

**Chapter 201**  
**PEACE AND GOOD ORDER**

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[HISTORY: Adopted by the Village Board of the Village of Iola 2-12-1996 as Title 9, Ch. 1; Secs. 9-2-4 through 9-2-7; 9-2-10 through 9-2-14; 9-3-1; 9-3-3 through 9-3-6; 9-3-8 and 9-3-9; 9-3-13; and 9-3-15 through 9-3-17 of the 1996 Code. Amendments noted where applicable.]

**GENERAL REFERENCES**

Fireworks — See Ch. 148.  
Littering — See Ch. 164.  
Loitering — See Ch. 167.  
Minors — See Ch. 171.  
Noise — See Ch. 180.

Nuisances — See Ch. 186.  
Streets and sidewalks — See Ch. 233.  
Abandoned and junked vehicles and appliances — See Ch. 244.

**§ 201-1. Offenses against state laws subject to forfeiture.<sup>1</sup>**

The following statutes defining offenses against the peace and good order of the state are adopted by reference to define offenses against the peace and good order of the Village of Iola provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture

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<sup>1</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

imposed under the general penalty provisions of this Code of Ordinances. Any future amendments, revisions or modifications of the statutes incorporated herein by reference are intended to be made part of this Code.

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943.11	Entry Into Locked Vehicle
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951.13	Providing Proper Food and Drink to Confined Animals
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951.15	Animals; Neglected or Abandoned; Police Powers

**§ 201-2. Violations and penalties; attempt; parties to acts.**

- A. Penalty. In addition to the general penalty provisions of this Code in Chapter 1, General Provisions, § 1-17, or any other penalty imposed for violation of any section of this chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates § 201-11 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code of Ordinances shall prevent the Police Department from referring violations of the provisions of this chapter to the District Attorney's office in the interest of justice.
- B. Attempt.
- (1) Whoever attempts to commit an act prohibited by this chapter of the Code of Ordinances of the Village of Iola may be required to forfeit amounts not to exceed  $\frac{1}{2}$  the maximum penalty for the completed act.
  - (2) An attempt to commit an act prohibited by the ordinances in this Code requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation of these ordinances and that he or she does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that he or she formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.
- C. Parties to acts prohibited in this chapter.
- (1) Whoever is concerned in the commission of an act prohibited by this chapter of this Code of Ordinances is a principal and may be charged with and convicted of the commission of said act although he or she did not directly commit it and although the person who directly committed it has not been convicted of some other act prohibited by these ordinances.
  - (2) A person is concerned in the commission of an act prohibited by these ordinances if he:
    - (a) Directly commits the act; or

- (b) Intentionally aids and abets the commission of it; or
- (c) Is a party to a conspiracy with another to commit it or advises, hires, counsels, or otherwise procures another to commit it. Such party is also concerned in the commission of any other act which is committed in pursuance of the intended violation and which, under the circumstances, is the natural and probable consequence of the intended violation. This paragraph does not apply to a person who voluntarily changes his/her mind and no longer desires that the act be committed and notifies the other parties concerned of his/her withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.

**§ 201-3. Throwing or shooting of arrows, stones and other missiles prohibited.**

It shall be unlawful for any person to discharge or throw by any means any dangerous missile, object, arrow, stone, snowball or other missile within the Village of Iola; provided, however, that upon written application to the Chief of Police and Village Board, a person may be granted permission by the Village Board to construct and maintain supervised archery ranges if, in the opinion of the Village Board, the construction or maintenance of such ranges will not endanger the public health and safety.

**§ 201-4. Harassing or obscene telephone calls.**

Whoever commits any of the following acts shall be subject to the general penalty as provided in this Municipal Code:

- A. Makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious 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 or her 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.

**§ 201-5. Sale and discharge of fireworks restricted.**

No person shall sell, expose or offer for sale, use, keep, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the village unless he or she shall be authorized by a fireworks permit as provided in Chapter 148 of this Code of

Ordinances. The term "fireworks" as used in this section shall be defined as provided in Section 167.10(1), Wis. Stats., and shall be deemed to include all rockets or similar missiles containing explosive fuel.

