

Chapter 194

PEACE AND GOOD ORDER

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[HISTORY: Adopted by the Village Board of the Village of Genoa City as §§ 9-1-1, 9-2-1 to 9-2-14, 9-2-16 and 9-2-17 and Title 9, Ch. 3 of the 1984 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages -- See Ch. 93.
Amusements -- See Ch. 97.
Animals -- See Ch. 101.

Minors -- See Ch. 175.
Nuisances -- See Ch. 186.

ARTICLE I General Provisions

§ 194-1. Offenses against state laws subject to forfeiture. [Amended 10-10-1991]

The following statutes defining offenses against the state are adopted to define offenses against this municipality. Except for § 134.66, Wis. Stats., the penalties for which shall strictly conform to those provided in such section, the penalty provided herein for commission of the following offenses shall be limited to a forfeiture imposed under the general penalty provisions of this Code¹. Any amendments, revisions or modifications of the following statute sections are intended to be made a part of this Code.

134.66	Restrictions on sale or gift of cigarettes or tobacco products
167.10	Fireworks regulated
175.25	Illegal storage of junked vehicles
254.76	Careless smoking
939.05	Aiding and abetting
939.22	Words and phrases defined
940.19(1)	Battery
941.01	Negligent operation of a vehicle off highway
941.10	Negligent handling of burning materials
941.12	Interfering with or failing to assist in fire fighting
941.13	False alarms and interference with fire fighting
941.20(1)	Reckless use of weapon
941.23	Carrying concealed weapon
941.235	Carrying a firearm in a public building
941.24	Possession of switchblade knife
941.35	Emergency telephone calls
941.36	Fraudulent tapping of electric wires or gas or water meters or pipes
943.01(1)	Criminal damage to property
943.06	Molotov cocktails
943.11	Entry into locked vehicle
943.13	Criminal trespass to land
943.14	Criminal trespass to dwellings
943.20	Theft of property
943.21	Fraud on innkeeper
943.23	Operating vehicle without owner's consent
943.24	Worthless checks
943.34	Receiving stolen property
943.37	Alteration of property identification marks

1. Editor's Note: See Ch. 1, General Provisions, § 1-5

943.38(3) Forgery
943.41 Credit card crimes
943.50 Retail theft
944.20 Lewd and lascivious behavior
944.21 Lewd, obscene, or indecent matter, pictures and performances
944.23 Making lewd, obscene or indecent drawings
944.30 Prostitution
944.31 Patronizing prostitutes
944.33 Pandering
944.34 Keeping place of prostitution
945.01 Definitions relating to gambling
945.02 Gambling
945.03 Commercial gambling
945.04 Permitting premises to be used for commercial gambling
946.40 Refusing to aid officer
946.41 Resisting or obstructing officer
946.42 Escape
946.65 Obstructing justice
946.69 Falsely assuming to act as public officer or employee
946.70 Impersonating peace officer
946.72 Tampering with public records and notices
947.01 Disorderly conduct
947.012 Unlawful use of telephone
947.015 Bomb scares
947.06 Unlawful assemblies
951.01 Definitions
951.015 Construction and application
951.02 Mistreating animals
951.03 Dog-napping or cat-napping
951.04 Leading animal from motor vehicle
951.05 Transportation of animals
951.06 Use of poisonous and controlled substances
951.07 Use of certain devices prohibited
951.08 Instigating fights between animals
951.09 Shooting at caged or staked animals
951.10 Sale of baby rabbits, chicks and other fowl
951.11 Artificially colored animals; sale
951.13 Providing proper food and drink to confined animals
951.14 Providing proper shelter
951.15 Animals, neglected or abandoned; police powers

ARTICLE II
Offenses Against Public Safety and Peace

§ 194-2. Firearms.

- A. No person, except a sheriff, constable, police officer or their deputies, shall fire or discharge any firearm, rifle, or spring or air gun within the Village or have any firearm, rifle, or spring or air gun in his possession or under his control unless it is unloaded and knocked down or enclosed within a carrying case or other suitable container.
- B. No person shall, in the territory adjacent to the Village, discharge any firearm in such manner that the discharge shall enter or fall within the Village.
- C. Possession of firearms in public buildings and business establishments prohibited.

- (1) Definitions. As used in this Subsection C, the following terms shall have the meanings indicated:

FIREARM -- Any rifle, shotgun, handgun, spring gun, air gun or bow and arrow device.

LAW ENFORCEMENT OFFICER -- Any person employed by the state, county or Village for the purpose of detecting and preventing crime and enforcing laws or ordinances he or she is employed to enforce.

- (2) No person, except a law enforcement officer, shall have in his or her possession, carry or bear any firearms within any publicly owned building or business establishment open to the public within the Village.
- (3) This Subsection C shall not be construed to prohibit the sale, purchase, repair or trade of firearms by a retail business establishment doing so in the course of its regular business in accord with state and federal law, nor to hinder a prospective customer from attempting to buy, sell or trade firearms to or from a retailer.

