

⑤ TB, Larry

February 23, 2008

To: Town Board of Supervisors

From: Carl Broberg

Subject: New Ordinance Chapter 350 (Peace and Good Order)

Attachments:

- (1) General Code Draft of LaPointe Chapter 350 (Pages Numbered 61-69)
- (2) General Code Editorial Analysis §17 RE Chapter 350

The draft of Chapter 350 (Peace and Good Order) is attached as well as questions pertaining to many superseded and outdated references contained in the present LaPointe Peace and Good Order Ordinance. Since the subject is beyond the purview of the Town Planning Commission, the matter is referred to the Town Board for action.

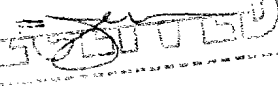
Please review the attached, provide a response to the questions raised in General Codes editorial questions (Attachment 2) and provide any additions or deletions you deem appropriate.

Respectfully,


 Carl Broberg

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TOWN OF LA POINTE

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ATTACH 1

Chapter 350

PEACE AND GOOD ORDER

ARTICLE I
Trespassing

- § 350-1. Recreational purposes.
- § 350-2. Hunting or fishing.
- § 350-3. Violations and penalties.

ARTICLE II
Hunting and Firearms

- § 350-4. Prohibited acts.
- § 350-5. Area regulated.
- § 350-6. Definition.
- § 350-7. Presumptions.
- § 350-8. Exceptions.

ARTICLE III
General Regulations

- § 350-9. Obstructing streets and sidewalks.
- § 350-10. Littering.
- § 350-11. Disorderly conduct.
- § 350-12. Malicious mischief.
- § 350-13. Trespassing on school grounds.
- § 350-14. Lewdness.

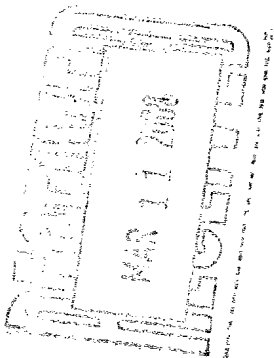
- § 350-15. Shoplifting.
- § 350-16. Spitting in public places.
- § 350-17. Possession and use of alcoholic beverages by minors.
- § 350-18. Possession and use of controlled substances.
- § 350-19. Curfew.
- § 350-20. Reckless use of weapons.
- § 350-21. Possession of a pistol by minor.
- § 350-22. Carrying concealed weapon.
- § 350-23. Possession of switchblade knife.
- § 350-24. Entry into lock vehicle.
- § 350-25. Criminal trespass to land.
- § 350-26. Criminal trespass to dwellings.
- § 350-27. Theft.
- § 350-28. Fraud on hotel or restaurant keeper.
- § 350-29. Operating vehicle without owner's consent.
- § 350-30. Issue of worthless check.
- § 350-31. Receiving stolen property.
- § 350-32. Contributing to the delinquency of children.
- § 350-33. Penalties.

[HISTORY: Adopted by the Town Board of the Town of LaPointe as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Trespassing
[Adopted 10-8-1968]

§ 350-1. Recreational purposes.

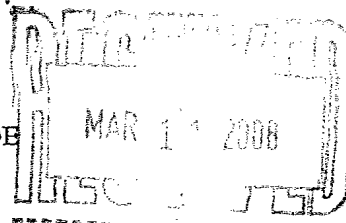
No person shall within the corporate limits of the Town of LaPointe go upon the property of another for the purpose of camping, picnicing, hiking, or other recreational purposes without first obtaining written permission from the owner of said property.



§ 350-2

LA POINTE CODE

§ 350-7



§ 350-2. Hunting or fishing.

No person shall go upon the lands of another located in the Town of LaPointe for the purpose of hunting or fishing where such property has been posted in accordance with the provisions of § 943.13, Subsection 2 of the Wisconsin Statutes.

§ 350-3. Violations and penalties.

Any person violating any of the provisions of this article, shall upon conviction thereof forfeit not less than \$10 nor more than \$100 and the cost of prosecution and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until payment of such forfeiture and costs of prosecution, but not exceeding 30 days for each violation. Each entry upon the land of another shall constitute a separate violation.

**ARTICLE II
Hunting and Firearms
[Adopted 1-14-1988]**

§ 350-4. Prohibited acts.

