

CHAPTER 27

OFFENSES

ARTICLE I – GENERAL PROVISIONS

27-1-1 **MEANINGS OF WORDS AND PHRASES.** For the purpose of this Chapter the words and phrases of the **Illinois Compiled Statutes, Chapter 720, Sections 2-1 through 2-11; 2-13 through 2-16; 2-19 and 2-20**, as approved, adopted and amended are hereby adopted by the Village, as fully as if set out herein. **(See 65 ILCS Sec. 5/1-3-2) (See 130.02)**

27-1-2 **CRIMINAL CODE ADOPTED.** The **Illinois Criminal Code, Illinois Compiled Statutes, Chapter 720**, as passed, approved and amended by the Illinois General Assembly is hereby adopted by the Village; the provisions thereof shall be controlling within the corporate limits of the Village; provided, however, the penalties as provided by this Code shall apply. **(See 65 ILCS Sec. 5/1-3-2 and 5/11-1-1) (See 130.01)**

ARTICLE II - GENERALLY

27-2-1 **DISTURBING POLICE OFFICER.** No person shall, by violent conduct, disturb any police officer in the discharge of his duties; nor shall any person assault, strike, or fight with any police officers in the discharge of his/her duties or permit such conduct in or upon any house or premises in the Village owned or possessed by him/her or under his/her management and control. Abusive or vulgar language in the presence of an officer does not constitute a crime unless the language is directed at the officer and provokes a breach of the peace. **(See 65 ILCS Sec. 5/11-1-1) (See 132.01)**

27-2-2 **IMPERSONATION OF OFFICER.** No person in the Village shall falsely represent himself to be an officer of the Village or shall, without being duly authorized by the Village, exercise or attempt to exercise any of the duties, functions or powers of the Village officer, or hinder, obstruct, resist or otherwise interfere with any Village officer in the discharge of the duties of his office. **(See 720 ILCS Sec. 5/32-5.1)**

27-2-3 **DISTURBING LAWFUL ASSEMBLIES.** It shall be unlawful for any person to willfully interrupt or disturb any funeral assembly, funeral procession, school, any assembly met for the worship of God or any other assembly met for a lawful purpose by any offensive behavior, or by any disorderly conduct. **(See 65 ILCS Sec. 5/11-5-2)**

27-2-4 **UNLAWFUL ASSEMBLY.** It shall be illegal for persons to assemble unlawfully in the following situations:

- (A) The use of force or violence disturbing the public peace by **two (2)** or more persons acting together and without authority of law; or
- (B) The assembly of **two (2)** or more persons to do an unlawful act; or

(C) The assembly of **two (2)** or more persons, without authority of law, for the purpose of doing violence to the person or property of any one supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence. **(See 720 ILCS Sec. 5/25-1) (See 65 ILCS Sec. 5/11-5-2) (See 132.15)**

27-2-5 **DISTURBING THE PEACE.** No person shall disturb the peace of any individual or private family, or of any lawful congregation within the Village by any noise or amusement, or by vulgar or profane language, or by any disorderly or unreasonable conduct. **(See 65 ILCS Sec. 5/11-5-2) (See 132.05)**

27-2-6 **ADMISSION FEES: FRAUDULENTLY AVOIDING PAYMENT OF.** It shall be unlawful for any person to fraudulently enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert or other place where admission fees are charged; provided, however, that nothing herein contained shall be deemed to prohibit or restrict the free admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement. **(See 132.06)**

27-2-7 **SALE OF CIGARETTES OR TOBACCO TO MINORS.** No minor under **eighteen (18)** years of age shall buy any cigar, cigarette, smokeless tobacco or tobacco in any of its forms. No person shall sell, buy for, distribute samples of or furnish any cigar, cigarette, smokeless tobacco or tobacco in any of its forms, to any minor under **eighteen (18) years of age.**

For the purpose of this Section, "smokeless tobacco" is defined in **Section 27-2-8(A).**

(A) Tobacco products listed above may be sold through a vending machine only in the following locations:

- (1) Factories, businesses, office, private clubs, and other places not open to the general public.
- (2) Places to which minors under **eighteen (18) years** of age are not permitted access.
- (3) Places where alcoholic beverages are sold and consumed on the premises.
- (4) Places where the vending machine is under the direct supervision of the owner of the establishment or an employee over **eighteen (18) years** of age. The sale of tobacco products from a vending machine under direct supervision of the owner or an employee of the establishment is considered a sale of tobacco products by that person. As used in this Section, "direct supervision" means that the owner or employee has an unimpeded line of sight to the vending machine.
- (5) Places where the vending machine can only be operated by the owner or an employee over age **eighteen (18)** either directly or through a remote control device if the device is inaccessible to all customers.

(See 720 ILCS Sec. 675/1)

27-2-8 **SMOKELESS TOBACCO.**

(A) **Definition.** For the purposes of this Section, the term "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

(B) **Sales of Smokeless Tobacco Products to Persons Under Eighteen (18).** No person shall sell any smokeless tobacco product to any person under the age of **eighteen (18).**

(C) **Distribution.** No person shall distribute or cause to be distributed to any person under the age of **eighteen (18)**, without charge or at a nominal cost, any smokeless tobacco product. **(See 720 ILCS Sec. 680-1 et seq.)**

27-2-9 UNLAWFUL CONDUCT ON A PUBLIC WAY.

(A) It shall be unlawful for a pedestrian to stand upon any sidewalk or public way, except as near as reasonably possible to the building line or curb line if such standing interferes with the use of said sidewalk by other pedestrians.

(B) It shall be unlawful to impede or interfere with another person's use of a public way.

27-2-10 AID IN ESCAPE. It shall be unlawful to rescue or attempt to rescue or shall abet or encourage the rescue or escape of any person from the custody of any officer or other person legally having him in charge, or shall molest or interfere with any officer or other person so legally having him in charge, or shall, in any manner, aid, abet or encourage the rescue or the attempt to escape from any person legally committed thereto, or shall supply or attempt to supply any such person with any weapon or with any implement or means whereby an escape might be affected, or with any intoxicating liquors, drugs or other article(s) without the consent of the officer in charge. **(See 720 ILCS Sec. 5/31-7)**

27-2-11 ESCAPES. It shall be unlawful for any person convicted of any offense or in lawful custody to escape or attempt to escape from custody. **(See 720 ILCS Sec. 5/31-6(C))**

27-2-12 FALSE PRETENSES. It shall be unlawful for any person to obtain any food, drink, goods, wares, or merchandise under false pretenses, or to enter public places and call for refreshments or other articles and receive and refuse to pay for same, or to depart without paying for or satisfying the person from whom he received the food, goods, wares, and/or merchandise. **(See 132.09)**

27-2-13 RENTING PREMISES FOR UNLAWFUL PURPOSES. It shall be unlawful for any person to rent, use, or allow to be used, any building or property owned by him, for any purpose whereby riotous or disorderly persons are gathered. **(See 132.10)**

27-2-14 AID TO AN OFFENSE. It shall be unlawful for any person, in any way or manner, to aid, abet, counsel, advise or encourage any other person in the commission of any of the acts mentioned herein or in any manner encourage the commission of such offense hereby defined. **(See 132.11)**

27-2-15 POSTING BILLS. It shall be unlawful for any person to paste, post, paint, print or nail any handbill, sign, poster, advertisement, or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door, or gate without the consent, in writing, of the owner of the wall, door or gate; provided, however, that this Section shall not prevent posting by proper Village and County officials of election signs, polling place signs and other signs or placards necessary under the law to the conduct of elections, except they may not be attached to a tree. **(See 131.13)**

27-2-16 INTOXICATION IN PUBLIC. No person shall, in the Village, be found in a state of intoxication or drunk in any street or other public place, or shall be found drunk lying or roving about the streets, alleys, or sidewalks of this Village or the private grounds of any of the inhabitants

thereof, or being drunk as aforesaid, shall disturb the peace, order and quiet of the Village, or the peace and quiet of the citizens thereof by loud and unusual noises, disorderly conduct, indecent language or behavior or in any other manner. **(See 65 ILCS Sec. 5/11-5-3)**

27-2-17 **BEGGING.** No person shall beg or solicit alms within the Village without having obtained permission in writing from the Mayor. **(See 65 ILCS Sec. 5/11-5-4)**

27-2-18 **GAMES IN STREET.** No person shall, on any Village street, play any organized games or participate in other activities which may impede the free flow of traffic and/or place the participants in such activities at undue risk of harm due to the presence of motor vehicles except that such activities are permitted on dead-end streets or cul-de-sacs, and street stubs, provided the following restrictions are observed:

(A) In street play is restricted to the area within **one hundred (100) feet** of the end of the cul-de-sac or dead-end street.

(B) In street play is prohibited within **one hundred (100) feet** of any intersection.