§ 194-3. Throwing or shooting arrows, stones and other missiles.

No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means, at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the Village.

§ 194-4. Defecating or urinating in public places.

It shall be unlawful for any person to defecate or urinate, outside of designed sanitary facilities, upon any sidewalk, street, alley, public parking lot, park, playground, cemetery or other public area within the Village, or upon any private property in open view of the public, or in the halls, stairways or elevators of public or commercial buildings.

§ 194-5. Obstructing streets and sidewalks.

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

§ 194-6. Loitering.

- A.** 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 person 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 person or other circumstances make it impracticable, a police or peace officer shall, prior to any arrest for an offense under this section, afford the person 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 person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.
- B. Obstruction of highway by loitering.** No person shall obstruct any street, bridge, sidewalk or crossing by lounging or loitering in or upon the same after being requested to move on by any police officer.
- C. Obstruction of traffic by loitering.** No person shall loaf or loiter in groups or crowds upon the public streets, alleys, sidewalks, street crossings or bridges or in any other public place within the Village in such manner as to prevent, interfere with or obstruct the ordinary free use of such public streets, sidewalks, street crossings and bridges or other public places by persons passing along and over the same.
- D. Loitering after being requested to move.** No person shall loaf or loiter in groups or crowds upon the public streets, sidewalks or adjacent doorways or entrances, street crossings or bridges or in any other public place or on any private premises without invitation from the owner or occupant after being requested to move by any police officer or by any person in authority at such place.
- E. Loitering in public places.** No person shall loiter, lounge, or loaf in or about any depot, theater, dance hall, restaurant, store, public sidewalk, public parking lot or other place of assembly or public use after being requested to move by any police officer. Upon being requested to move, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.

§ 194-7. Loud and unnecessary noise.

- A. It shall be unlawful for any person to make, continue or cause to be made or continued any loud and unnecessary noise.
- B. The following acts are declared to be loud, disturbing and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive:
- (1) **Horns and signaling devices.** The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the Village, except as a danger warning; the creation of any unreasonable loud or harsh sound by means of any signaling device and the sounding of any device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any signaling device when traffic is for any reason held up.
 - (2) **Radios, phonographs and similar devices.** The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a loud and unnecessary manner. The operation of any set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at the property line from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
 - (3) **Loudspeakers and amplifiers for advertising.** The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.
 - (4) **Animals and birds.** The keeping of any animal or bird which causes frequent or long-continued unnecessary noise.
 - (5) **Steam whistles.** The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of proper Village authorities.
 - (6) **Exhausts.** The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor boat except through a muffler or other device which will effectively prevent loud or explosive noises there from.

- (7) **Construction or repair of buildings.** The erection (including excavation), demolition, alteration or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or any other similar equipment attended by loud or unusual noise, other than between the hours of 7:00 a.m. and 10:00 p.m. on weekdays.
- (8) **Schools, courts, churches and hospitals.** The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while in use, or adjacent to any hospital, which unreasonably interferes with the normal operation of that institution, or which disturbs or unduly annoys patients in the hospital, provided that conspicuous signs are displayed in those streets indicating a school, hospital or court street.
- (9) **Motor vehicles.** The making of unnecessary noises with a motor vehicle, by squealing tires, excessive acceleration of the engine, or by emitting unnecessary and loud muffler noises.

C. The provisions of this section shall not apply to:

- (1) Any vehicle of the Village while engaged in necessary public business.
- (2) Excavations or repairs of streets or other public construction by or on behalf of the Village at night when public welfare and convenience render it impossible to perform such work during the day.

D. The Village Board shall have the authority to grant a permit for a period necessary within which time such work, operation, or activity may take place within the hours of 10:00 p.m. to 7:00 a.m.

§ 194-8. Injury to public monuments and structures.

No person shall deface, throw down, injure, mutilate, destroy or unlawfully remove any tombstone or monument for the dead, any landmark, public monument, statue, fountain or work of art, or any public seat, rustic or ornamental building or any bridge, building, guide board, streetlamp, lamppost, electric light apparatus, or other useful or ornamental structure lawfully erected within this Village.

§ 194-9. Depositing snow on streets².

It shall be unlawful for any private person, firm or corporation to throw, shovel, place or deposit any snow or ice from private parking lots, driveways or sidewalks upon the streets, sidewalks, or alleys within the Village of Genoa City.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions Art II). See also Ch. 265 § 265-12D, Moving snow into streets

§ 194-10. Possession and use of marijuana.