No person shall, at any time, hunt with any weapon in the area described in this article. No person shall, at any time, discharge any weapon in the area described in this article.

§ 350-5. Area regulated.

The area in which no hunting shall occur and the area in which no discharge of weapons shall occur is as follows: All land on Madeline Island in the Town of LaPointe west of the following described line: Commencing at the shore of Lake Superior due North of the Northwest corner of Section 29, Township 50 North, Range 3 West, Ashland County; thence proceed due South to the Northwest corner of said Section 29; thence proceed due South on the section line between Sections 29 and 30, Township 50 North, Range 3 West, to the Southwest corner of said Section 29; thence proceed South to the Northern boundary line of Mondamin Trail; thence follow and proceed along Mondamin Trail until Mondamin Trail intersects with the North boundary line of South Shore Drive; thence proceed due South from this point to the shore of Lake Superior. This area to include all of Mondamin Trail.

§ 350-6. Definition.

The term "weapon" as used in this article shall include any firearm, bow and arrow, compound bow, and cross bow; any item designed or redesigned or made or remade and intended to operate using the energy of an explosive to expel a projectile through a smooth rifle bore.

§ 350-7. Presumptions.

Any person who goes armed with a loaded firearm or possesses a loaded firearm in the area herein described is rebuttably presumed to be hunting.

§ 350-8. Exceptions.

This article shall not apply to peace officers, conservation wardens, members of the armed forces, military persons who go armed in the line of duty or any other individual authorized by the sheriff or chief of police to go armed.

ARTICLE III
General Regulations
[Adopted 1-14-1988]

§ 350-9. Obstructing streets and sidewalks.

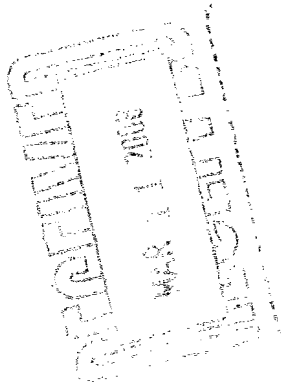
No person shall stand, sit, loaf or engage in any sport or exercise on any public street, sidewalk, bridge, or public ground within the Town in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress and egress to or from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

§ 350-10. Littering.

- A. It shall be unlawful for any person being or residing within the limits of the Town to dispose, throw or place any garbage, offal, dead animals or other deleterious matter in any park, alley, street or public place within the Town, and it shall be unlawful for any person to place any garbage, offal, dead animals or other refuse matter upon any private property, either owned by such person or not, unless the same shall be enclosed in proper containers.
- B. No person shall throw, or scatter any trash, refuse or other waste, or cause the same to be thrown or scattered in any street or public place. All loose papers, rags, and other waste material of such kind as to be subject to be blown about by the wind or otherwise scattered, must be hauled in such manner as not to litter the streets.

§ 350-11. Disorderly conduct.

- A. Disorderly conduct prohibited. Whoever does any of the following shall be guilty of an offense:
- (1) In a public or private place, engages in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which such conduct tends to cause or provoke a disturbance.
 - (2) Intentionally engages in fighting or in violent, threatening or tumultuous behavior or who addresses abusive language or threats to any other person to the extent that it creates a clear and present danger of violence or in the presence of others encourages others to create disturbance of public order or encourage acts likely to produce violence or create a disturbance of public order; or who causes the likelihood of harm or serious inconvenience by failing to obey a lawful order of



dispersal by a law enforcement officer, where three or more persons are committing acts of disorderly conduct in the immediate vicinity.

