

Chapter 9

Title 9

PUBLIC PEACE, MORALS AND WELFARE

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IX. OFFENSES BY OR AGAINST PUBLIC OFFICERS OR GOVERNMENT

Chapter 9.01

OFFENSES AGAINST STATE LAWS

Sections:

- 9.01.010 Offenses against state laws subject to forfeiture.
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9.01.010 Offenses against state laws subject to forfeiture. By the authority of Wis. Stats. §§ 66.0107, 134.66(5), and 254.92(4), the following provisions of the Wisconsin Statutes, as updated and revised from time to time, are hereby adopted by reference, excluding the penalty provisions contained therein:

§134.66; § 254.92; § 939.05; § 939.30, § 939.31, Chapters 941 through 948, inclusive, but not including § 944.21; Chapter 951; §§ 961.573(1)-(2); §§ 961.574(1)-(2); and §§ 961.575(1)-(2).

This section shall not apply to circumstances under which the actor could be charged with a felony, as described and classified by Wis. Stats. §§ 939.50 and 939.60, unless the matter is referred to the district attorney and the district attorney declines to prosecute the matter.

9.01.020 Definitions. A. For the purposes of this chapter, the definitions of words and phrases contained in Wis. Stat. § 134.66; § 254.92; § 939.22; Chapters 941 through 948, inclusive; Chapter 951, and Chapter 961, as updated and revised from time to time, are hereby adopted by reference.

B. In any state statute adopted by reference by this chapter, the following definitions shall apply:

1. The word "crime" shall mean "offense."
2. The phrase "criminal intent" shall mean "intent."
3. The word "court" shall mean "municipal court."
4. The phrase "district attorney" shall mean "village attorney."

9.01.030 Attempt, penalty for attempt. An attempt to commit an offense under this section requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute such offense and that the actor does acts towards the commission of the offense which demonstrate unequivocally, under all the circumstances, that he or she formed that intent and would commit the offense except for the intervention of another person or some extraneous factor. Whoever attempts to commit an offense under this chapter shall forfeit an amount not to exceed one-half the maximum penalty for the completed offense.

(Ord. 013, Series 2010, Part 1)

9.01.040 Code section numbering. All violations of Section 9.01.010 shall be cited using that code section number, except for the following offenses which shall adopt the same terms and definitions of Chapter 9.01 but maintain a separate chapter and/or section number under this Code for record keeping purposes: resisting or obstructing an officer; drug paraphernalia possession, manufacture, delivery, or delivery to a minor; damage to property; theft; fraud on hotel or restaurant keeper, recreational attraction, taxicab operator, or gas station; retail theft; removal of shopping cart; issuance of worthless checks; carrying concealed weapons; facsimile firearms; purchase or possession of cigarettes or tobacco products by persons under 18; restrictions on sale or gift of cigarette or tobacco products. (Ord. 022, Series 2010, Part 1)

Chapter 9.04

CROSSING POLICE LINES

Sections:

9.04.010 Obedience to police officers.

9.04.010 Obedience to police officers. At a time of any public parade, accident, riot, public peril or other circumstance causing people to congregate or assemble, it is unlawful for any person to enter, break through or remain within the danger lines or other bounds established by the police department or by or under the direction of any authorized village official or employee for the preservation of public safety, peace and order, unless such person is duly authorized by an officer there in charge. (Prior code SS17.02 (3)).

* For statutory provisions authorizing peace officers to command assistance of all persons, see Wis.Stat. 1975 SS61.31. Cross-reference: For provisions on citation deposits and enforcement officials for violations of this chapter, see SSSS1.12.020 and 1.12.030, respectively, of this code.

Chapter 9.06

Resisting or obstructing an officer

Sections:

9.06.010 State statute adopted. A violation of Section 9.01.010 of the Grafton Code adopting Wis. Stat946.41 shall be cited using this code section number. The terms and definitions of Chapter 9.01 of this Code shall remain applicable to any such offense. (Or. 022, Series 2010, Part 2)

Chapter 9.08

AIDING ESCAPE OF PRISONERS

Sections:

9.08.010 Assisting escape of prisoner.

9.08.010 Assisting escape of prisoner. No person shall intentionally aid any prisoner or person to escape from the lawful custody of a policeman or peace officer of the village. (Prior code SS17.02(6)).

Chapter 9.22

POSSESSION OF MALT BEVERAGES AND
INTOXICATING LIQUOR

Sections:

9.22.010 Possession prohibited where.

9.22.010 Possession prohibited where. No person shall purchase any intoxicating liquor or fermented malt beverage in any glass or open container except for consumption on a licensed premises, and no person shall be in possession of any open glass or other open container containing intoxicating liquor or fermented malt beverage or drink from the same on any public way, public street, public park, public baseball playing field operated by the village within leased property or village property, sidewalk, boulevard, parkway, safety zone, alley, or public lot, or in any motor vehicle parked on a public way, street, alley, or public parking lot or public school property or upon any private parking lot or other private areas that are open to public use, unless a lawful permit has been issued. (Ord. A-437-83 Part 1, 1983; Ord. A-346-77 Part 1, 1977; Ord. A-274-74 Part 1, 1974; prior code SS17.03(2)(a)).

Chapter 9.24

GAMBLING, LOTTERIES AND FRAUDULENT DEVICES*

Sections:

9.24.010 Gambling, lotteries and fraudulent devices prohibited.

9.24.010 Gambling, lotteries and fraudulent devices prohibited.
All forms of gambling, lotteries and fraudulent devices and practices are prohibited within the limits of the village. Any peace or police officer of the village is empowered to seize anything devised solely for gambling or found in actual use for gambling within the limits of the village and to dispose thereof or commence an action against such device in accordance with the provisions of Section 66.051 of the Wisconsin Statutes, which is adopted and made a part of this chapter by reference. (Prior code SS17.03(1)).

* For statutory provisions authorizing municipal prohibition of gambling, see Wis.Stat. 1975 SS66.051(1).

Chapter 9.26

OBSCENE LANGUAGE

Sections:

9.26.010 Obscene language prohibited.

9.26.010 Obscene language prohibited. No person shall use any obscene language or conduct himself in any indecent, lewd, lascivious or obscene manner within the village. (Ord. A-358-78 Part 23, 1978: prior code SS17.03(3)).

Chapter 9.32

PUBLIC NUISANCES AFFECTING MORALS AND DECENCY

Sections:

9.32.010 Nuisances enumerated.

9.32.020 Nuisances prohibited.

9.32.010 Nuisances enumerated. The following are specifically declared to be public nuisances offending public morals and decency:

A. All gambling devices, slot machines and punchboards;

B. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;

C. All indecent or obscene pictures, books, pamphlets, magazines and newspapers, except such items which are kept for personal use in the privacy of such person's home. (Ord. A-358-78 Part 20, 1978: prior code SS18.03(part)).

9.32.020 Nuisances prohibited. No person shall, within the village, cause or create a public morals or decency nuisance or permit such nuisance to remain on premises owned or occupied by him. (Prior code SS18.03(part)).

Ord. 012, Series 2010, part 2)

*Cross-reference: For provisions on citation deposits and enforcement officials for violations of this section, see SSSS1.12.020 and 1.12.030, respectively, of this code.

Chapter 9.33

POSSESSION OF 25 GRAMS OR LESS OF MARIJUANA

Sections:

- 9.33.010 Authority
- 9.33.020 Definitions
- 9.33.030 Possession of Marijuana

9.33.010 Authority. This ordinance is adopted under the authority granted by Chapter 161 of the Wisconsin Statutes and Section 61.051(4) of the Wisconsin Statutes as amended. (Ord. 011, Series 1996, Part 1).

9.33.020 Definitions. "Marijuana" and "Practitioner" as used in this section shall be defined according to Section 161.01(14) and (19), Wis. Stats. respectively. (Ord. 011, Series 1996, Part 1).

9.33.030 Possession of Marijuana. It shall be unlawful for any person to carry, possess or use 25 grams or less of marijuana, unless such substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner filled out in the course of his professional practice, or except as otherwise authorized by Chapter 161 of the Wisconsin Statutes. Any person who is charged with possession of more than 25 grams marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of marijuana in this state, shall not be prosecuted under this Section. (Ord. 011, Series 1996, Part 1).

(Ord. 012, Series 2010, Part 2)

Chapter 9.34

DRUG PARAPHERNALIA

Sections:

- 9.34.010 State statute adopted.

9.34.010 State statutes adopted . A. Possession of drug paraphernalia. A violation of Section 9.01.010 of the Grafton Code adopting Wis. Stat. § 961.573(1)-(2) shall be cited using this code

section number. The terms and definitions of Chapter 9.01 of this Code shall remain applicable to any such offense.

B. Manufacture or delivery of drug paraphernalia. A violation of Section 9.01.010 of the Grafton Code adopting Wis. Stat. § 961.574(1)-(2) shall be cited using this code section number. The terms and definitions of Chapter 9.01 of this Code shall remain applicable to any such offense.

C. Delivery of drug paraphernalia to a minor. A violation of Section 9.01.010 of the Grafton Code adopting Wis. Stat. § 961.575(1)-(2) shall be cited using this code section number. The terms and definitions of Chapter 9.01 of this Code shall remain applicable to any such offense.

(Ord. 022, Series 2010, Part 3)

Chapter 9.35

SEXUALLY ORIENTED BUSINESSES

Sections:

9.35.010	Purpose and Findings
9.35.020	Definitions
9.35.030	Classification
9.35.040	License
9.35.050	Application for License
9.35.060	Standards for Issuance of License
9.35.070	Fees
9.35.080	Display of License
9.35.090	Renewal of License
9.35.100	Inspection
9.35.110	Suspension
9.35.120	Revocation
9.35.130	Administrative Review Procedure
9.35.140	Transfer of License
9.35.150	Physical Layout of Sexually Oriented Business
9.35.160	Location
9.35.170	Responsibilities of the Licensee
9.35.180	Additional Regulations for Escort Agencies
9.35.190	Additional Regulations Concerning Sexually Oriented Businesses
9.35.200	Prohibition Against Children in a Sexually Oriented Business
9.35.210	Hours of Operation
9.35.220	Exclusions
9.35.230	Enforcement

- 9.35.240 Penalties and Prosecution
- 9.35.250 Severability
- 9.35.260 Conflicting Ordinances Repealed

9.35.010 Purpose and findings. A. Purpose: It is the purpose of this Ordinance to regulate sexually oriented businesses in order to promote the health, safety, morals and general welfare of citizens of the Village of Grafton, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Village of Grafton. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimize the distribution of obscene material.

B. Findings: Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Village, and on findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990), *Barnes v. Glen Theatre, Inc.* 501 U.S. 560 (1991), *City of Erie v. Pap's A.M.*, 120 S. Ct. 1382 (2000), *East of the River Enterprises II v. City of Hudson*, 2000 Wisc. App. Lexis 734 (Ct. App. Aug. 1, 2000); *Ben's Bar, Inc. v. Village of Somerset*, ___ F.3d ___, 2003 WL 132541 (7th Cir. 2003), and on studies in other communities including, but not limited to: Phoenix, Arizona; Houston, Texas; Minneapolis, Minnesota; St. Paul, Minnesota; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Dallas, Texas; Newport News, Virginia; Bellevue, Washington; New York, New York; and St. Croix County, Wisconsin; and the Report of the Attorney General's Working Group of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Preventions, the Village Board finds that:

1. Sexually oriented businesses lend themselves to ancillary and unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

2. Certain employees of sexually oriented businesses, defined in this Ordinance as adult theaters and adult cabarets, engage in higher incidences of certain types of illicit sexual behavior than employees of other establishments.

3. Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented business, especially those which

provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.

4. Offering and providing such space encourages such activities, which creates unhealthy conditions.

5. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purposes of engaging in sex within the premises of such sexually oriented businesses.

6. At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B, amebiasis, salmonella infections and shigella infections.

7. Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS (acquired immunodeficiency syndrome) caused by the HIV virus in the United States: 600 in 1982; 2,200 in 1983, 4,600 in 1984; 8,555 in 1985, and 253,448 through December 31, 1992.

8. The State of Wisconsin Division of Health indicated that on July 25, 1986, there was 96 cases of AIDS reported in the state, including 54 cases that resulted in death and that a ten-fold increase in reported cases was expected between 1986 and 1991.

9. The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982, and 45,200 through November, 1990.

10. The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.

11. In his report of October 22, 1986, the Surgeon General of the United States has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components and from an infected mother to her newborn.