(C) In street play times are limited to the hours between **7:00 a.m.** and sunset.

(D) Children must be directly supervised by an adult parent, guardian or their designee.

(E) Sports and other recreation equipment may not be permanently installed in the public right-of-way and portable equipment must be removed from the right-of-way when not in use.

Regardless of compliance with the above restrictions, in-street play may not impede traffic or interfere with Village maintenance activities and participants shall clear the right-of-way if so directed by law enforcement authorities.

(Ord. No. 1420; 05-07-12)

27-2-19 **THROWING ROCKS.** No person in the Village shall throw or cast any rock or stone or any other missile upon or at any building, tree, or other public or private property, or at any person in any street, avenue, alley or public place. **(See 132.14)**

27-2-20 **DESTRUCTION OF PUBLIC PROPERTY.** No person in the Village shall deface, destroy, or in any way, injure any public property, or any other apparatus of the Village.

27-2-21 **FORTUNE TELLING.** No person in the Village shall pursue the calling of a fortune teller or practice fortune telling, soothsaying, or the like and receive payment in any manner therefor.

27-2-22 **ABANDONED REFRIGERATORS OR ICEBOXES.** It shall be unlawful for any person to abandon or discard in any place accessible to children any refrigerator, icebox or ice chest, of a capacity of **one and one-half (1 1/2) cubic feet** or more, which has an attached lid or door which may be opened or fastened shut by means of an attached latch. The owner, lessee, or manager of such place, who knowingly permits such abandoned or discarded refrigerator, icebox or ice chest to remain there in such condition, shall be guilty of violating this Code. **(See 720 ILCS Sec. 505/1)**

27-2-23 **HALLOWEEN.** It shall be illegal for any person of the age of **fourteen (14) years** or older to engage in Halloween practice commonly called "**Trick or Treat**", by calling at the homes or dwelling places within the Village, either masked or unmasked. No person under the age of

fourteen (14) years shall engage in the Halloween practice called "Trick or Treat", except on **October 31** of each year, the date being Halloween Eve, and on said night, the right to engage in Halloween practice shall extend only until the hour of **9:00 p.m.** of said night, unless otherwise provided by the Village Board.

27-2-24 THEFT OF RECYCLABLES UNLAWFUL. It shall be unlawful for any person to collect, obtain, possess or pickup any recyclable item(s) from any receptacle or collection point where service is provided by an authorized waste hauler licensed by the municipality or from any specified recycling center within the Village limits unless said person is acting as an agent for the Village or acting as an agent for a waste hauler licensed by the Village.

27-2-25 THROWING OBJECTS FROM MOTOR VEHICLES. Pursuant to the police powers in **65 ILCS 5/11-1-1** it shall be unlawful for any person occupying or driving a motor vehicle, whether moving or not, to shoot, throw, cast, launch or drop any object, liquid or substance at any person, animal or structure, wherein the possibility of harm, injury or damage may occur as a result of these actions.

The driver and/or all passengers shall be, upon conviction, fined in accordance with the provisions of the Village Code and shall be liable for all damage, injury or harm caused by the activity. **(See Section 27-3-2)**

27-2-26 DEPOSITING OF SNOW AND ICE RESTRICTED. No person shall deposit or cause to be deposited any snow and ice on or against a fire hydrant or on any sidewalk, roadway, or loading or unloading areas of a public transportation system, except that snow and ice may be windrowed on curbs incident to the cleaning of sidewalks in business districts. **(See 65 ILCS Sec. 5/11-80-13)**

27-2-27 PROTECTIVE COVERING OR FENCING. Any person, corporation or partnership which either owns, or maintains, or uses, or abandons any open well, cesspool, cistern, quarry, recharging basin, catch basin, sump, excavation for the erection of any building structure or excavation created by the razing or removal of any building structure without covering or surrounding such installation with protective fencing is guilty of a violation of **Section 1-1-20** of this Code. The provisions of this Act shall not apply during the course of repair, construction, removal or filling of any of the structures or conditions herein described while any worker is present at the location thereof either performing services thereon or as a watchman to guard such location. **(See 720 ILCS 605/1)**

27-2-28 CURFEW HOURS FOR MINORS.

(A) **Definitions.** Whenever used in this Section.

- (1) **"Curfew hours"** means:
 - (a) 11:00 P.M. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 A.M. of the following day; and
 - (b) 12:01 A.M. until 6:00 A.M. on Saturday; and
 - (c) 12:01 A.M. until 6:00 A.M. on Sunday.
- (2) **"Emergency"** means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

- (3) **"Establishment"** means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to, any place of amusement or entertainment.
- (4) **"Guardian"** means:
 - (a) A person who, under court order, is the guardian of the person of a minor; or
 - (b) A public or private agency with whom a minor has been placed by a court.
- (5) **"Minor"** means any person under **eighteen (18) years** of age.
- (6) **"Operator"** means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
- (7) **"Parent"** means a person who is:
 - (a) A natural parent, adoptive parent, or stepparent of another person; or
 - (b) At least **twenty-one (21) years** of age and authorized by a parent or guardian to have the care and custody of a minor.
- (8) **"Public Place"** means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.
- (9) **"Remain"** means to:
 - (a) linger or stay; or
 - (b) fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.
- (10) **"Serious bodily injury"** means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(B)

Offenses.

- (1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the Village during curfew hours.
- (2) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the Village during curfew hours.
- (3) The owner, operator or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(C)

Defenses.

- (1) It is a defense to prosecution under subsection (B) that the minor was:
 - (a) Accompanied by the minor's parent or guardian;
 - (b) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - (c) In a motor vehicle involved in interstate travel;
 - (d) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - (e) Involved in an emergency;
 - (f) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did

not complain to the police department about the minor's presence;

- (g) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the Village, a civil organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the Village, a civic organization or another similar entity that takes responsibility for the minor;
 - (h) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
 - (i) Married or had been married or is an emancipated minor under the Emancipation or Mature Minors Act, as amended.
- (2) It is a defense to prosecution under subsection (B)(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(D) **Enforcement.** Before taking any enforcement action under this Section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this Section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (C) is present. **(See 65 ILCS 5/11-1-5 and 720 ILCS 555/1)**

27-2-29 SANCTITY OF FUNERAL AND MEMORIAL SERVICES. It shall be unlawful for a person to violate any of the following provisions of this Section:

- (A) Engaging in any loud protest of signing, chanting, whistling or yelling with, or without, noise amplification including but not limited to bullhorns, auto horns and microphones within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or
- (B) Displaying any visual images that convey fighting words, actual or veiled threats against any other person within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or
- (C) Blocking access to any facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or
- (D) Ending in a directed protest march or picket at any public location within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates.

27-2-30 USE OF UPHOLSTERED FURNITURE IN OUTDOOR LOCATIONS PROHIBITED.

- (A) Upholstered or other furniture designed or manufactured primarily for indoor use shall not be used or allowed to remain:
 - (1) on unenclosed exterior porches or balconies;
 - (2) in an open area on private property exposed to outdoor weather conditions.

(B) It shall not be a defense to said prohibition that such furniture is covered by plastic cover, or other tarpaulin, canvas or sheeting.

(C) This prohibition shall not apply to the following:

- (1) wood, metal, or plastic furniture;
- (2) outdoor patio furniture with weather-resistant cushions;
- (3) upholstered furniture designated for prepaid special pickup or delivery by public or private hauler, provided that such remain outdoors for a period not to exceed **seventy-two (72) hours**.

27-2-31 HARASSMENT BY TELEPHONE. Harassment by telephone is use of a telephone communication for any of the following purposes:

(A) Making any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, or indecent with an intent to offend;

(B) Making a telephone call, whether or not conversation ensues, with intent to abuse, threaten, or harass any person at the called number;

(C) Making or causing the telephone of another repeatedly to ring, with intent to harass any person at the called number;

(D) Making repeated telephone calls, during which conversation ensues, solely to harass any person at the called number; or

(E) Knowingly permitting any telephone under one's control to be used for any of the purposes mentioned herein.

27-2-32 PROHIBITIONS OF POSSESSION OF WEAPONS, LIQUOR, OR DRUGS IN VILLAGE HALL. Except for evidence purposes, it shall be unlawful for any person other than police officers to possess within the Village Hall:

(A) A dangerous weapon as defined in **720 ILCS 570/102**, as now and hereafter amended or renumbered;

(B) Alcoholic liquor as defined in **Chapter 21**;

(C) A controlled substance as defined in **720 ILCS 570/102**, as now and hereafter amended or renumbered; or

(D) Cannabis, as defined in the "Cannabis Control Act," **720 ILCS 550/1 et seq.**, as now and hereafter amended or renumbered.