- A. Definitions.** "Marijuana" means all parts of the plant *Cannabis Sativa L.*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.
- B. Prohibited.** It shall be unlawful for any person to possess, deliver, sell, or use marijuana or a marijuana derivative. This section shall include but not be limited to those persons who possess, deliver, sell or use marijuana or a marijuana derivative in any amount and include those persons who are charged under this section for a first offense.
- C. Exception.** This section shall not apply to a person who has obtained or possesses marijuana directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice. However, the burden of proof to prove such exception shall be on the person claiming it.

§ 194-10A. Possession, Manufacture and Delivery of Drug Paraphernalia

- A. State Statutes Adopted.** The provisions of Sections 961.571, 961.572, 961.573, 961.574, 961.575, 961.576, Wis. Stats., and the definitions therein are adopted by reference.
- B. Definitions.** In this Section, "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, re-packaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance, as defined in Chapter 961, Wis. Stats., in violation of this section. It includes, but is not limited to:

 - (1) Kits used, designed for use, or primarily intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
 - (2) Kits used, designed for use, or primarily intended for use in manufacturing, selling, distributing, delivering, compounding, converting, producing, processing or preparing controlled substances.
 - (3) Isomerization devices used, designed for use, or primarily intended for use in increasing the potency of any species of plant which is a controlled substance.

- (4) Testing equipment used, designed for use, or primarily intended for use in identifying or in analyzing the strength, effectiveness or purity of a controlled substances.
- (5) Scales and balances used, designed for use, or primarily intended for use in weighing or measuring controlled substances.
- (6) Dilutents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, designed for use, or primarily intended for use in cutting controlled substances.
- (7) Separation gins and sifters used, designed for use, or primarily intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
- (8) Blenders, bowls, containers, spoons and mixing devices used, designed for use, or primarily intended for use in compounding controlled substances.
- (9) Capsules, balloons, envelopes or other containers used, designed for use, or primarily intended for use, or packaging small quantities of controlled substances.
- (10) Containers and other objects used, designed for use, or primarily intended for use in storing or concealing controlled substances.
- (11) Hypodermic syringes, needles or other objects used, intended for use, or designed for use in parentally injecting controlled substances into the human body.
- (12) Objects used, designed for use, or primarily intended for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body including, but not limited to:
 - (a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads or punctured bowls.
 - (b) Water pipes.
 - (c) Carburetion tubes and devices.
 - (d) Smoking and carburetion masks.
 - (e) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.
 - (f) Miniature cocaine spoons and cocaine vials.
 - (g) Chamber pipes.

- (h) Carburetor pipes.
- (i) Electric pipes.
- (j) Air driven pipes.
- (k) Chilams, chillums.
- (l) Bongs.
- (m) Ice pipes or chillers.

C. Drug Paraphernalia excludes: The following items are not considered to be drug paraphernalia:

- (1) Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting substances into the human body.
- (2) Any items, including pipes papers and accessories that are designed for use, or primarily intended for use, with tobacco products.

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

- (1) Statements by an owner or by anyone in control of the object concerning its use.
- (2) The proximity of the object in time and space to a direct violation of this Section.
- (3) The proximity of the object to controlled substances.
- (4) The existence of any residue of controlled substance on the object.
- (5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this Section. The innocence of an owner, or of anyone in control of this object, as to a direct violation of this Section, shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.
- (6) Instructions, oral or written, provided with the object concerning its use.
- (7) Descriptive materials accompanying the object which explain or depict its use.
- (8) Local advertising its use.

- (9) The manner in which the object is displayed for sale.
- (10) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
- (11) The existence and scope of legitimate uses for the object in the community.
- (12) Expert testimony concerning its use.

E. Prohibited Uses.

- (1) **Possession of Drug Paraphernalia.** No person may use or possess with the sole intent to use drug paraphernalia, knowing that it will be solely used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, re-pack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Subsection.
- (2) **Manufacture or Delivery of Drug Paraphernalia.** No person may deliver or possess with intent to deliver drug paraphernalia, knowing that it will be solely used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, re-pack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this Subsection.
- (3) **Delivery of Drug Paraphernalia by a Minor to a Minor.** Any person who is under eighteen (18) years of age, who violates this Subsection (e) by delivering drug paraphernalia to a person under eighteen (18) years of age, who is at least three (3) years younger than the violator, is guilty of a special offence.
- (4) **Exemption.** This Section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Chapter 961, Wis. Stats. This Section does not prohibit the possession, manufacture or use of hypodermics, in accordance with Chapter 961, Wis. Stats.

F. Prohibited Advertisement of Drug Paraphernalia. No person may place in any newspaper, magazine, handbill or other publication any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed for use or primarily intended for use, as drug paraphernalia in violation of this Section.

G. Penalties. Any person who violates Subsection (e)(1), (2) or (3) shall, upon conviction, be subject to disposition under Section 938.344, Wis. Stats.