12. According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

13. Sanitary conditions in some sexually oriented businesses are unhealthy in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

14. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view adult oriented films.

15. Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented business are located.

16. Studies of the relationship between sexually oriented business and neighborhood property values have found a negative impact on both residential and commercial property values.

17. There is an increase in the potential for infiltration by organized crime for the purpose of unlawful conduct.

18. The consumption of alcoholic beverages on the premises of sexually oriented businesses exacerbated the deleterious secondary effects of such businesses on the community. In fact, the Supreme Court has gone so far as to assert that "common sense indicates that any form of nudity coupled with alcohol begets undesirable behavior." *Ben's Bar*, 2003 WL 132541, *19 (citations omitted).

19. Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect the substantial government concerns addressed in the above subsections.

20. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place an incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the Village. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

21. The disclosure of certain information by those persons ultimately responsible for the day to day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

22. In the prevention of the spread of communicable diseases, it is desirable to obtain a limited amount of information regarding certain employees who may engage in the conduct which this Ordinance is designed to prevent, or who are likely to be witnesses to such conduct.

23. The general welfare, health, morals and safety of the citizens of the Village of Grafton will be promoted by the enactment of this Ordinance.

9.35.020 Definitions.

A. "Adult Arcade" means any place to which the public is permitted or invited, wherein coin-operated or slug operated or electronically, electrically, or mechanically controlled or still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matters exhibiting "specified sexual activities" or "specified anatomical areas".

B. "Adult Bookstore" or "Adult Video Store" means a commercial establishment that has as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, of any one or more of the following:

1. books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact

discs, slides or other visual representations, which are characterized by their emphasis upon the exhibition or display of "specified sexual activities" or "specified anatomical areas"; or

2. instruments, devices or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of the user or others.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as ADULT BOOKSTORE or ADULT VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas". A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

This definition shall expressly exclude films, motion pictures, video cassettes, slides or other similar photographic reproductions given an "R" rating by the Motion Picture Association of America.

C. "Adult Cabaret" means a nightclub, dance hall, bar, restaurant, or similar commercial establishment which regularly features:

1. persons who appear semi-nude; or
2. live performances that are characterized by the exposure of "specified sexual activities" or "specified anatomical areas"; or

3. films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the exhibition or display of "specified sexual activities" or "specified anatomical areas".

4. This definition shall expressly exclude films, motion pictures, video cassettes, slides or other similar photographic reproductions given an "R" rating by the Motion Picture Association of America.

D. "Adult Motel" means a hotel, motel or similar commercial establishment, which:

1. offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions, which are characterized by the depiction of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or

2. offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

3. allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

E. "Adult Motion Picture Theater" means a commercial establishment where, for any form of consideration, films, motion

pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas". This definition shall expressly exclude films, motion pictures, video cassettes, slides or other similar photographic reproductions given an "R" rating by the Motion Picture Association of America.

F. "Adult Theater" means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear nude or semi-nude, or live performances which are characterized by the exposure of "specified sexual activities" or "specified anatomical areas".

G. "Board" means the Village Board for the Village of Grafton, Ozaukee County, Wisconsin.

H. "Directly" means to require physical contact. For instance, when this Ordinance prohibits an employee to receive a gratuity "directly" from a patron, it prohibits the direct touching of skin, other body parts or clothing.

I. "Distinguished" or "characterized by" means the dominant or principal theme of the object referenced. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or display of specified sexual activities or specified anatomical areas", the films so described are those whose dominant or principal character and theme are the exhibition or display of "specified sexual activities" or "specified anatomical areas".

J. "Employee", "employ" and "employment" describe and pertain to any person who performs any service on the premises of a sexually oriented business on a full-time, part-time, or contract basis, regardless of whether the person is denominated as an employee, independent contractor, agent, or by another status. Employee does not include a person exclusively on the premises for repair or maintenance of the premises, or for the delivery of goods to the premises.

K. "Escort" means a person who, for consideration, and for another person, agrees or offers to privately model lingerie or to privately perform a striptease.

L. "Escort Agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

M. "Establish" or "establishment" means and includes any of the following:

1. the opening or commencement of any sexually oriented business as a new business;
2. the conversion of any existing business, whether or not a sexually oriented business, to any sexually oriented business;
3. the addition of any sexually oriented business to any other existing sexually oriented business; or
4. the relocation of any sexually oriented business.

N. "Licensee" means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

O. "Nude", "nudity" or "state of nudity", means the showing of the human male or female genitals, pubic area, vulva, or anus, with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or areola, or

the showing of the covered male genitals in a discernibly turgid state. (Ord. 025, Series 2004, part 1)

P. "Operate" or "cause to be operated" means to cause to function or to put or keep in a state of doing business. "Operator" means any person on the premises of a sexually oriented business who is authorized to exercise operational control of the business, or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.

Q. "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

R. "Premises" means the real property upon which the sexually oriented business is located, and all appurtenance thereto and buildings thereon, including, but not limited to the sexually oriented business the grounds, the private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control or supervision of the owner or operator of the business.

S. "Regularly features" or "regularly shows" means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as part of the ongoing business of the sexually oriented business.

T. "Semi-nude" or "semi-nude condition" means the showing of the human male or female genitals, pubic area, vulva or anus, with not more than a complete opaque covering, or the showing of the female breast with not more than a complete opaque covering of any part of the nipple or areola. (Ord. 025, Series 2004, part 1)

U. "Sexual encounter center" means a business or commercial establishment, that as one of its principal business purposes, offers for any form of consideration, a place where two (2) or more persons may congregate, associate, or consort for the purpose of "specified sexual activities". The definition of sexual encounter center or any sexually oriented business shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

V. "Sexually oriented business" means an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, or sexual encounter center.

W. "Specified Anatomical Areas" means

1. the human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
2. less than completely and opaquely covered human genitals, pubic region, vulva, anus or the nipple and areola of the human female breast. (Ord. 025, Series 2004, Part 1)

X. "Specified sexual activity" means:

1. the fondling of another person's genitals, pubic region, anus, or female breasts;
2. actual sex acts, normal or perverted, including intercourse, oral copulation, masturbation, or sodomy; or

3. excretory functions as part of, or in connection with, any of the activities set forth in (1) through (2) above.

Y. "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent, as the floor areas exist on the date this Ordinance takes effect.

Z. "Transfer of ownership or control" of a sexually oriented business means and includes any of the following:

1. the sale, lease, or sublease of the business;
2. the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
3. the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

9.35.030 Classification. "Sexually oriented businesses" are classified as follows:

- A. adult arcades;
- B. adult bookstores or adult video stores;
- C. adult cabarets;
- D. adult motels;
- E. adult motion picture theaters;
- F. adult theaters;
- G. escort agencies;
- H. sexual encounter centers.

9.35.040 License. A. Except as provided in subsection (d) below, from and after the effective date of this Ordinance, no sexually oriented business shall be operated or maintained in the Village of Grafton without first obtaining a license to operate issued by the Village of Grafton.

B. A license may be issued only for (1) sexually oriented business located at one fixed and certain place. Any person, partnership, or corporation which desires to operate more than one sexually oriented business must have a license for each.

C. No licensee may transfer ownership or control of the sexually oriented business to any other person, partnership or corporation.

D. All sexually oriented businesses existing at the time of the passage of this Ordinance must submit an application for a license within sixty (60) days of the passing of this Ordinance.

9.35.050 Application for license. A. Any person, partnership or corporation desiring to secure a license shall submit an application to the Village Clerk. The application shall be filed in triplicate and dated by the Village Clerk. A copy of the application shall be distributed promptly by the Village Clerk to the Village of Grafton Police Department and to the applicant.

B. If the Village of Grafton Police Department is aware of any information bearing on the applicant's qualifications, that information shall be filed in writing with the Village Clerk.

C. An application for a license must be made on a form provided by the Village of Grafton. All applicants must be qualified according to the provisions of this Ordinance.

D. An application shall be considered complete if it includes the information required in this Section.

E. An applicant for a license shall furnish the following information under oath:

1. Name and address.

2. Written proof that the individual is at least eighteen (18) years of age. Written proof of age may be in the form of either:

a. a copy of a birth certificate and current photo,

b. a current driver's license with picture, or

c. other picture identification document issued by a governmental agency and demonstrating proof of age.

3. The name, business location, business mailing address and phone number of the proposed sexually oriented business.

4. A statement as to whether the licensee of the sexually oriented business intends to serve, sell, use or provide any intoxicating liquor, cereal malt beverage or any type of alcoholic beverage on the premises of the sexually oriented business.

5. If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name, address and ages of all shareholders of the corporation owning more than five percent (5%) of the stock in said corporation and all officers and directors of the corporation, and the name and address of the registered agents.

6. If the applicant is a partnership, joint venture, or any other type of organization where two (2) or more persons have a financial interest, the application shall state the names, addresses and ages of all persons having a financial interest in the partnership, joint venture or other type of organization.

F. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business shall accompany the application for a sexually oriented business. The sketch or diagram need not be professionally prepared, but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

G. If the person who wishes to operate a sexually oriented business is an individual, he or she shall sign the application for a license as applicant. If the person who wishes to operate a sexually oriented business is other than an individual (such as a corporation or partnership), each officer, director, director, general partner, or other person identified in Section 9.35.05(e)(5) and (6) shall sign the application for a license as the applicant. Each applicant must be qualified under this section and each applicant shall be considered as a licensee if the license is granted.

H. Within twenty-one (21) days of receiving an application for a license, the Village Clerk shall notify the applicant whether the application is granted or denied.

I. Whenever an application is denied, the Village Clerk shall advise the applicant in writing of the reasons for such action. If the

applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held within ten (10) days thereafter, as hereinafter provided.

J. Failure or refusal of the applicant to give any information relevant to the application or his or her refusal to submit to or cooperate with regard to any information required by this Ordinance shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the Village Board.

9.35.060 Standards for issuance of license. A. The Village Board shall approve the issuance of a license unless one or more of the following is found to be true:

1. An applicant (including all individuals, officers, directors, shareholders, or persons with a financial interest in the organization) is less than eighteen (18) years of age.

2. An applicant is delinquent in the payment owed to the Village of Grafton of taxes, fees, fines or penalties assessed against or imposed upon the applicant in relation to a sexually oriented business.

3. An applicant has failed to provide information as required in Section 9.35.05 for issuance of the license.

4. The license application fee required by this Ordinance has not been paid.

5. An applicant has falsely answered a question or request for information on the application form.

6. The proposed sexually oriented business is not in compliance with the location restrictions established or physical layout restrictions established for sexually oriented businesses in this Ordinance.

7. The applicant states or the Village Board subsequently discovers that the applicant intends to serve, sell, use or provide any intoxicating liquor, cereal malt beverages, or any type of alcoholic beverages on the premises of the sexually oriented business.

B. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the applicant, the expiration date, and the address of the sexually oriented business.

9.35.070 Fees. A license fee of \$250.00 shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned. The remainder shall be applied toward processing and administrative costs.

9.35.080 Display of license. The license shall be displayed in a conspicuous public place, at or near the entrance of the sexually oriented business, so that it may be easily read at any time.

9.35.090 Renewal of license. A. Every license issued pursuant to this Ordinance will terminate at the expiration of one (1) year from the date of issuance, unless sooner suspended or revoked. A license must be renewed before operation is allowed to continue. A

license may be renewed only by making an application as provided for in Section 9.35.05. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be upon a form provided by the Village of Grafton and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.

B. A license renewal fee of \$250.00 shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty in the amount of \$100.00 shall be assessed against any applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.

C. If the Village of Grafton Police Department is aware of any information bearing on applicant's qualifications, that information shall be filed in writing with the Village Clerk.

9.35.100 Inspection. A. For the purposes of ensuring compliance with this Ordinance, an applicant, operator or licensee shall permit law enforcement officers and any other federal, state, county or village agency in the performance of any function connected with the enforcement of this Ordinance, normally and regularly conducted by such agencies, to inspect, at any time the business is occupied or open for business, those portions of the premises of a sexually oriented business which patrons or customers are permitted to occupy.

B. The provisions of this Section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

9.35.110 Suspension. A. The Village Board shall issue a written intent to suspend a license for a period not to exceed thirty (30) days if it determines that a licensee, operator or employee of a licensee has:

1. violated or is not in compliance with any section of this Ordinance; or

2. refused to allow an inspection of the sexually oriented business premises as authorized by this Ordinance.

B. The Village Board shall give the licensee ten (10) days written notice of the charges against him and the opportunity for a public hearing before the Board, as hereinafter provided.