(See 134/07)

(See 65 ILCS Sec. 5/11-80-15)

ARTICLE III

OFFENSES AGAINST PROPERTY

27-3-1 **PETTY THEFT.** A person commits a petty theft when the value of the property is under **Three Hundred Dollars (\$300.00)** and he or she knowingly:

(A) Obtains or exerts unauthorized control over property of the owner;
 (B) Obtains by deception, control over property of the owner;
 (C) Obtains by threat, control over property of the owner; or
 (D) Obtains control over stolen property knowing the property to have been stolen by another or under such circumstances as would reasonably induce him or her to believe that the property was stolen;

(E) Obtains or exerts control over property in the custody of any law enforcement agency which is explicitly represented to the person by any law enforcement officer or any individual acting in behalf of a law enforcement agency as being stolen; and:

- (1) Intends to deprive the owner permanently of the use or benefit of the property;
- (2) Knowingly uses, conceals, or abandons the property in such a manner as to deprive the owner permanently of such use or benefit;
- (3) Uses, conceals, or abandons the property, knowing such use, concealment, or abandonment probably will deprive the owner permanently of such use or benefit.

(F) It shall be unlawful to commit a petty theft.
(720 ILCS 5/16-1) (See 131.04)

27-3-2 **THEFT OF LABOR OR SERVICES.**

(A) A person commits theft when he obtains the temporary use of property, labor or services of another which are available only for hire, by means of threat or deception or knowing that such use is without the consent of the person providing the property, labor or services.

(B) A person commits theft when after renting or leasing a motor vehicle, obtaining a motor vehicle through a "driveaway" service mode of transportation or renting or leasing any other type of personal property exceeding **Five Hundred Dollars (\$500.00)** in value, under an agreement in writing which provides for the return of the vehicle or other personal property to a particular place at a particular time, he without good cause willfully fails to return the vehicle or other personal property to that place within the time specified, and is thereafter served or sent a written demand mailed to the last known address, made by certified mail return receipt requested, to return such vehicle or other personal property within **three (3) days** from the mailing of the written demand, and who without good cause willfully fails to return the vehicle or any other personal property to any place of business of the lessor within such period.

(C) A person convicted of theft under division (A) is guilty of a Class A misdemeanor. A person convicted of theft under division (B) is guilty of a Class 4 felony.

(720 ILCS 5/16-3) (See 131.05)

27-3-3 **DECEPTIVE ALTERING OR SALE OF COINS.**

(A) A person commits a deceptive altering of coins when he or she, in any manner, alters any coin to increase the value of the coin to coin collectors.

(B) A person commits a deceptive sale of coins when he or she sells or advertises for sale any coin he or she knows has been deceptively altered for a higher rate of value than is indicated by the denomination or the coin.

(See 131.06)

27-3-4 **CRIMINAL DAMAGE TO PROPERTY.** Any of the following acts by a person shall be a violation of this Code.

- (A) To knowingly damage any property of another without his consent; or
- (B) recklessly, by means of fire or explosive, damage property of another; or
- (C) knowingly start a fire on the land of another without his consent; or
- (D) knowingly injure a domestic animal of another without his consent; or
- (E) knowingly deposit on the land or in the building of another, without his consent, any stink bomb or any offensive smelling compound and thereby, intend to interfere with the use by another of the land or building. **(See 720 ILCS Sec. 5/21-1) (See 131.07)**

27-3-5 **CRIMINAL DAMAGE TO FIRE-FIGHTING APPARATUS, HYDRANTS OR EQUIPMENT.** No person shall willfully and maliciously cut, injure, damage, tamper with or destroy or deface any fire hydrant or any fire hose or any fire engine, or other public or private fire-fighting equipment or any apparatus appertaining to such equipment, or to intentionally open any fire hydrant without proper authorization. **(See 720 ILCS Sec. 5/21-1.1)**

27-3-6 **INJURY TO UTILITY WIRES AND POLES.** It shall be unlawful to willfully, maliciously, or negligently break, deface, injure or destroy any telegraph or telephone pole, post or wire, or any electric lightpost, pole, or electric conductor, wire or lamp or any other thing connected with the same or belonging thereto, or any water main, gas main, pipe or hydrant or lamp or lamppost, or anything belonging to or connected therewith or with any of them.

27-3-7 **DAMAGE OR DESTRUCTION OF STREET SIGNS PROHIBITED.** It shall be unlawful for any person in any manner or form, to deface, disfigure, damage or destroy any of the street signs or parts thereof located in the Village. **(See 131.11)**

27-3-8 **TAMPERING WITH PUBLIC NOTICE.** It shall be unlawful for a person to knowingly and without lawful authority alter, destroy, deface, remove or conceal any public notice, posted according to law, during the time for which the notice was to remain posted. **(See 720 ILCS Sec. 5/32-9)**

27-3-9 **SKATEBOARDS.** No person shall operate, ride or propel a skateboard on any property stated in this Section. A person in violation of this Section may be cited for an infraction and the skateboard may be seized as evidence and held until disposition of the charge. Prohibited locations include:

- (A) The Freeburg Municipal Center at 14 Southgate Drive and attached parking lots and sidewalks.
 - (B) Public streets.
 - (C) The Village Park bordered by White, Belleville, High and Monroe Streets.
 - (D) Any other public property where signs are posted prohibiting skateboards.
- Damage to property due to "grinding" or other contact causing excessive wear is prohibited. Nothing in this Section authorizes the use of skateboards on private property.

(Ord. No. 1204; 01-17-06)

27-3-10 **TRESPASS.**
(A) Trespasses Prohibited. It shall be unlawful for any person, firm, or corporation to commit a trespass within this municipality upon either public or private property.

(B) **Specifically Enumerated Trespasses - Suppression.** Without constituting any limitation upon the provisions of **Section 27-3-10(A)** hereof, any of the following acts by any person, firm, or corporation shall be deemed included among those that constitute trespasses in violation of the provisions of **Section 27-3-10(A)**, and appropriate action may be taken hereunder at any time, or from time to time, to prevent or suppress any violation or violations of this Article; the aforesaid enumerated acts so included, being as follows, to-wit:

- (1) An entry upon the premises of another, or any part thereof, including any public property, in violation of a notice posted or exhibited at the main entrance to the premises, or at any point of approach or entry or in violation of any notice, warning or protest given orally or in writing, by any owner or occupant thereof; or
- (2) the pursuit of a course of conduct or action incidental to the making of an entry upon the land of another in violation of a notice posted or exhibited at the main entrance to the premises or at any point of approach or entry, or in violation of any notice, warning or protest given orally or in writing by any owner or occupant thereof; or
- (3) a failure or refusal to depart from the premises of another in case of being requested, either orally or in writing to leave by any owner or occupant thereof; or
- (4) an entry into or upon any vehicle, aircraft or watercraft made without the consent of the person having the right to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such right.

(See 65 ILCS Sec. 5/11-5-2)

ARTICLE IV

PUBLIC HEALTH, SAFETY AND DECENCY

27-4-1 **DISORDERLY CONDUCT; ELEMENTS OF THE OFFENSE.** A person commits disorderly conduct when he knowingly:

(A) does any act in such an unreasonable manner as to alarm or disturb another and to provoke a breach of the peace; or

(B) transmits in any manner to the Fire Department of any Village, town, village or fire protection district, a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or

(C) transmits in any manner to another a false alarm to the effect that a bomb or other explosive device of any nature is concealed in such a place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb or explosive device is concealed in such a place; or

(D) transmits in any manner to any peace officer, public officer or public employee a report to the effect that an offense has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense has been committed; or

(E) enters upon the property of another and for a lewd or unlawful purpose, deliberately looks into a dwelling on the property through any window or other opening in it;

(F) while acting as a collection agency as defined in the "Collection Agency Act" or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor; or

(G) transmits a false report to the Department of Children and Family Services.

(H) transmits or causes to be transmitting in any manner to the Police Department or Fire Protection District in which that part of the Village is located, or any privately owned and operated ambulance service, a false request for an ambulance, emergency medical technician-ambulance or emergency medical technician-paramedic knowing at the time there is no reasonable ground for believing that such assistance is required;

(I) transmits or causes to be transmitted a false report under Article II of "An Act in relation to victims of violence and abuse", approved September 16, 1984, as amended;

(J) transmits or causes to be transmitted a false report to any public safety agency without the reasonable grounds necessary to believe that transmitting such a report is necessary for the safety and welfare of the public; or

(K) calls the number "911" for the purpose of making or transmitting a false alarm or complaint and reporting information when, at the time the call or transmission is made, the person knows there is no reasonable ground for making the call or transmission and further knows that the call or transmission could result in the emergency response of any public safety agency.