- (3) Intentionally damages, befoils or disturbs public property or the property of another so as to create a hazard, unhealthy, or physically offensive condition.
 - (4) Intentionally commits a trespass on residential property or on public property.
- B. False fire alarms prohibited. No person shall give or send or cause to be given or sent in any manner any alarm of fire which he knows to be false.
- C. Obedience to officers. No person shall, without reasonable cause or justification, resist or in any way interfere with any law enforcement officer while such officer is doing any act in his official capacity and with lawful authority.
- D. Indecent conduct and language prohibited. No person shall use any indecent, vile, profane, or obscene language or conduct himself in any indecent, lewd, lascivious or obscene manner within the Town.
- E. Disorderly conduct with a motor vehicle. No person shall, within the Town, on public or private property, by or through the use of a motor vehicle, motorcycle, snowmobile or mini-bike, under circumstances which tends to cause or provoke a disturbance or annoy one or more persons, engage in violent, abusive, unreasonably loud or otherwise disorderly conduct, including but not limited to unnecessary or deliberate or intentional spinning of wheels; squealing of tires, revving of engine, blowing of horns, causing the engine to backfire or causing the vehicle while commencing to move or while in motion to raise one or more of its wheels off the ground.
- F. Carrying handgun in public buildings.
- (1) No person shall carry, transport or bring any handgun as defined herein upon any premises within which the sale and/or consumption of alcoholic beverages takes place or within any store in which groceries or other edibles are sold.
 - (2) The term handgun as used herein includes any weapon designed or redesigned or made or remade and intended to be fired while held in one hand and to use the energy of an explosive to expel a projectile through a smooth or rifled bore.
 - (3) The following shall be exceptions to Subsection F:
 - (a) This Subsection F shall not apply to any person who keeps or carries any handgun upon premises owned by said person or to any duly authorized employee of said person;
 - (b) This Subsection F shall not apply to any person who brings a handgun upon the premises in which handguns are sold, traded or serviced, provided said handgun is brought upon the premises for purposes related to the sale, trade or servicing of said handgun;
 - (c) This Subsection F shall not apply to peace officers, members of the Armed Forces or military personnel who go armed in the line of duty or to any

person duly authorized by the Sheriff or Chief of Police to possess a firearm in any premises described in Subsection F(1).

§ 350-12. Malicious mischief.

Each person who shall, within the Town, wilfully, maliciously or wantonly break the glass of any street lamp, window or skylight, or extinguish any lamp, or destroy, remove, thrown down or injure any fence or other enclosure on land belonging to or occupied by another, or interfere with any gate or bars in any such enclosure or destroy, injure or carry away any tree or plant, or tear down, mutilate, deface or injure any building, signboard, fence or railing, being the property of another, or who shall wilfully, maliciously or wantonly injure, destroy or remove any ornamental or useful tree or plant of wharves, docks, or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places at any time.

§ 350-13. Trespassing on school grounds.

- A. It shall be unlawful for any person to "trespass" upon any property used for school purposes.
- B. "Trespass" is defined as entering, being upon or remaining on any property used for school purposes after having been notified not to do so by any School Principal, Administrator or Teacher or any law enforcement officer.
- C. A person has received notice from any of the individuals listed in Subsection B above if said person has been notified personally, either orally or in writing.

§ 350-14. Lewdness.

Whoever does any of the following acts "in public" shall be guilty of an offense:

- A. Commits an indecent act of sexual gratification, alone or with another, with knowledge that he is in the presence of others;
- B. Publicly or indecently exposes a sex organ, buttocks, or in case of a woman, her breasts.

§ 350-15. Shoplifting.

The provisions of Wisconsin Statute 943.50 in its present form and all future amendments pertaining to shoplifting exclusive of the penalties provided in said statute are adopted and incorporated by reference as if fully set forth herein.

§ 350-16. Spitting in public places.

It shall be unlawful for any person to spit or emit any spittle or to discharge or throw any mucus or other secretion from or contents of the mouth or nose or any cigarette or cigar stub, tobacco quid, fruit peeling or other waste substance, on any public floor, stairway, sidewalk,

platform or other public place or conveyance in the Town, and such practice is hereby declared to be a public nuisance and an offense against decency and public morality.

§ 350-17. Possession and use of alcoholic beverages by minors.

The provisions of § 125.07, Wisconsin Statutes in its present form and all future amendments pertaining to underage and intoxicated persons; presence on licensed premises and possession, exclusive of the penalties provided in said Statute and adopted and incorporated by reference as if fully set forth herein.

§ 350-18. Possession and use of controlled substances.

It shall be unlawful for any person to have possession of, use or consume any "Controlled Substance" within the Town. "Controlled Substance" means a drug, substance or immediate precursor as defined in Chapter 961, Wisconsin Statutes Uniform Controlled Substances Act.

§ 350-19. Curfew.