**§ 201-6. Obstructing streets and sidewalks prohibited.**

- A. Obstructing streets. 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.
- B. Blocking sidewalk prohibited. No person shall block any sidewalk by obstructing the same so that it is impossible for a pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or the street.
- C. Free speech. This section shall not be interpreted as prohibiting any person from stopping on any sidewalk to talk or to make a speech, provided that such person shall not stand in such a location that it is impossible for any pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street. If two or more persons are engaged in talking while stopped on a sidewalk, they will not stand in such locations as to completely prevent any pedestrian from passing them on the sidewalk.
- D. Definitions. As used in this section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

**BLOCK** — To interfere with unobstructed travel by any means, including but not limited to standing on the part of the walk that is fit for travel, or placing any object or vehicle whatsoever on such walk.

**SIDEWALK** — Any sidewalk owned or maintained by the village. The term shall not include sidewalks or walkways on private property in shopping centers, apartment complexes, office building sites or any other private property.

**§ 201-7. Disorderly conduct. [Amended 2-12-1996 by Res. No. 96-7]**

- A. Disorderly conduct prohibited. No person within the Village of Iola shall:
  - (1) In any public or private place engage in violent, noisy, riotous, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to annoy or disturb any other person.
  - (2) Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.<sup>2</sup>

<sup>2</sup> Editor's Note: Former Subsection (b), Disorderly conduct with a motor vehicle, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- B. Defecating or urinating in public places. It shall be unlawful for any person to defecate or urinate outside of designated sanitary facilities, upon any sidewalk, street, 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, or to indecently expose his or her person.

**§ 201-8. Possession of controlled substances. [Amended 2-12-1996 by Res. No. 96-7]**

- A. Controlled substances. It shall be unlawful for any person to possess a controlled substance contrary to the Uniform Controlled Substances Act, Chapter 961 of the Wisconsin Statutes.<sup>3</sup>
- B. Possession of marijuana. No person shall possess any amount of marijuana, tetrahydrocannabinol or any derivative thereof, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a licensed physician or pharmacist for a valid medical purpose. "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, or tetrahydrocannabinol. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake or sterilized seed of the plant which is incapable of germination.

**§ 201-9. Unauthorized presence on school property prohibited. [Amended 2-12-1996 by Res. No. 96-7]**

- A. It shall be unlawful for any person, except as provided in Subsection B hereof, to be present in, loiter or enter into any public school building, school parking lot or on any public school grounds without the permission of the school principal, custodian or other person in charge thereof between 7:30 a.m. and 4:30 p.m. on official school days.
- 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 facilities are located and during the hours such facilities are specifically open to the general public or an invited portion thereof;

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<sup>3</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (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.
- C. 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.
- D. All entrances to the school buildings shall be posted with a notice stating "Entry Into School Building by Unauthorized Persons Prohibited." All school grounds shall be posted with a notice stating "Entry Upon School Grounds by Unauthorized Persons Prohibited."

**§ 201-10. Failure to obey lawful order. [Amended 2-12-1996 by Res. No. 96-7]**

It shall be unlawful for any person to fail to obey the direction or order of a police officer while such police officer is acting in an official capacity in carrying out his or her duties.

**§ 201-11. Highway obstructions. [Amended 2-12-1996 by Res. No. 96-7]**

- A. It is unlawful for anyone to create an unreasonable risk and high probability of causing death or great bodily harm to another by placing an obstacle in or upon a highway, damaging a highway, removing or tampering with a sign or signal used for the guidance of vehicles, giving a false traffic signal or otherwise interfering with the orderly flow of traffic and realizes that he or she thereby creates such a risk and probability.
- B. In this section, "highway" means any public way or thoroughfare, including bridges thereon, any roadways commonly used for vehicular traffic, whether public or private, any railroad, including street and interurban railways and any navigable waterway or airport.

**§ 201-12. Destruction of property prohibited.**

- A. 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 Iola School District or to any private person, without the consent of the owner or proper authority.
- B. Parental liability. Pursuant to Sec. 895.035, Wis. Stats., the parents of an unemancipated minor shall be liable for the damage of property caused by the willful, malicious or wanton act of such child; such liability shall not exceed \$2,500.
- C. Unlawful removal of property. It shall be unlawful for any person to take and carry away the property of another without the owner's consent with the intention to do so.
- D. Penalty provisions.
  - (1) Any person 18 years of age or over who violates this section is subject to a penalty as provided in Chapter 1, General Provisions, § 1-17, restitution to the injured party, and the costs of prosecution.