(See 720 ILCS Sec. 5/26-1) (See 132.02)

27-4-2 **RESISTING OR OBSTRUCTING A PEACE OFFICER.** A person who knowingly resists or obstructs the performance of one known to the person to be a peace officer of any authorized act within his or her official capacity commits an offense. **(720 ILCS 5/31-1) (See 134.05)**

27-4-3 **REFUSING TO AID AN OFFICER.** Whoever upon command refuses or knowingly fails reasonably to aid a person by him or her to be a peace officer in the following situations commits a misdemeanor:

(A) apprehending a person whom the officer is authorized to apprehend; or

(B) preventing the commission by another of any offense.

(720 ILCS 5/31-8) (See 134.06)

27-4-4 ASSEMBLING AT PUBLIC PLACES AND BUSINESSES.

(A) **Drive-in Business.** A drive-in business within the meaning of this Code shall be deemed to be any business where meals, sandwiches, cold drinks, beverages, ice cream, food, drink, or consumer services are served directly to or are permitted to be consumed by patrons in or upon automobiles, motorcycles, or other vehicles parked on the premises.

(B) **Declared Public Places.** For the purpose of preserving public peace, health and safety, the entire premises occupied by a drive-in business, together with means of ingress or egress, are hereby declared to be a public place;

(1) No person on the premises of a drive-in business shall race the motor of any motor vehicle, needlessly bring to a sudden start or stop, any motor vehicle, blow any horn of any motor vehicle, or cause to be made any loud or unseemly noise, nuisance or disturbance whereby the quiet and good order of the premises or the neighborhood are disturbed.

(2) The following acts or conduct of any persons entering a drive-in business or premises are hereby declared to be unlawful, and any person found guilty of any such acts shall be guilty of a violation of this Article:

(a) Entering the premises of any drive-in business with any motor vehicle of any description and parking such vehicle and leaving the premises (thereby leaving such vehicle parked and unoccupied), without express consent of the owner or operator of such business, in which event, such motor vehicle shall be subject to a parking citation or may be impounded subject to the usual impounding charges.

(b) Entering the premises in or upon a motor vehicle and using said premises for cruising, racing as a shortcut to another street or to annoy or endanger any person or persons or other vehicle or vehicles lawfully on said premises.

(c) For three (3) or more persons to congregate on the premises and linger or loiter at any location on the premises of any drive-in business, other than in the building or in a legally parked motor vehicle.

(d) For any person who, while on the premises of any drive-in business, in the presence or hearing of another, to curse or abuse such person or use any violently abusive language under circumstances reasonably calculated to provoke a breach of the peace.

(C) **Posting Sign.** It shall be the responsibility of the business operator to post on the premises in a conspicuous location, one (1) or more signs bearing the following legend in letters at least two inches (2") or more in height and readable:

"CRUISING IN OR CONGREGATING AND LOITERING OUTSIDE A MOTOR VEHICLE IS UNLAWFUL. NO UNOCCUPIED MOTOR VEHICLES MAY BE LEFT ON THE PREMISES WITHOUT THE CONSENT OF THE OWNER."

(See 65 ILCS Sec. 5/11-5-2)

ARTICLE V - ANTI-LITTER

27-5-1 **DEFINITIONS.** For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meanings given herein:

"AIRCRAFT" is any contrivance now known or hereafter invented, used, or designed for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air powered craft and balloons.

"AUTHORIZED PRIVATE RECEPTACLE" is a container of water-tight construction with a tight-fitting lid or cover capable of preventing the escape of contents within. Such receptacles shall have handles or other means for safe and convenient handling and be of such size or sufficient capacity to hold all litter generated between collection periods and shall be in compliance with the regulations promulgated.

"CONSTRUCTION SITES" means any private or public property upon which repairs to existing buildings, construction of new buildings or demolition of existing structures is taking place.

"HANDBILL" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed matter of literature which is not delivered by the United States Mail Service, including, but not limited to those which:

- (A) advertise for sale any merchandise, product, commodity or thing; or
- (B) direct attention to any business or mercantile or commercial establishment, or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- (C) direct attention to or advertise any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit.

"LITTER" is garbage, refuse and rubbish and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

"LOADING AND UNLOADING DOCK" means any dock space or area used by any moving vehicle for the purpose of receiving, shipping and transporting goods, wares, commodities and persons located on or adjacent to any stream, river or land.

"PRIVATE PREMISES" means all property including, but not limited to, vacant land or any land, building or other structure designed or used for residential, commercial, business, industrial, institutional or religious purposes, together with any yard, grounds, walk, driveway, fence, porch, steps, vestibule, mailbox, and other structure(s) appurtenant thereto.

"PUBLIC PLACE" means any and all streets, sidewalks, boulevards, alleys or other public ways, lakes, rivers, watercourses, or fountains and any and all public parks, squares, spaces, grounds, and buildings.

"PUBLIC RECEPTACLES" means any receptacles provided by or authorized by the Village.

"VEHICLE" is every device in, upon or by which any person or property is or may be transported or drawn upon land or water, including devices used exclusively upon stationary rails or tracks.

27-5-2 **LITTERING PROHIBITED.** No person shall deposit any litter within the Village except in public receptacles, in authorized private receptacles for collection, or in any duly licensed disposal facility.

27-5-3 PREVENTION OF SCATTERING. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent litter from being carried or deposited by the elements upon any public place or private premises.

27-5-4 RECEPTACLES - UPSETTING OR TAMPERING. No person shall upset or tamper with a public or private receptacle designed or used for the deposit of litter or cause or permit its contents to be deposited or strewn in or upon any public place or private premises.

27-5-5 SIDEWALKS AND ALLEYS FREE FROM LITTER. Persons owning, occupying or in control of any public place or private premises shall keep the sidewalks and alleys adjacent thereto free of litter.

27-5-6 OWNER TO MAINTAIN PRIVATE PREMISES.
 (A) The owner or person in control of any private premises shall, at all times, maintain the premises free of litter.
 (B) The owner or person in control of private premises shall, if public receptacles are unavailable, maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or private premises.

27-5-7 LITTERING FROM VEHICLES.
 (A) No person, while the operator of or passenger in a vehicle, shall deposit litter upon any public place or private premises.
 (B) No person shall drive or move any loaded or partly loaded truck or other vehicle within the Village unless such vehicle is so constructed or so loaded as to prevent any part of its load, contents or litter from being blown or deposited upon any public place or private premises. Nor shall any person drive or move any vehicle or truck within the Village, the wheels or tires of which carry onto or deposit in any public place or private premises, mud, dirt, sticky substances, litter or foreign matter of any kind.

27-5-8 LITTERING FROM AIRCRAFT. No person in an aircraft shall throw out, drop or deposit any litter within the Village.

27-5-9 LITTER IN PARKS. No person shall deposit litter in any park within the Village except in receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any other public place or private premises. Where receptacles are not provided, all such litter shall be removed from the park by the person responsible for its presence and properly disposed of elsewhere in a lawful manner.

27-5-10 HANDBILLS.
 (A) **Public Places.** No person shall deposit or sell any handbill in or upon any public place, provided, however, that it shall not be unlawful on any public place for any person to hand out or distribute without charge to the receiver, any handbill to any person willing to accept it.
 (B) **Private Premises.** No person shall deposit or unlawfully distribute any handbill in or upon private premises or vehicles, except by handing or transmitting any such handbill directly to the occupant of such private premises. Provided, however, that in case of private premises or vehicles which are not posted against the receiving of handbills or similar material, such person, unless requested by anyone upon such premises not to do so, may securely place any such handbill in such a manner as to

prevent such handbill from being deposited by the elements upon any public place or other private premises, except mailboxes, may not be so used when prohibited by federal postal law or regulations.

(C) **Exemptions for Newspapers and Political Literature.** The provisions of this Section shall not apply to the distribution upon private premises only of newspapers or political literature; except that newspapers and political literature shall be placed in such a manner as to prevent their being carried or deposited by the elements upon any public place or other private premises.

(D) **Placing Handbills on Vehicles.** No person shall deposit any handbill in or upon any vehicle unless the occupant of the vehicle is willing to accept it.

(E) **Cleanup.** It shall be the responsibility of any person distributing handbills to maintain the area which they are utilizing free of any litter caused by or related to said handbill distribution.

27-5-11 POSTING NOTICES PROHIBITED. No person shall post or affix any notice, poster, or other paper or device, calculated to attract the attention of the public upon any public place, except as may be authorized or required by law. No person, except the owner or tenant shall post any such notice on private property without the permission of the owner or tenant.

27-5-12 CONSTRUCTION SITES.

(A) Each contractor shall be responsible for the job site so that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

(B) Litter or other debris, including dirt and mud, deposited as the result of normal construction process upon any public place or private premises, shall be removed by the contractor.

27-5-13 LOADING AND UNLOADING DOCKS. The person owning, operating, or in control of a loading or unloading dock shall maintain private receptacles for collection of litter, and shall, at all times, maintain the dock area free of litter in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

27-5-14 PARKING LOTS.