9.35.120 Revocation. A. The Village Board shall revoke by written notice a license for a sexually oriented business if a cause for suspension in Section 9.35.11 occurs and the license has been suspended within the preceding twelve (12) months.

B. The Village Board shall revoke by written notice a license if it determines that any of the following reasons exist:

1. Discovery that false or misleading information or data was given on any application or material facts were omitted from the application;

2. The licensee, operator or any employee of the licensee, violates any provisions of this Ordinance or any rules or

regulation adopted by the Board pursuant to this Ordinance; provided, however, that in the case of a first offense by a licensee where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days, if the Board shall find that the licensee had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge;

3. The licensee becomes ineligible to obtain a license or permit;

4. Any cost or fee required to be paid by this Ordinance is not paid;

5. Any intoxicating liquor, cereal malt beverage or other alcoholic beverage is served or consumed on the premises of the sexually oriented business;

6. A licensee has knowingly allowed possession, use or sale of controlled substances on the premises;

7. A licensee has knowingly allowed prostitution on the premises;

8. A licensee has knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

9. A licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual act to occur in or on the licensed premises. This Subsection will not apply to an adult motel, unless the licensee knowingly allowed sexual activities to occur either (i) in exchange for money, or (ii) in a public place or within public view.

C. The Village Board, before revoking any license, shall give the licensee at least ten (10) days written notice of the charges against him and the opportunity for a public hearing as hereinafter provided.

D. The transfer of ownership or control of a license shall automatically and immediately revoke the license.

E. Any licensee whose license is revoked shall not be eligible to receive a license for one (1) year from the date of revocation.

9.35.130 Administrative Review Procedure. Chapter 68 of the Wisconsin Statutes concerning municipal administrative procedure shall govern the administrative procedure and review concerning the granting, denial, renewal or non-renewal of a permit or a license. A request for an initial determination shall be made by an aggrieved person pursuant to the provisions contained in Wisconsin Statutes, Section 68.08 to the Village Clerk. An administrative appeal pursuant to the provision contained in Wisconsin Statute, Section 68.10 may be made by an aggrieved person to the Board of Appeals and a hearing shall be held by the Board of Appeals pursuant to Wisconsin Statute, Section 68.11. Any party to a proceeding resulting in a final determination may seek judicial review pursuant to the provisions contained in Wisconsin Statute Section, 68.13.

9.35.140 Transfer of license. A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

9.35.150 Physical layout of sexually oriented business.

A. Any sexually oriented business having available for customers, patrons or members, any booth, room or cubicle for the private viewing of any specified anatomical areas or specified sexual activity must comply with the following requirements:

1. Access. Each booth, room, or cubicle shall be totally accessible to and from aisles and public areas of the sexually oriented business and shall be unobstructed by any door, lock or other control-type devices.

2. Construction. Every booth, room or cubicle shall meet the following construction requirements:

a. Each booth, room, or cubicle shall be separated from adjacent booths, rooms or cubicles and any non-public areas by a wall.

b. Each booth shall have at least one side totally open to the public lighted aisle which may be secured when the booth is in use by a door which extends from a height of not less than two feet above the floor.

c. All walls shall be solid and without any openings, extended from the floor to a height of not less than six (6) feet and be light colored, non-absorbent, smooth textured and easily cleanable.

d. The floor must be light colored, non-absorbent, smooth textured and easily cleanable.

e. The lighting level of each booth, room, or cubicle, when not in use shall be a minimum of five (5) foot candles at all times, as measured from the floor.

3. Occupants. Only one individual shall occupy a booth, room or cubicle at any time. No occupant shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

9.35.160 Location. A. No sexually oriented business shall be located :

1. Within 500 feet of an existing sexually oriented business;

2. Within 500 feet of any residential dwelling, included but not limited to houses, apartments, condominiums, or flats.

3. Within 500 feet of any pre-existing place of worship, including but not limited to any church, synagogue, mosque, temple or building which is primarily used for religious worship and related religious activities;

4. Within 500 feet of any public or private educational facility, including but not limited to any child day care establishments, nursery schools, preschools, kindergartens, elementary schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education

schools, junior colleges and universities. "School" includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally at a school.

5. Within 500 feet from any public park or recreational area which has been designated for park or recreational activities, including but not limited to a park, a playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Village which is under the control, operation or management of the Village and recreational authorities; or

6. Within 500 feet of any premise that in any manner sells or disperses alcohol or is licensed pursuant to the alcoholic beverage control regulations of the State.

B. For the purposes of this Section, distances are to be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in Subsection (a). The presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.

9.35.170 Responsibilities of the licensee. A. Every act or omission by an employee constituting a violation of the provisions of this Section shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee, or as a result of the licensee's negligent failure to supervise the employee's conduct, and the licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or caused the omission.

B. Any act or omission of any employee constituting a violation of the provisions of this Ordinance shall be deemed the act or omission of the licensee for the purposes of determining whether the licensee's license shall be revoked, suspended or renewed.

C. No employee of a sexually oriented business shall allow any minor to loiter around or to frequent a sexually oriented business. It shall be the duty of the licensee of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented businesses' regular business hours and to prevent any person under the age of eighteen (18) years of age from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:

1. a valid operator's, commercial operator's or chauffeur's driver's license; or

2. personal identification card issued by the State of Wisconsin reflecting that such person is eighteen (18) years of age or older.

D. The licensee shall maintain the premises in a clean and sanitary manner at all times.

E. The licensee shall maintain at least five (5) foot candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles is necessary to enable a patron to view any activity in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisle, provided, however, at no time shall there be less than one (1) foot candle of illumination of said aisles, as measured from the floor.

F. The licensee shall insure compliance of the sexually oriented business and its patrons with the provisions of this Ordinance.

G. The licensee shall insure that no alcoholic beverages are sold, used or consumed on the premises of a sexually oriented business.

9.35.180 Additional regulations for escort agencies. A. An escort agency shall not employ any person under the age of eighteen (18) years.

B. A person commits an offense if the person acts as an escort, or agrees to act as an escort for any person under the age of eighteen (18) years.

9.35.190 Additional regulations concerning sexually oriented businesses. A. It shall be prohibited in a sexually oriented business for a person to appear in a state of nudity or engage in specified sexual activities.

B. It shall be prohibited in a sexually oriented business, to appear in a semi-nude condition, unless the person is an employee, who, while semi-nude, is at least five (5) feet from any patron or customer and on a stage at least two (2) feet from the floor.

C. It shall be prohibited for an employee, while semi-nude in a sexually oriented business, to receive directly any pay or gratuity from any patron or customer, or for any patron or customer to pay or give any gratuity directly to any employee, while that employee is semi-nude in a sexually oriented business.

D. It shall be prohibited in a sexually oriented business to serve, sell, use, provide or consume any intoxicating liquor, cereal malt beverage or any other alcoholic beverage.

9.35.200 Prohibition against children in a sexually oriented business. It shall be prohibited for a person under the age of eighteen (18) years to be on the premises of a sexually oriented business.

9.35.210 Hours of operation. A. No sexually oriented business shall be open between the hours of 2:00 a.m. and 8:00 a.m. on weekdays or between the hours of 2:00 a.m. and 12:00 noon on Sundays.

B. All sexually oriented businesses shall be open to inspection at all reasonable times by the Grafton Police Department and the Building Inspector.

9.35.220 Exclusions. The provisions of this Ordinance do not apply to the following establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on

a regular basis; and in which the predominant business or attraction is not the offering of entertainment which is intended for sexual interests or titillation of customers; and where the establishment is not distinguished by an emphasis on or the advertising or promotion of nude or semi-nude performances. While expressive live nudity may occur within these establishments, this ordinance seeks only to minimize and prevent the secondary effects of sexually oriented businesses on the community. Negative secondary effects have not been associated with the establishments referenced in this Section.

9.35.230 Enforcement. The Village of Grafton Police Department shall have the authority to enter any sexually oriented business within the Village at all reasonable times to inspect the premises and enforce this Ordinance.

9.35.240 Penalties and Prosecutions. A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of this Ordinance is subject to a suit for injunction as well as municipal prosecution. Such violation shall be punishable by a fine of \$500.00 plus court costs. Each day a sexually oriented business so operates is a separate offense or violation.

9.35.250 Severability. Each section and provision of this Ordinance is hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said Ordinance, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid.

9.35.260 Conflicting ordinances repealed. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

(Chapter 9.35 / Ord. 004, Series 2003)

Chapter 9.36

REGULATION OF SMOKING BY MINORS AND POSSESSION
OF SMOKING MATERIALS ON SCHOOL PROPERTY

Sections:

- 9.36.010 Definitions.
- 9.36.020 Regulation of use of cigarettes and tobacco products on school premises.
- 9.36.030 Designation of smoking areas.

9.36.010 Definitions. In this chapter: "Cigarettes" means any roll of tobacco wrapped in paper or other substance other than tobacco.

"Law enforcement officer" shall have the meaning given in Section 30.50(4s) Wisconsin Statutes.

"Retailer" means any person who sells, exposes for sale or possesses with intent to sell to consumers any cigarettes.

"Tobacco products" means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco, snuff, snuff flour, cavendish, plug and twisted tobacco, fine cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. "Tobacco products" does not include cigarettes, as defined under Section 139.30(1) Wisconsin Statutes. (Ord. A-018-92 Part 1 (part), 1992).

9.36.020 Regulation of use of cigarettes and tobacco products on school premises. A. No person shall use cigarettes or tobacco products in any building used principally for educational purposes, or in which a school is located or a course of instruction or training program is offered, which program has been approved or licensed by a state agency or board and the grounds or campus upon which the school is located.

B. The regulation of smoking in subsection A of this section does not apply to the following areas that have designated smoking areas under Section 9.36.050 of this chapter. (Ord. A-018-92 Part 1 (part), 1992).

9.36.030 Designation of smoking areas. A. A person in charge or his or her agent may designate smoking areas in places where smoking is permitted under subsection B of this section unless a fire marshal, law, ordinance or resolution prohibits smoking. Entire rooms and buildings may be designated smoking areas.

B. If an entire room is designated a smoking area, the person in charge or his or her agent shall post notice of the designation conspicuously on or near all entrances to the room normally used by the public. If an entire building is designated a smoking area, notice of the designation shall be posted on or near all entrances to

the building normally used by the public but posting notice of the designation on or near entrances to rooms within the building is not required. (Ord. A-018-92 Part 1 (part), 1992).Ord. 013, Series 2010, Part 2)

9.36.040 State statute adopted. A. Purchase or possession of cigarette or tobacco by person under 18 years of age prohibited. A violation of Section 9.01.010 of the Grafton Code adopting Wis. Stat. § 254.92 shall be cited using this code section number. The terms and definitions of Chapter 9.01 of this Code shall remain applicable to any such offense. (Ord. 022, Series 2010, Part 9)

B. Restrictions on sale or gift of cigarettes or tobacco products. A violation of Section 9.01.010 of the Grafton Code adopting Wis. Stat. § 134.66 shall be cited using this code section number. The terms and definitions of Chapter 9.01 of this Code shall remain applicable to any such offense. (Ord. 022, Series 2010, part 9)

IV. OFFENSES AGAINST THE PUBLIC PEACE

Chapter 9.37

CURFEW PROVISIONS

Sections:

- 9.37.010 General Requirements.
- 9.37.020 Parental Responsibility.
- 9.37.030 Violations by minors.
- 9.37.040 Penalty.

9.37.010 General Requirements. A. No minor age 16 years or under, shall loiter, idle, wonder, stroll or be either on foot or in a vehicle of any nature in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places in the Village of Grafton between the hours of 11:00 p.m. and 5:00 a.m. of the following day, official Village time. (Ord. 010, Series 2004)

B. The provisions of this section do not apply to a minor accompanied by his or her parent, guardian, or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business by his or her parent, guardian or other adult person having the care and custody of the

minor or pursuing his employment, or returning from an authorized public or parochial school function or other organizational function which such function shall have been duly registered with the Police Department by a responsible officer of the organization. The prohibition provisions of this section shall also not apply when a juvenile is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly. To exercise the exception for protected First Amendment activities, the juvenile and/or his or her parent, guardian or other person having the care and custody of the minor shall deliver to the Village of Grafton Police Department a written communication, signed by the juvenile and countersigned, if practicable, by a parent, guardian, or other adult person having the care and custody of the minor with their home address and telephone number, specifying when, where and in what manner the juvenile will be in a public place during hours when this ordinance is applicable.

