooting Ranges. This Section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries approved by the Village board, upon the recommendation of the Chief of Police, where proper precautions are taken.

(B) Carrying Concealed Weapons.

(1) No one shall go armed with a concealed weapon except as authorized under state statute.

(2) License and Identification Required.

(a) Any person going armed with a concealed weapon, pursuant to state statute, except a law enforcement officer, shall, at all times while present in or traveling through a public place or a premises held out to the public for the public's use and enjoyment, have upon his or her person a valid license to carry the concealed weapon issued under Wis. Stat. Sec. 175.60, or a valid out-of-state-license to carry the concealed weapon, as that term is defined in Wis. Stat. Sec. 175.60(f), as well as a photographic identification card containing the licensee's name, address and photograph.

- (b) Any person going armed with a concealed weapon, pursuant to state statute, except a law enforcement officer, shall display his or her license to carry a concealed weapon, as well as his or her photographic identification card, to a law enforcement officer upon the request of the law enforcement officer while the officer is acting in an official capacity and with lawful authority.
- (c) Any person who violates subs. (a) or (b) may be required to forfeit not more than \$25, plus the costs of prosecution, except that the person shall be exempted from forfeiture if the person presents, within 48 hours, his or her valid license document or out-of-state license and photographic identification to the law enforcement agency that employs the requesting law enforcement officer.

(3) Weapons Prohibited in Police Department

(a) No person carrying a firearm or weapon as defined by state law shall enter the offices of the West Salem Police Department located within the Village Hall located at 175 South Leonard Street which are posted according to State Law except law enforcement officers.

(b) Any person who violates sub. (a) shall be required to forfeit \$250, plus the costs of prosecution.

(C) Outdoor Burning.

(1) 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 West Salem Volunteer Fire Department Fire Chief and notification to the Village Administrator and Emergency Dispatch Center. This Ordinance shall not apply, however, to a fire in an outdoor fireplace or fire pit or a charcoal or gas fire in an appropriate containing appliance.

(2) Outdoor Solid Fuel Heating Device.

(a) For purposes of this Ordinance, an outdoor solid fuel heating device (furnace) is any device designed to generate heat, hot water, or both, for the interior of a building by solid fuel combustion wherein the enclosure in which the combustion takes

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2.01(C) (2) (a)

place is located outside the building for which heat, hot water, or both is to be generated. This definition includes, but is not limited to, outdoor wood burning heating units, stoves, or boilers.

(b) Notwithstanding anything to the contrary set forth in any other ordinance or Code, no person shall construct, install, operate or use, or suffer to construct, install, operate or use any outdoor solid fuel heating device (furnace) to provide heat to any building or structure or equipment upon any property in the Village of West Salem.

(c) The Village Administrator shall maintain a list of those outdoor solid fuel heating devices that predate the effective date of this Ordinance whose owners register with the Village no later than May 1, 2014. All individuals who own real estate in the Village of West Salem shall receive a notice of this Ordinance and the right to register outdoor solid fuel heating devices, which notice shall be mailed with their 2013 real estate tax bill mailed in December. The notice shall notify all property owners of the existence of this Ordinance and the need to register existing outdoor solid fuel heating devices no later than May 1, 2014. Any of those not registered by said date shall be considered out of compliance with this Ordinance and will have to be removed. Pursuant to the registration, the Village shall document the name of the owner and take pictures of the existing furnace and setup to document its location and current model for the file. Any outdoor solid fuel heating devices that predate the effective date of this Ordinance and are registered by May 1, 2014, shall be allowed to remain on said property even though in violation of this Ordinance. Registered outdoor solid fuel heating devices may not be moved or replaced.

(d) Any person who violates this Section shall be punished as set forth in 2.10 of this Chapter, and each day of violation shall constitute a separate violation of this Ordinance. **(2.01(C) Amended 9/12/13 - Ordinance No. 455)**

(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.

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(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.

2.01(E) (3)

(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 requisitioned 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,

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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) Public and Private Nuisances Prohibited. There may exist in the Village of West Salem residential structures, yards, and vacant areas or combinations thereof which are, or may become, dangerous, overcrowded, inadequately maintained, unhygienic, dilapidated, or unsafe with respect to structural integrity, equipment, or maintenance, and as such constitute a menace to the health, safety, and welfare of the public. Lack of maintenance and progressive deterioration of certain properties have the further effect of creating blighted area conditions, and, if such conditions are not curtailed and removed, the expenditure of large amounts of public funds to correct and eliminate the same will be necessary. Timely regulation and restriction to contain and prevent blight is necessary thereby maintaining the desirability and amenities as well as property values of the neighborhoods in the Village. The purpose of this Section is to protect public health, safety, and welfare by establishing minimum residential property maintenance standards. This Section does not replace or modify standards otherwise established by other portions of this Code of Ordinances for construction, repair, alteration, or use of buildings. This Section is meant to be remedial, and this Section be liberally construed to effectuate the purposes stated herein. Violation of the minimum standards set forth in this Section shall be deemed to be a public nuisance. No person shall erect, contrive, cause, continue, maintain, or permit to exist any public nuisance with the Village of West Salem. 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.

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

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2.01(F) (4) (a) (1)

(1) Adulterated food means all decayed, adulterated, or unwholesome food or drink sold or offered for sale to the public.

(2) Air pollution is the escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust, or other atmospheric pollutants within the Village in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the Village.

(3) Breeding places for vermin includes accumulations of decayed animals or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal, or any material in which flies, mosquitoes, disease carrying insects, rats, or other vermin may breed.

(4) 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 inoperable parts, flat or removed tires, expired or missing license plates, or other defects.

(5) 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.

(6) Junked motor vehicle is any automobile, truck, bus, snowmobile, or motorcycle which is not capable of being legally operated under its own power on any public street in its present condition.

(7) Motor vehicle is defined in Section 340.01(35), Wis. Stats.

(8) Noxious odors means any use of property, substances, or things within the Village emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gasses, effluvia, or stenches extremely repulsive to the physical senses of ordinary persons which annoy,

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2.01(F) (4) (a) (8)

discomfort, injure, or inconvenience the health of any appreciable number of persons within the Village.

(9) Noxious weeds include all noxious weeds and other rank growth of vegetation.

(10) Privy vaults and garbage cans which are not fly-tight.

(11) Public Nuisance means a thing, act, occupation, condition, or use of property which shall continue for such length of time as:

(a) to substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public;

(b) in any way render the public insecure in life or in the use of property;

(c) greatly offend the public morals or decency; or

(d) unlawfully and substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

(12) Stagnant water means all inactive, dormant, or motionless water in which mosquitoes, flies, or other insects can multiply.

(13) Street pollution is any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk, or public place within the Village.

(14) Unburied carcasses are carcasses of animals, birds, or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours of death.

(15) Water pollution is the pollution of any public well, stream, lake, canal, or other body of water by sewage, creamery, or industrial wastes or other substances.

