

CHAPTER 9

ORDERLY CONDUCT, PUBLIC NUISANCE, HEALTH AND SANITATION

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9.01 INTENT AND PURPOSE. It is the intent of this Ordinance to ensure orderly conduct, prohibit public nuisances, and provide for the public health, safety and welfare within the Village. No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance, or public health hazard, or otherwise take actions which are deemed by this Ordinance to be disorderly within the Village.

9.02 PUBLIC NUISANCE DEFINED. A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

(A) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;

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

(C) Greatly offend the public morals or decency;

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

9.03 HEALTH DEPARTMENT. The Waukesha County Health Department shall constitute the Health Department for the Village of Sussex. When the term "Health Department" or "Health Officer" is used in this Code, it shall refer to the Waukesha County Health Department.

9.04 ABATEMENT OF HEALTH NUISANCES. The Health Department may abate public health nuisances as provided in sec. 146.14, Wis. Stats.

9.05 RULES AND REGULATIONS. The Health Department in addition to the VILLAGE may make rules for the enforcement of the provisions of this chapter and for the prevention of the creation of health nuisances and the protection of the public health and welfare, and may where appropriate require the issuance of licenses and permits. All such regulation when approved by the Village Board shall have the same effect as ordinances and any person violating any of such regulations and any lawful order of the Board shall be subject to a penalty as provided in sec. 25.04 of this Code.

9.06 COMMUNICABLE DISEASES. Ch. 143, Wis. Stats., and Ch. H45, Wis. Adm. Code, are adopted by reference and made a part of this chapter, and the Health Department shall enforce the provisions thereof.

9.07 PUBLIC NUISANCES AFFECTING HEALTH AND WELFARE. The following acts, and omissions are declared to be disorderly conduct and the following places, conditions and things are hereby specifically declared to be public health and welfare nuisances, but such enumeration shall not be construed to exclude other health and welfare nuisances coming within the definition of sec. 9.02:

(1) **ADULTERATED AND UNSAFE FOOD.** No person shall sell, offer or expose for sale within the Village any milk or milk product other than Grade A pasteurized milk or milk products as defined in Ch.Ag.80, Wis.Adm.Code, nor shall any person offer or sell any food or drink that is decayed, harmfully adulterated or unwholesome to another person or another person's pet or domesticated animal.

(2) **UNBURIED CARCASSES.** No person shall allow the carcasses of animals, birds or fish not intended for human consumption or food to remain unburied or otherwise not disposed of in a sanitary manner after 24 hours after death of the animal, bird, or fish.

(3) BREEDING PLACES FOR VERMIN, ETC. No person shall allow the accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever, or stagnant water, or non-tight privy vaults or garbage cans in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed, feed, or multiply.

(4) WATER POLLUTION. No person shall pollute a public well or cistern, stream, lake, canal or other body of water by sewage, commercial or industrial wastes or other substances.

(5) NOXIOUS ODORS, ETC. No person shall through the use of property, substances or things within the Village emit or cause any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary person which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the village.

(6) STREET POLLUTION. No person shall through the use of property, substances or things cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Village.

(7) AIR POLLUTION. No person shall allow the escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Village or within one mile therefrom 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.

(A) Burning Permission Required. No person shall burn any combustible material in any street, alley or vacant lot, nor shall any person start or maintain a fire in the public parks or upon public property within the Village except with permission of the Fire Chief. Such burning shall be done in screened, metallic receptacles and under proper safeguards approved by the Fire Chief. The Fire Chief may issue a general permit by publication during certain seasons of the year for the burning of leaves or other like material where conducted during daylight hours and with an adult in constant attendance.

(B) Outdoor Furnaces Prohibited.

1. No person shall operate or use an outdoor burning furnace in the Village.
2. Purpose and Intent. The purpose and intent of this section is to protect the health, welfare, and safety of the public from the close, visible, and extended contact with hazardous materials caused from burning materials outside of a principal structure or garage structure.
3. Definition. Outdoor burning furnace: A furnace, or similar device, that is designed and intended, and/or used, through the burning of wood, coal, or other substances for the purpose of heating the principal structure or another accessory structure on the premises and is located outside of the principal or garage structure. These types of furnaces are typically characterized by a short stack height and are contained in free-standing structures. This definition includes outside wood burning water stoves.
4. Continuation of Nonconforming Uses. The lawful use of any existing "outdoor burning furnace" existing at the time of the effective date of this Chapter may be continued, although such use does not conform to the provisions of this law as herein provided. The lawful use considered in this section shall follow all of the provisions in Chapter 17.0900 of the Village Zoning Code.
5. Enforcement and Inspection. The Village Building Inspector and affiliated officials shall have the power, whenever they deem is necessary, to enter upon the premises/property to inspect and ascertain compliance with the requirements of this ordinance.

(8) SURFACE WATERS PROHIBITED IN THE SEWAGE DISPOSAL SYSTEM. No person shall allow the discharge of any storm water, surface water, ground water, and roof run-off, subsurface drainage which is not contaminated, unpolluted cooling water or unpolluted industrial process waters into the sewage disposal system.

(9) NOISE POLLUTION, REGULATION OF EXCESSIVE NOISE, LOUD AND UNNECESSARY NOISE PROHIBITED. No person shall produce excessive noise, or cause excessive noise to be produced, or permit excessive noise to be produced on premises under the person's ownership or control nor shall any person make or assist in making any noise tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof unless the making and continuing of the same cannot be prevented and is necessary for the protection or preservation of property or of the health, safety, life or limb of some person.

(A) Definitions. For purposes of this section, certain words or phrases shall be defined as follows.

1. A-weighted Sound Level. dB(A), in decibels, a frequency weighted sound pressure level, determined by the use of the metering characteristics and A-weighted network specified in ANSI §.4-1971 (R. 1976) "Specifications for Sound Level Meters" and the latest revisions thereof.
2. C-weighted Sound Level. In decibels, a frequency weighted sound pressure level, determined by the use of the metering characteristics and C-weighted network specified in ANSI §.4-1971 (R. 1976) "Specifications for Sound Level Meters" and the latest revisions thereof.
3. Daytime. The hours of the day between 7:00 a.m. and 10:00 p.m.
4. Decibel (dB). A unit of measure, on a logarithmic scale to the base 10, of the ratio of the magnitude of a particular sound pressure to a standard reference pressure, which, for purposes of this Ordinance, shall be 20 micronewtons per square meter (uN/m²).
5. Excessive Noise. Exceeding any of the following applicable requirements shall be deemed to be excessive noise:
 - a. Affecting residential property. Noise that is emitted to any residential property at the property line and/or at any point within the interior of the affected residential property in excess of the following:

Octave Band Center Allowable Octave Band Sound Pressure Levels (dB) Frequency (Hertz) of Sound Emitted to any Residential Property from:

	<u>Non-Residential Property</u>		<u>Residential Property</u>	
	Daytime	Nighttime	Daytime	Nighttime
31.5	75	69	72	63
63	74	67	71	61
125	69	62	65	55
250	64	54	57	47
500	58	47	51	40
1000	52	41	45	35
2000	47	36	39	30
4000	43	32	34	25
8000	40	32	32	25

- b. Affecting non-residential property. Noise that is emitted to any non-residential property at the property line and/or at any point within the interior of the affected non-residential property in excess of the following:

Octave Band Center Allowable Octave Band Sound Pressure Levels (dB) of Frequency (Hertz) Sound Emitted to any Non-Residential Property from:

	<u>Non-Residential Property</u>	<u>Residential Property</u>
31.5	80	72
63	79	71
125	74	65
250	69	57
500	63	51
1000	57	45
2000	52	39
4000	48	34
8000	45	32

- c. Impulse noise. Impulse noise that is emitted to any residential property at the property line and/or at any point within the interior of the affected residential property in excess of the following:

Allowable A-weighted Sound Levels in Decibels of Impulse Noise Emitted to any Residential Property from:

	<u>Non-Residential Property</u>	<u>Residential Property</u>
Daytime	56	50
Nighttime	46	45

6. Impulse noise. A sound of short duration, usually less than one second, with an abrupt onset and rapid decay, with an interval between sounds of longer than 0.5 seconds.
7. Leq. Equivalent continuous sound pressure level in decibels: ten times the logarithm to the base ten of the ratio of a time-mean-square sound pressure to the square of reference sound pressure. The reference sound pressure is 20 micronewtons per square meter.
8. Nighttime. The hours between 10:00 p.m. and 7:00 a.m. of the following day.
9. Non-residential property. A lot of record in the Village, no part of which includes a lawful residential use.
10. Person. Any individual, firm or corporation.
11. Property line. A line along the ground surface, and its vertical extension, which separates the real property owned by one person from the real property owned by another person.
12. Residential property. A lot of record in the Village that is lawfully used, or is used in part, for residential purposes.
13. Sound level. In decibels, a weighted sound pressure level, determined by the use of the metering characteristics and frequency weightings specified in ANSI §1.4-1971 (R. 1976) "Specifications for Sound Level Meters" and the latest revisions thereof.
14. Sound pressure level. In decibels, 20 times the logarithm to the base 10 of the ratio of the magnitude of a particular sound pressure to the standard reference pressure. The standard reference pressure is 20 micronewtons per square meter.

(B) Operation Of Motor Vehicles. No person shall operate a motor vehicle so as to cause the tires thereof to squeal or to unnecessarily throw stones or gravel, the horn to blow excessively or the motor to race excessively.

(C) Deliveries. No person shall make deliveries to or pick-up products from any business, where the building is located within 200 feet of a platted subdivision, between the hours of 10:00 p.m. and 6:00 a.m.

(D) Measurement. The Village may adopt procedures which set forth criteria for the measurement of sound. Such procedures shall be in substantial conformity with the standards and recommended practices established by the American National Standards Institute, Inc. (ANSI) and the latest revisions thereof, including ANSI 1.1-1960, ANSI 1.8-1969, ANSI 1.2-1962, ANSI 1.6-1967, ANSI 1.4-1971- Type I Precision, ANSI 1.11-1966, and ANSI 1.13-1971 Field Method, and the latest revisions thereof. Such procedures may be revised from time to time by separate resolution of the Village Board to reflect current engineering judgment and advances in noise measurement techniques. In the event leq averaging is used, the reference time shall be one hour. All such measurements shall correct or provide for the correction of such emissions for the presence of ambient noise as defined in ANSI S1.13-1971, and the latest revisions thereof.

(E) Exceptions. Section 9.07(9) shall not apply to the following, provided the following are being conducted in accordance with all other applicable Village, County of Waukesha, State of Wisconsin, and federal government ordinances, statutes, codes, rules, regulations and orders, and in accordance with the conditions of any license or permit that may apply:

1. Non-commercial public speaking and public assembly activities conducted on any public property;
2. Noise which is either necessary or required by law or is made for the protection or preservation of property or of the health, safety or protection of persons, including emergency vehicle sirens;
3. Construction sites, public utilities and public works projects and operations during any day, from Monday through Saturday inclusive; provided, however, that the noise emitted to any residential or non-residential property at the property line and/or at any point within the interior of the affected residential or non-residential property shall not exceed 86 dBA, without the prior written approval of the Village Administrator;
4. Emergency short term operations which are necessary to protect the public health, safety and welfare of the citizens, including emergency utility and public works operations;
5. Emergency electrical generators used during a power failure, or during maintenance of the same in preparation for the risk of power failure, provided, however, that the noise emitted to any residential or non-residential property at the property line and/or at any point within the interior of the affected residential or non-residential property shall not exceed 65 dBA, without the prior written approval of the Village Administrator;
6. Any noise emitted from emergency warning devices and unregulated safety relief valves;
7. Loading or unloading operations or other handling of boxes, crates, containers, building materials, garbage cans or similar objects during the daytime;
8. Stationary bells, chimes, sirens, whistles or similar devices, intended primarily for emergency purposes, except industrial whistles; provided, however, that no such device shall be sounded more than five (5) minutes in any hourly period, nor a total of thirty (30) minutes in any twenty four (24) hour period;
9. Domestic power tools, including any mechanically powered saw, drill, sander, lawn or garden tool, snow blower or similar device, used during the daytime;
10. Industrial whistles, provided that the sounding of any such whistle is to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of the Village;

11. Parades; aircraft operations, fireworks

In the event of dispute regarding the applicability of any of the foregoing exceptions to any particular noise, the matter shall be submitted to the Village Board, and the Village Board shall have the authority to make the final decision of whether the exception applies.