C. Juveniles who fail to notify the Grafton Police Department of their intent to exercise First Amendment activities between the hours of 11:00 p.m. and 5:00 a.m. shall be given an opportunity to provide a reasonable explanation of their presence in public when confronted by law enforcement personnel. Juveniles shall not be cited for a violation of this section if it is determined by law enforcement personnel that the juvenile is exercising a protected First Amendment activity and prior notification as required by this ordinance was impossible or impractical.

D. Each violation of the provisions of this section shall constitute a separate offense.

(Ord. 010, Series 2004; Ord. 022-93, Part 1 (part), 1993).

9.37.020 Parental Responsibility. A. No parent, guardian, or other adult person having the care and custody of a minor age 16 or under, shall permit such minor to violate the provisions of Section 9.37.010(A). (Ord. 022-93, Part 1 (part), 1993).

9.37.030 Violations by minors. A. Any minor violating the provisions of Section 9.37.010(A) shall be handled in accordance with the juvenile court laws or procedure. (Ord. 022-93, Part 1 (part), 1993).

9.37.040 Penalties. Any parent, guardian, or other adult person having the care and custody of a minor violating Section 9.37.010(A) shall forfeit no less than \$10.00 nor more than \$200.00 and in default of payment thereof shall be imprisoned until such forfeiture and the costs of prosecution are paid, but not exceeding 30 days. (Ord. 010, Series 2004; Ord. 022, Part 1 (part), 1993).

Chapter 9.38

DISORDERLY CONDUCT*

Sections:

- 9.38.010 Disorderly conduct and unreasonable noise
- 9.38.015 Possession of controlled substances.
- 9.38.020 Violation--Penalty.

9.38.010 Disorderly conduct and unreasonable noise.

A. Any person who makes or assists in making any noise tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof, is guilty of disorderly conduct, unless the making of said noise cannot be prevented and is necessary for the protection or preservation of property or of the health, safety, life or limb or some person. (Ord. #005, Series 1995, Part I, part, 1995).

B. Factors to be considered. The following serve as a guideline and shall be considered in determining whether a noise is unreasonable under Section (B):

1. The intensity of the noise;
2. Whether the noise is usual or unusual in the area;
3. The number of persons affected;
4. The proximity of the noise to residential dwellings;
5. The location of the operation or property from which the noise emanates and nature and zoning of the property and the surrounding area or neighborhood;
6. The density of habitation of the area that is impacted by the noise;
7. The reasonableness of the use of the property from which the noise emanates;
8. The time of day or night that the noise occurs;
9. The duration of the noise;
10. Whether the noise is recurrent, intermittent or constant.

(Ord. 013, Series 2010, Part 2; Ord. No. 005, Series 1995, Part I, part 1995).

9.38.015 Possession of controlled substances. No person shall possess a controlled substance which is a narcotic drug, as defined by Chapter 161 of the Wisconsin Statutes unless the substance was obtained directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice, except as otherwise authorized by Chapter 161 of the Wisconsin Statutes. (Ord. 468-85 Part 1, 1985).

9.38.020 Violation--Penalty. Any person who shall violate any provisions of this chapter shall, upon conviction thereof, forfeit not less than twenty-five dollars nor more than one hundred dollars, together with the costs of prosecution; provided, that any person who shall violate Section 9.38.017 shall, upon conviction thereof, forfeit not less than one hundred dollars nor more than two hundred dollars, together with the costs of prosecution. In the event of a failure to pay such forfeiture, where no showing of indigency is made, the defendant may be imprisoned no more than ninety days, as the court deems fit, or until such judgment is sooner paid. (Ord. 468-85 Part 2, 1985: Ord. A-391-80 Part 2, 1980; Ord. A-358-78 Part 15, 1978: prior code SS17.02(8)).

(Ord. 013, Series 2010, Part 2)

* For statutory provisions authorizing villages to prohibit disorderly conduct, see Wis.Stat. 1975 SS66.051(3).

Chapter 9.39

REGULATION OF SMOKING IN MUNICIPAL BUILDINGS

Sections:

- 9.39.010 Intent and purpose.
- 9.39.020 Definitions.
- 9.39.030 Smoking prohibited in certain public areas.
- 9.39.040 Signs prohibiting smoking.
- 9.39.050 Penalties for violations of this Chapter - Members of the public.
- 9.39.060 Penalties for violations of this Chapter - Employees of the Village of Grafton.

9.39.010 Intent and purpose. The use of tobacco products has been shown to be hazardous to one's health. The purpose of this chapter is to provide a safe and healthy environment for members of the public and all employees of the Village of Grafton by regulating the use of these products in municipal buildings.

9.39.020 Definitions. The following definitions shall apply to this chapter:

A. "Cigarettes" shall be defined as indicated in Wisconsin Statutes 139.30(1m) and shall mean any roll of tobacco wrapped in paper or other substance other than tobacco.

B. "Tobacco products" means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco, , cavendish, and twisted tobacco, fine cut and other tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such a manner as to be suitable for smoking in a pipe or otherwise. "Tobacco products" does not include cigarettes, as defined under Section 139.30(1m) of the Wisconsin Statutes.

C. "Smoking" shall mean to smoke or carry a lighted pipe, cigar or cigarette or a tobacco product as outlined herein in any form.

9.39.030 Smoking prohibited in certain public areas. A. Smoking, as defined in Section 9.36.020 (C) shall be prohibited in the following municipal facilities:

1. Department of Public Works, 1300 Hickory Street
2. Family Aquatic Center, 649 N. Green Bay Road
3. Multi-Purpose Senior Center, 1665 Seventh Avenue
4. Police Department, 1981 Washington Street
5. U.S.S. Liberty Memorial Public Library, 1620 Eleventh Avenue
6. Village Hall, 1971 Washington Street
7. Water and Wastewater Utility, 1900 Ninth Avenue
8. Robert P. Zaun Pavilion, Lime Kiln Park, 2020 S. Green Bay Road.

Ord. 005, Series 2008, Part 1

B. The prohibition on smoking shall become effective on January 1, 2008 and shall apply to the members of the public and all existing employees of the Village of Grafton as well as all perspective employees upon their application for employment.

9.39.040 Signs prohibiting smoking. A. Signs prohibiting smoking shall be prominently posted at or near the entrance to the municipal facilities listed in Section 9.36.030.

B. The person in charge of each building, or structure, shall be held responsible for the enforcement of the regulations in this Chapter.

C. It shall be unlawful for any person to remove, deface or destroy any legally required "No Smoking" sign, or to smoke in any place where a "No Smoking" sign is posted.

9.39.050 Penalties for violations of this Chapter - Members of the public. Members of the public who violate any provisions of this Chapter shall upon conviction thereof forfeit not less than fifty dollars for the first offense and not more than one-hundred dollars for the second and subsequent offenses, together with the costs of prosecution.

9.39.060 Penalties for violations of this Chapter - Employees of the Village of Grafton. A. Employees of the Village of Grafton who violate any provisions of this Chapter shall be subject to disciplinary action.

B. The employees supervisor shall identify the violation and notify the employee in writing of said violation.

C. The form of disciplinary action to be taken (oral warning or written reprimand) and the penalty assigned (warning or suspension for multiple violations) shall be at the discretion of the Supervisor upon consultation with the Department Head and Village Administrator.

(Ord.032, Series 2007, Part 1)

Chapter 9.40

NUISANCES AFFECTING PEACE AND SAFETY*

Sections:

- 9.40.010 Nuisances enumerated.
- 9.40.020 Nuisances prohibited.
- 9.40.030 Abatement of nuisances affecting peace and safety.

9.40.010 Nuisances enumerated. The following are specifically declared to be nuisances disturbing the public peace or endangering the public safety:

A. All trees, hedges, billboards or other obstructions which prevent persons driving automobiles or other vehicles on the village streets from having a clear view of traffic approaching an intersection from cross streets;

B. All loud, discordant or unnecessary noises and annoying vibrations. Construction will be limited to the hours of 7:00 a.m. and 9:30 p.m. (Ord. 034, Series 1999, Part 1)

C. All fences constructed wholly or in part of barbed wire which are located within three feet of any public street, alley or sidewalk;

D. All open or unguarded wells, cisterns, pools or excavations so located as to endanger public safety or the safety of children;

E. All buildings, walls and other structures which have been damaged by fire, decay or otherwise to an extent exceeding one-half of their original value and which are so situated as to endanger the safety of the public;

F. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use;

G. All unauthorized signs, signals, markings or devices which purport to be or may be mistaken as an official traffic control device placed or maintained upon or in view of any public highway, street, alley or railway crossing;

H. All hanging signs, awnings and other similar structures over the streets, alleys or public ways of the village or projecting more than six feet over the sidewalks or so situated or constructed as to endanger the public safety;

I. All tree limbs which are less than ten feet above the surface of any public sidewalk or fourteen feet above the surface of any street;

J. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

K. The allowing of rainwater, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk. (Prior code SS18.04(part)).

L. Junk and Rubbish. No owner or operator shall cause or permit the accumulation of rubbish, lumber, metal, junk, wood, brick, cement block, old automobiles or parts thereof, trucks, tractors, refrigerators, furnaces, washing machines, microwave ovens, stoves, machinery or parts thereof, such as may tend to harbor rodents or vermin, may tend to depreciate property values in the area or create a visual or other nuisance or hazard on any premises within the corporate limits of the Village, except as may be permitted by the Village Board. (Ord. 010-94, part 1, 1994).

M. Compression Brakes.

1. Definition. A compression brake commonly referred to as a "Jacobs" brake, "Jake" brake, engine brake or dynamic braking devise, means a devise primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of or in addition to wheel brakes.

2. Use Prohibited. No person shall use a motor vehicle within the Village limits where the compression brake is in any way engaged or activated on such motor vehicle or any unit a part thereof, except for the aversion of imminent dangers. This ordinance does not include fire apparatus on emergency runs.

(Ord. 012, Series 2002)

9.40.020 Nuisances prohibited. No person shall, within the village, cause or create a public peace or safety nuisance or permit such nuisance to remain on premises owned or occupied by him. (Prior code SS18.04(part)).

9.40.030 Abatement of nuisances affecting peace and safety. The procedure for abating nuisances affecting peace and safety shall be that procedure set forth in Section 8.36.020 through 8.36.090. (Ord. 015-94, Part II, 1994).

(Ord. 012, Series 2010, part 2)

* Cross-reference: For provisions on citation deposits and enforcement officials for violations of this chapter, see SS1.12.020 and 1.12.030, respectively, of this code.

Chapter 9.42

OBSTRUCTION OF ENTRANCES

Sections:

9.42.010 Obstruction of entrances.

9.42.010 Obstruction of entrances. It is unlawful for any person to obstruct in any manner the entrance to any place of public assembly or to obstruct any entrance or stairway to any business building within the village. (Ord. A-358-78 Part 25, 1978: prior code SS17.02(5)).

Chapter 9.44

VAGRANCY AND LOITERING

Sections:

9.44.010 Vagrancy prohibited.
9.44.020 Unauthorized presence on school property prohibited.
9.44.021 Truancy.
9.44.030 Trespassing.
9.44.040 Loitering in places of public assembly or use.
9.44.050 Loitering on private premises without invitation

9.44.010 Vagrancy prohibited. No person shall loiter or prowl in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon

appearance of a police or peace officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object. Unless flight by the actor or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the police or peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and, if believed by the police or peace officer at the time, would have dispelled the alarm. (Ord. A-257 Part 1, 1973: prior code SS17.03(2) (part)).

9.44.020 Unauthorized presence on school property prohibited.
It shall be unlawful for any student who is under suspension, expulsion, or other discipline excluding him for attending any school under the jurisdiction of the Grafton school board, or for any person not a student presently enrolled, to attend such schools, or not an employee of such schools, or not a parent or guardian of a student so enrolled, or not an otherwise authorized person to be present within any school building or upon any school grounds under the jurisdiction of the school board, without first having secured authorization to be there from the principal or other person in charge of the school building or grounds, except while in direct route to secure said authorization. An authorized person shall include any person who is present at any school building or school grounds for any purpose, previously authorized by the Grafton school board or its designee.

A. Any person shall, upon request of the principal or other person in charge of any school building or upon any school grounds under the jurisdiction of the Grafton school board, or upon the request of any police officer, display any written authorization to be present, which he or she may have in their possession, or otherwise explain his or her presence or status as such student, employee, parent or guardian, or authorized person.

B. All entrances to the school buildings referred to in subsection A shall be posted with a notice stating, "Entry into school building by unauthorized persons prohibited."

