

**Chapter 9.12
Property Offenses**

Sections:

- 9.12.010 Obstruction of Streets and Sidewalks.**
- 9.12.020 Games on Public Streets.**
- 9.12.030 Damage or Theft of Library Materials.**
- 09.12.032 Issuance of Worthless Check.**
- 9.12.040 Destruction of Property Prohibited.**
- 9.12.042 Trespass to Land.**
- 9.12.043 Trespass to Dwelling**
- 9.12.044 Theft.**
- 9.12.045 Receiving stolen property**
- 9.12.046 Shoplifting**
- 9.12.047 Fraud on hotel or restaurant keeper, recreational attraction, taxicab operator, gas station or business operator**
- 9.12.050 Littering Prohibited.**

9.12.010 Obstruction of Streets and Sidewalks.

No person shall place any object or barrier, stand, sit, loaf, or loiter or engage in any activity, or operate any sled, skates, or wheeled vehicle of any type on any public street, sidewalk, bridge, or public ground within the village in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon, or to prevent or hinder free ingress or egress to or from any location. (Ord. 2001-12 and 2004-3)

9.12.020 Games on public streets.

No person shall engage in the game of baseball, football, or any variation thereof, or other games in any public street or alley in the village of Oakfield. (Ord. dated 7/12/73 § 1)

9.12.030 Damage or theft of library Materials.

A. No person shall intentionally remove library materials from the library without the consent of a library official. If caught doing so, one may lose all borrowing privileges from the library.

B. Library materials shall be returned by the due date. Failure to return library materials within 30 days of receipt of written notification of overdue status shall be deemed theft.

C. No person shall mar, deface, damage, or mutilate any library materials.

D. Any person convicted under this section shall be subject to the general penalty found at section 1.20.010 of this code. (Ord. 2003-5)

9.12.032 Issuance of Worthless Checks.

A. No person may issue any check or other order for payment of money which, at the time of issuance, he or she intends not to be paid.

B. Prima Facie Evidence. 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; or

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 (5) days after receiving written notice of non-payment 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 (5) days after receiving written notice of non-payment or dishonor to pay the check or other order.

C. Exceptions. This section does not apply to a post-dated check or to a check given for a past consideration, except a payroll check.

D. Returned Check Fee. In the event a person issues a check to the village and does not have sufficient funds or credit such that the check is returned unpaid, such person shall pay the check or other order and shall also pay a fee of thirty-five dollars (\$35.00), representing the cost of additional administrative expense which results from non-payment of the original obligation.

E. In addition to other penalties provided for violation of this section, provisions stated in Wisconsin Statutes § 943.24 and § 943.245 are also hereby adopted. (Ord. 2007-8 entire section)

9.12.040 Destruction of Property Prohibited.

A. No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature belonging to the village or its departments or to any private person without the consent of the owner or proper authority, is subject to the provision of section

B. In addition to any penalty imposed for violation of subsection A of this section, 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 subsection A of this section may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with Section 895.035 of the Wisconsin Statutes. (Prior code §§ 9.04(1), 9.05(3).

C. Whoever causes any physical damage to any physical property of another under all of the following circumstances is subject to the provisions of 1.20.010.

1. The person does not consent to the damage of his/her property.

2. The property damaged is on state-owned land and is listed on the state registry.

D. If more than one item of property is damaged under a single intent and design, the damage to all the property may be prosecuted as a single forfeiture offense.

E. In any case of unlawful damage involving more than one act of unlawful damage but prosecuted as a single forfeiture offense or crime, it is sufficient to allege generally that unlawful damage to property was committed between certain dates. At the trial, evidence may be given to any such unlawful damage that was committed on or between the dates alleged.

State law reference-Similar provisions, Wis. Stats. 943.01

9.12.042 Trespass to Land.

(A) Section 943.13 Wis. Stats.

(B) In this section:

(1) "Dwelling unit" means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of others.

(2) "Implied consent" means conduct or words or both that imply that an owner or occupant of land has given consent to another person to enter the land.

(3) "Inholding" means a parcel of land that is private property and that is surrounded completely by land owned by the United States, by this state or by a local government unit or any combination of the United States, this state and local governmental unit.

(4) "Local governmental unit" means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of the political subdivision or special purpose district or a

combination or subunit of any of the foregoing.

(5) "Place of employment" has the meaning in 101.01(11) Wis. Stats.

(6) "Private property" means real property that is not owned by the United States, this state or a local governmental unit.

(7) "Undeveloped land" means land that meets all the following criteria:

(a) The land is not occupied by a structure or improvement being used or occupied as a dwelling unit.

(b) The land is not part of the curtilage, or is not lying in the immediate vicinity, or a structure or improvement being used or occupied as a dwelling unit.