(F) Waiver. The requirements of section 9.07(9) may be waived for particular time periods on particular properties, in accordance with the following procedures.

1. Application. Each application for a waiver must be filed in writing with the Village Clerk, and shall include the following information:
 - a. Name and address of the applicant;
 - b. Address and description of the subject property;
 - c. The reason why the applicant is requesting a waiver;
 - d. The dates and times during which the waiver is requested;
 - e. A list of the names and addresses of all persons residing within 200 feet of the subject property, and of all persons owning property that lies within 200 feet of the subject property; and
 - f. Any and all additional information required by the Village Board.
2. Village Board Hearing. Waiver requests shall be heard by the Village Board at a public hearing held in accordance with the Wisconsin open meetings laws. Notice of the public hearing shall be given by publication as a class 2 notice. In addition, notice shall be given to all persons residing within 200 feet of the subject property, and to all persons owning property that lies within 200 feet of the subject property, by mail to the last known address. The applicant shall be given notice of the hearing by mail to the last known address. All interested persons will be permitted to speak to the issues presented, in person and/or by legal counsel.
3. Authority. The Village Board may grant a waiver application upon finding that the waiver will not be contrary to the public interest, provided the spirit and purposes of this ordinance are preserved and public safety, welfare and justice is secured; and provided the time and duration of the waiver is carefully tailored in accordance with the competing interests of the applicant and the affected property owners; and provided it is objectively reasonable to grant the waiver.
4. Decision. The Village Board shall decide all waiver requests in writing within a reasonable time not to exceed 90 days after the public hearing, and shall transmit a signed copy of the decision to the applicant.
5. Conditions. Reasonable conditions may be placed upon any waiver that is granted. In the event a waiver is granted, the waiver shall terminate 6 months from the date of the decision unless the decision otherwise indicates. Non-compliance with any condition of the waiver shall terminate the waiver. Application for extension of time or modification of any conditions of the waiver shall be treated the same as a new application.

(G) Penalties. In addition to any other penalties or remedies that may apply by law, including the penalties described in sections 9.12, and 25.04 of the Municipal Code of the Village, persons violating this ordinance are subject to all of the following:

1. Enforcement by injunction. Order of injunction issued by a court of competent jurisdiction may be issued at the suit of the Village or one or more owners of real estate situated within an area affected by a violation of this ordinance.
2. License or permit revocation. The Village Board may consider a violation of this ordinance as cause for revocation of any applicable license or permit that the

Village may have issued for the subject property, including but not limited to conditional or special use permits.

(10) **OFFENSIVE INDUSTRIES.** No person, organization or corporation shall operate, locate, manage, construct or maintain any industry defined as offensive herein within one and one-half (1 1/2) miles of the Village limits, unless and until said person, organization or corporation applies for and receives a permit therefor. The Village Board will have the responsibility to prohibit or grant and regulate permits under this section. The following are examples of industries determined to be offensive and requiring approval. This list is not all inclusive, but are examples:

Manufacture of cement, lime, gypsum, plaster of Paris, acid, explosives, fertilizers or glue, rendering plants, refineries, tanneries or incinerators, stockyards or slaughter houses, junk or salvage yards, drop forges or foundries, storage of explosives except as incidental to a permitted use, storage of gasoline or petroleum in excess of 50,000 gallons, quarrying and extraction of minerals.

(A) "Offensive Industries" Defined. An "offensive industry" as falling under the jurisdiction of this ordinance shall be any industry or business that conducts or is likely to conduct a nauseous, offensive or unwholesome business that is likely to cause illness, pain or adversely affect persons with ordinary sensibilities or adversely affect the person and property of ordinary persons within the Village by reason of noise, dust, environmental pollution (air or water), odor, lateral support, vermin, unsightliness, vapor, gases, odorous substances (visible or invisible), safety, or any other condition that has a negative impact upon ordinary persons or their property. Such industries are hereby declared to be public nuisances since they could, unless regulated, interfere substantially with comfortable enjoyment of life, health, safety of another or others. Agricultural uses violating this section shall only be regulated hereunder if the use is a threat to public health and safety pursuant to Section 823.22, Wis. Stats.

(B) **Permit Required.** Any person, organization or corporation conducting or intending to conduct any business or industry likely to violate this ordinance shall apply for a permit to operate such industry and shall comply with all regulations imposed by the Village Board. Should the request be denied, applicant shall immediately discontinue said offensive industry. Procedure for obtaining permit:

1. Applicant shall completely fill out application supplied by Village.
2. Applicant shall file with Village Administrator all surveys, tests and engineering studies necessary to adequately inform Village Board as to steps that are being taken to prevent industry from being or becoming a public nuisance.
3. A public hearing on the application for a permit will be conducted by the Village Board within 60 days of the filing of the application. Applicant will be notified of the date of the public hearing and will be given opportunity to be fully heard. A Class I notice of the public hearing will be advertised in the Village's official newspaper, giving notice to the public of the purpose of the public hearing.
4. The Village Board, after the public hearing, may request a recommendation from the Village Plan Commission and thereafter may deny, grant, or grant with restrictions and regulations, the permit. If the permit is granted, the Village shall record the permit with the Register of Deeds for Waukesha County.
5. To defray expenses incurred by the Village for publication, mailing, administration of permit, legal, planning and engineering expenses necessary to process this permit, applicant shall file with its application a fee of \$200.00.

(C) **Penalties.** Any person, organization or corporation violating the terms of this ordinance or conducting an offensive industry under this ordinance without a permit or violating any term or condition of the permit shall be subject to the following penalties:

1. A fine for any violation of not less than \$50.00 and not more than \$1,000.00 upon

conviction, together with costs. Each day that a violation occurs shall be considered a separate violation of this ordinance.

2. An action may be brought for the abatement or removal of the public nuisance in the name of the Village or in the name of the State of Wisconsin with the Village Board as relator pursuant to Section 823.01, 823.02 and 823.07, Wis. Stats.

(11) PROPERTY MAINTENANCE, VEHICLE PARKING, STORAGE and NON ABANDONMENT CODE.

(A) Introduction, Purpose and Intent. The initial building construction or development in a community is usually accomplished after a great deal of planning, designing, and implementation. The time and attention to detail given to the initial construction is often the last concentrated effort regarding the total visual effect of the building and building lot or site. Attractive and well maintained property enhances the neighborhood and Village and provides a suitable environment for increasing property values. While most property owners establish a periodic maintenance program to keep their property in a visually pleasing and physically safe and sanitary condition, some properties are unkempt and are left to visual or physical decay. The proper parking of vehicles and ensuring vehicles do not become abandoned on streets impacts the safety and welfare of the community and supports increasing property values. Due primarily to this circumstance, it has been determined that there is a need to set forth guidelines as well as regulations to ensure the continuing maintenance of property within the Village. It is the intent and purpose of this section of the Village Municipal Code to encourage, establish minimum standards for, and provide for the enforcement of a minimum level of care and maintenance to buildings and properties, and preventing abandoned vehicles throughout the Village. It is not the intent of this code to discourage or inhibit owners of older residences from upgrading such residences over an extended period.

(B) Scope. Code section 9.07K shall apply uniformly to the maintenance and use of all premises, and vehicles within the Village of Sussex and the owners, occupants, and operators thereof.

(C) Definitions.

1. Vehicle Abandonment. Whenever any vehicle has been left unattended without the permission of the property owner for more than 48 hours, the vehicle is deemed abandoned and constitutes a public nuisance. A motor vehicle shall not be considered an abandoned vehicle when it is out of ordinary public view, or when it is currently registered or designated as not abandoned by a duly authorized Village official.
2. Building-related Equipment. Includes heating and air-conditioning equipment, chimneys and vents, signs, antenna, gutters and downspouts, fences, steps, shutters, lights, garages, sheds, birdhouses, doghouses, and small storage structures.
3. Dust free. Also means dirt or mud free. The intent is to have no dust (dirt, mud) generated by traffic on the driveway or by winds.
4. Gardening and Recreational Vehicles and Equipment. Includes lawnmowers, snow blowers, tractors, wheelbarrows, ladders, scaffolding, cultivators, rototillers, seed and fertilizer spreaders, mechanical lawn rakes, lawn rollers, snowmobiles, ATV's, campers, truck-camper units, boats, and recreational trailers.
5. Blighting Influence. A condition having an adverse effect on surrounding properties.
6. Debris. Broken concrete, bricks, blocks or other mineral matter; bottles, porcelain and other glass or crockery, boxes; lumber (new or used), posts, sticks, or other wood; paper, rags, cardboard, excelsior, rubber, plastic, wire, tin and metal items; discarded household goods or appliances, junk lawn mowers, tar paper, residues

from burning or any similar materials which constitute health, fire or safety hazards or a serious blighting influence upon their neighborhood or the Village of Sussex in general.

7. Junk. Worn out or discarded material of little or no value, including, but not limited to, household appliances or parts thereof, machinery and equipment or parts thereof, vehicles or parts thereof, tools, old iron, chain, brass, copper, tin, lead, and other base metals, any old or scrap metal, metal alloy, synthetic or organic material or waste, or any junked, ruined, dismantled or wrecked motor vehicle or machinery, or any part thereof, whether salvageable or not, trailers, farm machinery and equipment or any parts thereof to be junked or demolished, taken apart or destroyed for salvage materials, paper waste, used lumber or building materials, or any other unsightly debris. Any unlicensed motor vehicle shall be construed to be a junked motor vehicle.
8. Non-combustible Material. Material that cannot be burned.
9. Rubbish. Combustible and non-combustible waste materials, except garbage, and the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tin cans, metals, mineral matter, glass, crockery and dust, and other similar materials.
10. Refuse. Debris as heretofore defined.
11. Trash. Rubbish, ashes, paper, dirt, stones, bricks, tin cans, boxes, barrels or other substances whatsoever, oil kerosene, benzene or other similar oil or oily substance, or liquid, wood, brush and any form of discarded vegetation, foundry sand and industrial waste of any kind or description, sewerage material removed from septic tanks and dry wells used in connection with sewerage disposal systems.

(D) Property Maintenance Standards. Owner and Occupant Responsibilities. Every owner and occupant of property within the corporate limits of the Village has a responsibility to maintain such property in a visually clean, sanitary, safe and groomed condition. The following are the minimum standards to be met by a property owner or occupant, regarding property maintenance in the Village. Violation of these standards may result in the issuance of a citation by the Zoning Administrator.

1. Keep any building(s) and building-related equipment located on the property in good, safe repair and maintained in a good condition as relates to exterior appearance and in such condition to be safe to both occupants and passersby. Exterior surfaces of buildings and structures not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative which will provide adequate resistance to weathering and maintain an attractive appearance. Any exterior surface treated with paint or other preservative shall be maintained so as to prevent chipping, cracking or other deterioration of the exterior surface or the surface treatment and to present an attractive appearance. All paint or other preservative shall be applied in a workmanlike fashion.
2. Keep and maintain all non-surfaced "yard" areas in grass or other ground cover in keeping with the other properties in the neighborhood and, in addition, install and maintain trees, shrubs and other landscape materials in a manner to be an attractive setting for the building(s) and the neighborhood, and keep landscaping in a neat and groomed manner. All non-paved yard areas, as set forth in the Village Zoning Ordinance, shall be graded to alleviate standing water. Such ground cover, trees and shrubs shall be kept maintained, except where a land management plan has been filed and approved by the Village Plan Commission. Plantings shall be maintained so as not to present hazards to adjoining properties or to persons or to

vehicles traveling on public ways.