C. Unauthorized presence shall include any vehicle that is found on school property which has not received permission to be there, or whose occupants or owners are not on school property for some legitimate business or activity, or is parked in an area that regulates parking to certain authorized vehicles. Such vehicle may be issued a village of Grafton parking citation that regulates parking, or may be towed away at the direction of the school principal or person in charge. The police department may also have any vehicle towed away, which because of its location creates a hazard to life or property.

D. Any person who violates any of the provisions of this section shall, upon conviction, be subject to the forfeiture of not less than ten dollars nor more than two hundred dollars for each offense, together with the cost of prosecution, and in the event of a failure to pay such forfeiture, where no showing of indigency is made,

the defendant may be imprisoned for no more than ninety days, as the court deems fit, or until such judgment is sooner paid.

E. This section shall only apply to property under the jurisdiction of the Grafton school board, within its jurisdictional limits of the village of Grafton. (Ord. A-420-82 Part 1, 1982).

9.44.021 Truancy. A. Definition. In this section, "truant" means a pupil who is absent from school without an acceptable excuse under Section 118.15, Wisconsin Statutes, for part or all of any day on which school is held during a school semester.

B. In this section, "habitual truant" means a pupil who is absent from school without an acceptable excuse under Section 118.15, Wisconsin Statutes for part or all of five or more days out of ten consecutive days on which school is held during a school semester.

C. Truancy Prohibited. No child shall be a truant or a habitual truant as defined in subsection A and B above. The following dispositions are available to the court:

1. Suspension of the child's operating privileges, as defined in Section 341.01(40), Wisconsin Statutes, for not less than thirty days nor more than ninety days. The court shall immediately take possession of any suspended license and forward it to the Wisconsin Department of Transportation together with a notice stating the reasons for and the duration of the suspension;

2. A municipal citation may be issued with a forfeiture of not more than \$500 plus costs. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

3. An order for the child to participate in counseling, community service or a supervised work program as provided in Section 48.34(9) Wisconsin Statutes;

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

5. An order for the child to attend an educational program under Section 48.34 Wisconsin Statutes.
(Ord. 005, Series 2015, Part 1; Ord. A-517-88 Part 1, 1988).

9.44.030 Trespassing. No person shall enter upon the land or premises of another without the permission of the owner or occupant of the land or premises. (Ord. A-423-82 Part 1, 1982).

9.44.040 Loitering in places of public assembly or use. No person shall by loitering interfere with the free use of any public assembly or public use by others using such place of public assembly. It shall be an offense under this subsection for a person to refuse to discontinue such loitering after a request to do so by a Police Officer or by the person in charge of the place of public assembly.
(Ord. 045, Series 2000)

9.44.050 Loitering on private premises without invitation. No person shall loiter on private premises without invitation from the

owner or occupant. It shall be an offense under this subsection for a person to refuse to discontinue such loitering after being requested to do so by a Police Officer or by the owner or occupant. (Ord. 045, Series 2000).

Chapter 9.45

LOITERING BY SEX OFFENDERS

Sections:

- 9.45.010 Definitions
- 9.45.020 Prohibition
- 9.45.030 Penalty

9.45.010 Definitions. A. Definitions. The definitions delineated in Section 9.67.020 of the Village of Grafton Municipal Code shall be applicable to this subsection.

B. In addition, the following term shall mean:

1. "Child safety zones" shall include any real property upon which there exists any route, path, area or facility used for or which supports a use of:
 - a. a public park, parkway, parkland, park facility;
 - b. a public swimming pool;
 - c. a public library;
 - d. a recreational trail;
 - e. a public playground;
 - f. a school for children;
 - g. athletic fields used by children;
 - h. a daycare center;
 - i. any specialized school for children, including, but not limited to a gymnastics academy, dance academy or music school;
 - j. aquatic facilities open to the public; and
 - k. any facility for children (which means a public or private school, a group home, as defined in Section 48.02 (7), Stats., a residential care center for children and youth, as defined in Section 48.02 (15d), Stats., a shelter care facility, as defined in Section 48.02 (17), Stats., a foster home, as defined in Section 48.02 (6), Stats., a treatment foster home, as defined in Section 48.02 (17q), Stats., a daycare center licensed under Section 48.65, Stats., a daycare program established under Section 120.13 (14), Stats., a daycare provider certified under Section 48.651, Stats., or a youth center, as defined in Section 961.01 (22) Stats).
1. Designated walking zones for schools and schools districts.
- j. Rehabilitative agencies for children and adults with developmental disabilities (i.e. Portal Industries, Inc).

9.45.020 Prohibition. A. It shall be unlawful for any offender to enter into, congregate, loiter, wander, stroll, stand or play in or near a child safety zone under circumstances that warrant alarm for the safety of persons in the vicinity.

B. 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 police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the actor or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this subsection if the police or peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.

9.45.030 Penalty. Any person who shall violate any provision of this subsection shall pay, upon conviction, a forfeiture not to exceed One Thousand Dollars (\$1,000) per violation, plus court costs. Each day during which a violation of this section is permitted to exist shall be deemed to be a separate violation.

(Ord. 023, Series 2007, Part 1)

Chapter 9.46

SKATEBOARDS AND PLAY VEHICLES

Sections:

- 9.46.010 Operation prohibited in certain locations.
- 9.46.020 Operation lawful where--Conditions.

9.46.010 Operation prohibited in certain locations. It is unlawful for any person to operate or ride a skateboard, roller skates, roller skis or play vehicles as defined in Wisconsin Statute Section 340.01, in any of the following locations:

- A. On any city street;
- B. On any city sidewalk or alley in any business district as defined by Wisconsin Statute Section 340.01;

C. On any privately or publicly owned parking lot or parking ramp without the owner's written consent and where the owner or lessee posts a sign on said property prohibiting the operation or riding of skateboards or play vehicles as defined by Wisconsin Statute Section 340.01;

D. On any public property where signs prohibit it;

E. On any private property other than a parking lot or ramp unless permission has been received from the owner, lessee, or person in charge of that property. (Ord. A-554-90 Part 1 (part), 1990).

9.46.020 Operation lawful where--Conditions. It is lawful for operators or riders of such skateboards, roller skates, roller skis, or play vehicles to use this equipment on sidewalks or alleys not located in a business district provided that they yield the right-of-way to pedestrians using city sidewalks and further provided that the use does not endanger or interfere with pedestrian traffic on said sidewalks. Further, the operators or riders of such skateboards, roller skates, roller skis or play vehicles shall yield the right-of-way to vehicles using alleys in any nonbusiness district. (ord. A-554-90 Part 1 (part), 1990).

(Ord. 012, Series 2010, Part 2)

Chapter 9.47

CHRONIC NUISANCE PREMISES

Sections:

- 9.47.010 Introduction
- 9.47.020 Definitions
- 9.47.030 Procedures
- 9.47.040 Penalties and remedies
- 9.47.050 Appeal
- 9.47.060 Eviction or retaliation prohibited

9.47.010 Introduction. Notwithstanding other provisions of the Municipal code with regard to public nuisance prohibitions, penalties, and enforcement, this Chapter establishes additional enforcement authority of the Village with regard to "Chronic Nuisance Premises" as defined herein.

9.47.020 Definitions. The following definitions shall apply to this Chapter:

A. "Chronic Nuisance Premises" means a premise that meets any of the following criteria:

1. Is a Premises which has generated three (3) or more calls for police services that have resulted in Enforcement Action for Nuisance Activities on three (3) separate days within a three hundred sixty-five (365) day period and/or has generated five (5) or more cases for Nuisance Activities from at least five (5) building inspections occurring within a one (1) year period, with such calls resulting in Enforcement Action. Three (3) or more calls for police services resulting in Enforcement Action for Nuisance Activities includes Enforcement Action taken against any person associated with the Premises while at or within two hundred feet (200) of the Premises for a Nuisance Activity; or

2. Is a Premises for which a court of law has determined that, pursuant to a search warrant request, probable cause exists that manufacture, distribution or delivery of a controlled substance has occurred on or in association with the Premises within thirty (30) days prior to the date of the search warrant application; or

3. Is a Premise which has had one (1) Enforcement Action associated with the Premises resulting from the manufacture, delivery or distribution of a controlled substance(s) as defined in Chapter 961 of the Wisconsin Statutes.

B. "Chronic Nuisance Premises Notice" means the notice issued by the Chief of Police, or his/her designee, and/or the Building Inspector or his/her designee and referred to in Section 9.47.030 (A) of this ordinance.

C. "Enforcement Action" means any of the following: The physical arrest of an individual(s), the issuance of a citation for a law violation, or the filing of a civil or criminal action in a court

of law by Village Attorney or District Attorney regarding Nuisance Activities.

D. "Nuisance Activities" for purposes of establishing a "Chronic Nuisance Premises" means any of the following activities, behaviors, or conduct:

1. An act of harassment as defined in 947.013, Wis. Stats.
2. Disorderly conduct as defined in 947.01, Wis. Stats.
3. Crimes of violence as defined in ch. 940, Wis. Stats.
4. Resisting or obstructing an officer as prohibited by 946.41, Wis. Stats.
5. Indecent exposure as prohibited by Chapter 9.26.010 of the Municipal Code or s. 944.20(I)(b) Wis. Stats.
6. Damage to property as prohibited by 943.01, Wis. Stats.
7. Discharge of a firearm as prohibited by Chapter 9.74.010 of the Municipal Code.
8. Crimes involving illegal possession of firearms as defined in 941.23, 941.26, 941.28, 941.29 and 948.60, Wis. Stats.
9. Trespass to land as defined in 943.13, Wis. Stats, or criminal trespass to dwelling as defined in 943.14, Wis. Stats.
10. Theft as defined in 943.20, Wis. Stats.
11. Arson as defined in 943.02, Wis. Stats.
12. All nuisances enumerated in Chapter 8.25, 8.28, 8.32 and 9.40.010 and 9.63 of the Municipal Code. (Ord. 002, Series 2012)
13. Keeping a place of prostitution as defined in 944.34, Wis. Stats.
14. Vagrancy as prohibited by Chapter 9.44.010 of the Municipal Code.
15. Prostitution as prohibited by 944.30, Wis. Stats.
16. Soliciting prostitutes as prohibited by 944.32, Wis. Stats.
17. Pandering as prohibited by 944.33, Wis. Stats.
18. Selling, offering for sale or giving away of any intoxicating liquors or fermented malt beverages without a license as provided in 125.04(1), Wis. Stats.
19. Possession, manufacture, distribution or delivery of a controlled substance or related offenses as defined in ch. 961, Wis. Stats.
20. Maintaining a drug dwelling as defined in 961.42 Wis. Stats.
21. Illegal gambling as defined in 945.02, Wis. Stats.
22. Owning, keeping or harboring a dangerous animal, as defined in Chapter 6.04 of the Municipal Code.
23. Violations regarding regulation of dogs, cats and other animals as defined in Chapter 6.08 of the Municipal Code.
24. "Person Associated With" means any person who, whenever engaged in a Nuisance Activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a premises or person present on a premises, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a property, person in

charge, or owner of a premises. "Person" under this Ordinance includes entities as well as individuals.

25 "Person in Charge" means any person, in actual, operator, or constructive possession of a Premises including but not limited to an owner or occupant of Premises under his or her ownership or control.

9.47.030. Procedure. A. Upon finding that a Premises meets the definition of a Chronic Nuisance Premises, the Chief of Police, or his designee, or his designee, may declare the Premises a Chronic Nuisance Premises. The Chief of Police, or his designee, or his designee, shall provide written notice of his or her determination to the Premises owner identified by the Village Assessor's records for that Premises. The Chronic Nuisance Premises Notice ("CNP Notice") shall be deemed delivered if sent either by first class mail to the Premises owner's last known address or delivered in person to the Premises owner. If the Premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the Premises owner's usual place of abode in the presence of some competent member of the family at least 14 years of age, or a competent adult currently residing there and who shall be informed of the contents of the CNP Notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the CNP Notice is sent by first class mail to the last known address of the owner as identified by the records of the Village Assessor.