(b)

(1) Prohibition of Litter, Rubbish, or Debris. No owner or occupant shall accumulate or allow the accumulation outside of a building items in quantities which tend to depreciate property values or be detrimental to the appearance, neatness, and cleanliness of the neighborhood or creates a breeding place for vermin or creates air pollution or noxious odors, which items include, but are not limited to: adulterated food, unburied carcasses, items which can hold stagnant water, tires, vehicle or boat or snowmobile or atv/utv parts, refuse, rubbish, metal scraps, machine parts, clothing, footwear, personal property used for hunting or fishing or other outdoor recreation activities other than items which can be registered with the State, appliances other than outdoor grills and smokers, any item not in current working order, gardening pots not containing actively growing flowers or vegetables or herbs, furniture other than outdoor patio type furniture, dilapidated accessory structures not large enough to store an automobile, pallets, wood and other barriers which do not constitute permanent fencing mounted on posts buried four (4) feet in the ground, signs not in conformance with West Salem Ordinance 3.07, and building or construction type materials (unless the materials are being used in a construction project on which work is being performed at least one (1) day a week) on such property.

(b)

(2) Prohibition of Storage of Other Items. No owner or occupant shall accumulate or allow the accumulation outside of a building any of these items which tend to depreciate property values or be detrimental to the appearance, neatness and cleanliness of the neighborhood or create a breeding place for vermin: "disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors" and "inoperable appliances" and any of the following which can be registered with the State of Wisconsin, but which do not have current

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registrations such as highway vehicles, boats, snowmobiles, trailers or recreational vehicles.

(c) 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.

(d) Landscaping. Lawns shall be maintained to a height not to exceed eight (8) inches in length. Plantings, trees and landscape structures shall be maintained so as not to present hazards to adjoining properties or to persons or vehicles traveling on public ways. All premises areas shall be kept free from noxious weeds as defined by Village Ordinances.

(e) Addresses. The Uniform Address System as set forth in Section 5.07 of the Village Code of Ordinances shall be enforced. Any building, which has more than one (1) front door, serving separate occupants, shall be assigned a separate number for each door. When only one number can be assigned to any building, the owner of the building who desires distinctive numbers for the upper and lower portions of the building or for any part of the building which fronts on a street, shall use the suffix "A", "B", "C", etc. All numbers shall be conspicuously placed immediately above or next to the proper door of each building so that the number can be plainly seen from the street.

(f) Fences, walks, driveways, parking areas, and similar paved areas shall be properly maintained in a safe, and substantial condition. Approved walks shall provide convenient all-weather access to building.

(g) Accessory Structures. All accessory structures shall be maintained in a state of good repair and vertical alignment. All accessory structures that are in a deteriorated or dilapidated condition shall be removed or repaired upon notification by the Village Administrator or his or her designee within a reasonable amount of time. All repairs must meet current building code requirements. Such structures include, but shall not be limited to porches, terraces, entrance platforms, garages, driveways, carports, walls, fences, and miscellaneous sheds.

(h) Abandoned Dwellings. The interior and exterior vacant and abandoned dwellings shall be maintained in a nuisance-free condition. The owner of any abandoned dwelling shall:

- (1) Cause all services and utilities to be disconnected from or discontinued to said dwelling;
- (2) Lock all exterior doors and windows of said dwelling;
- (3) Maintain such dwelling so that its foundation, floors, windows, walls, doors, ceilings, roof, porches, and stairs shall be reasonably weathertight, waterproof, rodentproof, structurally sound, and in good repair; and
- (4) Maintain the yard and accessory structures.

(i) Prevailing Regulations. In any case where a provision of this Section is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance or code of the Village existing on the effective date of the ordinance codified herein, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case, where a provision of this Section is found to be in conflict with a provision of any other ordinance or code of the Village existing on the effective date of the ordinance

codified herein which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this Section shall be deemed to prevail, and such other ordinances or codes are declared to be repealed to the extent that they may be found in conflict with this Section.

(j) Citizen Complaint Process. Any person desiring to file a formal, written complaint or notification of an alleged violation of this Section shall do so at the Village Administration Office on forms provided by the Village Administrator. All information on the complaint form must be completed with regard to the alleged violation of this Section and must be signed and dated by the complaining person. Anonymous or verbal complaints will not be processed.

(k) Enforcement. The Police Chief, the Fire Chief, the Building Inspector, and Village Administrator shall enforce those provisions of this Section that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this Section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself or herself that a nuisance does in fact exist.

(l) Summary Abatement. If the inspecting officer shall determine that a public nuisance exists within the Village and that there is a great and immediate danger to the public health, safety, peace, morals, or decency, the Village Administrator may direct the proper officer to cause the same to be abated and charge the costs thereof to the owner, occupant, or person causing, permitting, or maintaining the nuisance. In addition to any other penalty imposed by this Section for the erection, contrivance, creation, continuance, or maintenance of a public nuisance, the cost of abating a public nuisance by the Village shall be collected as a debt from the owner, occupant, or person causing, permitting, or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such

cost shall be assessed against the real estate as a special assessment.

(m) Nonsummary Abatement by Village.

(1) Order to Abate Nuisance. If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten imminent danger to the public health, safety, peace, morals or decency, the officer shall issue an order reciting the existence of a public nuisance and requiring the owner or occupant of the premises to remove or abate the condition described in the order within thirty (30) days of the service of the order or the first publication of the order. The order shall be served personally on the owner of the building, as well as the occupant, if different from the owner and applicable to the described nuisance. If the owner or the occupant cannot be served, the order may be served by posting it on the main entrance of the premises and by publishing as a Class 3 notice under Wis. Stat. Chapter 985. The time limit specified in the order runs from the date of service or date of first publication.

(2) Abatement by Village. If the owner or occupant fails or refuses to comply within the time period prescribed, the inspecting officer shall enter upon the premises and cause the nuisance to be removed or abated either with consent or with an inspection warrant obtained under Wis. Stat. Sec. 66.0119, and the Village shall recover the expenses incurred thereby from the owner or occupant of the premises from the person who has caused or permitted the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special assessment. Nothing in this Section shall be construed as prohibiting the abatement of the public nuisance by the Village in accordance with the laws of the State of Wisconsin. All personal property abated shall be disposed of pursuant to Wis. Stat. Sec. 66.0139 either by public sale if an item

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reasonably has a value exceeding Two Hundred Fifty (\$250.00) Dollars so as to cover publication costs or landfilled for all items below that value.

(3) Remedy from Order. Any person affected by such order shall, within thirty (30) days of service or the first publication of the order, apply to the circuit court for an order restraining the Village and the inspecting officer from entering on the premises and abating or removing the nuisance, or be forever barred. The court shall determine the reasonableness of the order for abatement of the nuisance.

(n) Violations and Penalties. 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 One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars, together with the cost of prosecution and, in default of payment thereof, shall be committed to the La Crosse County Jail for a period not to exceed sixty (60) days. Each day's continuance of such violation shall constitute a separate offense. Fees as set forth in this Section may be amended from time to time by Resolution of the Village Board.

(G) Clinging to a Moving Vehicle.

(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.

(2) No person shall permit any wagon, trailer, 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 unless a Street Privilege Permit is obtained therefor according to the terms set forth in Chapter 5, Section 5.14 of the West Salem Code of Ordinances.

(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) Resisting / Obstructing Officers Prohibited.

(1) Definitions.

(a) 'Resisting' includes, without limitation, any physical act of a person which in any way interferes with or hinders an officer's lawful performance or discharge of his or her official duties.

(b) 'Obstructing' includes, without limitation, providing false information to an officer, which in any way interferes with or hinders an officer's lawful performance or discharge of his or her official duties.

(c) 'Officer' means a peace officer or other public officer or public employee having the authority by virtue of the officer's or employee's office or employment to take another into custody.

(2) It shall be unlawful for any person to resist or obstruct an officer while such officer is discharging any official duty or while the officer is acting in an official capacity and with lawful authority.

(J) 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.