- a. Mowing Required. No person owning property within the Village shall permit to grow or pollinate upon his premises any weeds or grasses which cause or produce hay fever in human beings, exhale unpleasant or noxious odors or conceal filthy deposits. In order to prevent such growth and pollination, it shall be the duty of every property owner to mow or cause to be mowed upon his premises all grasses or weeds exceeding one foot in height. This requirement shall not apply to lands actively being farmed nor areas designated as natural areas.
- b. Mowing By Village. The Weed Commissioner shall enforce this section and if any person shall fail to comply herewith, the Commissioner shall, after five days written notice to the owner, cause the premises to be mowed and report the cost thereof in writing to the Village Clerk in the manner provided in Sec. 66.98(1) and 74.11, Wis. Stats. Such charge shall be spread on the tax roll as a special tax to be collected in the same manner as other taxes unless such lands are exempt from taxation.

3. Keep all solid waste receptacles and receptacle areas screened from view of the public by means of being placed within a containment structure visually and structurally compatible with the principal building or, by means of a containment area screened from view by dense vegetative growth or by structural materials which are visually compatible with the principal structure.
4. Keep all non-residential driveways, parking, loading and outside storage areas hard surfaced and dust free and keep all residential driveways and parking areas dust free as set forth in the Village Zoning Code. All new driveways and parking areas on residential properties shall be surfaced with a good grade of stone and the driveway area between street and sidewalk must be surfaced within 18 months of building construction, with a hard surfaced paving material to render the surface virtually dust free.
5. Keep all yards which are visible to the general public and neighbors free of the long-term storage of vehicles, equipment and materials which are not specifically accessory and compatible with the principal use of the property, except where approved by the Village Plan Commission. All yard and landscaped areas shall be kept free of trash, debris, rubbish, garbage, physical hazards, rodent harborage and infestation, animal feces, noxious weeds, old building materials, junk, unlicensed or inoperative vehicles, and other such material and equipment which, by its appearance, location or use, makes it incompatible with the principal use or other predominate principal uses in the immediate neighborhood.
6. Keep and maintain all outside storage screened from view of the general public by use of such measures as earth berming, vegetative planting, decorative fencing or building positioning. No person shall allow to accumulate or store or permit the accumulation or storage of any junk or trash upon land that may be viewed from a public street or from another property unless it is in connection with the operation of an authorized junk yard.
7. Keep and maintain all fences, walls, lighting, signs, storage structures, walks, driveways, parking areas and similar paved areas, and other visual physical improvements, construction, or appurtenances maintained in a safe, sanitary, working order and in good appearance.
8. Keep and maintain every foundation, exterior wall, window, exterior door, interior door, basement, floor and roof reasonably weathertight, watertight and rodent proof , in proper repair and capable of affording privacy. Any sagging or bulging shall be properly repaired to a level or plumb position. All chimneys and breeching shall be

so constructed and maintained so as to insure that it safely and properly removes the products of combustion from the building.

9. Keep and maintain every inside and outside stair, every porch, and every appurtenance thereto safe to use and capable of supporting the load that normal use may cause to be placed thereon, kept in proper condition and repair, and up to all applicable codes.
10. No person shall dispose of rocks, trees, stumps, waste building material or other debris from land development, building construction, street grading, or installation of underground utilities, upon the surface of any land in the Village, except at approved disposal sites.

(E) Vehicle Parking, Storage, and Non Abandonment Standards. Every owner and occupant of vehicles within the corporate limits of the Village has a responsibility to maintain such vehicle in a visually clean, sanitary, and safe condition, and to park and or store the vehicle in compliance with the following standards:

1. Vehicle Parking Requirements. No person shall park or store a motor vehicle in the Village of Sussex, in a manner that does not fully conform with the requirements of Section 17.0604(C) entitled "All Vehicles Parked on Private Property," and/or Section 17.0607 entitled "Parking Spaces Not to be Used for Long-Term Storage," of the Village Municipal Code.
2. Vehicle Storage Requirements. No person shall store or allow to remain in the open upon any public or private property within the Village any disassembled or wrecked motor vehicles, or parts thereof, unless it is in connection with the operation of an authorized junk yard. The storage of any wrecked or damaged motor vehicle upon premises operated as an automobile sales or repair business enterprise located in a properly zoned area shall be permitted for a period not to exceed 30 days.
3. Vehicles Not To Be Abandoned.
 - a. Determination of Abandonment. No person shall leave unattended or cause any abandonment of any motor vehicles, trailer, semi-trailer or mobile home any State, County, or Village highway or private or public property, for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned.
 - b. Sale or Junking of Abandoned Vehicles. Any vehicle in violation of Section 9.07K(5)(c) shall be impounded until lawfully claimed or disposed of under this section except that if it is deemed by the Village Administrator that the cost of towing and storage would exceed the value of the vehicle, then that motor vehicle may be junked or sold by the Village prior to the expiration of the storage period upon determination by the Village Administrator that the vehicle is not stolen or otherwise wanted for evidence or other reason. All substantially complete vehicles that exceed 19 model years in age shall be disposed of in accordance with Section b. below.
 - c. Storage and Sale.
 - i. Notice To Owner. Any vehicle which is deemed abandoned by the Sussex Village Administrator and not disposed of immediately under Section b. above shall be retained in a convenient place of storage for a minimum of ten days after certified mail notice has been sent to the owner and to lienholder of record to permit reclamation of the vehicle upon payment of accrued charges. Such notice shall set forth the year, make, model and serial number of the abandoned motor vehicle, the place where the vehicle is being held and shall inform the owner and any

lienholders of their right 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 a consent to the sale of the vehicle. Each stored vehicle not reclaimed by its owner within the time listed above may be sold. The Village may dispose of the vehicle by sealed bid or auction sale. At such public sale, the highest bid for any such motor vehicle shall be accepted unless the same is deemed inadequate by the Village Administrator in which event all bids may be rejected. If all bids are rejected or no bid is received, the Village may readvertise 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.

- ii. Procedure For Bidding. Public notice of the sale, whether it be by auction or sealed bid, shall be posted at the Village Hall and at two other public locations in the Village. In addition, a copy of the notice shall be mailed to the last owner of record and lienholder of record.
- iii. Procedure After Sale. Upon the sale of the abandoned vehicle, the Village Administrator shall supply the purchaser with a completed Form MVD 2419 which will enable said purchaser to obtain a registration certificate of title for the vehicle. Purchaser shall have ten days to remove the vehicle from the storage area but shall pay a reasonable storage fee if established by the Village Administrator for each day the vehicle remains in storage after the second business day subsequent to the sale date. Ten days after the sale, if the vehicle has not as yet been claimed by the purchaser, the purchaser shall forfeit all interest in the vehicle and the vehicle shall be deemed to again be abandoned and may be sold again. Any list of vehicles to be sold by the Village shall be made available to any interested person or organization which makes a written request for such list. A fee may be charged for the preparation of said list.
- iv. Notice To Motor Vehicle Department. Within five days after the sale or disposal of a motor vehicle as provided in this section, the Village Administrator shall advise the Motor Vehicle Department of the sale or disposition on the appropriate form supplied by the Motor Vehicle Department.

(F) Administration and Enforcement.

1. The Zoning Administrator is authorized to prepare and distribute procedural rules as they deem necessary to administer the purposes of this ordinance.
2. If any household of the Village or neighbor make a written complaint concerning the maintenance of property within the Village, the Zoning Administrator shall review such complaint, visit the property against which such complaint has been made and, if found to be in violation of this or any other Village Ordinance, shall issue a notice of such alleged violation to the owner or occupant of the property along with a specified time period within which such violation(s) must be corrected.
3. The Zoning Administrator may also issue a notice of alleged violation of this ordinance by his own action, which notice shall be transmitted to the owner or occupant of the property on which such violation exists along with a specified time

- period within which such alleged violation(s) must be corrected.
4. If violation has not been corrected within the time limits allowed by the Zoning Administrator (not to be less than five days of issuance of the notice), the Zoning Administrator shall issue a citation on the property owner regarding such violation. For noxious weed violations, the Zoning Administrator may instruct the Weed Commissioner to correct said violation and charge the actual cost incurred against the property owner. If such charges are not paid by November 29 of the year in which they are billed, such charges shall be extended on the next succeeding tax roll as a tax charged against the property affected and collected in the same manner as are other taxes, pursuant to 66.98 Wis. Stats.
 5. Within ten (10) working days following the date of issuance of any notice by the Zoning Administrator, the recipient of the notice may apply to the Administrative Board of Appeals for a hearing for consideration of the alleged violation(s) enumerated in the notice. The applicant of such appeal shall be advised of the time and place of the hearing at least seven (7) working days period to the hearing; and shall be given an opportunity to be heard and to show cause why such notice should be modified, withdrawn or a variance granted.

(12) RECYCLING, COMPOST, GARBAGE AND RUBBISH REMOVAL STANDARDS. No person or entity who resides, owns property in, or does business in the Village shall fail to properly dispose of items except within the parameters of the Village Recycling, Compost, or Garbage and Rubbish removal Ordinance as set forth herein.

(A) Recycling Ordinance For The Village Of Sussex.

1. Purpose. The purpose of section 9.07(12)(A) adopted as authorized under Wis. Stats. 287.09(3)(b) and administered by the Village Administrator, is to promote recycling, composting and resource recovery through the administration of an effective recycling program, as provided in s. 287.11, Wis. Stats., and Chapter NR 544, Wis. Administrative code.
2. Abrogation and Greater Restrictions. It is not intended by 9.07(12)(A) 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 9.07(12)(A) imposes greater restrictions, the provisions of section 9.07(12)(A) shall apply.
3. Interpretation. In their interpretation and application, the provisions of section 9.07(12)(A) 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 9.07(12)(A) may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of 9.07(12)(A) is required by Wisconsin Statutes, or by a standard in Chapter NR 544, Wis. Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of Wisconsin Statutes and the Chapter NR 544 standards in effect on the date of the most recent amendment of the Chapter.
4. 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.
5. Definitions. For the purposes of this ordinance:
 - a. Bi-metal Container. A container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.
 - b. Container Board. Corrugated paperboard used in the manufacture of shipping containers and related products.
 - c. Foam Polystyrene Packaging. Packaging made primarily from foam polystyrene that satisfies one of the following criteria:

- i. Is designed for serving food or beverages.
 - ii. Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
 - iii. Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.
- d. HDPE. High density polyethylene, labeled by the SPI code #2.
 - e. LDPE. Low density polyethylene, labeled by the SPI code #4.
 - f. Magazines. Magazines and other materials printed on similar paper.
 - g. Major Appliance. A residential or commercial air conditioner, clothes dryer, dishwasher, freezer, microwave oven, oven, refrigerator, stove, clothes washer, furnace, boiler, dehumidifier, or water heater.
 - h. Multiple-family Dwelling. A property containing 5 or more residential units, including those which are occupied seasonally.
 - i. Newspaper. A newspaper and other materials printed on newsprint.
 - j. Non-residential Facilities and Properties. Commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple family dwellings.
 - k. Office Paper. 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.
 - l. Other Resins or Multiple Resins. Plastic resins labeled by the SPI code #7.
 - m. Person. Any individual, corporation, partnership, association, local government unit, as defined in s. 66.299(1)(a), Wis. Stats., state agency or authority or federal agency.
 - n. PETE. Polyethylene terephthalate, labeled by the SPI code #1.
 - o. Plastic Container. 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.
 - p. Postconsumer Waste. Solid waste other than waste generated in the production of goods, hazardous waste, as defined in s. 144.61(5), Wis. Stats., waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in s. 144.44(7)(a)1., Wis. Stats.
 - q. PP. Polypropylene, labeled by the SPI code #5.
 - r. PS. Polystyrene, labeled by the SPI code #6.
 - s. PVC. Polyvinyl chloride, labeled by the SPI code #3.
 - t. 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.
 - u. Solid Waste. Has the meaning specified in s. 144.01(15), Wis. Stats.
 - v. Solid Waste Facility. Has the meaning specified in s. 144.43(5), Wis. Stats.
 - w. Solid Waste Treatment. Any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. "Treatment" includes incineration.
 - x. Waste Tire. A tire that is no longer suitable for its original purpose