B. The CNP Notice shall contain the following information:

1. Street address, parcel number or a legal description sufficient to identify the Premises.
2. A concise statement, including a description of the relevant activities supporting the determination that the Premises are a Chronic Nuisance Premises.
3. A statement that the owner shall immediately notify the Chief of Police, or his designee,, or his designee, of any change in address to ensure receipt of future notices.
4. A statement that the cost of future enforcement may be assessed as a special charge against the Premises.
5. A statement that the owner shall, within ten (10) days of receipt of the CNP Notice, respond to the Chief of Police, or his designee,, or his designee, either with an appeal or to propose a written course of action to abate the Nuisance Activities. The Statement shall direct the Premises owner to schedule a meeting with the Chief of Police, or his/her designee, and/or Building Inspector or his/her designee to discuss the Nuisance Activity and the Premises owner's intent regarding abatement.
6. A statement that the Premises s owner may be subject to a forfeiture action with a penalty of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) per day for permitting a Chronic Nuisance Premises and may be subject to imprisonment for failure to pay such forfeiture.

C. In reaching a determination that a premises is a Chronic Nuisance Premises, activities that were reported to the police by the

Premises owner or on-site Premises manager shall not be included as Nuisance Activities.

D. Chapter 968.075, Wis. Stats., broadly defines "domestic abuse". Therefore, in reaching a determination that a Premises is a Chronic Nuisance Premises, activities that are "domestic abuse" incidents pursuant to sec. 968.075, Stats., shall not be included as Nuisance Activities unless the incidents have been reviewed by the Chief of Police, or his/her designee, and the Village Attorney and a determination is made that, based upon the specific facts of each incident, the activities should be deemed Nuisance Activities as identified under Section 9.47.020(D). In determining whether to include such activities, the Chief of Police, or his designee, or his designee, and Village Attorney shall consider the strong public policy in favor of domestic victims reporting alleged abuses.

E. If the owner responds to the CNP Notice pursuant to Section 9.47.030(B)(5) with a nuisance abatement proposal, the Chief of Police, or his/her designee, may accept, reject or work with the owner to modify the proposal. The plan is acceptable if it can reasonably be expected to result in abatement of the Nuisance Activities described in the CNP Notice within sixty (60) days.

F. Premises owners and operators shall be consulted if possible regarding nuisance abatement methods and strategies and shall be encouraged to submit a comprehensive nuisance abatement plan.

G. Premises owners and operators shall be consulted if possible regarding use of available resources, including community service providers, when Nuisance Activity associated with the Premises is not caused or contributed to by the direct actions of a tenant.

H. If the Premises owner or operator meets with the Chief of Police, or his designee,, or his designee, and presents an acceptable abatement plan and initiates action to abate the Nuisance Activities occurring on the Premises, the Police Department may delay further enforcement of this ordinance.

I. If the Premises owner or operator ceases to cooperate with the efforts to abate the Nuisance Activities, the Chief of Police, or his/her designee, will reinstitute enforcement of this ordinance and the Premises owner will be sent a Change In Status Letter. This letter will document Police Department efforts to contact and/or obtain cooperation of the owner or operator.

J. Failure by the Premises owner or operator to respond within ten (10) days as directed in this Chapter shall result in a forfeiture of one thousand dollars (\$1,000) plus court costs and fees.

K. The Village may charge the Property owner for the cost of enforcement whenever the Chief of Police, or his/her designee, determines that any of the following have occurred:

1. A Premises owner has failed to respond to the CNP Notice in Section 9.47.030(A); or

2. Enforcement action for an additional Nuisance Activity has occurred at a Premises for which Notice has been issued pursuant to this Chapter and this Enforcement Action has occurred not less than fifteen (15) days after the CNP Notice has been issued, or

3. A course of action submitted pursuant to Section 9.47.030(E) has not been completed,

L. To charge such costs of enforcement to the Property owner, the Chief of Police, or his/her designee, shall calculate the cost of enforcement to abate this and any subsequent Nuisance Activities and refer such cost to the Village Finance Director so that the cost may be billed to the Premises owner. The Chief of Police, or his/her designee, shall notify the Premises owner of the decision to refer the cost of enforcement to the Village Finance Director. Delivery of this notice, along with a copy of the Chief's referral letter to the Village Finance Director, shall be made as set forth in Section 9.47.030(A). The notice shall contain:

1. The street address or legal description sufficient for identification of the premises.

2. A Statement that the Chief of Police, or his/her designee, has referred the cost of enforcement to the Village Finance Director with a concise description of the Nuisance Activities and the relevant Chapters of the ordinances.

3. Notice of the premises owner's right to appeal pursuant to Section 9.47.050.

M. Each subsequent incident of enforcement action for Nuisance Activity shall be deemed a separate violation and costs will continue to be assessed pursuant to until the nuisance is abated.

9.47.040 Penalties and Remedies. A. Cost Recovery. The Chief of Police, or his/her designee, shall keep an accurate account of the cost of enforcement and shall report it to the Village Finance Director. The Village Finance Director shall establish a reasonable charge for the costs of enforcement of this Chapter. Upon receipt of a notice from the Chief of Police, or his/her designee, issued pursuant to Section 9.47.030(L) the Village Finance Director shall charge any Premises owner found to be in violation of this Chapter the costs of enforcement in full or in part. Such costs shall be billed to the Premises owner by invoice sent by regular mail and must be paid within thirty (30) days of the date on the invoice. Any unpaid invoice shall be a lien on such Premises and may be assessed and collected as a special charge pursuant to Sec. 66.0627, Wis. Stats. A one hundred dollar (\$100) administrative fee shall be added to the cost of enforcement charged to the benefited premises any time the premises is declared a chronic nuisance premises.

B. Suspension of Cost Recovery. If after the receipt of a billing notice from the Village Finance Director, the Premises owner develops an acceptable plan and initiates action to abate nuisance activities occurring on the Premises, the Chief of Police, or his/her designee, will suspend further enforcement of this ordinance. The Premises owner is still responsible for any enforcement costs incurred prior to the Premises owner's submitting an abatement plan, including the administrative fee. If the Premises owner ceases to cooperate with the efforts to abate the Nuisance Activities, the Chief of Police, or his/her designee, will reinstitute enforcement of this ordinance after sending the Premises owner a Change In Status letter.

C. Forfeiture. A forfeiture action may be commenced by the Village Attorney for each Enforcement Action for Nuisance Activity occurring after the Premises has been declared a Chronic Nuisance

Premises. The forfeiture shall be not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each enforcement action. Upon default of payment, the Premises owner may be imprisoned in the county jail for a period of not more than ninety (90) days.

9.47.050 Appeal. Appeal of the determination of the Chief of Police, or his/her designee, pursuant to Section 9.47.030 or the action of the Village Finance Director imposing special charges pursuant to Section 9.47.040 against the Premises, may be submitted in writing to the Board of Appeals as an administrative decision under Chapter 62.23 Wis. Stats.

9.47.060 Eviction or Retaliation Prohibited. A. It shall be unlawful for a landlord to terminate the lease agreement or periodic tenancy of any tenant or otherwise retaliate against any tenant because that tenant complained to the Chief of Police, or his/her designee, about Nuisance Activities on the landlord's premises. It shall be unlawful for a landlord or any person acting as an agent for the landlord, to intimidate or actively discourage a tenant and/or persons associated with a tenant, from calling the police to report Nuisance Activity associated with a Premises. It shall be presumed that any attempt to increase charges, reduce services, or to otherwise harass or retaliate against the tenant during the 12-month period following receipt of the complaint by the Chief of Police, or his designee, constitutes unlawful retaliation under this subchapter. Such presumption shall be rebutted by the preponderance of evidence that the actions taken by the landlord were based upon good cause. Notwithstanding the foregoing, a tenant's lease agreement or periodic tenancy may be terminated for a failure to pay rent; committing Nuisance Activity as defined in Section 9.47.020(D), for the commission of waste upon the Premises; violating the terms and conditions of the lease agreement or periodic tenancy or as otherwise provided in ch. 704, Wis. Stats. and ch. Ag. 134, Wis. Admin. Code. A landlord's failure to renew a lease agreement or periodic tenancy upon expiration of such lease agreement or periodic tenancy shall not be deemed a violation of this sub-Chapter.

B. "Good cause" as used in this subchapter means that a landlord must show good cause for his or her actions, other than one related to or caused by the operation of this Chapter.

C. Penalty. Any person violating Section 9.47.060 shall be subject to a forfeiture of not less than \$100 or more than \$2000 per day for each violation and upon failure to pay said forfeiture, may be imprisoned in the county jail for a period of not more than ninety (90) days.

(Ord. 017, Series 2011)

V. OFFENSES AGAINST PROPERTY

CHAPTER 9.50

PROPERTY CRIMES

Sections:

9.50.010 State Statutes adopted.

9.50.010 State statutes adopted. A. Damage to property. A violation of Section 9.01.010 of the Grafton Code adopting Wis. Stat. § 943.01 shall be cited using this code section number. The terms and definitions of Chapter 9.01 of this Code shall remain applicable to any such offense.

B. Theft. A violation of Section 9.01.010 of the Grafton Code adopting Wis. Stat. § 943.20 shall be cited using this code section number. The terms and definitions of Chapter 9.01 of this Code shall remain applicable to any such offense.

C. Fraud on hotel or restaurant keeper, recreational attraction, taxicab operator, or gas station. A violation of Section 9.01.010 of the Grafton Code adopting Wis. Stat. § 943.21 shall be cited using this code section number. The terms and definitions of Chapter 9.01 of this Code shall remain applicable to any such offense.

D. Removal of shopping cart. A violation of Section 9.01.010 of the Grafton Code adopting Wis. Stat. § 943.55 shall be cited using this code section number. The terms and definitions of Chapter 9.01 of this Code shall remain applicable to any such offense.
(Ord. 022, Series 2010, Part 4)

CHAPTER 9.52

ISSUANCE OF WORTHLESS CHECKS

Sections:

9.52.010 State statute adopted.

9.52.010 State statute adopted. A. A violation of Section 9.01.010 of the Grafton Code adopting Wis. Stat. § 943.24 shall be cited using this code section number. The terms and definitions of Chapter 9.01 of this Code shall remain applicable to any such offense. (Ord. 022, Series 2010, Part 5)

Chapter 9.54

LITTERING*

Sections:

9.54.010 Throwing refuse on streets and public grounds.

9.54.020 Violation--Penalty.

9.54.010 Throwing refuse on streets and public grounds.

No person shall throw or leave any paper, fruit peelings foods, cans, bottles, glass or any other waste or refuse upon the public grounds, streets, alleys, school grounds, parks or upon the private premises of any other person in the village. (Prior code SS17.01(6)).

9.54.020 Violation--Penalty. Any person who shall violate any provisions of this chapter shall, upon conviction thereof, forfeit not less than one dollar nor more than one hundred dollars, together with the costs of prosecution. In the event of a failure to pay such forfeiture, where no showing of indigency is made, the defendant may be imprisoned for no more than ninety days, as the court deems fit, or until such judgment is sooner paid. (Ord. A-359-78 Part 14 (part), 1978: prior code SS17.01(9)(part)).

- * For statutory provisions giving village boards power of management and control over village streets, see Wis. Stat. 1975 SS61.34(1).

CHAPTER 9.56

SHOPLIFTING

Sections:

9.56.010 State statute adopted

9.56.010 State statute adopted. A. A violation of Section 9.01.010 of the Grafton Code adopting Wis. Stat. § 943.50 shall be cited using this code section number. The terms and definitions of Chapter 9.01 of this Code shall remain applicable to any such offense. (Ord. 022, Series 2010, Part 6)

Chapter 9.58

FRAUDULENT RETURN OF MERCHANDISE

Sections:

9.58.010 Fraudulent return of merchandise.

9.58.010 Fraudulent return of merchandise. It is a violation of this chapter subject to a penalty as set forth in Chapter 9.12 for any person to return merchandise to a merchant for the purpose of claiming a cash refund or credit if the person deceives the merchant by doing any of the following:

A. Represents that such person purchased the merchandise when the person did not purchase it;

B. Represents that the merchandise was purchased from a particular merchant when it was not purchased from that merchant;

C. Represents that the merchandise was purchased for a particular price when it was purchased for a lower price;

D. Gives the merchant a false name, address or telephone number. (Ord. A-529-89 Part 1, 1989).

Chapter 9.60

Graffiti

Sections:

9.60.010 Prohibition of Graffiti

9.60.020 Graffiti Removal

9.60.010 Prohibition of Graffiti It shall be unlawful for any person to write, draw, inscribe, mark, scratch, scrawl, paint, spray or otherwise place graffiti of any kind on any public or private building, structure or place or on any real or personal property. This shall not be construed to prohibit the placement of temporary and easily removable chalk or other water soluble markings on public or private streets, sidewalks or other paved surfaced incident to youth activities such as hopscotch and various types of ball games or any lawful business or activity.

A. Definitions as used in this Chapter, the term:

1. GRAFFITI. The intentional marking, drawing or writing with paint, ink or another substance on, or the intentionally etching into the physical property of another without the other persons consent.