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(K) Restrictions on Sale or Gift of Tobacco Products and Purchase or Possession of Tobacco by Those Under 18.

(1) 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) Purchase or possession of cigarettes or tobacco products by person under 18 prohibited as provided herein.

(a) No person under 18 years of age may falsely represent his or her age for the purpose of receiving any cigarette, nicotine product, or tobacco product.

(b) No person under 18 years of age may purchase, attempt to purchase, or possess any cigarette, nicotine product, or tobacco product except as follows:

(1) A person under 18 years of age may purchase or possess cigarettes, nicotine products, or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer.

(2) A person under 18 years of age, but not under 15 years of age, may purchase, attempt to purchase or possess cigarettes, nicotine products, or tobacco products in the course of his or her participation in an investigation under Sec. 254.916 that is conducted in accordance with Sec. 254.916(3).

(c) No person may purchase cigarettes, tobacco products, or nicotine products on behalf of, or to provide to, any person who is under 18 years of age.

(d) A law enforcement officer shall seize any cigarette, nicotine product, or tobacco product that has been sold to and is in the possession of a person under 18 years of age.

(3) Possession of e-cigarette by Minor.

(a) No person under the age of eighteen (18) years shall be in possession of an e-cigarette, commonly referred to as "juul", "vapes", etc. The lack of a cartridge containing nicotine does not prevent enforcement of this Ordinance.

(b) Penalties. Any person who violates this Section shall be subject to a forfeiture of not less than One Hundred (\$100.00) Dollars, together with the costs of prosecution.

(Section 2.01(K) (3) created by Ordinance 488-6-18-19)

(L) Smoking Prohibited.

(1) Definitions. In this section:

(a) 'Assisted Living Facility' means a community-based residential facility, as defined in s. 50.01(1g), a residential care apartment complex, as defined in s. 50.01(1d), or an adult family home, as defined in s. 50.01(1)(b).

(b) 'Child Care Center' has the meaning given in s. 49.136(1)(ad).

(c) 'Educational Facility' means any building used principally for educational purposes in which a school is located or a course of instruction or training program is offered that has been approved or licensed by a state agency or board.

(d) 'Inpatient Health Care Facility' means a hospital, as defined in s. 50.33(2), a county home established under s. 49.70, a county infirmary established under s. 49.72, a nursing home, as defined in s. 50.01(3), a hospice, as defined in s. 50.90(1), a Wisconsin veterans home under s. 45.50, or a treatment facility.

(e) 'Lodging establishment' means a bed and breakfast establishment as defined in s. 254.61(1), a hotel, as defined in s. 254.61(3) and a tourist rooming house, as defined in s. 254.61(6).

(f) 'Person in Charge' means the person, or his or her agent, who ultimately controls, governs or directs the activities aboard a public conveyance or at a location where smoking is prohibited or regulated under this section.

(g) 'Place of employment' means any enclosed place that employees normally frequent during the course of employment, including an office, a work area, an elevator, an employee lounge, a restroom, a conference room, a meeting room, a classroom, a hallway, a stairway, a lobby, a common area, a vehicle or an employee cafeteria.

(h) 'Private Club' means a facility used by an organization that limits its membership and is organized for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose.

(i) 'Public Conveyance' means a mass transit vehicle as defined in s. 340.01(28m), a school bus as defined in s. 340.01(56), or any other device by which persons are transported, for hire, on a highway or by rail, water, air or guide wire within this state, but does not include such a device while providing transportation in interstate commerce.

(j) 'Public Place' means any enclosed place that is open to the public, regardless of whether a fee is charged or a place to which the public has lawful access or may be invited.

(k) 'Restaurant' means an establishment as defined in s. 254.61(5).

(l) 'Retail Establishment' means any store or shop in which retail sales is the principal business conducted.

(m) 'Retail Tobacco Store' means a retail establishment that does not have a 'Class B' intoxicating liquor license or a 'Class B' fermented malt beverages license and that generates 75 percent or more of its gross annual income from the retail sale of tobacco products and accessories.

(n) 'Smoking' means burning or holding, or inhaling or exhaling smoke from, any of the following items containing tobacco:

- 1.) A lighted cigar.
- 2.) A lighted cigarette.
- 3.) A lighted pipe.
- 4.) Any other lighted smoking equipment.

(o) 'Sports Arena' means any stadium, pavilion, gymnasium, swimming pool, skating rink, bowling center, or other building where spectator sporting events are held.

(p) 'Substantial Wall' means a wall with no opening or with an opening that either does not allow air in from the outside or is less than 25 percent of the wall's surface area.

(q) 'Tavern' means an establishment, other than a restaurant, that holds a 'Class B' intoxicating liquor license or 'Class B' fermented malt beverages license.

(r) 'Tobacco Product' means any form of tobacco prepared in a manner suitable for smoking but not include a cigarette.

(s) 'Treatment Facility' means a publicly or privately operated inpatient facility that provides treatment of alcoholic, drug dependent, mentally ill, or developmentally disabled persons.

(2) Prohibition Against Smoking - Enclosed Places. Except as provided in sub. (6), no person may smoke in any of the following enclosed places:

- (a) Child Care Centers;
- (b) Educational Facilities;
- (c) Inpatient Health Care Facilities;
- (d) Theaters;
- (e) Restaurants;
- (f) Taverns;
- (g) Private Clubs;
- (h) Retail Establishments;
- (i) Common areas of multiple-unit residential properties;
- (j) Lodging Establishments;
- (k) State, County or Village Buildings;
- (l) All enclosed places, other than those listed in subs. (2)(a)- (2)(l) that are places of employment or that are public places.

(3) Prohibition Against Smoking - Outdoor Locations. No person may smoke at any of the following outdoor locations:

- (a) Anywhere on the premises of a child care center when children who are receiving child care services are present;
- (b) A Sports Arena;
- (c) A Public Conveyance;
- (d) A location that is 25 feet or less from the entrance to a State, County or Village Building.

(4) Responsibility of Persons in Charge. No person in charge may allow any person to smoke in violation of subs. (2) or (3) at a location that is under the control or direction of the person in charge.

- (a) A person in charge may not provide matches, ashtrays, or other equipment for smoking at the location where smoking is prohibited.

(b) A person in charge shall make reasonable efforts to prohibit persons from smoking at a location where smoking is prohibited by doing all of the following:

(1) Posting signs setting forth the prohibition and providing any other appropriate information concerning the prohibition.

(2) Refusing to serve a person, if the person is smoking in a restaurant, tavern or private club.

(3) Asking a person who is smoking to refrain from smoking, and, if the person refuses to do so, asking the person to leave the location.

(c) If a person refuses to leave a location after being requested to do so as provided in par. (b) (3), the person in charge shall immediately notify the Village Police Department of the violation.

(d) A person in charge may take measures in addition to those listed in secs. (4) (a) and (b) to prevent persons from being exposed to others who are smoking or to further ensure compliance with this section.

(5) Designated Outdoor Area. The person in charge of restaurant, tavern, private club, or retail establishment located in an area subject to this ordinance may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern, private club, or retail establishment where customers, employees, or persons associated with the restaurant, tavern, private club, or retail establishment may smoke. Pursuant to sec. 101.123(4m), no definition of 'reasonable distance' shall be set forth within this ordinance.