§194-10(B) Loitering for the Purpose of Engaging In Unlawful Drug Activities

- A.** No person shall loiter in or near any thoroughfare, place open to the public, or near any public or private place in a manner and under circumstances manifesting the purpose to engage in drug-related activity contrary to any of the provisions of Chapter 961, Wis. Stats.
- B.** Among the circumstances which may be considered in determining whether such purpose is manifested are:
- (1)** Such person is a known unlawful drug user, possessor, or seller. For purposes of this subsection, a "known unlawful drug user, possessor, or seller" is a person:
 - (a)** Who has, within one year previous to the date of arrest for violation of this subsection, has, within the knowledge of the arresting officer, been convicted in this state of any violation of Chapter 961, Wis. Stats., or any ordinance adopting any portion of Chapter 961 by reference; or
 - (b)** Who displays physical characteristics of drug intoxication or usage, such as "needle tracks"; or
 - (c)** Who possesses drug paraphernalia as defined in §961.571, Wis. Stats.
 - (2)** Such person is currently subject to an order prohibiting his presence in a high drug activity geographic area;
 - (3)** Such person behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is then engaged in an unlawful drug-related activity, including by way of example only, such person acting as a "lookout";
 - (4)** Such person is physically identified by the officer as an active member of a gang or association which is engaged in illegal drug activity;
 - (5)** Such person transfers small objects or packages for currency in a furtive fashion;
 - (6)** Such person takes flight upon the appearance of a police officer;
 - (7)** Such person manifestly endeavors to conceal him or herself or any object which could reasonably be believed to be involved in an unlawful drug-related activity;
 - (8)** The area involved is by public repute known to be an area of unlawful drug use and trafficking;
 - (9)** The premises involved are known to have been reported to law enforcement as a place suspected of drug activity;

- (10) Any vehicle involved is registered to a known convicted unlawful drug user, possessor, or seller, or a person for whom there is an outstanding warrant for a crime involving drug-related activity. [Historical Note: City of Tacoma v. Luvene, 118 Wash. 2d 826, 827 P 2d 1374 (1992).]

§194-10(C) Synthetic Marijuana Possession, Sale and Use Prohibited

- A. It shall be unlawful to possess, purchase, display for sale, attempt to sell, sell, give, barter use or distribute, synthetic cannabis, or any other substances designed to mimic the physical, psychological, intoxicating, narcotic, or other effects of marijuana, including but not limited to synthetic cannabinoids, including cannabicyclohexanol, salviadinorum or salvinorum A.
- B. All parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds there of, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, seeds or extracts.
- C. Some trade or other names; all commonly referred to as K2, Spice, Genie, Yucatan Fire, Blaze, Red X Dawn, Zobia, Spike, Diamond, Route 69, Smoke XXXX, Citron, fake or new marijuana, or by any other name, label or description.

§ 194-11. Unauthorized presence on school property.

- A. It shall be unlawful for any person, except as provided in Subsection B below, to be present in any public school building or on any public school grounds without the permission of the school principal, custodian or other person in charge thereof.
- B. This section shall not apply to:
- (1) Students regularly enrolled in public schools who have not been properly ordered by the school principal, custodian or other person in charge thereof to leave the school building or school grounds.
 - (2) Persons coming into the school building or school grounds for the purpose of attending scheduled school or civic functions or making use of the recreational facilities located upon or within school premises, but as to such attendance or use, this exception shall apply only to the portion of the premises on which such facilities are located and during the hours such facilities are specifically open to the general public or an invited portion thereof.
 - (3) Parents or legal guardians of a regularly enrolled student. However, such parent or legal guardian may be required to register at the school office.

- B.** The exceptions set forth in Subsection B shall not apply to any person who, while in school buildings or on school grounds, commits or attempts to commit any act prohibited by statute or ordinance.

§ 194-12. Damaging or tampering with coin machines.

No person shall, without lawful authority, open, remove or damage any coin machine, coin telephone or other vending machine dispensing goods or services, or a part thereof, or possess a key or device specifically designed to open or break any coin machine, coin telephone or other vending machine dispensing goods or services, or possess a drawing, print or mold of a key or device specifically designed to open or break any coin machine, coin telephone or other vending machine dispensing goods or services within the limits of the Village of Genoa City.

§ 194-13. Damage to public property.

- A. Damaging of drinking fountains.** All persons are hereby prohibited from breaking or otherwise injuring any bubbler, drinking fountain or any drinking bubbler, or in any way injuring, soiling, tampering with or defacing any such bubbler or drinking fountain, or placing dirt, leaves, refuse or matter of any sort in or upon any such bubbler, drinking fountain or drinking bubbler, in any public park, street, sidewalk or ground, or any public building, schoolhouse, hall, museum, library or branch library, in the Village of Genoa City.
- B. Damaging of public property.** All persons are hereby prohibited from breaking or otherwise injuring any tree, shrub or plant, breaking, soiling or defacing any fountain, statue or other ornamental structure, or in any way injuring, soiling, damaging or defacing any public building or public property in any public park, square, sidewalk or ground in the Village of Genoa City, whether the same shall be owned or held in trust by said Village or held in trust for the use of any district of said Village.
- C. Breaking of streetlamps or windows.** No person shall break glass in any streetlamps or windows of any building owned or occupied by the Village of Genoa City.