2. PROPERTY. Any real or personal property and that which affixed, incidental or appurtenant to real property including but not limited to any premise, house, building, structure, fence, wall, sign or other public or private property.

B. Penalty. Any person who violates subsection 9.60.010 shall be subject to a forfeiture of not less than \$250 in addition to any applicable fees, assessments and costs of prosecution, and any person who previously has been convicted of a violation of this section shall be subject to a forfeiture of not less than \$500 in addition to any applicable fees, assessments and costs of prosecution. In addition, 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 said section may also be held liable for the cost of replacing or repairing such damage or destroyed property in accordance with ss. 895.035, WI Statutes. (Ord. 014, Series 1999, Part 1).

9.60.020 Graffiti Removal The purpose and intent of this ordinance is to provide a procedure requiring the removal of graffiti from property within the Village of Grafton. Graffiti contributes to blight, deterioration to surrounding properties, and reduces the attractive physical qualities of neighborhoods, all to the detriment of the Village; constitutes a public nuisance and must be abated promptly to avoid the detrimental impact of graffiti on the Village, its residents and businesses and to protect the surrounding properties and neighborhoods. The existence of graffiti on any property within the Village is expressly declared to be a public nuisance as it affects the public health, safety and welfare.

A. Graffiti Prohibited. No owner of any property within the Village may maintain or allow any graffiti to remain upon such property for a period of more than 15 days.

B. Penalty. Any person who violates this section shall be subject to a forfeiture of not less than \$25 nor more than \$500 together with the costs of prosecution. Each day in which a violation continues shall be determined a separate and distinct offense.

C. If, after 30 days, property owner, or business manager if owner is not accessible, has not removed said graffiti, the Village has the authority to remove the said graffiti and assess costs to the property tax roll.

VI. CONSUMER PROTECTION

CHAPTER 9.63

DIGITAL SECURITY IMAGING SYSTEM REQUIREMENTS

Sections:

- 9.63.010 Security
- 9.63.020 Developments required to install Digital Security Imaging Systems (DSIS)
- 9.63.030 Digital Security Imaging, Storage Devices, and Related Equipment
- 9.63.040 Hardware Standards
- 9.63.050 Implementation
- 9.63.060 Plan Submittal
- 9.63.070 Non-Operational DSIS System -- Penalty

9.63.010 Security

A. Purpose and Intent. To provide for the implementation and use of digital security imaging systems (DSIS), that monitor the exterior and interior spaces and areas of certain commercial establishments. The DSIS will afford the opportunity for public safety departments (e.g., Police and Fire Department) to visually examine certain commercial establishments and will provide emergency response personnel with a visual assessment of an emergency situation in advance of arrival. The advanced visual assessment may pertain to a person(s) (personal identification), a location (scene identification), and/or a situation (action identification) in emergency situations.

While it is anticipated that the implementation and usage of DSIS will greatly aid law enforcement agencies in subsequent criminal investigations and prosecutions, it is recognized that DSIS alone cannot provide for or be solely relied upon to produce positive personal, action, or scene identification. Furthermore, it is recognized that since there is no Village requirement that these systems be actively monitored, it cannot be expected that these systems will, on their own, provide a safer or more secure environment, nor are they a substitute for other security measures. It is also the intent of this chapter to attain commercial and industrial establishments of sustained desirability and economic stability, and to avoid unreasonable adverse effects to the property values of the surrounding properties and surrounding neighborhoods and to maintain and promote the public health, safety and welfare of the Village.

B. Definitions.

1. "Commercial establishments", as used herein, shall not include uses of a industrial or residential nature.

9.63.020 Developments required to install Digital Security Imaging Systems (DSIS)

A. It shall be the responsibility of the following property owners and any/all successors in interest or ownership of the properties to provide, install, and maintain in good working order the interior and exterior DSIS. The property owner shall furnish to the Chief of Police documentation that describes the system, specifications and the name of the vendor that installed the product.

1. Multi-tenant or individual commercial use buildings containing more than 50,000 square feet of total gross floor area as referenced by Section 19.03.0703(P).

2. All commercial uses that are open for business in excess of 20 hours a day will be required to install a remote access DSIS system with a panic button activation feature that will allow remote access viewing of the internal surveillance system to public safety personnel.

3. All commercial uses that sell, manufacture or repair firearms will be required to install a remote access DSIS system with a panic button activation feature that will allow remote access viewing of the internal surveillance system to public safety personnel.

B. Date of Compliance. All new commercial uses or buildings that require DSIS systems, as set forth above, shall comply with the Plan Submittal requirements of Section 9.63.060.

All existing commercial uses or buildings that require DSIS systems, as set forth above, shall comply with the Plan Submittal requirements of Section 9.63.060, when there is a change in ownership. For tenancy changes or increase in total area (square footage) in multi-tenant or individual commercial use buildings, the affected individual tenant space must comply .

9.63.030 Digital Security Imaging, Storage Devices, and Related Equipment .

A. Such systems shall provide for complete surveillance of all building entrance and exits, loading docks, and parking lots within the development. Parking lot surveillance must be capable of monitoring and capturing all activities within 300 feet of the building.

B. Such systems shall function continuously, or have an effective distance motion detection with 2 second pre-record, whether the businesses are open or closed, and shall provide visible surveillance to the above described areas during hours of darkness.

C. Such systems within such developments shall provide and maintain a centrally located security room that will be accessible and used by the Village departments responsible for public safety. Access to these spaces shall be in cooperation with the retailer, tenant or property owner.

D. All digital video recorded by such system shall be archived for a period of not less than 14 days and shall be available to the Village for public safety purposes.

E. Such systems will provide interior cameras that will, at minimum, monitor and record all areas of cash transactions with the

public. This includes, but is not limited to, all cash registers and service desks.

9.63.040 Hardware Standards

A. Equipment deployed under this chapter shall be in compliance with specifications that are approved by the Police Department.

9.63.050 Implementation

A. If the development consists of multiple buildings, tenant spaces and/or phases, the DSIS shall be installed and fully operational upon receipt of the occupancy permit of each building, tenant and/or phase. The adequacy of the implementation of the DSIS minimum standards for each building, tenant and/or phase shall be determined by the Village Police Department.

9.63.060 Plan Submittal

A. For developments that qualify under Section 9.63.020, the DSIS shall be a component of any required Village Site and/or Operational Plan application or, in the case of a required installation under 9.63.060(4), upon application for the Village approval or building permit. Upon application, the applicant/property owner shall provide to the Village seven sets of DSIS plans which shall clearly depict the location of all proposed cameras and hardware as well as the location of the security room. The DSIS portion of the submittal shall also include a written narrative explaining in detail the required DSIS. If a Site and/or Operational Plan is not required, the property owner must provide the DSIS prior to obtaining an occupancy permit.

B. Any occupancy or building permit requiring the submittal of the DSIS plans under Section 9.63.060(A) above will not be deemed complete and will not be released by the Village until the DSIS plans are received and reviewed as required in this ordinance.

9.63.070 Non-Operational DSIS System -- Penalty

A. In the event that an existing DSIS System becomes non-operational or incompatible with the Police Department for any reason, or there is a violation of any term or condition of this ordinance, the Police Department shall provide the Owner with a 15-day written notice of same and opportunity to cure. In the event that the system is not repaired within the time allowed in the notice, the Owner shall be deemed in violation of this section. Any Owner who shall violate this section shall, upon conviction thereof, forfeit not less than one hundred dollars (\$100) nor more than three-hundred (\$300) dollars together with the costs of prosecution. Each day a violation exists or continues shall constitute a separate offense.

(Ord. 017, Series 2007)

VII. OFFENSES BY OR AGAINST MINORS

Chapter 9.66

ABANDONED ICEBOXES AND REFRIGERATORS

Sections:

9.66.010 Abandoned iceboxes and refrigerators.

9.66.010 Abandoned iceboxes and refrigerators. It is unlawful for any person, firm or corporation to 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 or its control, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an air-tight door or lid, snaplock or other locking device, which may not be released from the inside without first removing such door or lid, snaplock or other locking device from such icebox, refrigerator or container. (Prior code SS17.01(7)).

(Ord. 012, Series 2010, Part 2)

Chapter 9.67

RESIDENCY RESTRICTION FOR SEX OFFENDERS

Sections

<u>9.67.010</u>	<u>Purpose and findings.</u>
<u>9.67.020</u>	<u>Definitions.</u>
<u>9.67.030</u>	<u>Residency Restrictions</u>
<u>9.67.040</u>	<u>Residency Restriction Exceptions</u>
<u>9.67.050</u>	<u>Property owners prohibited from renting real property to certain sexual offenders and sexual predators; penalties.</u>
<u>9.67.060</u>	<u>Original domicile restrictions.</u>
<u>9.67.065</u>	<u>Designated Walk Zone Restriction.</u>
<u>9.67.070</u>	<u>Density regulations.</u>
<u>9.67.080</u>	<u>Violations.</u>

9.67.010 Purpose and findings. A. This Chapter is a regulatory measure aimed at protecting the health and safety of children in Grafton from the risk that certain convicted sex offenders may re-offend in locations close to their residences. The Village finds and declares that certain sex offenders are a serious threat to public safety. When convicted sex offenders re-enter society, they are much more likely than any other type of offender to be re-arrested for a new rape or sexual assault. 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 and daycare centers. The Village finds and declares that, in addition to schools and daycare centers, children congregate or play at public parks, swimming pools, libraries, recreational trails, athletic fields, and playgrounds.

9.67.020 Definitions. The following definitions shall be used in this Chapter unless the context otherwise requires:

A. A "crime against children" shall mean any of the following offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or the federal government, having like elements necessary for conviction and involving a person under the age of 18 years, respectively:

Wis. Stats Sections

- 940.225(1) First Degree Sexual Assault;
- 940.225(2) Second Degree Sexual Assault;
- 940.225(3) Third Degree Sexual Assault;
- 940.22(2) Sexual Exploitation by Therapist;
- 940.30 False Imprisonment-victim was minor and not the offender's child;

- 940.31 Kidnapping-victim was minor and not the offender's child;
- 944.01 Rape (prior statute);
- 944.06 Incest;
- 944.10 Sexual Intercourse with a Child (prior statute);
- 944.11 Indecent Behavior with a Child (prior statute);
- 944.12 Enticing Child for Immoral Purposes (prior statute);
- 948.02(1) First Degree Sexual Assault of a Child;
- 948.02(2) Second Degree Sexual Assault of a Child;
- 948.025 Engaging in Repeated Acts of Sexual Assault of the Same Child;
- 948.05 Sexual Exploitation of a Child;
- 948.055 Causing a Child to View or Listen to Sexual Activity;
- 948.06 Incest with a Child;
- 948.07 Child Enticement;
- 948.075 Use of a Computer to Facilitate a Child Sex Crime;
- 948.08 Soliciting a Child for Prostitution;
- 948.085 Sexual Assault of a Child Placed in Substitute Care;
- 948.09 Sexual Intercourse with a Child age 16 or older;
- 948.095 Sexual Assault of a Student by School Instructional Staff;
- 948.10 Exposing Genitals or Pubic areas to a child;
- 948.11 Exposing Child to Harmful Material or Harmful Descriptions of Narrations;
- 948.12 Possession of Child Pornography;
- 948.13 Convicted Child Sex Offender Working with Children;
- 948.14 Registered Sex Offender and Photographing Minors;
- 948.30 Abduction of Another's Child;
- 971.17 Not Guilty by Reason of Mental Disease-of an included offense;
- 975.06 Sex Crimes Law Commitment.

B. "Offender" means a person who has been convicted of or has been found delinquent of or has been found not guilty by reason of disease or mental defect of a crime against children.

C. "Permanent Residence" means the place where an offender abides, lodges or resides for fourteen (14) or more consecutive days.

D. "Temporary Residence" means: the place where the 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 person's permanent residence; or the place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.

E. "Original Domicile" means the offender's true, fixed and permanent home, to which the offender intends to return and remain even though currently residing elsewhere.