- because of wear, damage or defect.
- y. Yard Waste. 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.
6. Separation of Recyclable Materials. Occupants of single family and 2 to 4 unit residences, multiple-family dwellings and non-residential facilities and properties shall separate the following material from postconsumer waste:
- a. Lead acid batteries
 - b. Major appliances
 - c. Waste oil
 - d. Yard Waste
 - e. Aluminum containers
 - f. Bi-metal containers
 - g. Corrugated paper or other container board
 - h. Glass containers
 - i. Magazines
 - j. Newspapers
 - k. Office Paper
 - l. Rigid plastic container made of PETE, HDPE, PVC and LDPE.
 - m. Steel containers
 - n. Waste tires
7. Separation Requirements Exempted. The separation requirements of s. 9.07(12)(A)6 do not apply to the following:
- a. Occupants of single family and 2 to 4 unit residences, multiple-family dwelling 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 9.07(12)(A)6 from solid waste in as pure a form as is technically feasible.
 - b. 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.
 - c. A recyclable material specified in s. 9.07(12)(A)6 for which a variance has been granted by the Department of Natural Resources under s. 159.11(2m), Wis. Stats., or s. NR 544.14, Wis. Administrative Code.
8. Care of Separated Recyclable Materials. To the greatest extent possible, the recyclable materials separated in accordance with s. 9.07(12)(A) 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.
9. Placement and Ownership of Recyclable Materials. Occupants of single family and 2 to 4 unit residences shall separate recyclable materials into designated containers and place the same at the curb on designated collection days for collection by an authorized agent of the Village. These designated containers remain the property of the Village. Containers which are lost, damaged, or removed from the property must be replaced at the expense of the property owner at a cost equal to the purchase price paid by the Village. From the time of

placement of recyclable materials at the curb for collection, items shall be and become the property of the Village or its authorized hauling agent. All recyclables shall be placed at the curb no sooner than 24 hours prior to the regularly scheduled collection time or be allowed to remain at the curb longer than 2 hours thereafter.

10. Antiscavenging or Unlawful removal of recyclables. It shall be unlawful for any person, unless under contract with or licensed by the municipality, to collect or remove any recyclable material that has been deposited or placed at the curb or in a container adjacent to a home or nonresidential building for the purposes of collection for recycling.
11. Nondisposable Materials. It shall be unlawful for any person to place for disposal any of the following wastes: Hazardous and toxic wastes, chemicals, explosives, flammable liquids, trees and stumps, construction debris, carcasses, medical wastes (unless personal needles which shall be contained in cardboard to eliminate injury to collection personnel).
12. Exemptions. The Village Board 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 municipality or its contractors. The municipality shall provide written notice to its service recipients of this declaration.
13. Management of Lead Acid Batteries, Appliances, Oil, Waste Tires, and Yard Waste. Occupants of single family and 2 to 4 unit residences and multi-family dwellings and non-residential facilities and properties shall keep lead acid batteries, major appliances, waste oil, and yard waste out of the normal waste stream and shall follow administrative rules promulgated from time to time by the Village for the disposal of the same.
14. Preparation and Collection of Recyclable Materials. Occupants of single family and 2 to 4 unit residences shall prepare the separated materials specified in 9.07(12)(A)6 for proper recycling as outlined in the administrative rules promulgated by the Village from time to time for the same
15. 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 section 9.07(12)(A)15 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 reason for rejecting the items, either in writing or verbally. The hauler shall also keep a list of such occurrences and provide it to the municipality quarterly.
16. Responsibilities of Owners or Designated Agents of Multiple-Family Dwellings and Non-Residential Facilities. Owners or designated agents of multiple-family dwellings and Non-Residential Facilities shall do all of the following to recycle the materials specified in 9.07(12)(A)6.
 - 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 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, location and

hours of operation, and a contact person or company, including a name, address and telephone number.

17. Prohibitions on Disposal of Recyclable Materials Separated for Recycling. No person may dispose of in a solid waste disposable facility or burn in a solid waste treatment facility any of the materials specified in 9.07(12)(A)6 which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.
18. 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.
19. Hauler Specifications. 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. Haulers shall not compact glass with paper during collection and transport of recyclables to a processing facility or market, and shall maintain materials in marketable condition.
20. Processing Facilities. Any contractor operating in the Village shall not transport for processing any recyclables to a processing facility unless that facility has been approved by the Village and, , the facility has self-certified with the WI DNR under section NR 544.16, Wis. Administrative Code.
21. Reporting Requirements. The recycling haulers and processors operating in the Village are required to maintain records and report in writing to the Village Administrator at least quarterly each year. Reports shall include: the amount of solid waste and recyclables collected and transported from the Village 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.
22. Local Government Purchasing of Recycled Content, multiple use, durable materials, equipment and supplies. 16.72(2)(e) and (f), Wis. Statutes. The Village shall, to the extent practicable decisions to maximize the purchasing of products made from recycled and recovered materials. Purchases shall include 40% recycled content of all paper. The Village shall, to the extent practicable, award contracts for equipment and supplies on the basis of recyclability and ultimate disposition of products to discourage the purchase of single-use disposable products and require purchase of multiple-use durable products.
23. Enforcement. For the purpose of ascertaining compliance with the provisions of section 9.07(12)(A), any authorized officer, employee or representative of the Village may inspect recyclable materials separated for recycling, postconsumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and non-residential facilities and properties, and any records relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee or authorized representative of the Village who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.

(B) Composting.

1. Purpose and Intent. The purpose of this section is to promote the recycling of yard wastes through composting, and to establish minimum standards for proper

- compost maintenance.
2. Definitions. Composting shall mean a controlled biological reduction or organic wastes to humus. Yard waste shall mean leaves, grass clipping, garden debris, hedge trimmings, and brush.
 3. Maintenance. All compost piles shall be maintained using approved composting procedures to comply with the following requirements and the requirements of the Zoning Code. If there is a conflict between the following requirements and the Zoning Code, the more restrictive shall apply.
 - a. All compost piles shall be enclosed in a free standing compost bin. Compost bins shall be no larger in volume than one-hundred twenty-five (125) cubic feet, and shall be no taller than five (5) feet, and shall be constructed of a durable material such as wood, block, or sturdy metal material. No more than one (1) such structure shall be located on a property.
 - b. All compost piles and bins shall be so maintained as to prevent the attraction or harborage of rodents and pests. The presence of rodents in or near a compost pile or bin shall be cause for the Health Department to proceed with abatement of the nuisance as provided for in Section 146.14, Wisconsin State Statutes.
 - c. All compost piles and bins shall be so maintained as to prevent unpleasant odors. Compost bins containing fruit shall be kept covered, except when turning.
 - d. All compost piles and bins shall be located in a back yard and must be three (3) feet from any side or rear lot line and no closer than twenty (20) feet to any inhabitable building, other than the resident's own home.
 - e. All compost piles and bins shall be screened from the public view using appropriate shrubs and other plantings or by fencing. Such plantings or fencing shall exceed the height of the compost bin or pile by no less than one foot.
 4. Ingredients. Ingredients permitted in a compost bin include yard waste, raw vegetables and fruit scraps that are suitable for composting, and commercial compost additives. No compost bin shall contain any of the following:
 - a. Lake weeds
 - b. Cooked food scraps, except coffee grounds and tea leaves
 - c. Fish, meat or animal products to include bones, fat, and oils
 - d. Diseased plants
 - e. Synthetic fibers
 - f. Manures to include pet wastes
 - g. Large items that will impede the composting process (logs).
- (C) Garbage And Rubbish Collection For Single Family And Two Family Dwellings.
1. Every person in charge of a single family or two family premises, or owner, occupant or agent of any single family or two family premise within the Village is prohibited from placing garbage and rubbish at the curb, for collection, prior to 24 hours before the normal pick up by the Village's rubbish contractor.
 2. The Village Board shall contract for the removal of garbage and refuse from single family and two family dwellings.
 3. There is hereby established a fee for the removal of garbage and refuse from single family and two family properties. Said fee shall be the per unit annual charge made to the Village for refuse removal by the firm providing said removal to the Village by contract and shall be prepaid annually. The Village Board hereby

elects to charge such fee as a special charge under authority granted by 66.0627, Wis. Stats. The Village Clerk is hereby authorized and directed to place such fee on the tax bill as a special charge. Said charge shall be due on the date the first installment of real estate taxes is due.

4. The Village Board shall establish fees to be paid by each type of new construction from such time as an occupancy permit is issued for said construction until January 1st of the following year. Said funds are to be used to defray the cost to the Village of the removal of garbage and refuse from the property. Said payment shall be made prior to the issuance of an occupancy permit. Said fee shall be the per unit annual charge made to the Village for refuse removal by the firm providing refuse removal to the Village apportioned at time of occupancy.

(D) Garbage And Rubbish Collection For Multiple Unit Dwelling Buildings, Public, Commercial And Industrial Buildings.

1. The owner, occupant or agent of each multiple unit dwelling building containing three or more dwelling units, public, commercial and industrial building in the Village is hereby required to obtain, by separate contract, garbage and rubbish collection sufficient for the disposal of the garbage and rubbish produced by each building.
2. All multiple unit residential buildings in the Village containing four or more residential units and public, commercial and industrial buildings in the Village will be required to provide appropriate portable dumpsters or containers for the collection of refuse. Said portable dumpsters or containers shall be of the type that is compatible with the "pick-up" equipment of their rubbish contractor. No such dumpster or container shall be emptied, and no refuse shall be collected within 100 feet of a platted residential subdivision prior to 6:30 a.m.
3. If the owner of any multiple unit dwelling building containing three or more dwelling units, public, commercial or industrial building fails to obtain sufficient garbage and refuse collection as required in Section 1, the Village shall cause such material to be removed and the cost thereof shall be charged against and collected from the owner of the premises. The owner shall be liable also for a penalty hereinafter prescribed for violation of this section.
4. All costs as listed in Section 3 shall be a lien on the lot, part of a lot or real estate on which service is supplied. All charges accrued and not paid by October 15th shall be certified to the Village Clerk and placed upon the real estate tax roll for collection as provided by State Statutes.

(E) Method Of Garbage And Refuse Collection At Construction Sites.

1. All property owners constructing new homes, remodeling, construction any kind of building, whether residential, commercial or industrial, shall provide for disposal of all construction and non-construction materials, debris, garbage and refuse off site or provide a portable dumpster from a commercial waste disposal firm.
2. Property owners of vacant residential, commercial or industrial land shall maintain said property free of all construction materials, debris, garbage and refuse.

(F) Littering And Illegal Dumping Prohibited.

1. No person shall throw any grass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the Village or upon any private property or upon the surface of any body of water within the Village.
2. No person shall dump, leave or otherwise deposit any dirt, stone, debris, refuse or any other material upon the streets, alleys, highways, public parks or other

property of the Village or upon any private property or upon the surface of any body of water or in any public or private garbage dumpster within the Village without first obtaining the permission of the Village, in the case of Village property, or from the property owner, in the case of private property.

9.08 PUBLIC NUISANCES OFFENDING MORALS AND DECENCY. The following acts, and omissions are declared to be a public nuisance and disorderly conduct and the following, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency within the definition of § 9.02:

(1) **OBSCENE MATERIALS, DEVICES OR PERFORMANCES.**

(A) Definitions.