(A) **Litter Receptacles Required.** Any public place or private premises containing any provision for parking vehicles shall be equipped with litter receptacles in compliance with this Section. Such premises shall include, but not be limited to such places as shopping centers, outdoor theaters, drive-in restaurants, gasoline service stations, apartment developments, parking lots, and any other place where provision is made for vehicles to stop or park in a designated area for any purpose.

(B) **Number of Receptacles.** All premises having parking lots shall provide in an easily accessible location a minimum of **one (1) refuse container** for every **fifty (50) parking spaces**.

(C) **Specifications.** Litter receptacles shall have tight-fitting lids or tops and shall be weighted or attached to the ground or other fixed structures as necessary to prevent spillage. A minimum container size of **twenty (20) gallons** or **75.7 liters** shall be used.

(D) **Cleanliness.** Premises used for the purpose designated herein shall be kept in a litter-free condition and all litter shall be removed periodically from the receptacles.

(E) **Obligation to Use Receptacles.** It shall be the duty and obligation of all persons using parking areas to use such litter receptacles as hereinabove provided for the purposes intended and it shall be unlawful for any person or persons to deposit any litter upon any such parking lot.

(See 65 ILCS Sec. 5/11-1-1 and 415 ILCS Sec. 105/1 et seq.)

ARTICLE VI

PARENTAL RESPONSIBILITY REGULATIONS

27-6-1 **DEFINITIONS.** For the purpose of this Article, the following definitions shall apply:

"ACTS OF VANDALISM AND SIMILAR OFFENSES" shall include any of the following acts:

- (A) Maliciously, recklessly, negligently, or knowingly damaging or destroying or defacing any property within the Village, whether such property is owned by the State, County or governmental body or owned by any private person, firm, partnership, or association; or
- (B) maliciously, recklessly, or knowingly, by means of fire or explosive device, damaging, debasing, or destroying any property of another person; or
- (C) maliciously, recklessly, negligently or knowingly starting a fire on land of another person without his consent; or
- (D) maliciously, recklessly or knowingly depositing on land or in the building of another person, without his consent, any stink bomb or any offensive smelling compound and thereby interfering with the use and occupancy by another of the land or building; or
- (E) maliciously, recklessly, or knowingly, and without authority, entering into or obtaining control over any building, house trailer, motor vehicle, aircraft or watercraft or any part thereof of another person without his consent.

"LEGAL GUARDIAN" shall include a foster parent, a person appointed guardian of a person or given custody of a minor by a Circuit Court of this State, but does not include a person appointed guardian only to the estate of a minor, or appointed guardian, or given custody of a minor under the **Illinois Juvenile Court Act**.

"MINOR" shall include a person who is above the age of **seven (7) years**, but not yet **eighteen (18) years** of age.

"PARENT" shall include the lawful father and mother of a minor child whether by birth or adoption.

"PROPERTY" shall include any real estate including improvements thereon and tangible personal property.

27-6-2 **PARENTS AND GUARDIANS RESPONSIBLE FOR ACTS.** The parent or legal guardian of an unemancipated minor residing with such parent or legal guardian shall be presumed, in the absence of evidence to the contrary to have failed to exercise proper parental responsibility and said minor shall be deemed to have committed the acts described herein with the knowledge and permission of the parent or guardian in violation of this Article upon the occurrence of the events described in (A), (B) and (C) below:

- (A) An unemancipated minor residing with said parent or legal guardian shall either be adjudicated to be in violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of a violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property; and
- (B) Said parent or legal guardian shall have received a written notice thereof, either by certified mail, return receipt requested, or by personal service, with a certificate of personal service returned from the Village, following said adjudication or non-judicial sanctions; and
- (C) If, at any time within **one (1) year** following receipt of notice set forth in paragraph (B) above, said minor is either adjudicated to be in violation of any ordinance, law, or statute as described in (A) above, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law, or statute as described in (A) above.

(See 132.32)

(740 ILCS 115/1 et seq. and 740 ILCS 115/4)

(See also 740 ILCS 5/21-1.2 et seq.)

ARTICLE VII – TRUANCY AND CURFEW CODE

27-7-1 DEFINITIONS. As used in this Article unless the context requires otherwise the following words and phrases shall mean:

"VILLAGE CURFEW HOURS" means the period of time specified in **Section 27-2-28** of the Chapter.

"COURT" means the 20th Judicial Circuit; St. Clair County, Illinois.

"CUSTODIAN" means:

- (A) a person who under court order is the custodian of the person of a minor or
- (B) a public or private agency with which the court has placed a minor or
- (C) a person acting in the role of a parent by reason of a private agreement, arrangement, custom or habit.

"EMERGENCY" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, fire, natural disaster, automobile accident, medical emergency or any situation requiring immediate action to prevent serious bodily injury or loss of life.

"ESTABLISHMENT" means any privately owned place of business to which the public is invited, including but not limited to any place of amusement or entertainment.

"GUARDIAN" means:

- (A) parent or
- (B) a person who under court order is the guardian of the person of a minor; or
- (C) a public or private agency with which the court has placed a minor.

"MINOR" means a person under **eighteen (18) years** of age.

"PARENT" means a person who is a natural parent, adoptive parent, or step-parent of another person.

"PUBLIC PLACE" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, public ways, sidewalks and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

"RESPONSIBLE ADULT" means a person at least **eighteen (18) years** of age, authorized by a parent, guardian or custodian to have the care and custody of a minor.

"SERIOUS BODILY INJURY" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

"TRUANCY CURFEW HOURS" means the period of the day when the school the minor would normally attend is in session, on days when the school the minor would normally attend is in session.

"TRUANT OFFICER" means any officer, appointee, employee or other agency of any school district or any federal, state or local government, entity or any agency thereof performing the duties of a truant officer under the Illinois Compulsory Attendance Statute. **(105 ILCS 5/26-1 et seq.)**

"TRUANCY REVIEW BOARD" means any agency or entity established by any school district or any federal, state or local governmental entity or any counseling or social agency or any combination thereof recognized by the Village and/or the court as an agency which provides service to improve education performance and/or attendance.

27-7-2 **CURFEW RESTRICTIONS.**

(A) It is unlawful for any minor to be present in any public place or on the premises of any establishment within the Village during curfew hours.

(B) It is unlawful for any parent or guardian or custodian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the Village during curfew hours.

(C) It is a defense to prosecution under **Section 27-8-2(A) and (B)** or **Section 27-8-4** (hereinafter) that the minor was:

- (1) accompanied by the minor's parent, guardian, custodian or responsible adult;
- (2) on an errand at the direction of the minor's parent, guardian, custodian or responsible adult; without any detour or stop;
- (3) in a motor vehicle involved in interstate travel with the consent or authorization of a parent, guardian or custodian;
- (4) engaged in, going to or returning home from an employment activity without any detour or stop;
- (5) involved in an emergency;
- (6) on the sidewalk abutting the minor's residence;
- (7) engaged in, going to or returning home from official school, religious or other recreational activity supervised by adults, sponsored by a civic organization, or another similar entity that takes responsibility for the minor;
- (8) exercising First Amendment rights protected by the United States Constitution; or
- (9) emancipated pursuant to law.

27-7-3 **TRUANCY RESTRICTIONS.**

(A) It is unlawful for any minor who is subject to compulsory education or to compulsory continuation education by statute or court order to be present in any public place or on the premises of any establishment within the Village during truancy curfew hours.

(B) It is unlawful for any parent, custodian or guardian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the Village during truancy curfew hours.

(C) It is a defense to prosecution under this Section or **Section 27-8-4** that the minor was:

- (1) accompanied by a parent, guardian, custodian or responsible adult if engaged in an activity which would constitute an excused absence from the school from which the minor would normally attend;
- (2) involved in an emergency;
- (3) going to or returning from a medical appointment without any detour or stop;
- (4) engaged in, going to or returning home from an employment activity pursuant to a cooperative school vocation program without any detour or stop;
- (5) in possession of valid proof that the minor is a student who has permission to leave the school campus;
- (6) a bona fide participant in an alternative education or home schooling program;
- (7) engaged in or subject to an authorized or excused absence from the school which the minor attends, including but not limited to lunch periods.

27-7-4 ESTABLISHMENT RESTRICTIONS. It is unlawful for any owner, operator or any employee of an establishment to allow a minor to be present or to remain upon the premises of the establishment in violation of **Sections 27-7-2 or 27-7-3** above during curfew or truancy hours.

It is a defense to prosecution, under this subparagraph if the owner, operator or employee of the establishment immediately upon discovery of a minor reasonably believed to be in violation of **Sections 27-7-2 or 27-7-3** notified a law enforcement agency that a minor was present on the premises of the establishment during curfew or truancy hours and refused to leave the establishment after being advised to do so by the owner, operator or employee.