9.67.030. Residency Restrictions An offender shall not establish a permanent residence or temporary residence in any location on a parcel of land which, in whole or in part, is within one thousand feet (1000') of the real property comprising any of the following:

- A. . Any facility for children (which means a public or private school, a group home, as defined in Section 48.02(7), Stats., a residential care center for children and youth, as defined in Section 48.02 (15d), Stats., a shelter care facility, as defined in Section 48.02 (17), Stats., a foster home, as defined in Section 48.02 (6), Stats., a treatment foster home, as defined in Section 48.02 (17q), Stats., a daycare center licensed under Section 48.65, Stats., a daycare program established under Section 120.13 (14), Stats., a daycare provider certified under Section 48.651, Stats., or a youth center, as defined in Section 961.01 (22), Stats.); and/or
- B. Any path, route, area or facility used for:
 - 1. a public park, parkway, parkland, park facility;
 - 2. a public swimming pool;
 - 3. a public library;
 - 4. a recreational trail;
 - 5. a public playground;
 - 6. a school for children;
 - 7. athletic fields used by children;
 - 8. a daycare center;
 - 9. any specialized school for children, including but not limited to, a gymnastics academy, dance academy or music school;
 - 10. aquatic facilities open to the public;
 - 11. rehabilitative agencies for children and adults with developmental disabilities, (i.e. Portal Industries, Inc.)

The distance shall be measured from the closest boundary line of the real property supporting the residence of an offender to the closest real property boundary line of the applicable above enumerated use(s). A map depicting the above-enumerated uses and the resulting residency restriction distances, as amended from time to time, is on file in the Office of the Village Clerk for public inspection.

9.67.040 Residency Restriction Exceptions An offender establishing a residence in any location on a parcel of land which, in whole or in part, is within one thousand feet (1000') of the real property comprising any of the uses enumerated in Section 9.67.020(F), does not commit a violation of this subsection if any of the following apply:

- A. The offender has established a residence prior to the effective date of this Chapter, November 16, 2007, which is within one thousand feet (1000') of any of the uses enumerated in Section 9.67.030 above, or such enumerated use is newly established after such effective date and it is located within such one thousand feet (1000') of a residence of an offender, which was established prior to the effective date of this Section.
- B. The offender is a minor or ward under guardianship.

9.67.050 Property owners prohibited from renting real property to certain sexual offenders and sexual predators; penalties. A. It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any offender prohibited from establishing such permanent residence or temporary residence pursuant to this ordinance, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in 9.67.030 and not subject to an exception set forth in 9.67.040 above,

B. A property owner's failure to comply with provision of this section shall constitute a violation of this section, and shall subject the property owner to the code enforcement provisions in Section 9.67.080 as provided in this ordinance.

9.67.060 Original domicile restriction. In addition to and notwithstanding the foregoing, but subject to Section 9.67.040. above, no offender and no individual who has been convicted of a crime against children shall be permitted to establish a residence in the Village of Grafton, unless such person was domiciled in Ozaukee County at the time of the offense resulting in the person's most recent conviction for committing the crime against children.

9.67.065 Designated walk zone restriction. In addition to and not withstanding the foregoing, but subject to Section 9.67.040, no offender and no individual who has been convicted of a crime against children shall be permitted to establish a residence in a designated walking zone for schools or school districts.

9.67.070 Density regulation. In addition to and notwithstanding the foregoing, but subject to Section 9.67.040 above, no offender shall be permitted to establish a permanent or temporary residence within one thousand feet (1000') of a temporary or permanent residence of another offender in the Village of Grafton. This restriction shall not apply to offenders who have established residence within one thousand feet (1000') of another offender prior to the effective date of this ordinance, but all existing offender residences shall be considered when calculating distance and determining residence availability for any offenders establishing a residence after the effective date of the ordinance.

9.67.080 Violations. If an offender violates any provisions of this Chapter , without any exception(s) as also set forth above, said offender shall be subject to a forfeiture of not less than \$1,000 and not more than \$2,500 for each violation. Each day that a violation exists shall be considered a separate offense. If any person, corporation, or business entity of any kind rents to an offender, in violation of the terms of this ordinance, said person, corporation, or business entity shall be subject to a forfeiture of not less than \$1,000 and not more than \$2,500 for each violation. Each day that a violation exists shall be considered a separate offense. In addition to all relief called for herein, the Village may also seek equitable relief, including, but not limited to, an action

in the name of the Village in the Circuit Court for Ozaukee County to permanently enjoin such residency.

(Ord. 022, Series 2007, Part 1)

VIII. WEAPONS AND FIRES

Chapter 9.72

BONFIRES

Sections:

9.72.010 Regulation of bonfires.

9.72.010 Regulation of bonfires. No person shall kindle or cause to be kindled any fire in or upon any street, alley, public way, park or any public or private ground within the village within twenty-five feet of any building or within any fire lane unless the same is confined within a wire refuse burner, basket or metal enclosure with a wire cover attached to prevent the escape of sparks and burning material. (Prior code SS17.01(5)).

(Ord. 012, Series 2010, Part 2)

CHAPTER 9.73

CARRYING CONCEALED WEAPONS

Sections:

9.73.010 State statute adopted.

9.73.010 State statute adopted. A. A violation of Section 9.01.010 of the Grafton Code adopting Wis. Stat. § 941.23 shall be cited using this code section number. The terms and definitions of Chapter 9.01 of this Code shall remain applicable to any such offense. (Ord. 022, Series 2010, Part 7)

Chapter 9.74

FIREARMS

Sections:

- 9.74.010 Discharge of firearms prohibited.
- 9.74.015 Firearms in public buildings prohibited.
- 9.74.020 Violations--Penalty.

9.74.010 Discharge of weapons prohibited.

No person, except a sheriff, constable, police officer or their deputies shall fire or discharge any firearm, rifle, spring or air gun under his control, provided, that this section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries authorized by the village board, or the firing or discharging of BB guns upon private premises by person over sixteen or under the direct personal supervision of a parent or guardian. This section shall be deemed to prohibit hunting within the village, with the following exception: A person may hunt with a bow and arrow or crossbow in the village subject to the following restrictions;

1. No such hunting is permitted on public property.
2. No such hunting is permitted within 100 yards of any building (defined as a permanent structure used for human occupancy and includes a manufactured home, as defined in S101.91(2), Wisconsin State Statutes) located on another person's land. This restriction does not apply if the person, who owns the land on which the building is located, allows the hunter to hunt within the specific distance to the building
3. The person who hunts with a bow and arrow or crossbow must discharge the arrow or bolt for the respective weapon toward the ground.

The Chief of Police may issue written permits to owners or occupants of private premises, to hunt or shoot on such premises if he finds such privileges necessary for the protection of life or property and subject to such safeguards as he may impose for the safety of the lives and property of other persons within the village. (Ord. 009, Series 2014, Part 1; Ord. 008, Series 2010, Part 2; Prior code SS17.01(2)).

9.74.015 Firearms in public buildings prohibited. A. Pursuant to Wis. Stats. § 943.13(1m)(c)4., no person shall enter or remain in any part of a building owned, occupied or controlled by the State or local governmental unit if the State or local governmental unit has notified the person not to enter or remain in the building while carrying a firearm or a specific type of firearm.

B. The Village Administrator shall cause signs to be erected at all entrances to all buildings owned, occupied or under the control of

the Village of Grafton 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.

C Nothing in this subsection shall be construed to apply to prohibit a peace officer or armed forces or military personnel armed in the line of duty or any person duly authorized by the Chief of Police to possess a firearm in any public building. Notwithstanding Wis. Stats. § 939.22(22), for purposes of this paragraph, peace officer does not include a commission warden who is not a State certified commission warden.

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." (Ord. 028, Series 2011, Part 1)

9.74.020 Violations--Penalty. Any person who shall violate any provisions of this chapter shall, upon conviction thereof, forfeit not less than one-hundred fifty dollars (\$150) nor more than five hundred dollars (\$500), together with the costs of prosecution. In the event of a failure to pay such forfeiture, where no showing of indigency is made, the defendant may be imprisoned for no more than ninety days, as the court deems fit, or until such judgment is sooner paid. (Ord. 028, Series 2011, Part 2; Ord. A-350-78 Part 14 (part), 1978: prior code SS17.01(9)(part)).

Chapter 9.75

FACSIMILE FIREARMS

Sections:

9.75.010 State statute adopted

9.75.010 State statute adopted. A. A violation of Section 9.01.010 of the Grafton Code adopting Wis. Stat. § 941.2695 shall be cited using this code section number. The terms and definitions of Chapter 9.01 of this Code shall remain applicable to any such offense. (Ord. 022, Series 2010, Part 8)

Chapter 9.76

FIREWORKS

Sections:

- 9.76.010 Fireworks sales, discharge and use prohibited.
- 9.76.020 Permit--Required.
- 9.76.030 Permit--Issuance.
- 9.76.040 Permit--Bond required.
- 9.76.050 Permit--Restrictions.

9.76.010 Fireworks sales, discharge and use prohibited.

It is unlawful within the limits of the village for any person to sell, expose or offer for sale, use, keep or discharge, or to explode any firecracker, bottle rocket, cherry bomb, colored smoke bomb, blank cartridge, toy pistol or cannon in which explosives are used, contrivances using explosive caps or cartridges, display wheels, the type of balloon which requires fire underneath to propel the same, firecrackers, torpedoes, sky rockets, roman candles, aerial salutes, American or Chinese bombs or other fireworks containing any explosives of flammable compound, or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxylates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus, or any compound containing any of the same or other explosives. (Ord. A-511-88 Part 1, 1988: prior code SS17. 01(1)(a))

9.76.020 Permit--Required. Fireworks, other than those prohibited by the laws of the state, may be used and displayed in open fields, public parks, private parks or rivers, lakes and ponds by public authorities, fair associations, amusement parks, park boards, civic organizations and groups of individuals that have been granted permits for such displays by the village president. Application for permits shall be filed in writing with the village clerk, who shall refer such applications to the Village President. (Prior code 517.01(1)(b)(1)).

9.76.030 Permit--issuance. If the Village President determines that the applicant will use the fireworks in a public exhibition and that all reasonable precautions will be exercised with regard to the protection of the lives and property of all persons, he may issue a permit for the use of fireworks at the time and place set out in the application. (Prior code SS17.01(1)(b)(2)).

9.76.040 Permit--Bond required. Before any permit for the use or display of fireworks shall be granted to any applicant, the applicant shall file with the village clerk an indemnity bond in the name of the village in the amount of two thousand dollars with good and sufficient sureties for the payment of all claims that may arise by reason of injury to persons or property from the handling, use or discharge of fireworks under such permit. (Prior code SS17.01(1)(b)(3)).

9.76.050 Permit--Restrictions. No permit shall be granted for the display of fireworks within fifty feet of any gasoline pump, gasoline filling station or gasoline balk station or any building in which gasoline or volatile liquid is sold in quantities in excess of one gallon. (Prior code SS17.01(1)(b)(4)).

(Ord. 012, Series 2010, Part 2)

Chapter 9.78

GRASS FIRES

Sections:

9.78.010 Regulation of fires.

9.78.010 Regulation of fires. No person shall kindle any grass fire within the limits of the village without first securing a written permit from the village clerk-treasurer, who shall issue such permit only upon approval of and subject to any conditions for the protection of life and property imposed by the chief of the Grafton volunteer company. (Prior code SS17.01(4)).

(Ord. 012, Series 2010, Part 2)

Chapter 9.80

THROWING OBJECTS

Sections:

9.80.010 Throwing or shooting objects prohibited.

9.80.010 Throwing or shooting objects prohibited.

No person shall throw or shoot any object, arrow, stone or other missile or projectile by hand or by other means upon or at any vehicle, building, tree, or other public or private property, or upon or at any person in any public or private way or place, or enclosed or unenclosed ground within the village. This prohibition shall not apply to the use of bow and arrows and crossbows shot at any archery range officially established within Lime Kiln Park, or to any activities under the supervision of the Grafton public schools, any private school, or the Grafton Parks and Recreation Board.

In addition, a person may hunt with a bow and arrow or crossbow in the Village, subject to the following restrictions:

- 1) No Such hunting is permitted on public property.
- 2) No such hunting is permitted within 100 yards of any building (defined as a permanent structure used for human occupancy and included a manufactured home, as defined in §101.91(2), Wisconsin State Statute) located on another person's land. This restriction does not apply if the person who owns the land on which the building is located allows the hunter to hunt within the specific distance of the building.
- 3) The person who hunts with a bow and arrow or crossbow must discharge the arrow or bolt for the respective weapon toward the ground.

(Ord. 010-Series 2014, Part 1; Ord. 014, Series 2001, Part 1; Ord. A-403-80 Part 1 (part), 1980; Ord. A-358-78 Part 27, 1978; prior code SS17.01(3)).

(Ord. 012, Series 2010, Part 2; Ord. 013, Series 2010, Part 1 and Part 2; Ord. No. 010-Series 2014 Part 1 and Part 2)