1. **Obscene Device.** An object marketed for the stimulation of human genitals or an object designed for the stimulation of human genitals which has no other common and accepted use.
2. **Obscene Material or Performance.** Any material or performance, whether through pictures, tangible objects, photographs, drawings, writings, printings, cartoons, recordings, films, video tapes or another medium or a live exhibition before an audience, irrespective of the number of persons present, which:
 - a. The average person, applying contemporary state standards, would find appeals to the prurient interest if taken as a whole;
 - b. The average person, applying contemporary state standards, would find describes or shows sexual conduct in a patently offensive way; and
 - c. Lacks serious literary, artistic, political or scientific value if taken as a whole, as determined by objective, nongeographical standards.
3. **Sell.** Means import, advertise, exhibit or transfer.
4. **Sexual Conduct.** Means actual or stimulated: Sexual intercourse, sodomy, sexual bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus or exhibition of human genitals, human anus or exhibition of a minor in provocative pose.

(B) No person shall intentionally sell, offer or agree to sell or possess with intent to sell obscene material, devices, or advertise, produce, direct or perform in an obscene performance within the Village except as allowed within the specific operation parameters of a licensed sexually oriented establishment.. Proof that a person sold, offered or agreed to sell or possessed with intent to sell obscene material or devices in the course of business is prima facie evidence that the person knew of the content or character of the obscene material.

(2) **PROSTITUTION PROHIBITED.** No person shall operate or be an inmate in a house of prostitution or engage in prostitution within the Village.

(3) **DISORDERLY HOUSES PROHIBITED.** No person shall allow a property, building or structure they own or rent or utilize to be used as a disorderly house, bawdy house, house of ill-fame, gambling house or building or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.

(4) **GAMBLING, LOTTERIES, FRAUDULENT DEVICES AND PRACTICES PROHIBITED.** All forms of gambling, lotteries and fraudulent devices and practices unless authorized by State Law are prohibited within the Village. Any police officer with jurisdiction in the Village may seize anything devised solely for gambling or found in actual use for gambling within the Village and dispose thereof after a judicial

determination that such device was used solely for gambling or found in actual use for gambling. No person shall use any device or machine which is used for gambling.

(5) **ALCOHOL AND DRUG RESTRICTIONS.** No person shall consume, sell, or use alcohol or drugs within the Village except as specifically allowed by State Law and within the strict standards of Village Ordinances and as outlined below:

(A) **Unlicensed Sale Of Liquor Or Beer.** No person shall own, operate, or use places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the Village.

(B) **Illegal Drinking.** No person shall utilize any place or premise for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or ordinances of the Village.

(C) **Consumption Of Alcohol Beverages In Publicplaces Prohibited.**

1. No person shall possess any open container of or use, consume, sell or convey any alcohol beverage in or upon the following:
 - a. Any property, building or other structure owned or operated by the Village, or its public school districts.
 - b. Any public street, alley, sidewalk, street crossing, bridge, public playground, public park or public parking lot.
 - c. Any premises held out to the public for the use or parking of their motor vehicles, whether such premises are publicly or privately owned. This definition shall include, but not be limited to, the parking lots of all fermented malt beverages or liquor licenses, shopping centers, restaurants, bowling alleys.
2. The prohibition in sub. 1 shall not apply to community functions or events or locations authorized by specific action of the Village Board.
3. All purchases of intoxicating liquor or fermented malt beverages by the glass or in open containers shall be consumed in the licensed premises where served, and shall not be removed therefrom or consumed in or upon any of the places described in sub. 1.
4. The prohibition of consumption of alcoholic beverages in public places set forth in this section shall not apply to the operation of Outdoor Establishments with valid Outdoor Establishment permits and valid alcohol licenses which have been extended by the Village Board to include the respective outdoor dining and seating areas as set forth in Section 4 of the Municipal Code.

(6) **PROHIBITION AGAINST POSSESSION OF MARIJUANA.**

(A) **Definition.** Marijuana means all parts of the plants of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin, including tetrahydrocannabinols. "Marijuana" does include the mature stalks if mixed with other parts of the plant, but does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake or the sterilized seed of the plant which is incapable of germination.

(B) No person may possess 25 grams or less of marijuana as defined herein unless the person obtains the marijuana 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 Wisconsin Statutes Chapter 961 to possess the marijuana.

(C) This section shall not apply with regard to any person who is charged with possession of more than 25 grams of marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of marijuana in this State.

(D) This section is adopted pursuant to the authority described in Section 66.051(1)(bm), Wisconsin Statutes. Any future additions, amendments, revisions or modifications of Section 66.051(1)(bm), Wis. Stats., or the statutes cited therein, are intended to be made a part of this section in order to secure uniform regulation of possession of small amounts of marijuana.

(7) PROHIBITION OF THE SALE, POSSESSION, MANUFACTURE, DELIVERY AND ADVERTISEMENT OF DRUG PARAPHERNALIA.

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

1. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
2. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
3. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.
4. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
5. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.
6. Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances.
7. 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.
8. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.
9. Capsules, balloons, envelopes or other containers used, intended for use or designed for use in packaging small quantities of controlled substances.
10. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances.
11. Hypodermic syringes, needles and other objects used, intended for use or designed for use in percutaneously injecting controlled substances into the human body.
12. 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:

- a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.
- b. Water pipes.
- c. Carburetion tubes and devices.
- d. Smoking and carburetion masks.
- e. 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.
- f. Miniature cocaine spoons and cocaine vials.
- g. Chamber pipes.
- h. Carburetor pipes.
- i. Electric pipes.
- j. Air-driven pipes.
- k. Chillums.
- l. Bongs.
- m. Ice pipes or chillers.

(B) Determination Of Drug Paraphernalia. In determining whether an object is drug paraphernalia, the following shall be considered:

- 1. Statements by an owner or by anyone in control of the object concerning its use.
- 2. 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.
- 3. The proximity of the object in time and space to a direct violation of this section.
- 4. The proximity of the object to controlled substances.
- 5. The existence of any residue of controlled substances on the object.
- 6. Direct or circumstantial evidence of the intent of any 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 the object as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.
- 7. Oral or written instructions provided with the object concerning its use.
- 8. Descriptive materials accompanying the object which explain or depict its use.
- 9. National and local advertising concerning its use.
- 10. The manner in which the object is displayed for sale.
- 11. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise.
- 12. The existence and scope of legitimate uses for the object in the community.
- 13. Expert testimony concerning its use.

(C) Prohibited Activities:

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

3. Delivery of Drug Paraphernalia to a Minor. Any person 18 years of age or over who violates par. 2 by delivering drug paraphernalia to a person under 18 years of age is guilty of a special offense.
4. Advertisement of Drug Paraphernalia. No person may place in any newspaper, magazine, handbill or other publication, or upon any outdoor billboard or sign, any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
5. Exemption. This subsection does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Chapter 161, Wis. Stats. This section does not prohibit the possession, manufacture or use of hypodermics, in accordance with Chapter 161, Wis. Stats.

(D) Penalties.

1. Any drug paraphernalia used in violation of this section shall be seized and forfeited to the Village.
2. Any person who violates sub (C)1, 2 or 4 shall, upon conviction, be subject to a forfeiture of not more than \$500.00, together with the costs of prosecution, and upon default of payment be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed 20 days.
3. Any person who violates sub (C)3 shall upon conviction, be subject to a forfeiture of \$1,000.00, together with the costs of prosecution, and upon default of payment be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed 40 days.

9.09 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY. The following acts, and omissions are declared to be a public nuisance and disorderly conduct and the following places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of § 9.02:

(1) DISCHARGING AND CARRYING FIREARMS AND GUNS; PROHIBITIONS.

(A) No person, except a sheriff, police officer or their deputies, or a member of the Military in the line of duty as defined in the Wisconsin Statutes, shall fire or discharge any firearm, rifle, spring or air gun of any description, bow and arrow or sling shot within the Village. Notwithstanding the foregoing, the following are excluded from the prohibitions of this section:

1. The firing or discharging of BB guns upon private premises with the owner's consent by persons over 16 years of age or under the direct supervision of a parent or guardian.
2. Gun and/or cannon salutes, using blank cartridges, as a special function at a parade, program or funeral.
3. The firing of small bore rim-fire firearms, or bows and arrows, sling shots or BB guns are permitted in the basements of residences with the owner's permission.
4. The firing or discharging and other use of duly supervised rifle or pistol ranges or shooting galleries authorized by the Village Board.
5. Discharge of firearms under circumstances specifically authorized by Wisconsin Statutes Section 66.0409(3)(b), and the statutes referenced therein.
6. Hunting with a bow and arrow or crossbow on lands with permission of the land owner more than 100 yards from a building as defined in Wis. Stats. §29.038 unless the person who owns the land on which the building is located allows the hunter to hunt within 100 yards of the building. Any person who hunts with a bow

and arrow or crossbow under this section must discharge the arrow or bolt from the respective weapon toward the ground.

(B) No person, except a sheriff, police officer or their deputies, or a member of the Military in the line of duty shall enter or remain in any part of a building owned, occupied or controlled by the Village of Sussex while carrying a firearm or any weapon. This subsection shall not apply to entry or remaining with a firearm within a duly supervised rifle or pistol range or shooting gallery that is owned, operated or controlled by the Village in compliance with the laws and rules applicable to such facility.

(C) The Village Administrator shall cause signs to be erected at all entrances to all buildings owned, occupied or under the control of the Village providing notice that no person is to enter or remain in any such building while carrying a firearm. Such signs shall be five inches by seven inches or larger.

(D) Nothing in this subsection shall be construed to authorize the carrying of any firearm or dangerous weapon contrary to Wis. Stats §§941.23 or 941.235

(E) No person, except a sheriff, police officer or their deputies, or a member of the Military in the line of duty shall enter or remain in any part of a building on non-Village owned property in the Village (excluding locations where firearm and or weapon restrictions are specifically prohibited by Wisconsin Statutes) if the owner of that building has properly posted a sign prohibiting anyone to enter that building with a firearm and or weapon.

(2) **THROWING OR SHOOTING OF ARROWS, STONES AND OTHER MISSILES PROHIBITED.** No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the Village.

(3) **DISORDERLY CONDUCT PROHIBITED.** No person shall within the Village:

(A) In any public or private place engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or other disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to cause or provoke an immediate disturbance of public order or tends to disturb or annoy any other person or persons.

(B) Intentionally abuse, provoke or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

(4) **ALARM SYSTEM REQUIREMENTS AND FALSE ALARMS PROHIBITED.**

(A) Intent. Although the Village recognizes that alarm systems serve a public purpose, it is the intent of this section to establish standards and regulations for all alarm systems as defined in this section in the Village and to prevent carelessness, improper maintenance or any other cause which results in false alarms from privately owned, commercially owned, leased or contracted alarm systems in that a large number of such false alarms are received by the Village. Such false alarms initiate police and/or fire department personnel and vehicle response which result in unnecessary expense to the Village, increases the risk of damage to property or injury to persons and dilutes the police and fire protection available to other areas of the Village. Such false alarms, therefore, constitute a public nuisance which must be abated and/or penalized.

(B) Definitions. Private alarm system is defined as any device, designed and installed solely for the purpose of detecting and signaling the police and/or fire department, directly or via a central alarm station, to make an emergency response to the signal's location.

1. Direct private alarm system is any private alarm system which is in any way linked to the police and/or fire department.
2. Indirect private alarm system is any private alarm system which is in any way linked to a central alarm station.

False alarm is a signal, regardless of how received, resulting in a response by the police and/or fire department when an emergency situation does not exist. The determination of a False Alarm is made by the Village Administrator in consultation with the Fire Chief or Director of Police Services.