(6) Exceptions to Smoking in Enclosed Places. The prohibition against smoking in sub. (2) does not apply to the following:

(a) A private residence;

(b) A room used by only one person in an assisted living facility as his or her residence;

(c) A room in an assisted living facility in which 2 or more persons reside if every person

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who lives in that room smokes and each of those persons has made a written request to the person in charge of the assisted living facility to be placed in a room where smoking is allowed;

(d) A retail tobacco store that was in existence on June 3, 2009, and has continuously been in existence since that time, and in which only the smoking of cigars and pipes is allowed;

(e) A tobacco bar that was in existence on June 3, 2009, and has continuously been in existence since that time, and in which only the smoking of cigars and pipes is allowed.

(7) Penalties.

(a) Any person who violates subs. (2) or (3) shall be subject to a forfeiture of not less than \$50 nor more than \$100 for each violation, together with the costs of prosecution.

(b) Any person, having previously received a 'warning notice' under sub. (7)(c), who violates sub. (4)(a) - (4)(c) a second time, shall be subject to a forfeiture of not less than \$50 nor more than \$100 for each violation, together with the costs of prosecution.

(c) For violations subject to forfeiture under sub. (7)(b), if the person in charge has not previously received a 'warning notice' for a violation of sub. (4)(a) - (4)(c), the Village Law Enforcement Officer shall issue the person in charge a 'warning notice' and may not issue a citation.

(d) No person in charge may be required, under sub. (7)(b), to forfeit more than \$100 in total for violations of sub. (4)(a) - (4)(c) in a single day, together with the costs of prosecution.

(M) 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.

(N) Possession of Marijuana and Synthetic Cannabinoids.

No person shall possess any amount of marijuana, tetrahydrocannabinols, or any derivative thereof, or any amount of synthetic cannabinoids including, but not limited to substances containing one or more of the chemical compounds HU-210, HU-211, JWH-018 or JWH-073, and with the common 'street' names such as 'Spice' and/or 'K2' 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.

- (1) For the purposes of this section a licensed physician or pharmacist means a person licensed, registered other otherwise permitted to distribute, dispense or administer a controlled substance in the course of professional practice in the State of Wisconsin.
- (2) For the purposes of this section a valid medical purpose means one which is not contrary to the laws of the State of Wisconsin, including, but not limited to, Chapter 961 of the Wisconsin Statutes.
- (3) This section does not apply to any person who is found to be in possession of more than twenty-five (25) grams of marijuana.
- (4) This section does not apply to any person who has previously been convicted for a violation of 2.01(M), or a violation of Sec. 961.41(3g)(e), Wis. Stats.
- (5) Penalties. Any person who violates this section shall be subject to a forfeiture of \$250, together with the costs of prosecution.

(O) Possession of Synthetic Cathinones. No person shall possess any amount of synthetic cathinones, including, but not limited to substances containing the chemical compounds mephedrone or MDPV (3-4 methylenedioxypyrovalerone), and with the common 'street' name 'bath salts' 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.

- (1) For the purposes of this section a licensed physician or pharmacist means a person licensed, registered other otherwise permitted to distribute, dispense or administer a controlled substance in the course of professional practice in the State of Wisconsin.

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(2) For the purposes of this section a valid medical purpose means one which is not contrary to the laws of the State of Wisconsin, including, but not limited to, Chapter 961 of the Wisconsin Statutes.

(3) This section does not apply to any person who has been previously convicted for a violation of 2.01(N), or a violation of Sec. 961.41(3g)(d), Wis. Stats.

(4) Penalties. Any person who violates this section shall be subject to a forfeiture of \$250, together with the costs of prosecution.

(P) 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

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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 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 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,

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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 who is under 17 years of age shall violate Secs. 961.573, 961.574 or 961.575, Wis. Stats., by possessing drug paraphernalia, by manufacturing drug paraphernalia, or by delivering drug paraphernalia to a person under 17 years of age who is at least three (3) years younger than the violator.
- (6) This section does not apply to any person who has previously been convicted for a violation of 2.01(0), or a violation of Sec. 961.573(1), Wis. Stats.
- (7) Penalties.
 - (a) Any person who violates subs. (3) or (4) of this section shall be subject to a forfeiture of \$150, together with the costs of prosecution.
 - (b) Any person who violates sub. (5) of this Section shall, upon conviction, be subject to disposition under Sec. 938.344(2)(e), Wis. Stats.

(Q) Possession of Controlled Substance.

(1) Definitions:

(a) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I to V of subchapter II of Wisconsin State Statute 961.

(b) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance included in Schedule I or II and:

(i) Which has a stimulant, depressant, narcotic, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, narcotic, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II; or

(ii) With respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II.

- (c) "Controlled substance analog" does not include:
- (i) A controlled substance;
 - (ii) A substance for which there is an approved new drug application;
 - (iii) A substance with respect to which an exemption is in effect for investigational use by a particular person under 21 USC 355 to the extent that conduct with respect to the substance is permitted by the exemption; or
 - (iv) Any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(2) Possession. No person may possess or attempt to possess a controlled substance or a controlled substance analog unless the person obtains the substance or the analog directly from, or pursuant to, a valid prescription or order of, a practitioner who is acting in the course of his or her professional practice, or unless the person is otherwise authorized by Chapter 961 of Wisconsin State Statutes to possess the substance or the analog.

(3) Possession of RX W/O Prescription. No person may possess a prescription drug unless the prescription drug is obtained in compliance with this Section.

(4) Penalties. Any person who violates this Section shall be subject to a forfeiture of not less than Two Hundred Fifty (\$250.00) Dollars, together with the costs of prosecution.

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.

(1) 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.

(2) No person shall use vulgar, profane or obscene language in any public place within Village limits without provocation and under circumstances in which the language tends to cause or provoke a disturbance.

(C) Loud and Unnecessary Noise 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) Types of Loud and Unnecessary Noises.

(a) Horns, Signaling Devices. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the Village for longer than three (3) seconds in any period of one (1) minute or less, except as a danger warning; the creation of any unreasonable loud or harsh sound by means of any signaling device and the sounding of any plainly audible device for an unnecessary and unreasonable period of time; the use of any horn, whistle or other device operated by engine exhaust and the use of any signaling device when traffic is for any reason held up.

(b) Radios, Satellite Radios and Digital Music Devices. The using, operating or permitting to be played, used or operated any radio, satellite radio or digital music device for the production or reproduction of sound in a loud and unnecessary manner. The operation of any of the above-referenced devices between the hours of 10:00 pm and 7:00 am in a manner as to be plainly audible at the property line of the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(c) Exhausts. The discharge into the open air of the exhaust of 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. The use of muffler cutouts, bypasses or similar devices is prohibited. No person shall operate any motor vehicle with a loud or defective muffler or exhaust system such as produces annoyance,

inconvenience, discomfort, or hurt to any person, or disturbs the enjoyment of property or comfort of any person. Prima facie evidence of a violation of this section is muffler or exhaust noise emanating from a vehicle which is audible from a distance of seventy-five (75) feet or more.

(d) Construction or Repair of Buildings. The erection (including excavation), demolition, construction, alteration or repair of any building, as well as the operation of any construction equipment or any other similar equipment attended by loud or unusual noise, other than between the hours of 7:00 am and 8:00 pm on weekdays and 8:00 am and 8:00 pm on weekends.

(e) Schools and Churches. The creation of any excessive noise on any street adjacent to any school, institution of learning or church while in use, which unreasonably interferes with the normal operation of that school, institution of learning or church. No person, while on public or private grounds adjacent to any building, or while within any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace or good order and operation of such school session or class thereof. No person, while on public or private grounds adjacent to any church, shall willfully make or assist in the making of any noise or diversion which tends to disturb the peace or good order and operation of the church while church activities are underway.