27-7-5 ENFORCEMENT RESTRICTIONS. Every member of the Police Department while on duty is hereby authorized as follows:

(A) For the first offense of any minor violating the provisions of this Code, to issue to the minor a citation, in writing, in the same form as described in paragraph (C) below. For a second offense, the law enforcement officer is authorized to temporarily detain any minor violating the provisions of this Code (regardless of whether a citation is immediately issued) until the parent, custodian or guardian of the minor shall take him or her into custody, but such officer shall immediately upon taking custody of the minor reasonably attempt to communicate with the parent, custodian or guardian of the minor unless subparagraph (E) herein is applicable. A parent, custodian or guardian must take custody of the minor within **one (1) hour** of the time of notice or be subject to a charge of **Twenty-Five Dollars (\$25.00)** per hour as hereinafter provided.

(B) Whenever a Police Officer or Truant Officer witnesses or has knowledge based on reasonable grounds of a violation of this Code by any person, such person may be issued a citation. A citation or complaint may be made to a Police Officer or Truant Officer by any person.

(C) A citation issued hereunder this shall be in writing and shall:

- (1) state the name of the person being cited and the person's address if known;
- (2) set forth the specific section of this Code that was violated, the date of the violation and a brief description of the violation;
- (3) be signed by the issuing Police Officer, Truant Officer or complaining party.

In each instance where a citation is issued to a minor for violation of this Code a minor's parent, custodian or guardian shall be provided a copy of the citation notifying the parent, custodian or guardian of the charge made against the minor.

(D) A minor cited for a citation under this Code must attend a court hearing or Truancy Review Board hearing on the citation and must be accompanied at the hearing by his or her parent, custodian, guardian or other adult person having the legal care and custody of the minor. If any such person fails to attend any court hearing with the minor, and unless the interest of justice would otherwise be served, the court may continue the hearing and shall issue a Notice or a Rule to Show Cause to the person directing that said person to appear at the continued hearing with the minor. Failure of the person to thereafter appear shall subject said person to sanctions for contempt of court as determined by the court.

(E) Every member of the Police Department while on duty is hereby authorized to temporarily detain any minor violating the provisions of **Section 27-7-3** of this Code, regardless of whether a citation is issued, and to deliver and surrender the minor to the lawful authorities of the school that the minor would normally attend.

27-7-6 PENALTY.

(A) Any person who violates any provision of this Article shall, upon conviction thereof, be fined as provided in **Section 1-1-20** of this Code. **(See also Section 1-1-20)**

(B) In lieu of or in addition to a fine, a minor may be ordered to attend counseling or to perform **ten (10) hours** of court approved community service during times other than the minor's

hours of school attendance and/or the minor's parent, custodian, guardian or other adult having legal care or custody of the minor may be ordered to attend a parenting class or series of parenting classes or other counseling approved by the court or recommended by the Truancy Review Board or to attend any program directly related to improving school attendance and/or performance.

(C) In addition to any penalty imposed pursuant to (A) or (B) above, the minor's parents, custodian, guardian or other adult having legal care or custody of the minor may be ordered to pay all amounts imposed as civil liability under **Section 27-7-7** hereinafter.

27-7-7 **CIVIL LIABILITY.** If a minor is detained for a period of time in excess of **one (1) hour** which requires the supervision of the minor by personnel of the Police Department, the parent, custodian, guardian or other adult having legal care or custody of the minor shall be jointly and severally liable for the costs therefore. The parent, custodian, guardian or other adult having legal care or custody of the minor who has committed any offense of this Code shall be assessed and billed for the costs; the costs shall be recoverable in any action enforcing any provision of this Code or in a separate civil action. In addition, the failure to pay the costs shall constitute a violation of this Code and subject the violator to the penalties described within **Section 27-8-6** above. In the event any action is filed, the liable party shall be responsible for all court costs and any reasonable attorney's fees incurred by the Village in collecting.

ARTICLE VIII - OPEN BURNING

27-8-1 **DEFINITIONS.** For the purpose of this Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"AGRICULTURAL WASTE" means any refuse, except garbage and dead animals, "generated on a farm or ranch by crop and livestock production practices, including such items as bags, cartons, dry bedding, structural materials, and crop residues, but excluding landscape waste.

"CONSTRUCTION WASTE" means any building materials, boards, lumber, plywood, particle board, hard board, insulation, or other related building material.

"GARBAGE" means refuse resulting from the handling, processing, preparation, cooking, and consumption of food or food products.

"LANDSCAPE WASTE" means any vegetable or plant refuse, except garbage and agricultural waste. The term includes trees, tree trimmings, tree logs, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

"OPEN BURNING" means the combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating in or passing through equipment for which a permit could be issued under Section 9(b) of the Environmental Protection Act of the State of Illinois.

(Ord. No. 924; 09-21-98)

27-8-2 **PROHIBITIONS.** No person shall cause or allow open burning of agricultural waste, garbage, construction waste as defined herein, or any other material, the open burning of which is prohibited by the Environmental Protection Act of the State of Illinois; and, landscape waste and bonfires shall not be allowed to be openly burned except as hereinafter provided.

27-8-3 **RESTRICTIONS ON BURNING LANDSCAPE WASTE.** The open burning of leaves shall be prohibited in all zone districts within the Village except for the "A" Agricultural zone.

The open burning of landscape waste, including leaves, shall be permitted in the "A" Agricultural district, and the open burning of landscape waste, except for leaves shall be permitted in all other zone districts only on the following conditions:

(A) Landscape waste shall be burned only on the premises on which such waste is generated;

(B) Landscape waste shall be burned only when atmospheric conditions shall readily dissipate contaminants;

(C) Landscape waste may be burned only if such burning does not create a visibility hazard on roadways, walkways, or railroad tracks;

(D) Open burning of landscape waste may only take place during daylight hours with a person over **eighteen (18) years** of age in attendance during the entire period of burning;

(E) No open burning of landscape waste shall be permitted on Village streets;

(F) No open burning may occur during periods of time when determined by the Chief of the Fire Protection District in which that part of the Village is located, or the Chief of the Police Department that atmospheric conditions or local circumstances make such fires hazardous.

(Ord. No. 1231; 11-06-06)

27-8-4 **RECREATIONAL FIRES AND BONFIRES.** Recreational fires are those that are typically found at single family homes; essentially a campfire generally attended by a small number of people vs. the bonfire scenario that would typically be held at a school, church or commercial site where there could be **fifty (50) people** or more. Bonfires at multi-family, commercial, assembly; or institutional buildings are required to obtain a permit from the Village. Permits for bonfires shall be required. Bonfire permits may be obtained from the Office of Administration and must be authorized by the Chief of Police. Recreational fires do not require a permit.

(A)

Requirements.

- (1) Open burning fires that will be offensive or objectionable because of smoke or odor emissions, or when atmospheric conditions or local circumstances make such fires hazardous, shall be prohibited. The Fire and Police Departments are authorized to order the extinguishment of any objectionable or hazardous fire.
- (2) Materials burned in recreational fires or bonfires shall consist only of the following: tree logs, tree branches, and tree stumps. Materials not permitted shall consist of but not be limited to, the following: vegetable or plant refuse, garbage and agricultural waste, construction waste, brush, weeds, leaves, grass, shrubbery, yard waste, or other tree trimmings.
- (3) The location for open burning fires shall not be less than **fifty (50) feet** from any structure, and provisions shall be made to prevent the fire from spreading to within **fifty (50) feet** of any structure. Exception: Fires in approved containers that are not less than **fifteen (15) feet** from a structure.
- (4) The wood pile size shall be **three (3) feet** in diameter or less, and **two (2) feet** or less in height.
- (5) Open burning fires, recreational or bonfires shall be constantly attended by a competent person **eighteen (18) years** of age or older until the fire is extinguished. On site extinguishing equipment shall always be available for immediate use.
- (6) Manufactured fireplaces are allowed provided they meet the required size limits of **three (3) feet** in diameter or square and **two (2) feet** in height. Fireplaces must be screened and have a lid to prevent flying embers. Home built stationary fireplaces will require a building permit.
- (7) Open burning fires, recreational or bonfires shall not be permitted between the hours of **12:00 a.m.** and **6:00 a.m.** (**Ord. No. 1349; 04-19-10**)

(Ord. No. 1345; 01-19-10)**(415 ILCS 5/1 et seq.)**

ARTICLE IX - WEAPONS; EXPLOSIVES

DIVISION I - WEAPONS

27-9-1 **CONCEALED WEAPONS.** No person shall, within the Village, carry or wear under his or her clothes or concealed about his or her person any pistol or colt, sling-shot, cross knuckles, knuckles of lead, brass, or other metal, or any switch blade, knife, razor, bowie knife or dirk knife, dirk, dagger, or any other dangerous or deadly weapon. This Section does not apply to the officers or members of the Police Department, nor to any sheriff or deputy sheriff or constable of this State, nor to any United States Marshal. However, a person may carry a concealed weapon if a person has a state license and is in compliance with state law. **(See 137.01)**

27-9-2 **DISCHARGING FIREARMS IN VILLAGE; EXCEPTION.**

(A) **Weapons Prohibited.** It shall be unlawful to fire or discharge any firearm, air gun, bow and arrow, crossbow or other dangerous weapon within the Village limits so that the bullet, bb, pellet, arrow or other projectile enters the Village limits without the prior written permission of the Village President or his designated representative. The permit shall prescribe the limits within which such firing may be made and may be revoked at any time.