Local alarm system is any system which emits either an audible or visual signal, or both, on the exterior of any property, and is not connected to any other location by any means. This does not include any device designed solely for the purpose of alerting a building's occupants of fire, smoke or illegal entry, or any alarm devices on automobiles.

Person shall mean any individual, partnership, corporation or other entity.

Central alarm station shall mean any facility which receives signals from alarm systems and alerts the police and/or fire department of the need to make an emergency response to the signal.

(C) Central Alarm Station Duties. Any person, company, organization or other entity providing a central alarm station monitoring service of alarms covered by this section shall be capable of having a service representative or other authorized key holder respond to the alarm location within thirty (30) minutes after activation.

- (D) Alarm Conditions. Alarms shall not be installed without meeting the following conditions:
1. The alarm system has the approval of the Underwriters Laboratories or other nationally recognized testing service.
 2. The alarm system has or will be installed in accordance with any applicable requirements of the Village Electrical Code, including necessary permits.
 3. The local alarm system shall have a device which will shut off any audible signal automatically within fifteen (15) minutes after activation.
 4. Person's shall follow regular alarm testing procedures set forth by the Village Fire Chief.
 5. For indirect private alarm systems the following additional requirements apply:
 - a. Equipment must meet at least minimum standards as set forth in the Federal Bank Protection Act of 1968.
 - b. Person's shall remove the alarm system when the service is disconnected.
 - c. Person's shall install at his or her expense at the Police or Fire Department switchboard termination point, equipment which is designated by the Chief of Police or Fire Chief.
 6. No person, firm or corporation shall use or cause to be used, any telephone or electronic device or attachment which automatically selects a public primary telephone trunk line of the police or fire department, and then reproduces any pre-recorded message to report any intrusion, robbery or other emergency. Nor will the installation of a private telephone and trunk line for this purpose be allowed.

(E) False Alarm Fees. Any false alarm from an alarm system responded to by the Village's Police or Fire Services will incur a special charge for current services rendered. The amount of the special charge, which may be \$0 or more, for one or more false alarms in a 12 month period, January 1 to December 31, shall be approved as part of the fees resolution of the Village of Sussex and may be adjusted from time to time by the Village Board as deemed appropriate. The Village shall send a bill for the amount of the charge, to the property owner, and if applicable also to the tenant or other occupant of the property where the false alarm occurred. Such charges that remain unpaid on November 15th of the current year shall become a lien, and shall automatically be extended upon the tax roll as a special charge against the property served pursuant to Section 66.0627 of the Wisconsin Statutes, regardless of whether the resident individual or business causing the alarm is the property owner.

(F) Exemptions. Property owned or leased by the Village or the Hamilton School District are excluded from the provisions of this chapter.

(5) OBEDIENCE TO OFFICERS. No person shall resist or in any way interfere with any officer of the Village while such officer is doing any act in his official capacity and with lawful authority, or shall refuse to assist an officer in carrying out his duties when so requested by the officer.

(6) DESTRUCTION OF PROPERTY PROHIBITED. No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature belonging to the Village or its departments, or to any private person, without the consent of the owner or proper authority.

(7) REGULATIONS REGARDING SCHOOL PROPERTY.

(A) At all times, no persons, students or employees of the Hamilton School District shall be in the building(s) or grounds of any district school without legal permission.

(B) Any person who is in the school building or on the school grounds in violation of subsection (1) above subsequently refusing to leave said building or grounds after being requested to do so by the principal or his representative shall be deemed in violation of this ordinance.

(C) Subsections (A) and (B), above, shall not pertain to an elector entering said school building/grounds to cast his/her vote; guardians/parents of students enrolled while on official school business or other persons engaged in school business and adhering to school policies.

(D) No person shall smoke or use any tobacco products in any Hamilton School District school or on school grounds according to the Wisconsin Clean Indoor Air Act (Wis. Stats. 101.123)

(E) The following prohibitions are specifically included among the activities prohibited by subsection (A) above:

1. No person not in official attendance, or on official business, shall enter in, congregate, loiter, wander, stroll, stand, or play in any school building in the Village or in or about any playground area or parking area adjacent thereto during the hours that school classes are in session on official school days, provided this section shall not apply to one who is a guest or invitee of the school authorities.
2. No student who is scheduled to be in class at any location or school, but is not in class, shall enter, congregate, loiter, wander, stroll, stand, or play in any school building in the Village or in or about any playground area or parking area adjacent thereto while classes are in session on official school days.

(F) Penalties. Any person who is younger than 18 years of age who is found to be in violation of this section, and who is of sufficient age to be subject to the Village ordinance enforcement, in accordance with state law, shall be fined \$25.00 plus court costs for each violation. Any person who is 18 years old or older who is found to be in violation of this section shall be fined \$50.00 plus court costs for each violation.

(8) TRUANCY PROHIBITED.

(A) Compulsory School Attendance Required. Sections 118.15 and 118.16, Wis. Stats., as amended from time to time, are hereby adopted by reference as through fully set forth herein.

(B) Truancy by Children Prohibited. Section 48.19(1)(d)10., Wis. Stats., as amended from time to time is hereby adopted by reference as through fully set forth herein.

(C) School Absences Regulated. No student shall be absent from school without an acceptable excuse, as provided under Section 118.15, Wis. Stats. In this section, the term schools shall include all public and private primary and secondary schools located in the Village.

(D) Penalties. Any person who is younger than 18 years of age who is found to be in violation of this section, and who is of sufficient age to be subject to the Village ordinance enforcement, in accordance with state law, shall be fined \$25.00 plus court costs for each violation. Any person who is 18 years old or older who is found to be in violation of this section shall be fined \$50.00 plus court costs for each violation.

(9) LOITERING PROHIBITED.

(A) Obstruction Of Highway Or Traffic By Loitering. No person shall obstruct any street, bridge, sidewalk or crossing by lounging or loitering in or upon the same after being requested to move on by any police officer, Nor shall any person stand, sit, loaf or loiter in groups or crowds or engage in any sport or exercise upon the public streets, alleys, sidewalks, street crossings or bridges or in any other public place within the Village in such manner as to prevent, interfere with or obstruct the ordinary free use of such public streets, sidewalks, streets, street crossings and bridges or other public places by person passing along and over the same after being requested to move by any police officer.

(B) Loitering After Being Requested To Move. No person shall stand, sit, loaf or loiter in groups or crowds or engage in any sport or exercise or prevent or hinder the free ingress and egress upon the public streets, sidewalks or adjacent doorways or entrances, street crossings or bridges or in any other public place or on any private premises without invitation from the owner or occupant, after being requested to move by any police officer or by any person in authority at such places.

(C) Loitering In Public Places. No person shall loiter, lounge or loaf in or about any depot, theater, dance hall, restaurant, store, public sidewalk, public parking lot, or other place of assembly or public use after being requested to move by any police officer, proprietor of the place of business, or by any person in authority at such place. Upon being requested to move, a person must immediately comply with such request by leaving the premises or area thereof at the time of the request.

(10) LOITERING OF MINORS.

(A) Definitions.

1. Public place. Public place, as used herein, means a place to which the public or a substantial group of the public has access, including but not limited to public streets, highways, roads, alleys, parks, public buildings, places of amusement

and entertainment, vacant lots, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

2. Legal guardian. Legal guardian, as used herein, means a person who, under court order, is the guardian of the child, and also a person or public agency or private agency with whom the child has been placed by a court.

(B) Hours Limited.

1. General rule. No child under the age of seventeen (17) years shall congregate, loiter, wander, stroll, stand or play in or upon any public place, as defined herein, between the hours of 11:00 P.M. and 5:00 A.M. the following day, subject to the limitations described in subsections 2 and 3 below.
2. Defenses: It is a defense to arrest, detention and prosecution under Subsection 1 that the child was:
 - a. Accompanied by Parent. Subsection 1 does not apply to a child who is accompanied by his or her parent, legal guardian or other adult person authorized by a parent or legal guardian of such child to take the parent's or legal guardian's place in accompanying said child for a designated period of time and purpose within a specified area.
 - b. Emergencies. Subsection 1 does not apply to a child who is in violation of subsection 1 due to an unforeseen circumstance (including but not limited to fire, natural disaster, or automobile accident) that calls for immediate action to prevent or respond to serious bodily injury or loss of life.
 - c. Own Property. Subsection 1 does not apply to a child who is on a sidewalk abutting the child's residence.
 - d. Interstate Travel. Subsection 1 does not apply to a child who is in a motor vehicle that is engaged in interstate travel.
 - e. Parental Errand. Subsection 1 does not apply to a child who is on an errand at the request and direction of the child's parent or legal guardian, without any detour or stop.
 - f. Employment. Subsection 1 does not apply to a child who is performing a function that is required to be done at that time by the child's employment, or going to or returning home from such employment activity, without any detour or stop.
 - g. Supervised Functions. Subsection 1 does not apply to a child who is attending an educational, religious, or recreational activity that is supervised by adults and sponsored by a school, the Village of Sussex, a civic organization, a religious organization, or another similar entity that takes responsibility for the minor at all times during the hours described in subsection 1, or going to or returning from the same without any detour or stop.
 - h. Emancipated Minors. Subsection 1 does not apply to a child who is married, or has otherwise had the disabilities of minority removed by court order of a court of competent jurisdiction.
 - i. Permitted Protected Activities. Subsection 1 does not apply to a child who is exercising First Amendment rights protected by the United States Constitution and/or related rights protected by the State of Wisconsin Constitution, including free exercise of religion, freedom of speech and the right of assembly.
3. Enforcement. No arrest, citation or other enforcement action shall be taken under this section unless the person issuing the citation or complaint reasonably

believes, based upon all circumstances, that an offense has occurred, and the child has no defense described in subsection 2.

(C) Responsibility Of Parents.

1. General rule. No parent, legal guardian or other person having care, custody and control of a child under the age of seventeen (17) years shall permit or, by inefficient control, allow such child to violate the provisions of subsection (B), above.
2. Exception. The requirements of subsection 1 do not apply against any person described in subsection 1 who notifies the Village Police Department or Waukesha County Sheriff's Department that the child subject to their care, custody or control is missing; provided that this exception only applies during the time that said child continues to be missing after said notification.

(D) Responsibility Of Operators Of Establishments.

1. No person operating any privately owned place of business operated for a profit to which the public is invited (including but not limited to any place of public amusement or entertainment, and any hotel, motel, lodging or rooming house) or any agent, servant or employee of any such person shall knowingly permit any child to violate the provisions of subsection (B), above.
2. Exception. The requirements of subsection 1 do not apply against any person described in subsection 1 who notifies the Village Police Department or Waukesha County Sheriff's Department that the subject child is on the premises and fails to leave when requested to do so; provided that this exception only applies during the time that said child continues to be on the premises after said notification.

(11) CIVIL TRESPASS. No person shall go upon the premises owned, occupied, or possessed by another, without an invitation, express or implied, extended by such owner, occupant, or possessor, and solely for his own pleasure, advantage, or purpose.

(A) Definitions.

1. Trespasser is one who goes upon premises owned, occupied, or possessed by another without an invitation, express or implied, extended by such owner, occupant, or possessor, and solely for his own pleasure, advantage, or purpose.
2. An invitation to be on the premises of another may be by express or implied consent. This is an implied consent when the possessor, by his conduct or his words, or both, by implication consents to such other person's being on the premises.

(12) THEFT OR RETAINING POSSESSION OF LIBRARY MATERIALS.

(A) No person shall fail, on demand, to return any book, periodical, pamphlet, picture, audio-visual material or other article or property belonging to or in charge of the Sussex Public Library according to the rules and regulations duly made and adopted by the Library Board; and, no person shall remove from the library any book, periodical, pamphlet, picture, audio-visual material or other article or property without first having it charged as provided by such rules and regulations.

(B) No person shall mark, deface or in any other way damage or mutilate any book, periodical, pamphlet, picture, audio-visual material or other article or property belonging to or in charge of the Sussex Public Library.