- A. It shall be unlawful for any minor under the age of 18 years to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, wharves, docks, or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 11:00 p.m. and 5:00 a.m. of the following day. During that time when daylight savings time is in effect, the hours provided in this section shall be extended one hour.
- B. The provisions of this article shall not apply to a minor accompanied by his parent, guardian, or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business directed by his or her parent, guardian, or other adult person having the care and custody of the minor.
- C. It shall be unlawful for the parent, guardian or other adult person having the care and custody of a child under the age of 18 years to knowingly permit the child to loiter, idle, wander, stroll, or play in or upon the public streets, highway, roads, alleys, parks grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 11:00 p.m. and 5:00 a.m. of the following day. During that time when daylight savings time is in effect the hours provided in this section shall be extended one hour.

§ 350-20. Reckless use of weapons.

The provisions of Wisconsin Statute 941.20(1) in its present form and all future amendments pertaining to Reckless Use of Weapons, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

§ 350-21. Possession of a pistol by minor.

The provisions of Wisconsin Statute 941.22(1) in its present form and all future amendments pertaining to Possession of a Pistol by Minor, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

§ 350-22. Carrying concealed weapon.

The provisions of Wisconsin Statute 941.23 in its present form and all future amendments pertaining to carrying Concealed Weapon, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

§ 350-23. Possession of switchblade knife.

The provisions of Wisconsin Statute 941.24 in its present form and all future amendments pertaining to Possession of Switchblade Knife, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

§ 350-24. Entry into lock vehicle.

The provisions of Wisconsin Statute 943.11 in its present form and all future amendments pertaining to Entry Into Locked Vehicle, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

§ 350-25. Criminal trespass to land.

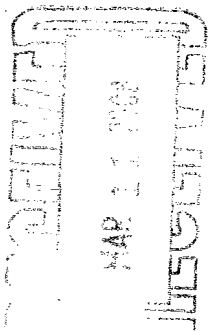
The provisions of Wisconsin Statute 943.13(1)(a) to (d) in its present form and all future amendments pertaining to Criminal Trespass to land, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

§ 350-26. Criminal trespass to dwellings.

The provisions of Wisconsin Statute 943.14 in its present form and all future amendments pertaining to Criminal Trespass to Dwellings, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

§ 350-27. Theft.

The provisions of Wisconsin Statute 943.20 [Subsection (1)(a) only] in its present form and all future amendments pertaining to Theft, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.



§ 350-28. Fraud on hotel or restaurant keeper.

The provision of Wisconsin Statute 943.21 in its present form and all future amendments pertaining to Fraud on Hotel or Restaurant Keeper, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

§ 350-29. Operating vehicle without owner's consent.

The provisions of Wisconsin Statute 943.23(2) in its present form and all future amendments pertaining to Operating Vehicle Without Owner's Consent, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

§ 350-30. Issue of worthless check.

The provisions of Wisconsin Statute 943.24(1) in its present form and all future amendments pertaining to Issue of Worthless Check, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

§ 350-31. Receiving stolen property.

The provisions of Wisconsin Statute 943.34(1) in its present form and all future amendments pertaining to Receiving Stolen Property, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

§ 350-32. Contributing to the delinquency of children.

The provisions of Wisconsin Statute 947.15 in its present form and all future amendments pertaining to Contributing to the Delinquency of Children, exclusive of the penalties provided in said statute, are adopted and incorporated by reference as if fully set forth herein.

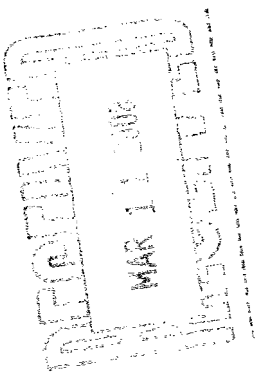
§ 350-33. Penalties.

Any person who shall violate any provision of this article shall upon conviction thereof be punished as follows:

- A. He shall forfeit not less than \$25 nor more than \$500 plus the costs of prosecution as well as applicable court costs, assessments and fees and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until the forfeiture and costs of prosecution are paid, but not exceeding 10 days, provided, however, that for children 14 or older who shall be found violating the provisions of said section said child shall be dealt with according to the provisions of Wisconsin Statute 938.17(2).
- B. In addition to any penalty imposed for violation of this article, 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 this article may also be held liable for the costs

of replacing or repairing of the damaged or destroyed property in accordance with § 895.035 of the Wisconsin Statutes.

Draft



§15. Lake Access. (Ch. 310)

This chapter appears generally satisfactory, provided that the forfeiture in § 310-4 (minimum \$100 and maximum \$500) is up-to-date.