(c) The land is not occupied by a public building

(d) The land is not occupied by a place of employment.

(C) Whoever does any of the following is subject to forfeiture with in section 1.20.010.

(1) Enters any enclosed, cultivated or undeveloped land of another, other than undeveloped specified in (b) (6) or (7), without the express or implied consent of the owner or occupant.

(2) Enters any land of another that is occupied by a structure used for agricultural purposes without the express or implied consent of the owner or occupant.

(3) Enters or remains on any land of another after having been notified by the owner or occupant not to enter or remain on the premises.

(4) Enters or remains on the undeveloped land that is an inholding of another after having been notified by the owner or occupant not to enter or remain on the land.

(5) Enters undeveloped private land from an abutting parcel of land that is owned by the United States, the state or local governmental unit, or remains on such land, after having been notified by the owner or occupant not to enter or remain on the land.

(D) In determining whether a person has implied consent to enter the land of another a trier of fact shall consider all of the circumstances existing at the time the person entered the land, included all of the following:

(1) Whether the owner or occupant acquiesced to previous entries by the person or by other person under similar circumstances.

(2) The customary use, if any, of the land by other persons.

(3) Whether the owner or occupant represented to the public that the land may be entered for particular purposes.

(4) The general arrangement or design of any improvements or structures on the land.

(E) A person has received notice from the owner or occupant within the meaning of sub. (C)(3), (4) or (5) if he/she has been notified personally, either orally or in writing, or if the land is posted. Land is considered to be posted under this subsection under either of the following procedures:

(1) If a sign at least 11 inches square is placed in at least 2 conspicuous places for every 40 acres to be protected. The sign must carry an appropriate notice and the name of the person giving the notice followed by the word "owner" if the person giving the notice is the holder of the legal title to the land and by the word "occupant" if the person giving the notice is not he holder of legal title but is a lawful occupant of the land. Proof that appropriate signs as provided in this paragraph were erected or in existence upon the premises to be protected prior to the event complained of shall be prima facia proof that the premises to be protected were posted as provided in this paragraph.

(2) If markings at least one foot long, including in a contrasting color the phrase "private land" and name of the owner, are made in at least 2 conspicuous places every 40 acres to be protected.

(F) Whoever erects on the land of another signs which are the same as a similar to those described in sub (E) without obtaining the express consent of the lawful occupant of or holder of legal title to such land is subject to forfeiture within section 1.20.010.

(G) An owner or occupant may give express consent to enter or remain on the land for a specified purpose or subject to specified condition and it is a violation of sub (C)(1) or (2) for a person who received that consent to enter or remain on the land for another purpose or contrary to the specified conditions.

(H) Nothing in this section shall prohibit a representative of a labor union from conferring with any employee provided such conference is conducted in the living quarters of the employee and with the consent of the employee occupants.

(I) This section does not apply to any of the following:

(1) A person entering the land, other than the residence or other buildings or the curtilage of the residence or other buildings, of another for the purpose of removing a wild animal as authorized under s.29.885(2), (3) or (4), Wis. Stats.

(2) A hunter entering land that is required to be open for hunting under s.29.885(4m) or 29.889(7m), Wis. Stats.

(3) A person entering or remaining on any exposed shore area of a stream as authorized under s.30.134, Wis. Stats.

(J) Any authorized occupant of employer-provided housing shall have the right to decide who may enter, confer and visit with the occupant in the housing area the occupant occupies.

9.12.043 Trespass to Dwelling

Trespass to dwellings. No person shall enter the dwelling of another without the consent of some person lawfully upon the premises under circumstances tending to create or provoke a breach of the peace.

9.12.044 Theft.

Whoever does any of the following:

(a) Intentionally takes and carries away, uses, transfers, conceals, or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possessions of such property.

(b) By virtue of his/her office, business or employment, or as trustee or bailee, having possession or custody of money or of a negotiable security, instrument, paper or other negotiable writing or another, intentionally uses, transfers, conceals, or retains possession of such money, security, instrument, paper or writing without the owner's consent, contrary to his/her authority, and with intent to convert to his/her own use or to the use of any other person except the owner. A refusal to deliver any money or a negotiable security, instrument, paper or other negotiable writing, which is in his/her possession or custody by virtue of his/her office, business or employment, or as trustee or bailee, upon demand of the person entitles to receive it, or as required by law, is prima facie evidence of an intent to convert to his/her own use within the meaning of this paragraph.

(c) having a legal interest in movable property, intentionally and without consent, takes such property out of the possession of a pledgee or other person having a superior right of possession, with intent there by to deprive the pledgee or other person permanently of the possession of such property.

(d) Obtains title to property of another person by intentionally deceiving the person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes a promise made with intent not to perform it if it is a part of a false and fraudulent scheme.