(C) Penalties. Any person violating any of the provisions of this section shall forfeit not less than \$25.00 nor more than \$100.00 together with costs of prosecution and in default of payment

there of shall be imprisoned in the County Jail until such forfeiture and costs are paid but not more than 30 days. Where there is more than one book, periodical, pamphlet, picture, audio-visual material or other article or property involved in any violation, each such item shall constitute a separate offense.

(13) **ILLEGAL BUILDINGS.** No person shall erect, repair or alter a building within the Village in violation of Village Ordinances, rules, or regulations relating to materials and manner of construction of buildings and structures. The Village Administrator or their designee shall take all necessary steps allowed by law to provide for the protection of the public and elimination of the public nuisance caused by buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit.

(14) **DANGEROUS TREES AND TREE LIMBS.** All trees which are a menace to public safety or are the cause of substantial annoyance to the general public are considered dangerous trees and may be ordered removed by the Village. , All limbs of trees which project over and are less than 10 feet above any public sidewalk, street or other public place are considered dangerous tree limbs and may be ordered removed by the Village.

(15) **REGULATION OF FIREWORKS.** No person shall use or display fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Village.

(A) **Regulation Of Fireworks.** Section 167.10 of the Wisconsin Statutes entitled Regulation of Fireworks is adopted by reference and made a part of this section as though set forth in full. The current and future statutory provisions of Wisconsin Statute 167.10 exclusive of any provision therein relating to penalties are adopted and by reference made a part of this Code as if fully set forth herein. Any act required to be performed or prohibited by any current or future statute incorporated herein by reference is required or prohibited by this section. Any future additions, amendments, revisions or modifications of Wisconsin Statute 167.10 incorporated herein are intended to be made a part of this code.

(B) **Definition of Fireworks.** Fireworks mean: Anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

1. Fuel or a lubricant.
2. A firearm cartridge or shotgun shell.
3. A flare used or possessed or sold for use as a signal in any emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
4. A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
5. A cap containing not more than one-quarter 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.
6. A toy snake which contains no mercury.
7. A model rocket engine.
8. Tobacco and a tobacco product.
9. A sparkler on a wire or wood stick not exceeding 36 inches in length or 0.25 inch in outside diameter which does not contain magnesium, chlorate or perchlorate.
10. A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.
11. 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.
12. A device that emits smoke with no external flame and does not leave the ground.

13. A cylindrical fountain not exceeding 100 grams in total weight with an inside tube diameter not exceeding .075 inch, designed to sit on the ground and emit only sparks and smoke.
14. A cone fountain not exceeding 75 grams in total weight, designed to sit on the ground and emit only sparks and smoke.

(C) Bond Required. An indemnity bond with good and sufficient sureties in the minimum amount of \$1,000,000.00 or policy of liability insurance in the minimum amount of \$1,000,000.00 for payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks shall be required by the Village when a fireworks permit is issued by them. The bond or policy shall be taken in the name of the Village. This bond or policy, together with a copy of the permit shall be filed in the office of the Sussex Village Clerk.

(D) Penalties. Any person who shall have violated the provisions of this Ordinance shall be subject to and forfeit and pay to the Village an amount not to exceed \$10,000.00. In addition, any parent or legal guardian of a minor who consents to the use of fireworks by the minor shall forfeit not more than \$10,000.00.

(16) ANIMALS OR FOWL. No person shall keep or harbor any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Village, nor shall any person keep any animal or fowl except domesticated pets within the Village except in the Agricultural Conservancy District. All animals shall be kept in such a manner as to not create a health nuisance. No person having in his possession or under his control any animal or fowl shall allow the same to run at large within the Village. No person shall allow a vicious animal to remain in the Village and all persons shall follow the licensing requirements for animals found in Chapter 4 of the Village Municipal Code.

(17) OBSTRUCTION OF STREETS, SIDEWALKS, and PUBLIC SPACES.

(A) Excavations. No person shall excavate in, under, or around any streets, alleys, sidewalks or crosswalks except as permitted by the ordinances of the Village nor shall any person allow an excavation although made in accordance with such ordinances to be kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or that does not conform to the permit.

(B) Wires And Cables Over Streets. No person shall cause wires and cables over streets, alleys or public grounds to be strung less than 15 feet above the surface thereof.

(C) Unauthorized Traffic Signs. No person shall cause the install of signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any such device, sign or signal.

(D) Obstruction Of Intersections And Public Spaces. No person shall install or fail to maintain trees, hedges, billboards, signs, awnings or other obstruction such that the obstruction prevents persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk or that the placement of the obstruction is so situated or constructed as to endanger public safety of users of the streets, sidewalks, public grounds, or places frequented by the public.

(E) Unlawful Assemblies. No persons shall through the unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk cause large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

(18) DISTRIBUTION OF HANDBILLS PROHIBITED. No person within the Village shall distribute or place or cause to be distributed or placed on any premises any handbill or any printed or advertising matter unless permitted by the occupant of the premises. Political and religious matters are specifically exempt from this requirement.

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

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

(21) SEXUAL OFFENDER RESIDENCY RESTRICTIONS; CHILD SAFETY ZONES.

(A) Findings, Purpose & Intent.

1. Findings. The Village Board of the Village of Sussex, Waukesha County, Wisconsin, hereby finds as follows and adopts such findings as its legislative history for the provisions hereinafter enacted:

(a) The Wisconsin Statutes provide for the punishment, treatment and supervision of persons convicted or otherwise responsible for sex crimes against children, including their release into the community.

(b) Chapter 980, Wis. Stats., provides for the civil commitment of sexually violent persons, a more dangerous type of sex offender, and specifically, in § 980.08, Wis. Stats., following such commitment, under certain conditions, provides for the supervised release of such persons into the community.

(c) The Village of Sussex places a high priority on maintaining public safety through highly skilled and trained law enforcement as well as dependency upon laws that deter and punish criminal behavior.

(d) Sex offenders have very high recidivism rates, and according to a 1998 report by the United States Department of Justice, sex offenders are the least likely to be cured and the most likely to reoffend and prey on the most innocent members of our society. In addition, more than 2/3 of the victims of rape and sexual assault are under the age of 18, and sex offenders have a dramatically higher recidivism rate for their crimes than any other type of violent felon.

(e) The Village Board has been advised by staff counsel of the findings of a number of the legislatures of these United States, including Wisconsin, and

including but not limited to Pennsylvania, Alabama, Iowa, Florida, Maine, and Louisiana, as they pertain to laws adopted which relate to and in part impose restrictions upon sex offenders with respect to residency.

- (f) The Village Board has also been advised of the decision of the United States Court of Appeals for the 8th Circuit, in *Doe v. Miller*, 405 F.3d 700, 716 (8th Cir. 2005), providing in part: "The record does not support a conclusion that the Iowa General Assembly and the Governor acted based merely on negative attitudes toward, fear of, or a bare desire to harm a politically unpopular group [citation omitted]. Sex offenders have a high rate of recidivism, and the parties presented expert testimony that reducing opportunity and temptation is important to minimizing the risk of re-offense. Even experts in the field could not predict with confidence whether a particular sex offender will reoffend, whether an offender convicted of an offense against a teenager will be among those who 'cross over' to offend against a younger child, or the degree to which regular proximity to a place where children are located enhances the risk of re-offense against children. One expert in the district court opined that it is just 'common sense' that limiting the frequency of contact between sex offenders and areas where children are located is likely to reduce the risk of an offense [citation omitted]. The policymakers of Iowa are entitled to employ such 'common sense,' and we are not persuaded that the means selected to pursue the State's legitimate interest are without rational basis."
 - (g) The Village Board having considered a proposed amendment to this Code to provide residency restrictions for sex offenders and child safety zones to further protect children, and upon all of the records and files and reports and proceedings pertaining to the subject matter, and all of the prior actions and experience of the Village of Sussex in protecting the community from sexually violent persons, finds the proposed amendments will serve to protect the health, safety and welfare of the community.
2. Section 9.09(21) is a regulatory measure aimed at protecting the health and safety of children in Sussex from the risk that convicted sex offenders may reoffend in locations close to their residences. The Village finds and declares that sex offenders are a serious threat to public safety. When convicted sex offenders reenter society, they are much more likely than any other type of offender to be rearrested for a new sexual assault. The Village further finds that, given the high rate of recidivism for sex offenders and that reducing opportunity and temptation is important to minimizing the risk of re-offense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by state law near schools, day-care centers and other places children frequent. The Village finds and declares that in addition to schools and day-care centers, children congregate or play at public parks.
 3. Code Section 9.09(21) is not intended to impose a criminal penalty or punishment of sexual offenders, but rather to serve the Village's compelling interest to promote, protect, and improve the health, safety, and welfare of children in the Village by creating areas around locations where children regularly congregate in concentrated numbers where sexual offenders and sexual predators are prohibited from loitering and/or establishing temporary or permanent residence and by regulating certain activities that may be used by sexual offenders to prey upon children.

4. Repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present a particular threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims that are never reported, and are prosecuted for only a fraction of their offenses. This makes the cost of sexual offender victimization to society at large while incalculable, clearly exorbitant.

(B) Definitions. As used in code section 9.09. and unless the context otherwise requires:

1. Child is a person under the age of 16.
2. Children is two or more persons under the age of 16.
3. Child Safety Location is the site upon which any of the following are located without regard to whether such site is located within the geographic limits of the Village of Sussex:
 - (a) Facility for Children
 - (b) Group home, as defined in Wis. Stat. sec. 48.02(7)
 - (c) Library, that is held open for use by the public
 - (d) Licensed day care center as defined in Wis. Stat. sec. 48.65
 - (e) Public or private primary, elementary, secondary, middle, junior high, or high school
 - (f) Recreational trail, playground, athletic fields used by children, or park
 - (g) Specialized school for children, including, without limitation, a gymnastics academy, dance academy, or music school
 - (h) Swimming pool, wading pool, splash pad, or aquatic facility held open for use by the public
 - (i) A public or private golf course or range
4. Child Safety Zone is any place within the municipality that is physically located within one thousand feet (1,000') of any Child Safety Location.
5. Designated Offender is any person who is required to register under § 301.45, Wis. Stats., for any sexual offense against a child, or any person who is required to register under § 301.45, Wis. Stats., and who has been designated a special bulletin (SBX) sex offender pursuant to §§ 301.46(2) and (2m), Wis. Stats.
6. Domicile is an individual fixed and permanent home where the individual intends to remain permanently and indefinitely and to which whenever absent the individual intends to return provided, however, that no individual may have more than one domicile at any time. Domicile does not include a residence for any special or temporary purpose.
7. Facility for children is a public or private school, a group home, as defined in Section 48.02(7), Wisconsin Statutes, a residential care center for children and youth, as defined in Section 48.02(15d), Wisconsin Statutes, a shelter care facility, as defined in Section 48.02(17), Wisconsin Statutes, a day care center licensed under Section 48.65, Wisconsin Statutes, a day care program established under Section 120.13(14), Wisconsin Statutes, a day care provider certified under Section 48.651, Wisconsin Statutes, or a youth center, as defined in Section 961.01(22), Wisconsin Statutes.
8. Minor is a person under the age of 18.

9. Permanent Residence means a place where a Designated Offender sleeps abides lodges or resides for 14 or more consecutive days.
10. Temporary Residence means a place where a Designated Offender abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the Designated Offender's permanent address or a place where the Designated Offender routinely abides, lodges, or resides for a period of four or more consecutive or non-consecutive days in any month and which is not the Designated Offender domicile.

(C) Residency Restrictions For Designated Offenders, Exceptions.