§ 194-14. Vandalism.

No person within the limits of the Village of Genoa City shall intentionally cause damage to any physical property of another without his or her consent.

§ 194-15. Fires in public parks.

It shall be unlawful for any person to construct or otherwise cause a fire for any purpose within a public park except in containers provided by the Village for that purpose.

§ 194-16. Harassing or obscene telephone calls.

Whoever does any of the following shall be subject to the general penalty as provided in Chapter 1, General Provisions, § 1-5 of this Code:

- A. Makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy or indecent.
- B. Makes a telephone call, whether or not conversation ensues, with the intent to abuse, threaten or harass any person at the called number or numbers.
- C. Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number or numbers.
- D. Makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number or numbers.
- E. Knowingly permits any telephone under his control to be used for any purpose prohibited by this section.
- F. In conspiracy or concerted action with other persons, makes repeated calls or simultaneous calls solely to harass any person at the called number or numbers.

ARTICLE III Offenses Against Property

§ 194-17. Destruction of property.

No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature within the Village and belonging to the Village or its departments, the Genoa City School District, or to any private person, without the consent of the owner or proper authority.

§ 194-18. Littering.

No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the Village, or upon property within the Village owned by the Genoa City School District or any private person, or upon the surface of any body of water within the Village.

A. Handbills;

- (1) **Scattering Prohibited.** It shall be unlawful to deliver any handbills or advertising material to any premises in the Village, except by being handed to the recipient, placed on the porch, stoop or entranceway of the building, or firmly affixed to a building so as to prevent any such articles from being blown about, becoming scattered or in any way causing litter.

- (2) **Papers in Public Places Prohibited.** It shall be unlawful to leave any handbills, advertising material or newspapers unattended in any street, alley, public building or other public place, provided that this shall not prohibit the sale of newspapers in vending machines.
- (3) **Non-Applicability.** The provisions of this section do not apply to newspapers to which the home owner, guest, or tenant have subscribed and/or paid for such as the Milwaukee-Journal-Sentinel, Chicago Tribune, Lake Geneva Regional News or Janesville Gazette.

B. Responsibility of owner or occupant.

- (1) It shall be unlawful for the owner or occupant of any lot or land within the Village of Genoa City to leave any handbills, advertising material or newspapers unattended upon any public street along the line of which a sidewalk, street, alley, public building or other public place is located. So as to prevent any such articles from being blown about, becoming scattered or in any way causing litter.

Violation of this section shall be punishable by the forfeiture called for in Chapter 21, Citations, of this Code, and the Village Board may require by written order any premises violating this section to be put in compliance within the time specified in such order and, if the order is not complied with, may have the premises put in compliance and the cost thereof assessed as a special tax against the property.

§ 194-19. Open cisterns, wells, basements or other dangerous excavations.

No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fenced in such manner as to prevent injury to any person, and any cover shall be of a design, size and weight that the same cannot be removed by small children.

§ 194-20. Abandoned refrigerators.

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

§ 194-21. Retail theft.

- A. Whoever intentionally alters indicia of price or value of merchandise or takes and carries away, transfers, conceals or retains possession of merchandise held for resale by a merchant without consent and with intent to deprive the merchant permanently of possession or the full purchase price may be penalized as provided in Subsection D.
- B. The intentional concealment of unpurchased merchandise which continues from one floor to another or beyond the last station for receiving payments in a merchant's store is evidence of intent to deprive the merchant permanently of possession of such merchandise without paying the purchase price thereof. The discovery of unpurchased merchandise concealed upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing such goods.
- C. A merchant or merchant's adult employee who has probable cause for believing that a person has violated this section in his presence may detain such person in a reasonable manner for a reasonable length of time to deliver him to a peace officer, or to his parent or guardian if a minor. The detained person must be promptly informed of the purpose for the detention and may make phone calls, but he shall not be interrogated or searched against his will before the arrival of a police officer who may conduct a lawful interrogation of the accused person. Compliance with this subsection entitles the merchant or his employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.
- D. Penalty. If the value of the merchandise does not exceed \$100, any person violating this section shall forfeit not more than \$200. If the value of the merchandise exceeds \$100, this section shall not apply and the matter shall be referred to the Walworth County District Attorney for criminal prosecution.