(B) **Exception.** The firing or discharging of a weapon is permissible upon property zoned agricultural provided the person or persons discharging the weapon has first obtained the permission of the landowner. All discharge of weapons must comply with state and federal regulations.

(C) **Permits.** Permits may be issued on an annual basis or at such other interval as directed by the Village President or his designated representative and entered on the permit. The permit shall prescribe the limits within which such firing may be done pursuant to an inspection of the firing area and the target being used, following written guidelines as approved and amended from time to time by the Village Board. The permit holder shall keep the permit in his/her possession and produce it upon request of any village official. The permit may be revoked at any time. This Section shall not apply to instructional assess conducted and supervised by the municipality, park district, school district or other governmental entity.

(D) **Law Enforcement Exception.** This Section shall not apply to any duly commissioned officer of the law discharging any weapon in the performance of his duty.

(Ord. No. 981; 02-19-01) (See 137.02)

27-9-3 **UNLAWFUL USE OF WEAPONS.**

(A) A person commits the offense of unlawful use of weapons when he or she knowingly:

- (1) Sells, manufactures, purchases, possesses, or carries any bludgeon, black-jack, sling-shot, sand-club, sand-bag, metal knuckles, or any knife, commonly referred to as a switchblade knife, which has a blade that opens automatically by hand pressure applied to a button, spring, or other device in the handle of the knife;
- (2) Carries or possesses with intent to use the same unlawfully against another a dagger, billy, dangerous knife, dirk, razor, stiletto, broken bottle or other piece of glass, or any other dangerous or deadly weapon or instrument of like character;
- (3) Carries on or about his or her person or in any vehicle a tear gas gun projector or bomb or any object containing noxious liquid gas or substance;
- (4) Carries concealed in any vehicle or concealed on or about his or her person, except when his or her land or in his or her own abode or fixed placed of business, any pistol, revolver, or other firearm;

- (5) Sets a spring gun;
- (6) Possesses any device or attachment of any kind designed, used, or intended for use in silencing the report of any firearm;
- (7) Carries or possesses any firearm or other deadly weapon in any place which is licensed to sell intoxicating beverages or at any public gathering held pursuant to a license issued by any governmental body or any public gathering at which an admission is charged, excluding a place where exhibition of unloaded firearms is conducted; or
- (8) Carries or possesses in a vehicle or on or about his or her person within the corporate limits of a city, village, or incorporated town, except when on his or her land or in his or her own abode or fixed place of business any loaded pistol, revolver, or other firearm.

(B) The presence in an automobile other than a public omnibus of any weapon, instrument, or substance referred to in this Chapter is prima facie evidence that it is in the possession of and is being carried by all persons occupying such automobile at the time such weapon, instrument, or substance is found, except under the following circumstances:

- (1) If such weapon, instrument, or instrumentality is found upon the person of one of the occupants therein; or
- (2) If such weapon, instrument, or substance is found in an automobile operated for hire by a duly licensed driver in the due, lawful, and proper pursuit of his or her trade, then such presumption shall not apply to the driver.

(See 137.03)

27-9-4 - 27-9-5 RESERVED.

DIVISION II - EXPLOSIVES

27-9-6 BLASTING IN VILLAGE. No person shall, by him or herself or his or her agent or employees, fire off any blast, unless the blast is properly guarded so as to prevent accident to person or property or open any stone quarry within the Village, without permission of the Village Board. **(See 137.20)**

27-9-7 STORAGE OF EXPLOSIVES.

(A) **Nitroglycerine; Dynamite, and the Like.** No person shall have, keep, possess, or store, at or in any place within the Village, any nitroglycerine, dynamite, or giant powder, or any form or combination of any of them.

(B) **Blasting Powder and the Like.** No person shall keep, possess, or store any gun or blasting powder, or any gun or explosive cotton, at or in any one place in the Village in any quantity exceeding **five (5) pounds**, except a dealer thereof, or quarryman of rock or miner who may keep **twenty-five (25) pounds** at any one time.

(See 137.21) (65 ILCS 5/11-8-4)

27-9-8 - 27-9-10 RESERVED.

DIVISION III - FIREWORKS

27-9-11 FINDINGS. The Village has found that the widespread and uncontrolled sale and use of fireworks causes substantial harm to persons and property. Such harm poses a serious threat to the health, safety, and general welfare of the community. **(See 137.35)**

27-9-12 PURPOSE. The purpose of this subchapter is to eliminate the harm to health and property within the Village and is designed to safeguard the health, safety, and welfare of the citizens and protect property. **(See 137.36)**

27-9-13 SCOPE OF AUTHORITY. Unless exempted by provisions contained herein, the provisions of this Division shall apply to all persons within the Village. **(See 137.37)**

27-9-14 DEFINITIONS. As used in this Division, the following terms shall have the following meanings:

"1.3G Fireworks" means those fireworks used for professional outdoor displays and classified as fireworks UN0333, UN0334, or UN0335 by the United States Department of Transportation under 49 C.F.R. 172.101.

"Consumer Distributor" means any person who distributes, offers for sale, sells, or exchanges for consideration consumer fireworks in Illinois to another distributor or directly to any retailer or person for resale.

"Consumer Fireworks" means those fireworks that must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Products Safety Commission, as set forth in 16 C.F.R. Parts 1500 and 1507, and classified as fireworks UN0336 or UN0337 by the United States Department of Transportation under 49 C.F.R. 172.101. "Consumer fireworks" shall not include snake or glow worm pellets; smoke devices; trick noisemakers known as "party poppers", "booby traps", "snappers", "trick matches", "cigarette loads", and "auto burglar alarms"; sparklers; toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing **twenty-five hundredths (0.25) grains** or less of explosive compound are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for the explosion; and toy pistol paper or plastic caps that contain less than **twenty-five hundredths (0.25) grains** of explosive mixture; the sale and use of which shall be permitted at all times.

"Consumer Fireworks Display" or "consumer display" means the detonation, ignition, or deflagration of consumer fireworks to produce a visual or audible effect.

"Display Fireworks" means 1.3G or special effects fireworks or as further defined in the Pyrotechnic Operator Licensing Act.

"Flame Effect" means the detonation, ignition, or deflagration of flammable gases, liquids, or special materials to produce a thermal, physical, visual, or audible effect before the public, invitees, or licensees, regardless of whether admission is charged, in accordance with National Fire Protection Association 160 guidelines, and as may be further defined in the Pyrotechnic Operator Licensing Act.

"Lead Pyrotechnic Operator" means an individual who is responsible for the safety, setup, and discharge of the pyrotechnic display and who is licensed pursuant to the Pyrotechnic Operator Licensing Act.

"Person" means an individual, firm, corporation, association, partnership, company, consortium, joint venture, or commercial entity.

"Pyrotechnic Display" means the detonation, ignition, or deflagration of display fireworks or flame effects to produce visual or audible effects of an exhibitional nature before the public, invitees, or licensees, regardless of whether admission is charged, and as may be further defined in the Pyrotechnic Operator Licensing Act.

"Special Effects Fireworks" means pyrotechnic devices used for special effects by professional in the performing arts in conjunction with theatrical, musical, or other productions that are similar to consumer fireworks in chemical compositions and construction, but are not intended for consumer use and are not labeled as such or identified as "intended for indoor use". "Special effects fireworks" are classified as fireworks UN0431 or UN0432 by the United States Department of Transportation under 49 C.F.R. 172.101. (Source: P.A. 94-658, eff. 1-1-06.)

(See 137.38)

27-9-15 PROHIBITIONS; UNLAWFUL ACTS.

(A) **Possession, Sale, and Use of Fireworks.** Except as hereinafter provided it shall be unlawful for any person, firm, co-partnership, or corporation to knowingly possess, offer for sale, expose for sale, sell at retail, or use or explode any display fireworks, flame effects, or consumer fireworks within the Village. **(See 137.39)**

27-9-16 EXCEPTIONS. The following exceptions shall apply:

(A) **Pyrotechnic Displays.** Pyrotechnic display permits may be granted hereunder to any club, church group, or similar non-profit organization applying therefor. Each pyrotechnic display shall be conducted by a licensed lead pyrotechnic operator.