(D) Harassment Prohibited.

(1) Harassment. No person, with intent to harass or intimidate another person, shall do any of the following; each instance shall be considered a separate violation; and whoever commits any of the following acts shall be subject to the penalties in Section 2.10 of these Ordinances:

(a) Strike, shove, kick or otherwise subject the person to physical contact or attempts or threatens to do the same.

(b) Engage in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose.

(2) Harassing or Obscene Telephone Calls, Text Messages, Social Media Applications, and E-Mails.

No person shall do any of the following; each instance shall be considered a separate violation; and whoever commits any of the following acts shall be subject to the penalties in Section 2.10 of this Ordinance. Messages can be defined

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as, but not limited to: text, picture(s), audio message(s), or other forms of communication.

(a) Make a telephone call, send a text message, send an electronic message via social media applications, or send an e-mail which makes any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, or indecent;

(b) Make a telephone call, send a text message, send an electronic message via social media applications, or send an e-mail, whether or not conversation or correspondence ensues, with the intent to abuse, threaten, or harass any person at the called or texted number or numbers, or e-mail address or addresses;

(c) Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number or numbers;

(d) Makes repeated telephone calls, sends repeated text messages, send an electronic message via social media applications, or sends repeated e-mails, during which conversation or correspondence ensues, solely to harass any person at the called number or numbers; or

(e) Knowingly permits any landline telephone, satellite phone, cellular phone, laptop, electronic tablet, or desktop computer, under his or her control, to be used for any purpose prohibited by this Ordinance.

(3) Unlawful use of computerized communications systems.

(a) In this Section, "message" shall mean any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature, or any transfer of a computer program, as defined in Sec. 943.70(1)(c), Wis. Stats.

(b) Whomever does any of the following is in violation of this Ordinance:

(i) With intent to frighten, intimidate, threaten, abuse or harass another person, sends a message to the person on an electronic mail or other computerized communication system and in that message threatens to inflict injury or physical harm to any person or the property of any person.

(ii) With intent to frighten, intimidate, threaten, abuse, or harass another person, sends a message on an electronic mail or other

computerized communication system with the reasonable expectation that the person will receive the message and in that message threatens to inflict injury or physical harm to any person or the property of any person.

(iii) With intent to frighten, intimidate, threaten, or abuse another person, sends a message to the person on an electronic mail or other computerized communication system and in that message uses any obscene, lewd, or profane language or suggests any lewd or lascivious act.

(iv) With intent to frighten, intimidate, threaten or abuse another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message and in that message uses any obscene, lewd, or profane language or suggests any lewd or lascivious act.

(v) With intent to frighten, intimidate, threaten, or abuse another person, sends a message to the person on an electronic mail or other computerized communication system while intentionally preventing or attempting to prevent the disclosure of his or her own identity.

(vi) While intentionally preventing or attempting to prevent the disclosure of his or her identity and with intent to frighten, intimidate, threaten, or abuse another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message.

(c) Whoever does any of the following is in violation of this Ordinance:

(i) With intent to harass, annoy, or offend another person, sends a message to the person on an electronic mail or other computerized communication system and in that message uses any obscene, lewd, or profane language or suggests any lewd or lascivious act.

(ii) With intent to harass, annoy, or offend another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message and in that message uses any obscene, lewd, or profane language or

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suggests any lewd or lascivious act.

(iii) With intent solely to harass another person, sends repeated messages to the other person on an electronic mail or other computerized communication system.

(iv) With intent solely to harass another person, sends repeated messages on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the messages.

(v) With intent to harass or annoy another person, sends a message to the person on an electronic mail or other computerized communication system while intentionally preventing or attempting to prevent the disclosure of his or her own identity.

(vi) While intentionally preventing or attempting to prevent the disclosure of his or her identity and with intent to harass or annoy another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message.

(vii) Knowingly permits or directs another person to send a message prohibited by this Section from any communication system and that is under his or her control.

2.02 (D) (2) and (3) created by Ord. 488-6-19-19)

(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 947.015 Bomb Scares
Section 947.02 Vagrancy
Section 947.06 Unlawful Assemblies and Their Suppression

(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

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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 Appendix "A" Fee Schedule.

(G) Sexting by Minors Prohibited.

(1) Definitions:

(a) "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple. A mother's breastfeeding of her baby does not under any circumstance constitute "nudity," irrespective of whether or not the nipple is covered during or incidental to feeding.

(b) "Harmful to Minors" means any reproduction, imitation, characterization, description, exhibition, presentation or representation, of whatever kind of form, depicting nudity, sexual conduct, or sexual excitement when it:

(i) Predominately appeals to prurient, shameful, or morbid interest;

(ii) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and

(iii) Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

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

(d) "Solicit" can mean various forms such as verbal, written electronic, audio, etc.

(e) "Harmful to minors" can also be applied to material that is sexually explicit in nature and is in the form of cartoons, memes, drawings, etc.

(2) A minor commits the offense of sexting if he or she knowingly:

(a) Uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any photograph or video of any person which depicts nudity, as defined above, and is harmful to minors, as defined above.

(b) Possesses a photograph or video of any person that was transmitted or distributed by another person which depicts nudity, as defined above, and is harmful to minors, as defined above. A minor does not violate this paragraph if all of the following apply:

(i) The minor did not solicit the photograph or video;

(ii) The minor took reasonable steps to report the photograph or video to a school or law enforcement official; and

(iii) The minor did not transmit or distribute the photograph or a video to a third party other than a school or law enforcement official.

(c) Uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any text, correspondence, or message of a sexual nature when it:

(i) Predominately appeals to a prurient, shameful, or morbid interest;

(ii) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and

(iii) Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

(d) Solicits the transmission or distribution of any text, correspondence, message, photograph, or video from another minor that would itself be prohibited under this Section 2.02 of the Code of Ordinances.

(3) Any person who violates any provision of this Ordinance is subject to a forfeiture of not less than One

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Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars, together with the costs of prosecution. A person who is in default of payment is subject to imprisonment in the La Crosse County Jail until the forfeiture and costs are paid.

(H) Restrictions on Use of Facsimile Firearms.

(1) In this Section, "facsimile firearm" means any replica, toy, starter pistol, or other object that bears a reasonable resemblance to or that reasonably can be perceived to be an actual firearm. "Facsimile firearm" does not include any actual firearm.

(2) No person may carry or display a facsimile firearm in a manner that could reasonably be expected to alarm, intimidate, threaten, or terrify another person.

(3) Subsection (2) does not apply to any of the following:

(a) Any peace officer acting in the discharge of his or her official duties. Notwithstanding Wis. Stat. Sec. 939.22 (22), this paragraph does not apply to a commission warden.

(b) Any person engaged in military activities, sponsored by the State or Federal government, acting in the discharge of his or her official duties.

(c) Any person who is on his or her own real property, in his or her own home, or at his or her own fixed place of business.

(d) Any person who is on real property and acting with the consent of the owner of that property.

(4) Penalties. Any person who violates this Section shall be subject to a forfeiture of not less than One Hundred (\$150.00) Dollars, together with the costs of prosecution.

(I) False 911 Calls

(1) No person shall intentionally dial the telephone number "911", or text "911", to report an emergency or illicit an emergency responder response, knowing that the fact of the situation in which he or she is reporting does not exist or is intentionally misrepresented.