§ 194-22. Storage of junked or discarded property³. [Amended 12-8-1988⁴]

No person shall store, accumulate or allow to be placed on the premises which he or she owns, rents, leases or resides in any junked or discarded property, except in a garage, storage shed or similar permanent enclosure which keeps such property from public view, unless a permit exempting such person from the provisions of this section, in whole or in part, is issued by the Village Board. For the purposes of this section, "property" shall mean all items of personal property, including but not limited to refrigerators, furnaces, washing machines, stoves, machinery or machinery parts, wood, bricks, or cement blocks, but shall exclude wood kept for firewood. Violation of this section shall be punishable by the forfeiture called for in Chapter 21, Citations, of this Code, and the Village Board may require by written order any premises violating this section to be put in compliance within the time specified in such order and, if the order is not complied with, may have the premises put in compliance and the cost thereof assessed as a special tax against the property.

§ 194-23. Issuance of worthless checks.

- A. Whoever issues any check or other order for the payment of money less than \$500 which, at the time of issuance, he or she intends shall not be paid is guilty of a violation of this section.
- B. Any of the following is prima facie evidence that the person at the time he or she issued the check or other order for payment of money intended it should not be paid:
 - (1) Proof that at the time of issuance the person did not have an account with the drawee;
 - (2) Proof that at the time of issuance the person did not have sufficient funds or credit with the drawee and that the person failed within five days after receiving notice of nonpayment or dishonor to pay the check or other order; or
 - (3) Proof that when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within five days after receiving notice of nonpayment or dishonor to pay the check or other order.
- C. This section does not apply to a postdated check or to a check given in past consideration, except a payroll check.
- C. Any person violating any provisions of this section shall forfeit not less than \$50 if the worthless check is for an amount equal to or less than \$150 and shall forfeit not less than \$100 if the worthless check is an amount greater than \$150 and less than \$500, together with the costs of prosecution, and in default of payment shall be imprisoned in the Walworth County Jail until forfeiture and costs are paid, but not to exceed 60 days.

3. Editor's Note: See also Ch. 261, Vehicles, Abandoned, Stored and Junked.

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1 General Provisions, Art. II).

§ 194-24. Theft of library material.

- A. **Definitions.** For the purposes of this section, certain words and terms are defined as follows:

ARCHIVES -- A place in which public or institutional records are systematically preserved.

LIBRARY -- The Genoa City Public Library.

LIBRARY MATERIAL -- Includes any book, plate, picture photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, or other tapes,

artifacts or other documentary, written or printed materials, regardless of physical form or characteristics, belonging to, on loan to or otherwise in the custody of a library.

- B. Possession without consent prohibited.** Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material without the consent of a library official, agent or employee and with intent to deprive the library of possession of the material may be subject to a forfeiture as provided by the general penalty provisions of this Code⁵.
- C. Concealment.** The concealment of library material beyond the last station for borrowing library material in a library is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance with the library's procedures or taken with consent of a library official, agent or employee and which is concealed upon the person or among the belongings of the person or concealed by a person upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the material.
- D. Detention based on probable cause.** An official or adult employee or agent of a library who has probable cause for believing that a person has violated this section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to the person's parent or guardian in the case of a minor. The detained person shall be promptly informed of the purpose of the detention and be permitted to make telephone calls but shall not be interrogated or searched against his or her will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. Compliance with this section entitles the official, agent or employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

5. Editor's Note: See Ch. 1 General Provisions, § 1-5

- E. Damaging material prohibited.** No person shall mar, deface or in any other way damage or mutilate any library material.
- F. Return demanded.** No person shall fail, on demand, to return any library material when such demand has been made in accordance with the rules and regulations duly made and adopted by the library.

§ 194-25. Operation of mini-bikes and all-terrain vehicles.

No person shall operate a mini-bike, go-kart, all-terrain vehicle or other motor vehicle within the Village except on the property of the owner of the vehicle or on other property with the owner's permission, nor shall any such vehicles be operated in any Village parks, except on designated trails.

§ 194-26. Damaging utilities; posting notices.

It shall be unlawful for any person to tamper with, injure, break, cut, take down, or disarrange any telegraph, telephone or electric light tower, mast or pole, fire alarm pole or box, or any wire, cord, lamp or other apparatus, appendage or appurtenance used in operating or maintaining any telegraph, telephone, electric light or fire alarm system, or any lamp or glass used in connection with any such pole, mast or tower, or post any bills or posters upon any such poles or posts within the Village. This section shall not apply to the owners of any such poles and apparatus, or their agents or servants, or to the officers or employees of the Village of Genoa City in pursuance of any resolution, ordinance or regulation of the Village relating to such matters.

§ 194-27 Unlawful Financial Transaction with a Child. [added 8/3/2015]

No person over the age of eighteen (18) shall buy or sell any used or new household item or article including, but not limited to bicycle(s), electronic devices or any property with a monetary value, to or purchase from anyone under the age of eighteen (18), unless the minor's custodial parent or guardian is present. This subsection does not apply to licensed stores, vendors, or professionally organized fund raisers.