- (2) Any person 12 years of age to 17 years of age shall be subject to a forfeiture not to exceed \$50, plus costs, and any other applicable penalty provided by Sec. 938.344, Wis. Stats., as that section may exist, be amended or changed.<sup>4</sup>
- E. Victim remedies. Any person or entity injured by a violation of this section by a minor child shall be advised of the rights and remedies available under Sec. 895.035, Wis. Stats.

**§ 201-13. Abandoned refrigerators prohibited.**

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his/her control in a place accessible to children any abandoned, unattended or discarded ice box, 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 ice box, refrigerator or container, unless such container is displayed for sale on the premises of the owner or his or her agent and is securely locked or fastened.

**§ 201-14. 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 or her presence may detain such person in a reasonable manner for a reasonable length of time to deliver him/her to a peace officer, or to his/her 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/she shall not be interrogated or searched against his/her 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/her 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 \$500. If the value of the merchandise exceeds \$100, this

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<sup>4</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

section shall not apply and the matter shall be referred to the District Attorney for criminal prosecution.<sup>5</sup>

**§ 201-15. Storage of junk and discarded property regulated.**

No person shall store junked or discarded property including automobiles, automobile parts, trucks, tractors, refrigerators, furnaces, washing machines, stoves, machinery or machinery parts, wood, bricks, cement blocks or other unsightly debris which substantially depreciates property values in the neighborhood except or upon permit issued by the Village Inspector. The Chief of Police or Building Inspector 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.

**§ 201-16. 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; 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 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 post-dated check or to a check given in past consideration, except a payroll check.
- D. Any person violating any provisions of this section shall forfeit not less than \$100 if the worthless check is for an amount equal to or less than \$150 and shall forfeit not less than \$200 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, imprisonment in the County Jail until forfeiture and costs are paid, but not to exceed 60 days.<sup>6</sup>

<sup>5</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>6</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 201-17. Damaging or tampering with coin machines.**

- A. 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.
- B. In this section, "coin machine" means any device or receptacle designed to receive money or anything of value. The term includes a depository box, parking meter, vending machine, pay telephone, money-changing machine, coin-operated phonograph and amusement machine if they are designed to receive money or other thing of value.

**§ 201-18. Damage to public property.**

- A. Damaging public property. No person shall climb any tree or pluck any flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove, or in any manner injure or deface, write upon, defile or ill use any tree, shrub, flower, flower bed, turf, fountain, ornament, statue, building, fence, apparatus, bench, table, official notice, sign, bridge, structure or other property within any park or parkway, or in any way injure, damage or deface any public building, sidewalk or other public property in the village.
- B. Breaking of street lamps or windows. No person shall break glass in any street lamps or windows of any building owned or occupied by the village.

**§ 201-19. Trespass to a dwelling or land.**

- A. Trespass to land. No person shall trespass on any private property within the village. "Trespass" is defined as the entering or remaining upon land in possession of another without consent or other privilege to do so. No person shall enter or remain on any land after having been notified by the owner or occupant not to remain on the premises.
- B. Trespass to dwelling. No person shall intentionally 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.

**§ 201-20. Theft prohibited.**

- A. Acts. Whoever does any of the following may be penalized as provided in Chapter 1, General Provisions, § 1-17, of this Code of Ordinances:
- (1) Intentionally takes and carries away, uses, transfers, conceals or retains possession of movable property of another without his/her consent and with intent to deprive the owner permanently of possession of such property.
  - (2) By virtue of his or 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 of 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 or her office, business or employment, or as trustee or bailee, upon demand of the person entitled 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 subsection.

- (3) Having a legal interest in movable property, intentionally and without consent, take such property out of the possession of the pledgee or such other person having a superior right of possession with intent thereby to deprive the pledgee or other person permanently of the possession of such property.
- (4) Obtains title to property of another by intentionally deceiving him/her 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.
- (5) Intentionally fails to return any personal property which is in his/her possession or under his/her control by virtue of a written lease or written rental agreement, within 10 days after the lease or rental agreement has expired.