(2) Penalties. Any person who violates this Section shall be subject to a forfeiture of not less than One Hundred Fifty (\$150.00) Dollars, together with the costs of prosecution.

(2.02(G), (H), and (I) created by Ord. 488 - 6-18-19)

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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 such person stands, sits, loaf, lounges, wanders or strolls in an aimless manner for no obvious reason, 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 him or herself or manifestly endeavors to conceal him or herself 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 or her to identify him or herself and explain his or her 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) Violation by a Child. It shall be unlawful for any child seventeen (17) years of age or younger to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, place of amusement and entertainment, cemetery, playground, public building or any other public place in the Village of West Salem between the hours of 11:00 pm and 5:00 am, Sunday through Thursday and between the hours of 12:00 midnight and 5:00 am, Friday and Saturday (meaning Saturday morning and Sunday morning), unless the child is accompanied by a parent,

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guardian or some other person of lawful age having legal custody of such child. The fact that said child, unaccompanied by a parent, guardian or some other person of lawful age having legal custody of such child is found upon any such public place during the aforementioned hours shall be prima facie evidence that said child is there unlawfully and that no reasonable excuse exists therefor.

(2) Responsibility of Parent or Guardian. It shall be unlawful for any parent or guardian to knowingly permit their child or ward, who is seventeen (17) years of age or younger, to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, place of amusement and entertainment, cemetery, playground, public building or any other public place in the Village of West Salem between the hours of 11:00 pm and 5:00 am, Sunday through Thursday and between the hours of 12:00 midnight and 5:00 am, Friday and Saturday (meaning Saturday morning and Sunday morning), unless the child is accompanied by a parent, guardian or some other person of lawful age having legal custody of such child. The fact that prior to the present offense a parent or guardian was informed by any law enforcement officer of a separate violation of this Section occurring within thirty (30) days of the present offense shall be prima facie evidence that such parent or guardian allowed or permitted the present violation. Any parent or guardian herein who shall have made a missing person notification to the Village Police Department shall not be considered to have allowed or permitted any person seventeen (17) years of age or younger to violate this Section.

(3) Exceptions.

(a) This section shall not apply to a child who is seventeen (17) years of age or younger:

(1) Who is performing an errand as directed by the child's parent or guardian or person; or;

(2) Who is on the child's own premises; or;

(3) Who is present at another child's own premises with permission of that child's parent or guardian; or;

(4) Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours; or;

(5) Who is returning home from a supervised school, church or civic function, but not later than thirty (30) minutes after the ending of such function if it occurred within the Village limits, or no later than thirty (30) minutes after the child's arrival back within Village limits if the

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function occurred at a location outside the Village limits, including, but not limited to 'away' games or athletic events.

(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) Truancy.

(1) In this section the following terms have the following meanings:

(a) "Dropout" has the meaning given in s. 118.153(1) (b).

(b) "Habitual truant" has the meaning given in s. 118.16(1) (a).

(c) "Operating privilege" has the meaning given in s. 340.01(40).

(d) "Truant" means a pupil who is absent from school without an acceptable excuse under ss. 118.15 and 118.16(4) for part or all of any day on which school is held during a school semester.

(2) Truants.

(a) Prohibition: A person under the age of 18 who is assigned to attend a school in the Village of West Salem shall not be truant.

(b) Dispositions: When a person is found to be truant, the following dispositions shall be available to the court:

(1) An order for the person to attend school.

(2) A forfeiture of not more than \$50 plus costs for a first violation, or a forfeiture of not more than \$100 plus costs for any 2nd or subsequent violation committed within 12 months of a previous violation, subject to s. 938.37 and subject to s. 938.37 and subject to a maximum cumulative forfeiture amount of not more than \$500 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the

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parents or guardian of the person, or both.

(3) An order for the person to report to a youth report center after school, in the evening, on weekends, on other non-school days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in s. 938.342 (1d)(c).

(3) Habitual Truants.

(a) Prohibition: A person under the age of 18 who is assigned to attend a school in the Village of West Salem shall not be a habitual truant.

(b) Dispositions: When a person is found to be a habitual truant, the following dispositions shall be available to the court:

(1) Suspension of the person's operating privilege for not less than 30 days nor more than one year. The court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the Department of Transportation a notice stating the reason for and the duration of the suspension.

(2) An order for a person to participate in counseling or a supervised work program or other community service work as described in s. 938.34(5g). The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both. Any county Department of Human Services or Social Services, community agency, public agency or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned pursuant to an order under this paragraph acting in good faith has immunity from any civil liability in excess of \$25,000 for any act or omission by or impacting on that person.

(3) An order for the person to remain at home except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.

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(4) An order for a person to attend an educational program as described in s. 938.34 (7d).

(5) An order for the Department of Workforce Development to revoke, under s. 103.72, a permit under s. 103.70 authorizing the employment of the person.

(6) An order for the person to be placed in a teen court program as described in s. 938.342(1g)(f).

(7) An order for the person to attend school.

(8) A forfeiture of not more than \$500 plus costs, subject to s. 938.37. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

(9) Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.

(10) An order placing the person under formal or informal supervision, as described in s. 938.34(2), for up to one year.

(11) An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.

(12) An order for the person to report to a youth report center after school, in the evening, on weekends, on other non-school days, or at any other time that the person is not under immediate supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in s. 938.342 (1g)(k).

(4) Dropouts.

(a) Prohibition: No person shall be a dropout.

(b) Disposition: The court may suspend the operating privilege of a person who is at least 16 years of age but less than 18 years of age and is a dropout. The court may suspend the person's operating privilege until the person reaches the age of 18. The court may take possession of any suspended license. If the court takes possession

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of a license, it shall destroy the license. The court shall forward to the Department of Transportation a notice stating the reason for and the duration of the suspension.

(5) Person who is under 17 years of age on the date of disposition is subject to s. 938.342.

(E) Contributing to Truancy.

(1) Except as provided in sub. (2), No person 17 years of age or older who shall, by any act or omission, knowingly encourage or contribute to the truancy, as defined under s. 118.16 (1) (c), of a person 17 years of age and under.

(2) Subsection (1) does not apply to a person who has under his or her control a child who has been sanctioned under s. 49.26 (1) (h).

(3) An act or omission contributes to the truancy of a child, whether or not the child is adjudged to be in need of protection or services, if the natural and

2.03(E) (3)

probable consequences of that act or omission would be to cause the child to be truant.

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

(G) Discrimination in Housing Prohibited.

(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.

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(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.

(i) "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.

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

(k) "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;

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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

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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;

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(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

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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

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2.03(G) (8) (f) (ii)

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)

(i) 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.

(ii) 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.

(iii) 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.

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2.03(G) (8) (f) (v) (f) (iv)

(iv) 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.

(v) 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.

(vi) 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.

(vii) 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

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(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.

(H) Lewd and Lascivious Behavior.

(1) Whoever does any of the following is guilty of this Ordinance:

(a) Commits an indecent act of sexual gratification with another with knowledge that they are in the presence of others; or

(b) Publicly and indecently exposes genitals or public area.

(2) Subsection (1b) does not apply to a mother's breast-feeding of her child

(3) Penalties. Any person who violates this Section shall be subject to a forfeiture of not less than One Hundred Fifty (\$150.00) Dollars, together with the costs of prosecution.

(I) Making Lewd, Obscene or Indecent Drawings.

(1) Whoever makes, creates, posts, paints, or draws any lewd, obscene, or indecent drawing or writing in the public or in a public place is guilty of this Section.