ARTICLE IV [Added 11-13-2014]

Sex Offender Regulations

§ 194-30 Purpose and Intent.

- (A) The Village of Genoa City finds and declares that 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 in a number of public places, including public parks and other facilities for children.
- (B) This section is a regulatory measure aimed at protecting the health and safety of children in Genoa City from the risk that convicted sex offenders may re-offend in locations close to their residences. IT is the intent of this Section not to impose a criminal penalty but rather to serve the Village's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the Village by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence; and by creating child safety zones where children regularly congregate in concentrated numbers wherein access by certain sexual offenders and sexual predators to such zones shall be restricted or excluded.

§ 194-31 Definitions. As used in this Section and unless the context otherwise requires:

(A) Crime Against Children: means any of the following offenses set forth within the Wisconsin Statutes, as amended, or 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 eighteen (18) years, respectively:

Wisconsin Statute 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 a 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;
948.095 Sexual Assault of a Student by School Instructional Staff;
948.11(2)(a) or (am) Exposing Child to Harmful Material-felony sections;
948.12 Possession of Child Pornography;
948.13 Convicted Child Sex Offender Working with Children;
971.17 Not Guilty by Reason of Mental Disease-of an included offense; and
975.06 Sex Crimes Law Commitment

(B) Facility For Children: means a public or private school, a *group home*, as defined in Wis. Stats. §48.02(7), a *residential care center for children and youth*, as defined in Wis. Stats. §48.02(15d), a *shelter care facility* as defined in Wis. Stats. 48.02(17), a *foster home*, as defined in Wis. States. §48.02(6), a *treatment foster home*, as defined in Wis. Stats. §48.02(17q), a *daycare center licensed under Wis. Stats. §48.65*, a *daycare program established under Wis. Stats. §120.13(14)*, a *daycare provider certified under Wis. Stats. §48.651*, or a *youth center*, as defined in Wis. Stats. §961.01(22).

(C) 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 sexually violent offense and/or a crime against children.

- (D) **Permanent Residence:** means a place where the person sleeps, abides, lodges or resides for fourteen or more consecutive days.
- (E) **Sexually Violent Offense:** shall have the meanin as set forth in Wis. Stats. §980.01(6), as amended from time to time.
- (F) **Temporary Residence:** means residence or premise meeting either of the following criteria:
 - (1) A place where the person sleeps, abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendear year and which is not that personø Permanent Residence as defined in 194.29 D above; or
 - (2) A place where the person routinely sleeps, abides, lodges, or resides for a period of four (4) or more consecutive or non-consecutive days in any month and which is not that personø Permanent Residence as defined in 194.28 D above.

§ 194-32 **Residency Restrictions**

(A) An offender shall not reside within 1,200 feet of real property that supports or which there exists any of the following uses, but not limited to:

- (1) Any facility for children;
- (2) A public park, parkway, parkland, park facility;
- (3) Public / Private beaches or pools;
- (4) A public library;
- (5) A recreational trail;
- (6) A school for children;
- (7) A public playground;
- (8) Athletic fields used by children;
- (9) A daycare center;
- (10) Any specialized school for children, including, but not limited to, a gymnastics academy, dance academy or music school; or private athletic organization for youth sports.

(B) **Prohibited Activity.** It is unlawful for any designated offender to participate in a holiday event involving children under the age of eighteen (18) years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which

the offender is the parent or guardian of the children involved, and no non-familiar children are present, are exempt from this paragraph. Participation is to be defined as actively taking part in the event.

(C) Measurement of Distance. The distance shall be measured from the closest boundary line of the real property supporting the residence of an offender to the closest boundary line of the real property that supports or upon which there exists any of the uses enumerated in 194.29 A above.

(D) Residency Restriction Exceptions. An offender residing within one thousand two hundred (1,200) feet of real property that supports or upon which there exists any of the uses enumerated in 194.29 A above does not commit a violation of this Section if any of the following apply:

(1) The offender is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.

(2) The offender has established a Permanent or Temporary Residence and reported and registered that residence pursuant to Wis. Stats. §301.45 prior to the effective date of this Section.

(3) The use enumerated in 194.30 A above began after the offender established a Permanent or Temporary Residence and reported and registered that residence pursuant to Wis. Stats. §301.45.

(4) The offender is a minor or ward under guardianship.

(E) Original Domicile Restriction. Subject to 194.30 C above, no offender shall be permitted to reside in the Village of Genoa City, unless that person was domiciled in the Village of Genoa City at the time of the most recent offense giving rise to that person's status as an offender.