(e) Intentionally fails to return any personal property that is in his/her possession or under his/her control by virtue of a written lease or written rental agreement, within ten days after the lease or rental agreement has expired.

Definitions: The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Movable Property is property whose physical location can be changed, without limitation including electricity and gas, documents that represent or embody intangible rights, and things growing on, affixed to or found in land.

Patient has the meaning given in Wis. Stats. 940.295(1)(1)

Property means all forms of tangible property, whether real or personal, without limitation, including electricity, gas and documents that represent or embody a choice in action or other intangible rights.

Property of another includes property in which the actor is a co-owner and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife.

Resident has the meaning given in Wis. Stats. 940.295(1)(p).

Value means the market value at the time of the theft or the cost to the victim of replacing the property within a reasonable time after the theft, whichever is less; but if the property stolen is a document evidencing a choice in action or other tangible right, value means either the market value of the choice in action or other right or the intrinsic value of the document, whichever is greater. If the thief

gave consideration for or had a legal interest in the stolen property, the amount of such interest shall be deducted from the total value of the property.

Vulnerable adult has the meaning given in Wis. Stats. 940.285(1)(e).

Penalties: Whoever violates this section, if the value of the property does not exceed \$5,000.00, is subject to the provisions of section 1.20.010

(1) Use of photographs as evidence. In any action or proceeding for a violation of this section, a party may use duly identified and authenticated photographs of property that was the subject of the violation in lieu of producing the property.

State law reference-Similar provisions, Wis. Stats. 943.20

9.12.045 Receiving stolen property.

No person shall intentionally receive or conceal stolen property.

9.12.046 Shoplifting.

A. Whoever intentionally alters indicia of price or value of merchandise or who takes and carries away, transfers, conceals or retains possession of merchandise held for resale by a merchant without his consent and with intent to deprive the merchant permanently of possession or the full purchase price of such merchandise may be penalized as provided herein.

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 such 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 such goods.

9.12.047 Fraud on hotel or restaurant keeper, recreational attraction, taxicab operator, gas station or business operator

A. Whoever does any of the following may be penalized as provided in Chapter 1.20:

1. Having obtained any beverage, food, lodging, ticket or other means of admission, or other service or accommodation at any campground, hotel, motel, boarding or lodging house, restaurant, or recreational attraction, intentionally absconds without paying for it.

2. While a guest at any campground, hotel, motel, boarding or lodging house, or restaurant, intentionally defrauds the keeper thereof in any transaction arising out of the relationship as guest.

3. Having obtained any transportation service from a taxicab/Uber/Lyft operator, intentionally absconds without paying for the service.

4. Having obtained gasoline or diesel fuel from a service station, garage, or other place where gasoline or diesel fuel is sold at retail or offered for sale at retail, intentionally absconds without paying for the gasoline or diesel fuel.

B. Under this section, prima facie evidence of an intent to defraud is shown by:

1. The refusal of payment upon presentation when due, and the return unpaid of any bank check or order for the payment of money, given by any guest to any campground, hotel, motel, boarding or lodging house, or restaurant, in payment of any obligation arising out of the relationship as guest. Those facts also constitute prima

facie evidence of an intent to abscond without payment.

2. The failure or refusal of any guest at a campground, hotel, motel, boarding or lodging house, or restaurant, to pay, upon written demand, the established charge for any beverage, food, lodging or other service or accommodation actually rendered.

3. The giving of false information on a lodging registration form or the giving of false information or presenting of false or fictitious credentials for the purpose of obtaining any beverage or food, lodging or credit.

4. The drawing, endorsing, issuing or delivering to any campground, hotel, motel, boarding or lodging house, or restaurant, of any check, draft or order for payment of money upon any bank or other depository, in payment of established charges for any beverage, food, lodging or other service or accommodation, knowing at the time that there is not sufficient credit with the drawee bank or other depository for payment in full of the instrument drawn.

5. If a person has obtained a ticket, another means of admission, or an accommodation or service provided by the recreational attraction, his or her failure or refusal to pay a recreational attraction the established charge for the ticket, other means of admission, or accommodation or service provided by the recreational attraction constitutes prima facie evidence of an intent to abscond without payment.

6. The refusal to pay a taxicab operator the established charge for transportation service provided by the operator constitutes prima facie evidence of an intent to abscond without payment.

7. The failure or refusal to pay a service station, garage, or other place where gasoline or diesel fuel is sold at retail or offered for sale at retail the established charge for gasoline or diesel fuel provided by the service station, garage, or other place

constitutes prima facie evidence of an intent to abscond without payment.

9.12.050 Littering Prohibited.

No person shall throw any glass, rubbish, waste or filth upon the streets, alleys, highways, public parks or other property of the village or upon any private property not owned by him or upon the surface of any body of water within the village of Oakfield.
(Prior code § 9.04(2))