

**Chapter 142**  
**FIREARMS AND EXPLOSIVES**

§ 142-1. Regulation of firearms and explosives.

§ 142-2. Safe use and transportation of firearms and bows.

§ 142-3. Leaving or storing loaded firearm within reach or easy access of child.

§ 142-4. Violations and penalties; attempt; parties to acts.

[HISTORY: Adopted by the Village Board of the Village of Iola 2-12-1996 as Title 9, Ch. 2, Secs. 9-2-1, 9-2-3 and 9-1-2, of the 1996 Code. Amendments noted where applicable.]

**GENERAL REFERENCES**

Fireworks — See Ch. 148.  
Minors — See Ch. 171.

Weapons — See Ch. 255.

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**§ 142-1. Regulation of firearms and explosives.**

- A. Discharge of firearms regulated. No person, except a police officer or other law enforcement officer in the performance of an official duty, shall fire or discharge any firearm, rifle, spring gun, air gun or pneumatic pellet gun of any description, or bow and arrow, within the Village of Iola or have any firearm, rifle, spring gun, air gun or pneumatic pellet gun or bow and arrow, in his possession or under his/her control unless it is unloaded and enclosed or encased within a carrying case or other suitable container pursuant to state law.
- B. Shooting into village limits. 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. Shooting ranges. This section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries approved by the Village Board, after an advisory recommendation from the Chief of Police, where proper safety precautions are taken.
- D. Explosive devices. No person shall discharge or detonate any dynamite, nitroglycerin or other explosive within the village without first obtaining a permit to do so from the Chief of Police.
- E. Hunting prohibited. Hunting is prohibited within the corporate limits of the Village of Iola.
- F. Definitions. For purposes of this section, a firearm is defined as any instrumentality from or with which a shot, bullet or pellet may be discharged or expelled, regardless of whether the propelling force is provided by air, spring or other similar mechanical device, or gun powder.

**§ 142-2. Safe use and transportation of firearms and bows.****A. Definitions.** In this section, the following terms shall have the meanings indicated:

**AIRCRAFT** — Has the meaning given under Sec. 114.002(3), Wis. Stats.

**ENCASED** — Enclosed in a case that is expressly made for the purpose of containing a firearm and that is completely zipped, snapped, buckled, tied or otherwise fastened with no part of the firearm exposed.

**FIREARM** — A weapon that acts by force of gunpowder.

**HIGHWAY** — Has the meaning given under Sec. 340.01(22), Wis. Stats.

**MOTORBOAT** — Has the meaning given under Sec. 30.50(6), Wis. Stats.

**ROADWAY** — Has the meaning given under Sec. 340.01(54), Wis. Stats.

**UNLOADED** — Any of the following:

- (1) Having no shell or cartridge in the chamber of a firearm or in the magazine attached to a firearm.
- (2) In the case of a cap lock muzzle-loading firearm, having the cap removed.
- (3) In the case of a flint lock muzzle-loading firearm, having the flashpan cleaned of powder.

**VEHICLE** — Has the meaning given under Sec. 340.01(74), Wis. Stats., and includes a snowmobile, as defined under Sec. 340.01(58a), Wis. Stats.

**B. Prohibitions; motorboats and vehicles; highways and roadways.**

- (1) Except as provided in Subsection C, no person may place, possess or transport a firearm, bow or crossbow in or on a motorboat with the motor running, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.
- (2) Except as provided in Subsection C, no person may place, possess or transport a firearm, bow or crossbow in or on a vehicle, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.
- (3) Except as provided in Subsection C, no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle.
- (4) Except as provided in Subsection C, no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow from or across a highway or within 50 feet of the center of a road.
- (5) A person who violates Subsections B(1) through (4) above is subject to a forfeiture of not more than \$100, plus costs.<sup>1</sup>

**C. Exceptions.**

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

- (1) Subsection B does not apply to any of the following who, in the line of duty, place, possess, transport, load or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm from or across a highway or within 50 feet of the center of a roadway:
  - (a) A peace officer, as defined under Sec. 939.22(22), Wis. Stats.
  - (b) A member of the U.S. armed forces.
  - (c) A member of the National Guard.
- (2) Subsection B(1), (2) and (3) do not apply to the holder of a scientific collector permit under Sec. 29.17, Wis. Stats., who is using a net gun or tranquilizer gun in an activity related to the purpose for which the permit was issued.
- (3) Subsection B(2) and (3) do not apply to the holder of a permit under Sec. 29.09, Wis. Stats., who is hunting from a standing automobile in accordance with that subsection.
- (4) Subsection B(2) does not prohibit a person from leaning an unloaded firearm against a vehicle.
- (5) Subsection B(4) does not apply to a person who is legally hunting small game with a muzzle-loading firearm or with a shotgun loaded with shotshell or chilled shot number BB or smaller, if the surface of the highway or roadway is anything other than concrete or blacktop.

**§ 142-3. Leaving or storing loaded firearm within reach or easy access of child. [Added 2-12-1996 by Res. No. 96-7]**

- A. Definition. "Child" means a person who has not attained the age of 14 years.
- B. Prohibition. Whoever recklessly stores or leaves a loaded firearm within the reach or easy access of a child is subject to the penalties provided in Subsection C if all of the following occur:
  - (1) A child obtains the firearm without the lawful permission of his or her parent or guardian or the person having charge of the child.
  - (2) The child under Subsection B(1) discharges the firearm and the discharge causes bodily harm or death to himself, herself or another.
- C. Penalty.
  - (1) Any person found to have violated the provisions of Subsection B shall, upon conviction thereof, forfeit \$1,000 together with the costs of prosecution, and in default of such forfeiture and costs or prosecution, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.
  - (2) The village shall have any and all remedies afforded by the Wisconsin Statutes in addition to the penalties provided above.

D. Prohibition. Whoever recklessly stores or leaves a loaded firearm within the reach or easy access of a child shall be subject to the penalties provided in Subsection E if all of the following occur:

- (1) A child obtains the firearm without the lawful permission of his or her parent or guardian or the person having charge of the child.
- (2) The child under Subsection D(1) possesses or exhibits the firearm in a public place or in violation of the Village of Iola Ordinances or Wisconsin Statute 941.20.

E. Penalty.

(1) Any person found to have violated the provisions of Subsection D shall, upon conviction thereof, forfeit \$500 together with the costs of prosecution, and in default of such forfeiture and costs or prosecution, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.

(2) The village shall have any and all remedies afforded by the Wisconsin Statutes in addition to the penalties provided above.

F. Exceptions. Subsections B and D do not apply under the following circumstances:

- (1) The firearm is stored or left in a securely locked box or container or in a location that a reasonable person would believe to be secure.
- (2) The firearm is securely locked with a trigger lock.
- (3) The firearm is left on the person's body or in such proximity to the person's body that he or she could retrieve it as easily and quickly as if carried on his or her body.
- (4) The person is a peace officer or a member of the armed forces or National Guard and the child obtains the firearm during or incidental to the performance of the person's duties.
- (5) The child obtains the firearm as a result of an illegal entry by any person.
- (6) The child gains access to a loaded firearm and uses it in the lawful exercise of a privilege under Sec. 939.48.
- (7) The person who stores or leaves a loaded firearm reasonably believes that a child is not likely to be present where the firearm is stored or left.
- (8) The firearm is rendered inoperable by the removal of an essential component of the firing mechanism such as the bolt in a breach-loading firearm.

G. Exception. Subsection B does not apply if the bodily harm or death resulted from an accident that occurs while the child is using the firearm in accordance with Section 29.227 or 948.60(3).

**§ 142-4. 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.