(2) Penalties. Any person who violates this Section shall be subject to a forfeiture of not less than One Hundred (\$100.00) Dollars, together with the costs of prosecution.

(2.03(G) and (I) created by Ord. 488 - 6-18-19)

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 or her own, or scratch, mark, write, spray paint, inscribe upon, or in any manner mutilate or injure any public or private property.

(B) Damage to Property. No person shall intentionally cause damage to any physical property of another without the person's consent.

(C) Graffiti. No person shall intentionally mark, draw or write with paint, ink or another substance on or intentionally etch into the physical property of another without the other person's consent.

(D) 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. No signs shall be placed on private property without the express permission of the property owner. No signs are permitted on Village right-of-ways.

(E) 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.

(F) Theft.

(1) No person shall intentionally take and carry away, use, transfer, conceal or retain possession of moveable property of another without his consent and with intent to deprive the owner permanently of possession of such property, where the value of the property does not exceed five-hundred dollars (\$500.00).

(2) Penalty. Any person who violates this Section, shall upon conviction thereof, forfeit no less than Twenty (\$20.00) Dollars nor 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.

(G) Gas Drive Offs.

(1) No person shall pump or otherwise deposit gasoline (whether regular unleaded, premium or diesel fuel) into any motor vehicle, any motorized device powered through the use of gasoline or any gasoline container or receptacle, at a business establishment within the Village limits of West Salem which is engaged in the business of selling gasoline products to consumers, without remitting payment, in full, for the value of the pumped or otherwise deposited gasoline.

(2) It shall be prima facie evidence of a violation of this section if an individual pumps or otherwise deposits gasoline into a motor vehicle and drives said vehicle away from the business establishment without remitting payment, in full, for the value of the pumped or otherwise deposited gasoline.

(3) Any person who violates this Section, shall upon conviction thereof, forfeit no less than Fifty (\$50.00) Dollars nor 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.

(H) Entry Into an Unlocked Vehicle with Intent to Steal.

(1) No person shall intentionally enter an unlocked, but enclosed portion or compartment of a motor vehicle of another, without consent and with intent to steal therefrom.

(2) Penalty. Any person who violates this Section, shall upon conviction thereof, forfeit no less than Twenty (\$20.00) Dollars nor 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.

(I) 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.

(J) 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.

(K) 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 thirty (\$30.00) 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.

2.05 Yard and Garden Waste.

(A) 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. Business entities are not allowed to dispose of yard and garden wastes at the Village disposal site. The Village does not collect yard and garden waste from residences. Burning yard and garden waste is not allowed. All bags or containers used to transport yard and garden wastes to the designated disposal site must be placed in the garbage barrel provided on site or disposed of properly off site by resident. Residents disposing of garbage, bags, debris, or other items not yard or garden waste will be subject to the penalties set forth in this Ordinance.

(B) 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 said person. The penalty for violating this Ordinance is set forth in

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Section 2.08, and penalties may be adjusted from time to time by Village Board action.

(C) Penalty. Any person violating any provision of Sections 2.05(A) and 2.05(B) of this Ordinance shall be fined not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) 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.

(D) Weed and Grass Cutting.

(1) Definitions.

(a) Weeds are defined as plants of no value that tend to choke out more desirable plants, such as creeping charlie.

(b) Noxious weeds are defined as physically harmful plants, such as poison ivy.

(2) Duty to Cut and Prevent Accumulation. It shall be the duty of every owner, possessor or occupier of land within the Village, or of every person having charge of any such lands, including undeveloped lots and piles of dirt, to do the following:

(a) Cut or cause to be cut all weeds, and grass, or other such growth, as often as may be necessary before growth is to a height of more than eight (8") inches.

(b) Cut or cause to be cut or otherwise destroy all noxious weeds, nuisance weeds, or other growth, as described in Wisconsin Statutes 23.235 and 66.0407, as often as may be necessary to prevent said growth from blooming or growing to a height of more than eight (8") inches.

(c) Prevent accumulation of brush piles on such lands as may be detrimental to the health and safety of the citizens of the community.

(3) Exceptions. The exceptions to the eight (8") inch height are decorative grasses, such as pampas grass, grown on a developed lot and which does not obstruct view of the street or cause a safety or traffic hazard for neighbors, vehicles, or pedestrians.

(4) Rain Gardens. A rain garden may be established on a lawn if such rain garden has been approved by the Public Works Director prior to beginning the project.

(5) Refusal or Neglect. In case the owner, possessor or occupier of land, or the person in charge thereof, shall refuse or neglect to comply with the provisions of this

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Section, it shall be the duty of the Public Works Director to cause such growths to be cut down, charging the cost thereof to each tract of land, describing the same and upon non-payment of such charges, the amounts due shall be filed with the Village Administrator who shall enter the amount chargeable to each tract of land in the next tax roll as a tax on the lands upon which such weeds and grass were cut, and shall be collected as all other taxes.

(6) Failure to Comply. In the event of failure to comply with this Ordinance as required, the Public Works Director shall either:

(a) cause the cutting of the weeds and grass by the Public Works Department. The Public Works Director shall report all work done under this Ordinance to the Village Administrator. The Village Administrator shall send a statement of charges to the responsible party. The statement is to conform to the following schedule:

(i) A minimum as set forth in Appendix "A" Fee Schedule for each cutting by the Public Works Department;

(ii) A per hour charge as set forth in Appendix "A" Fee Schedule or fraction thereof for cutting by the Public Works Department; or

(b) or hire a private contractor to perform the work, in which instance the total cost thereof shall be reported to the Village Administrator for inclusion in the tax roll.

(7) Irregular Conditions. If in the judgment of the Public Works Director, the land requiring such cutting is so irregular in terrain or irregular by virtue of debris thereon, that cutting would damage equipment, the cost of correcting the deficiency by the Public Works Department at the hourly charge as set forth in Appendix "A" Fee Schedule and/or by private contractor (at the amount billed by such contractor and all of which billing shall be added to the cost) shall be included in the tax roll. The procedure for notice to the responsible party is pursuant to Wis. Stat. Sec. 66.0407(4) by annual statutory publication and/or by the Public Works Director.

2.06 Tree Limbs and Brush

(A) Tree limbs and brush can be delivered by Village residents only to the Village disposal site located on West Avenue North just north of the Village Garage. Business entities are not allowed to dispose of tree limbs and/or brush at the Village disposal site. Tree limbs and brush can also be left curbside for Village disposal upon a schedule adopted by the Village. If

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left curbside, tree limbs and brush must be cut less than twelve (12) feet in length and cannot be thicker than six (6) inches in diameter. Disposal of brush in excess of six (6) inches in diameter is the resident's responsibility. Branches shorter than twenty-four (24) inches and less than three-quarters (3/4) inch in diameter should be taken to the yard waste disposal site. Brush and tree limbs should be neatly stacked with stems pointing in one direction. Tree limbs and brush may also be bundled tightly. Residents are allowed to place two (2) medium-sized piles no more than four (4) feet high for scheduled pickups. Disposing of tree limbs and brush in excess of this amount is the resident's responsibility. Tree limbs and brush may not be placed on any boulevard for regular Village pick up more than five (5) days prior to said scheduled pick up date. Placing tree limbs and brush curbside earlier than five (5) days prior to a scheduled pick up shall constitute a nuisance and littering on public rights-of-way and will be subject to enforcement and penalties as set forth in this Ordinance. Tree stumps, roots, or shrubs with intact root balls will not be collected by the Village and disposal of such is the responsibility of resident. Privately-contracted tree services are not allowed to dispose of tree limbs, brush, stumps, roots, or shrubs with intact root balls at the Village disposal site. Such disposal shall constitute illegal dumping and littering and will be subject to enforcement and penalties as set forth in this Ordinance. Christmas trees are collected curbside during scheduled weeks in January of each year. Christmas trees with tinsel, ornaments, or lights attached and/or Christmas trees in bags will not be collected.