1. Child Safety Zone Restriction. Subject to the exceptions in Section (C)2, no Designated Offender shall establish a permanent or a temporary residence within the Village that is within a Child Safety Zone, as determined by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer property line of any Child Safety Location.
2. Exceptions. A Designated Offender may not be found in violation of the residency restrictions in Section (C)1 if the Designated Offender established that any of the following apply:
 - a. The Designated Offender established the Permanent Residence or Temporary Residence in the Village prior to October 25, 2011 provided, however, that if the person was then subject to Wis. Stat. Sec. 301.45, the person must have also reported and registered such residence pursuant to Wis. Stat. Sec. 301.45 prior to such date to take advantage of the exception.
 - b. The Designated Offender is a minor and is not required to register under Wis. Stats. Sec. 301.45 and Sec. 301.46.
 - c. The Child Safety Location began after the Designated Offender had established the Permanent Residence or Temporary Residence and reported and registered such residence if required pursuant to Wis. Stat. Sec. 301.45.
 - d. The Designated Offender is subject to an active court order to serve a sentence or is otherwise involuntarily required to reside in a jail, prison, juvenile facility, or other correctional institution or mental facility within the Child Safety Zone.
 - e. To the extent required by § 980.135 of the Wisconsin Statutes, and notwithstanding the foregoing provisions of this Ordinance, the Designated Offender has been released under Wis. Stat. § 980.08, so long as the Designated is subject to supervised release under Chapter 980 of the Wisconsin Statutes, is residing where he or she is ordered to reside under Wis. Stat. § 980.08, and is in compliance with all court orders issued under Chapter 980 of the Wisconsin Statutes.
 - f. The residence is also the primary residence of the Designated Offender's parent(s), grandparent(s), sibling(s), spouse, child or children and such parent(s), grandparent(s), sibling, spouse, child or children established their residence at least two years before the Designated Offender established residence at that location. The Designated Offender, however, shall be prohibited from residing in such location if a victim of an offense giving rise to the Designated Offender's designation also

resides at the residence and is a Minor unless the Designated Offender is on probation or parole and residing with the victim is approved in writing by the probation or parole officer; and if not on probation or parole, such location is prohibited unless approved in writing by the Lieutenant commanding the Village's law enforcement officers, based upon a finding that the circumstances of the offense, the Designated Offender, the victim, and all relevant information in the matter substantially eliminates the risk of re-offense against the victim.

- g. The Sex Offender is granted an exemption through the Sexual Offender Petition Process.

(D) Renting Real Property To Designated Offenders, Restricted. No person shall let or rent any place, structure, or part thereof, trailer, or other conveyance, with the knowledge that it will be used as a permanent or temporary residence by a Designated Offender contrary to the provisions of Section (C) above.

(E) Prohibited Activities by Designated Offenders, Exception.

1. Prohibited Activities by Designated Offenders, Except as provided in subsection (E)2, no Designated Offender shall participate in a holiday event in the Village involving a child or children by means of distributing candy or other items to such child or children in relationship to Halloween, wearing a Santa Claus costume in a public place in relationship to Christmas, or wearing an Easter Bunny costume in a public place in relationship to Easter, or other similar activities that may, under the circumstances then present, tend to entice a child to have contact with a sex offender.
2. Exception. Events in which the Designated Offender is a parent or legal guardian of the child or children involved are exempt from the provisions of Section (E)1 above provided that no child or children other than a child or children of the Designated Offender are present at the event or if the Designated Offender is granted an exemption through the Sexual Offender Petition Process

(F) Loitering by Designated Offender, Prohibited, Exception.

1. Loitering by Designated Offender. No Designated Offender shall loiter or prowl on or within two hundred feet (200') of any Child Safety Location, at a time, or a manner not usual for law abiding individuals, under circumstances that warrant alarm for the safety of the 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 law enforcement officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself of any object. Unless flight by the actor or other circumstances makes it impractical, a law enforcement 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 himself or herself or explain his or her presence and conduct at the aforementioned locations. No person shall be convicted of an offense under this section if the law enforcement 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 law enforcement officer at the time, would have dispelled the alarm.
2. Exception. The prohibitions set forth in section 6(a) above shall not apply where the Designated Offender is a minor who is with one or both of his or her parents

or guardians at the time of the offense or the actor was exercising First Amendment rights produced by the United States Constitution, including freedom of speech, free exercise of religion and the right of assembly.

A Designated Offender does not commit a violation of loitering in a Child Safety Zone as stated above and the enumerated uses may allow such person on the property supporting such use if any of the following apply:

- a. The property supporting an enumerated use under also supports a church, synagogue, mosque, temple or other house of religious worship (collectively "church"), subject to the following conditions:
 - i. The Designated Offender's entrance and presence upon the property occurs only during hours of worship or other religious program/service as posted to the public; and
 - ii. The Designated Offender shall not participate in any religious education programs which include individuals under the age of 18, unless other adults who are not offenders are also present.
- b. The property supporting an enumerated use also supports a use lawfully attended by the Designated Offender's natural or adopted child(ren), which child's use reasonably requires the attendance of the Designated Offender as the child's parent upon the property, subject to the following conditions:
 - i. The Designated Offender's entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public; and
 - ii. Written advance notice is made from the person to an individual in charge of the use upon the property, and approval from an individual in charge of the use upon the property as designated by the owner of the use upon the property is made in return, of the attendance by the person.
- c. The property supporting an enumerated use also supports a polling location in a local, state or federal election, subject to the following conditions:
 - i. The Designated Offender is eligible to vote;
 - ii. The designated polling place for the person is an enumerated use; and
 - iii. The person enters the polling place property and proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate, and the person vacates the property immediately after voting.
 - iv. The property supporting an enumerated use also supports an elementary or secondary school lawfully attended by a person as a student, under which circumstances the person who is a student may enter upon that property supporting the school at which the person is enrolled, as is reasonably required for the educational purposes of the school.

- d. The property also supports a court, government office or room for public governmental meetings, subject to all of the following conditions:
 - 1. The Designated Offender is on the property only to transact business at the government office or place of business, other than a public library, or to attend an official meeting of a governmental body; and
 - 2. The Designated Offender leaves the property immediately upon completion of the business or meeting.
- e. The Sexual Offender is granted an exemption through the Sexual Offender Appeal process.

(G) Child Safety Zone Map. The Village Clerk's Office shall maintain an official map showing Child Safety Zones within the Village. The Village Clerks' Office shall update the map at least annually to reflect any changes in the location of Child Safety Zones. The map is to be displayed in the office of the Village Clerk. In the event of a conflict, the terms of this Ordinance shall control. In no event shall a failure to update the map in compliance with this Ordinance preclude the prosecution or conviction of any Designated Offender under this Ordinance.

(H) Designated Offender Petition Process, Residency Board established. The Village recognizes that circumstances surrounding Designated Offender status are not all the same, nor do all Designated Offenders pose the same, or in some cases possibly any, additional risk to children at large. In order to balance the rights of the public to enjoy safety in their community and protect the most vulnerable members of the community with the rights of individual citizens to enjoy their freedoms the following Petition Process may be used by a Designated Offender to seek consideration of the merits of their specific case.

- a. A Designated Offender may seek an exemption from this Ordinance by petitioning to the Sex Offender Residency Board ("Residency Board").
- b. The Residency Board shall consist of the members of the Village of Sussex Public Safety and Welfare Committee.
- c. The Residency Board shall approve an official petition form, which shall be available on the Village's website and the office of the Village Clerk.
- d. The Designated Sex Offender seeking an exemption must complete the petition and submit it to the Village Clerk who shall forward it to the Residency Board. The Residency Board shall hold a hearing on each completed petition that is submitted without unreasonable delay, Such hearing shall be open to the public.
- e. During the hearing on any petition, the petitioner shall appear in person, but may be represented by an attorney at their option. The Residency Board may review any pertinent information and accept oral or written statements from any person. The Residence Board shall base its decision on factors related to the Village's interest in promoting, protecting, and improving the health, safety and welfare of the community as set forth in this Ordinance, while giving due consideration to other applicable factors. Other applicable factors for the Residency Board's consideration shall include, but are not limited to:
 - i. Nature of the offense that resulted in Designated Offender's status
 - ii. Date of offense
 - iii. Age at lime of offense

- iv. Recommendation of probation or parole officer
 - v. Recommendation of Police Department
 - vi. Recommendation of any treating practitioner
 - vii. Counseling, treatment and rehabilitation status of Designated Offender
 - viii. Remorse of Designated Offender
 - ix. Duration of time since Designated Offender's incarceration
 - x. Support network of Designated Offender
 - xi. Relationship of Designated Offender and victim(s)
 - xii. Presence or use of force in offense(s)
 - xiii. Adherence to terms of probation or parole
 - xiv. Proposals for safety assurances of Designated Offender
 - xv. Location of Domicile in relation to Child Safety Zone and Child Safety Zone locations with respect to nature of offense.
 - xvi. Conditions to be placed on any exception from the requirements of this Ordinance
- f. The Residency Board shall decide by majority vote whether to grant or deny an exemption. An exemption may be unconditional or limited to a certain address or time, or subject to other reasonable conditions. A written copy of the Residency Board's decision shall be provided to the Designated Offender, the Village Administrator, and the Lieutenant commanding the Village's law enforcement.
- g. The Residency Board's decision may be appealed to the Village Board under Chapter 24 of the Village Municipal Code within thirty (30) days of receipt of the Residency Board's decision. A written copy of the Village Board's decision shall be provided to the Designated Offender, the Village Administrator, and the Lieutenant commanding the Village's law enforcement.

9.10 ABATEMENT OF PUBLIC NUISANCES.

(1) **ENFORCEMENT.** The Police Department, the Fire Chief or their designated representative, the Building Inspector, the Health Officer, the Village Engineer, Public Works Director, or any other public official shall enforce those provisions of this chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspection upon complaint to insure 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 have satisfied himself that a nuisance does in fact exist.

(2) **SUMMARY ABATEMENT.** If the public official determines that a public nuisance exists within the Village and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Administrator may direct the proper officer to cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(3) **ABATEMENT AFTER NOTICE.** If the public official determines that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger

to the public health, safety, peace, morals or decency, they shall serve notice on the person causing or maintaining the nuisance to remove the same within 10 days. If such nuisance is not removed within such 10 days, the proper official shall cause the nuisances to be removed as provided in sub. (2).

(4) **OTHER METHODS NOT EXCLUDED.** Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Village or its officials in accordance with the laws of the State of Wisconsin.

(5) **APPEAL PROVISION.** Any person aggrieved by any administrative determination under this section may have such determination reviewed as provided in Chapter 24 of the Municipal Code of the Village of Sussex or other remedies of law.

(6) **COST OF ABATEMENT.** In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

9.11 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE. Except as otherwise specifically provided in this Code, the current and future statutory provision in Chapters 938 through 948, Section 48.983, 86.06, 86.192, 134.66, 161.41, 161.47 through 161.62, 175.49-175.60 and 254.92 Wisconsin Statutes, describing and defining regulation against the peace and good order of the State, exclusive of any provisions therein relating to penalties to be imposed and exclusive of any regulations for which the statutory penalty is a term of imprisonment, are adopted and by reference made a part of this Code as if fully set forth herein. Any act required to be performed or prohibited by any current or future statute incorporated herein by reference is required or prohibited by this Code. Any future amendments, revisions or modifications of the current or future statutes incorporated herein are intended to be made part of this Code in order to secure uniform statewide regulation of peace and good order of the State.

9.12 PENALTIES. Any person who shall violate any provision of this Chapter shall be subject to penalties as follows:

(A) Any person who shall violate any provision of this Chapter or cause a public nuisance shall be subject to a penalty as provided in Section 25.04 of this Municipal Code.

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

(C) To the extent that penalty provisions within specific sections of the chapter are spelled out for those sections those penalty provisions shall apply.

9.13 APPEALS. Any person aggrieved by a decision of a Village official, or otherwise aggrieved by the application of this ordinance, may pursue an appeal pursuant to the procedures described in Chapter 24 of the Municipal Code of the Village.