Decision:

- Revise as follows:
- Make no change

§16. Noise. (Ch. 336)

This chapter appears generally satisfactory, provided that the forfeitures in § 336-8 are still satisfactory.

Decision:

- See revisions on attached copy
- Make no change

§17. Peace and Good Order. (Ch. 350)

Article I, Trespassing.

A. This article contains an ordinance from 1968 prohibiting trespassing. It is not clear whether the town intended for this ordinance to be superseded when it adopted Article III in 1988. See § 350-25, Criminal trespass to land.

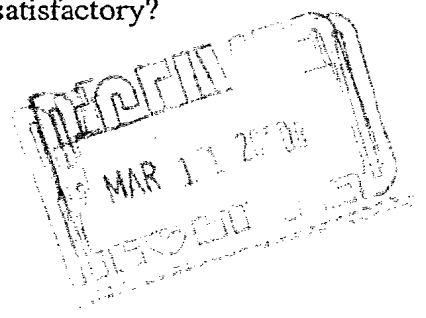
Decision:

- Delete Art. I as superseded by § 350-25
- Retain Art. I

B. If this article is retained, is the penalty in § 350-3 still satisfactory?

Decision:

- Not applicable; Art. I deleted
- Revise as follows:
- Make no change



Article II, Hunting and Firearms.

This article prohibits hunting and the discharge of weapons in a particular area of the town and appears satisfactory, provided that this restriction is still enforced in this area. Should a penalty section be added?

Decision:

- Add the following penalty:
- Make no change

Article III, General Regulations.

A. Wording seems to be missing at the end of § 350-12, as the following wording does not make sense: "any ornamental or useful tree or plant of wharves, docks, or other public grounds, public places and public buildings."

Decision:

- Revise as follows:

B. Section 350-21 adopts by reference § 941.22, Wis. Stats., which section was repealed by 1987 Act 332. The town may want to review § 948.60, Possession of a dangerous weapon by a person under 18.

Decision:

- Revise section to adopt § 948.60, Wis. Stats.
- Revise as follows:

C. In § 350-25 the reference to § 943.13(1)(a) to (d) is incorrect. Section 943.13 does not contain a Subsection (1).

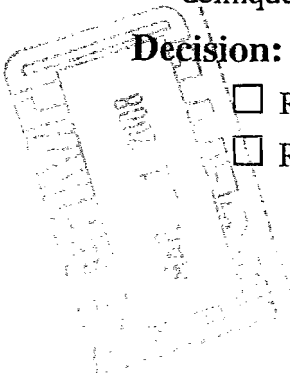
Decision:

- Revise to § 943.13(1m)
- Revise as follows:

D. Section 350-32 adopts by reference § 947.15, Wis. Stats., which section was repealed by 1987 Act 332. Current statutory provisions on this topic (contributing to the delinquency of a child) are provided in § 948.40.

Decision:

- Revise reference to § 948.40, Wis. Stats.
- Revise as follows:



- E. Section 350-33 sets the penalty for violations of this chapter at a forfeiture of not less than \$25 nor more than \$500. Is any revision desired?

Decision:

- Revise as follows:
 Make no change

§18. Sewers and Sewage Disposal. (Ch. 375)

Article I, Sanitary District.

Based on similar descriptions in other town ordinances, it appears that in § 375-2 the wording "Township 50, Range 3 West" should read "Township 50 North, Range 3 West."

Decision:

- Add "North" as indicated
 Make no change

Article II, Holding Tanks.

It is not clear whether this ordinance is still in use or is considered superseded by the Sanitary District Regulations (see Chapter A500). We note that the regulations do not specifically address holding tanks. If this ordinance is to be retained we note the following:

- A. We have updated references to Chapter H 63 of the Administrative Code to Chapters Comm 81 and 83.
- B. Please clarify which of the following titles is correct for the governing body of the Sanitary District, as all three are used: "Sanitary District Commission," "Sanitary Commission" or "Sanitary District Board of Commissioners."

Decision:

- "Sanitary District Commission" is correct
 "Sanitary District Board of Commissioners" is correct
 "Sanitary Commission" is correct
- C. Section 375-10, Maintenance agreement, refers to a holding tank agreement "as provided in the attached document Exhibit A, and incorporated in this article by

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