(B) Penalty. Any person violating any provision of Section 2.06 of this Ordinance shall be fined not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) 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.

2.07 Appliances, tires, and other large article items.

(A) All residents must contract on their own for collection of all appliances, tires, and other large article items.

(B) All construction, demolition, or remodeling waste must be deposited in a private dumpster rented from a disposal company or contracted for collection.

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(C) Residents desiring to discard any item with an electrical cord, in whole or in part, must transport such electrical items to a proper recycling facility. Electronic waste must be recycled.

(D) It shall be unlawful to bring appliances, used tires, or other large article items or refuse for disposal from outside the corporate limits into the Village of West Salem.

(E) Penalty. Any person violating any provision of Section 2.07 of this Ordinance shall be fined not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) 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.

2.08 Garbage and Refuse Disposal.

(A) The Village contracts for garbage and refuse disposal for all single-family and two-family duplex residential units. The owner or occupant of any house or other building located within the Village limits shall dispose of garbage and household refuse on a regular basis. Garbage, solid waste, general household garbage, and refuse must be placed in containers provided by the Village-contracted refuse hauler. Garbage and refuse may be placed in clear plastic garbage bags and placed inside the provided garbage container cart. No recyclable materials set forth in 2.09 may be included in the garbage container cart. Garbage and refuse placed in colored garbage bags will be rejected by the Village-contracted hauler. All garbage, solid waste, general household garbage, and refuse shall be placed as herein required at the specified collection point no sooner than twelve (12) hours prior to the regularly scheduled collection time nor be allowed to remain at the curb longer than twelve (12) hours thereafter. Except as otherwise specifically directed or authorized by the Village, solid waste container carts 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. Garbage or refuse not placed as described will be rejected by the contracted hauler.

(B) Hazardous Garbage and Refuse. Hazardous waste shall not be placed in garbage containers. The Village-contracted waste hauler may refuse to remove such waste after calling the attention to the Village Administration Office 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 as a hazardous material.

(C) Other Refuse. All other waste and refuse must be disposed of at proper times at the property's owners or occupant's expense, except as set forth in Section 2.07.

(D) Exception. The foregoing Sections shall not apply to manure, excrement, offal, or carrion. Excrement, offal, or carrion must be removed from premises by owners or occupants within forty-eight (48) hours. Stable manure must be removed from premises by owners or occupants at least twice weekly during the months from May to October, inclusive.

(E) Other Disposal Prohibited.

(1) It shall be unlawful for any person or entity 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.

(2) No person or entity 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.

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

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

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

(F) Penalty. Any person or entity who violates any provision of Section 2.08 shall be required to forfeit not less than Twenty-five (\$25) 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.

2.09 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 §287.11, 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

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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) Definitions. For the purpose of this ordinance:

(1) "**Bi-metal container**" means a container for carbonated or malt beverages, which 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) "**Glass Container**" means a glass bottle, jar, or other packaging container used to contain a product that is the subject of a retail sale and does not include ceramic cups, dishes, oven ware, plate glass, safety and window glass, heat resistant glass such as pyrex, lead-based glass, such as crystal, or TV tubes.

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

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

(7) "**Magazines**" means magazines and other materials printed on similar paper.

(8) "**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.

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

(10) "**Newspaper**" means a newspaper and other materials printed on newsprint.

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

(12) "**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.

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

(14) "**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.

(15) "**PETE**" means polyethylene terephthalate, labeled by the SPI code #1.

(16) "**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.

(17) "**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.

(18) "**PP**" means polypropylene, labeled by the SPI code #5.

(19) "**PS**" means polystyrene, labeled by the SPI code #6.

(20) "**PVC**" means polyvinyl chloride, labeled by the SPI code #3.

(21) **"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.

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

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

(24) **"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.

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

(26) **"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.

(J) Separation of Recyclable Materials. Occupants of single family and two-family 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

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

(1) Occupants of single family and two-family 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 J. 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 J. 5. through 15. for which a variance has been granted by the Department of Natural Resources under §287.11(2M), Wis. Stats. or Sec. NR 544.14, Wis. Admin. Code.

(L) Care of Separated Recyclable Materials. To the greatest extent practicable, the recyclable materials separated in accordance with Section J. 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.

(M) Management of Lead Acid Batteries, Major Appliances, Waste Oil, and Yard Waste. Occupants of single family and two-family 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) All residents must contract on their own for collection or disposal of all major appliances, together with residential and commercial furnaces, boilers, dehumidifiers, water heaters, and microwaves.

(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

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to the Village disposal site on West Avenue North, just north of the Village garage as set forth in Section 2.05.

(5) All residents must contract on their own for collection or disposal of all large and bulky items.

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

(1) Aluminum containers shall be placed in the property owner's recycling cart and placed curbside for regularly-scheduled pickup by the Village contracted hauler.

(2) Bi-metal containers shall be placed in the property owner's recycling cart and placed curbside for regularly-scheduled pickup by the Village contracted hauler.

(3) Corrugated cardboard and paper, fiberboard, or other container board shall be placed in the property owner's recycling cart and placed curbside for regularly-scheduled pickup by the Village contracted hauler.

(4) Foam polystyrene packaging shall be placed in the provided garbage and refuse cart and placed curbside for regularly-scheduled pickup by the Village contracted hauler.

(5) All glass containers shall be placed in property owner's recycling cart and placed curbside for regularly-scheduled pickup by the Village contracted hauler.

(6) Glass in the form of window glass, ceramics, china, light bulbs, and TV tubes shall be placed in the property owner's garbage and refuse container cart and placed curbside for regularly-scheduled pickup by the Village contracted hauler.

(7) Magazines and shiny inserts shall be placed in property owner's recycling cart and placed curbside for regularly-scheduled pickup by the Village contracted hauler.

(8) Newspaper, phone books, white paper, and office paper shall be placed in property owner's recycling cart and placed curbside for regularly-scheduled pickup by the Village contracted hauler.

(9) Rigid plastic containers and bottles labeled #1 through #7 shall be placed in property owner's recycling cart and placed curbside for regularly-scheduled pickup by the Village contracted hauler.

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(10) Steel and tin containers shall be placed in property owner's recycling cart and placed curbside for regularly-scheduled pickup by the Village contracted hauler.

(11) All residents must contract on their own for collection or disposal of all waste tires.

(O) 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 (J) (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 of 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 (J) (5) through (15). from solid waste in as pure a form as is technically feasible.

(P) 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 (J) (5) through (15):

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

(b) Notify in writing, at least semi-annually,

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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 (J) (5) through (15) from solid waste in as pure a form as is technically feasible.

(Q) 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 (J) (5) through (15) which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

(R) 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,

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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 2.09(Q) 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 2.09(Q) 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.

(S) 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/or recyclables from outside the corporate limits into the Village unless authorized by agreement with the Village.

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(T) 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.

(U) 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 per year and at any time when the collection schedule is changed.

2.10 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 five Hundred (\$500.00) Dollars, plus the costs of prosecution. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.