§ 194-33 Child Safety Zones

(A) No offender shall enter or be present upon any real property that supports or upon which there exists any facility used for or that supports any one or more of the following uses:

(1) A public park, parkway, parkland, park facility;

(2) A public library;

(3) A recreational trail;

(4) A public playground;

(5) A school for children;

- (6) Athletic fields used by children;
- (7) A daycare center;
- (8) Any specialized school for children, including but not limited to a gymnastics academy, dance academy, or music school;
- (9) Any facility for children;

(B) Child Safety Zone Exceptions. An offender does not commit a violation of 194.30 A above, and may be allowed on the property used for or supporting a use enumerated in 194.30 A above if any of the following apply:

- (1) The property used for or supporting a use enumerated in 194.30 A above also supports a church, synagogue, mosque, temple or other house of religious worship (collectively "church"), subject to all of the following conditions:
 - (a) The offender's entrance and presence upon the property occurs only during hours of worship or other religious program/service as posted to the public; and
 - (b) The offender sends advance written notice to an individual designated by the church to be in charge and receives advance approval from that individual allowing the offender's attendance; and
 - (c) The offender shall not participate in any religious education programs which include individuals under the age of eighteen (18).
- (2) The property used for or supporting a use enumerated in 194.30 A above also supports a use lawfully attended by an offender's natural or adopted child, which child's use reasonably requires the attendance of the offender as the child's parent upon the property, subject to all of the following conditions:
 - (a) The offender's entrance and presence by the offender upon the property occurs only during hours of activity related to the use as posted to the public; and
 - (b) The offender sends advance written notice to an individual designated by the property owner to be in charge of the property's enumerated use, and receives advance approval from that individual allowing the offender's attendance.

- (3) The property used for or supporting a use enumerated in 194.30 A above also supports a polling location in a local, state, or federal election; subject to all of the following conditions:
 - (a) The offender is eligible to vote;
 - (b) The designated polling place for the person is an enumerated use; and
 - (c) The offender enters the polling place, proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate, and vacates the property immediately after voting.
- (4) The property used for or supporting a use enumerated in 194.30 A also supports an elementary school lawfully attended by an offender as a student, subject to the condition that the offender may only enter upon the property supporting the school at which the person is enrolled for such purposes and at such times as are reasonably required for the educational purposes of the school.

§ 194-34 Property Owners Prohibited From Renting Real Estate Property To Certain Sexual Offenders and Sexual Offenders. It shall be unlawful for any property owner to lease or rent any place, room, structure, mobile home, trailer or any part thereof, with the knowledge that it will be used as a Permanent Residence or Temporary Residence therein pursuant to this Ordinance, if such place, structure, or mobile home, trailer or any part thereof, is located within a restricted area as defined in 194.29. Notwithstanding the exception set forth in 194.29 D, it shall be unlawful for a property owner to renew a leasehold interest established prior to the effective date of this Ordinance, whether the leasehold interest is on month-to-month basis or for a definite term, for a period beyond six (6) months from the effective date of this Ordinance.

§ 194-35 **Appeal.** The above requirements may be waived upon approval of the Village Board through appeal by the affected. Such appeal shall be made in writing to the Village Clerk's office who shall forward the request to the Village Board. The Board of Trustees shall convene and consider the public interest as well as the affected party's presentation and concerns. The Village Board may consider such information as it deems appropriate including, but not limited to, reports from the Genoa City Police Department or other department as appropriate, reports from the Department of Corrections or any other relevant material. After deliberation, the Board shall forward its decision in writing to the affected party. Copies of such decisions shall be provided to the Genoa City Police Department and to other persons or entities as the Village Board may desire.

§ 194-36 Penalties and Remedies

- (A) **Forfeiture.** Any person who violates any provision of this Section shall, upon conviction thereof, be subject to a forfeiture not to exceed one thousand (\$1000.00), together with

the costs of prosecution, and in default of payment thereof, shall be committed to the County Jail for a period not to exceed ninety (90) days. Each day such violation continues shall be considered a separate offense.

(B) Injunction

- (1) Violation of Residency Restrictions.** If an offender establishes a permanent or temporary residence in violation of 194.29 above, the Chief of Police may refer the matter to the Village Attorney. The referral shall include a written determination by the Chief of Police that, upon all of the facts and circumstances and the purpose and intent of this Section, such violation interferes substantially with the comfortable enjoyment of life, health, safety of another or others. Upon such referral, the Village Attorney shall bring an action in the name of the Village in Circuit Court to permanently enjoin such violations as a public nuisance.
- (2) Violation of Child Safety Zones.** If an offender violates subsection 194.30 Above more than once in any twelve-month (12) period, the Chief of Police may refer the matter to the Village Attorney. The referral shall include a written determination by the Chief of Police that, upon all of the facts and circumstances and the purpose and intent of this Sections, such violations interfere substantially with the comfortable enjoyment of life, health, safety of another or others. Upon such referral, the Village Attorney shall bring an action in the name of the Village in Circuit Court to permanently enjoin such violations as a public nuisance.