B. Definitions. The following definitions shall be applicable in this section:

**MOVABLE PROPERTY** — Property whose physical location can be changed, without limitation, including electricity and gas, documents which represent or embody intangible rights, and things growing on or affixed to or found in land.

**PROPERTY** — All forms of tangible property, whether real or personal, without limitation including electricity, gas and documents which 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.

**VALUE** — The market value at the time of the theft or the cost to the victim of replacing the property within the reasonable time after the theft, whichever is less, if the property stolen is a document evidencing a choice in action or other intangible 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 consideration or value of such interest shall be deducted from the total value of the property.

**§ 201-21. Fraud on residential landlords prohibited.**

A. Prohibited acts. Any person who, with intent to defraud, does any of the following shall be guilty of violating this section:

- (1) Intentionally absconds without paying rent that has been contractually agreed upon in an oral or written lease with a landlord. Prima facie evidence of intentionally absconding will be established if a tenant fails to pay rent due prior to the vacating of the rental premise by the tenant, and the nonpayment of said rent continues for a period of five days after vacation of the premises; or
  - (2) Issues any check, money order or any other form of bank or monetary draft as a payment of rent, where such document lacks sufficient funds, where the account is closed, or where such draft is unredeemable in any other form or fashion. Prima facie evidence of intention to defraud will be established if a tenant fails, within five days of a written demand by the landlord or agent, to pay in full the total amount of the draft presented as rent payment plus any bank charges to the landlord attributable to the unredeemability of the draft.
- B. Applicability. This section shall apply to rental agreements between residential landlords and tenants only. The words and terms used in this section shall be defined and construed in conformity with the provisions of Chapter AG 134, Wis. Adm. Code, Chapter 704, Wis. Stats., and Section 990.001(1), Wis. Stats. The act of service by a landlord of a legal eviction notice or notice to terminate tenancy shall not, in itself, act as a bar to prosecution under this section.
- C. Procedure. An officer may issue a citation only when the complainant provides the following:
- (1) The name and current address of the tenant, a copy of the subject lease agreement, or sworn testimony of the terms of the subject oral lease.
  - (2) The amount of rent due, the date it was due, the date the tenant actually vacated the premises, and testimony that the rent remained unpaid for not less than five days after vacating and that the tenant did not notify or attempt to notify the complainant of the tenant's new address, or that the tenant knowingly gave the complainant a false address.
  - (3) As to an unredeemable payment, the document used for attempting rent payment, the written demand for payment of the full amount plus bank charges, proof that the tenant received the written demand, and testimony that at least five days have elapsed since the demand was received and no payment has been made.

#### § 201-22. Graffiti.

- A. Definition. "Graffiti" is any drawing, figure, inscription, symbol, or other marking which is scratched, painted, drawn in pen or marker, or placed by some other permanent or semi-permanent means upon sidewalks, streets, public or private structures or any other place in public view without the express permission or consent of the property owner.
- B. Public nuisance. Graffiti is hereby declared to be a public nuisance, as defined under Chapter 186, Article II, of this Code, affecting peace and safety.
- C. Prohibitions. No person shall write, spray, scratch or otherwise affix graffiti upon any property whether private or public without the consent of the owner or owners of said

property. Any person who shall affix graffiti to any property without the consent of the owner shall be liable for the costs of removing or covering such graffiti in addition to any fines imposed for violating this section. The parents of any unemancipated minor child who affixed graffiti shall be held liable for the cost of removing or covering said graffiti in accordance with Sec. 895.035, Wis. Stats.

D. Removal by property owner.

- (1) Every owner of a structure or property defaced by graffiti shall cover or remove the graffiti within 15 days in compliance with written notice served upon them by the Police Department to remove or cover such graffiti.
- (2) In the event any owner fails to comply with the above-mentioned notice, the Police Department may have the graffiti covered or removed, and in such event, all costs, fees and expenses will be assessed to said owners real estate taxes pursuant to Sec. 66.60(16), Wis. Stats.