No permit shall be required for supervised public displays by State or County fair associations.

Applications for a pyrotechnic display permit shall be made to the Village Clerk in writing at least **fifteen (15) days** in advance of the date of the pyrotechnic display.

The Village Clerk shall immediately forward a copy of the application to the Fire Chief of the jurisdiction in which the display will occur.

After a permit has been granted, sales, possession, use, and distribution of display fireworks for the display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

The applicant seeking the pyrotechnic display permit must provide proof of liability insurance in a sum not less than **One Million Dollars (\$1,000,000.00)** to the Village Clerk.

A permit shall be issued only after the Chief of the Fire Department providing fire protection coverage to the area of display, or his or her designee, has inspected the site and determined that the display can be performed in full compliance with the rules adopted by the State Fire Marshal and that the display shall not be hazardous to property or endanger any person or persons. Permits shall be signed by the Chief of the Fire Department providing fire protection to the area of display, or his or her designee, and must identify the lead pyrotechnic operator.

(See 137.40)

(Ord. No. 1256; 08-06-07)

ARTICLE X - BODILY HARM

27-10-1 ASSAULT. A person commits an assault when, without lawful authority, he or she engages in conduct which places another in reasonable apprehension of receiving a battery. It shall be unlawful to commit an assault. **(720 ILCS 5/12-1) (See 132.45)**

27-10-2 AGGRAVATED ASSAULT. A person commits an aggravated assault, when, in committing an assault, he:

(A) Uses a deadly weapon or any device manufactured and designed to be substantially similar in appearance to a firearm, other than by discharging a firearm in the direction of another person, a peace officer, a person summoned or directed by a peace officer, a correctional officer or a fireman or in the direction of a vehicle occupied by another person, a peace officer, a person summoned or directed by a peace officer, a correctional officer or a fireman while the officer or fireman is engaged in the execution of any of his official duties, or to prevent the officer or fireman from performing his official duties, or in retaliation for the officer or fireman performing his official duties;

(B) Is hooded, robed or masked in such manner as to conceal his identity or any device manufactured and designed to be substantially similar in appearance to a firearm;

(C) Knows the individual assaulted to be a teacher or other person employed in any school and such teacher or other employee is upon the grounds of a school or grounds adjacent thereto, or is in any part of a building used for school purposes;

(D) Knows the individual assaulted to be a supervisor, director, instructor or other person employed in any park district and such supervisor, director, instructor or other employee is upon the grounds of the park or grounds adjacent thereto, or is in any part of a building used for park purposes;

(E) Knows the individual assaulted to be a caseworker, investigator, or other person employed by the State Department of Public Aid, a County Department of Public Aid, or the Department of Human Services (acting as successor to the Illinois Department of Public Aid under the Department of Human Services Act) and such caseworker, investigator, or other person is upon the grounds of a public aid office or grounds adjacent thereto, or is in any part of a building used for public aid purposes, or upon the grounds of a home of a public aid applicant, recipient or any other person being interviewed or investigated in the employees' discharge of his duties, or on grounds adjacent thereto, or is in any part of a building in which the applicant, recipient, or other such person resides or is located;

(F) Knows the individual assaulted to be a peace officer, or a community policing volunteer, or a fireman while the officer or fireman is engaged in the execution of any of his official duties, or to prevent the officer, community policing volunteer, or fireman from performing his official duties, or in retaliation for the officer, community policing volunteer, or fireman performing his official duties, and the assault is committed other than by the discharge of a firearm in the direction of the officer or fireman or in the direction of a vehicle occupied by the officer or fireman;

(G) Knows the individual assaulted to be an emergency medical technician – ambulance, emergency medical technician – intermediate, emergency medical technician – paramedic, ambulance driver or other medical assistance or first aid personnel employed by a municipality or other governmental unit engaged in the execution of any of his official duties, or to prevent the emergency medical technician – ambulance, emergency medical technician – intermediate, emergency medical technician – paramedic, ambulance driver, or other medical assistance or first aid personnel from performing his official duties, or in retaliation for the emergency medical technician – ambulance, emergency medical technician – intermediate, emergency medical technician – paramedic, ambulance driver, or other medical assistance or first aid personnel performing his official duties;

(H) Knows the individual assaulted to be the driver, operator, employee or passenger of any transportation facility or system engaged in the business of transportation of the public for hire and the individual assaulted is then performing in such capacity or then using such public transportation as a passenger or using any area of any description designated by the transportation facility or system as a vehicle boarding, departure, or transfer location;

- (I) Or the individual assaulted is on or about a public way, public property, or public place of accommodation or amusement;
 - (J) Knows the individual assaulted to be an employee of the state, a municipal corporation therein or a political subdivision thereof, engaged in the performance of his authorized duties as such employee;
 - (K) Knowingly and without legal justification, commits an assault on a physically handicapped person;
 - (L) Knowingly and without legal justification, commits an assault on a person **sixty (60) years** of age or older.
- (720 ILCS 5/12-2(A)(1) through (12) (See 132.46)**

27-10-3 BATTERY.

- (A) A person commits battery if he or she intentionally or knowingly, without legal justifications and by any means:
 - (1) Causes bodily harm to an individual, or
 - (2) Makes physical contact of an insulting or provoking nature with an individual.
 - (B) It shall be unlawful to commit a battery.
- (720 ILCS 5/12-3) (See 132.47)**

27-10-4 CRIMINAL HOUSING MANAGEMENT. A person commits the offense of criminal housing management when, having personal management or control of residential real estate, whether as a legal or equitable owner of residential real estate or as a managing agent or otherwise, he or she knowingly permits by his or her gross carelessness or neglect, the physical condition or facilities of the residential real estate to become or remain so deteriorated that the health or safety of any inhabitant is endangered. **(See 132.48)**

27-10-5 TATTOOING BODY OF MINOR.

- (A) Any person, other than a person licensed to practice medicine in all its branches, who tattoos or offers to tattoo a person under the age of **twenty-one (21)**, is guilty of an offense.
 - (B) As used in this section, to "tattoo" means to insert pigment under the surface of the skin of a human being, by pricking with a needles or otherwise, so as to produce an indelible mark or figure visible through the skin.
- (720 ILCS 5/12-10) (See 132.49)**

ARTICLE XI – ADULT USES REGULATED

27-11-1 PURPOSE AND ADDITIONAL FINDINGS.

(A) **Purpose.** It is the purpose of this Article to regulate public nudity in order to promote the health, safety, morals, and general welfare of the citizens of the Village. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials.

(B) **Findings.** The Village Board finds:

- (1) Public places allowing nudity lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled.
- (2) Sexual acts, including masturbation, and oral and anal sex, occur at adult oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, live sex shows or public nudity.
- (3) Allowing public nudity creates unhealthy conditions.
- (4) Persons frequent certain adult theaters, adult arcades, and other adult oriented businesses for the purpose of engaging in sex within the premises of such adult oriented businesses.
- (5) At least **fifty (50)** communicable diseases may be spread by activities occurring in adult oriented businesses involving public nudity, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.
- (6) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States.
- (7) The Surgeon General of the United States in his report of **October 22, 1986**, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.
- (8) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- (9) Sanitary conditions in some adult oriented businesses and those places allowing public nudity are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities, including nudity, and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- (10) Numerous studies and reports have determined that semen is found in the areas of adult oriented businesses allowing public nudity and where persons view "adult" oriented films.
- (11) The findings noted in paragraphs (1) through (10) raise substantial governmental concerns.
- (12) Public places allowing nudity have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
- (13) The general welfare, health, morals and safety of the citizens of the Village will be promoted by the enactment of this Article.

27-11-2 **DEFINITIONS.** As used in this Article:

- (A) **"Adult Oriented Business"** means an establishment as defined in the Village Code.
- (B) **"Entity"** means any proprietorship, partnership, corporation, association, business trust, joint venture, joint-stock company, or other for profit or not for profit organization.
- (C) **"Nude"** means the showing of:
- (1) Human male or female genitals or pubic area with less than a fully opaque covering; or
 - (2) Any portion of the anal cleft or cleavage of the male or female buttocks. Attire that is insufficient to comply with this requirement includes, but is not limited to, G-strings, T-backs, thongs, and any other clothing to covering that does not completely and opaquely cover the anal cleft or cleavage of the male or female buttocks; or
 - (3) The portion of the human female breast directly or laterally below a point immediately above the top of the areola with less than a fully opaque covering; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided the areola is not exposed.
- (D) **"Person"** means any live human being aged **ten (10) years** of age or older.
- (E) **"Place Provided or Set Apart for Nudity"** means enclosed single sex public restrooms, enclosed single sex functional shower, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being nude is used for his or her profit or where being nude is used for the promotion of business or is otherwise commercially exploited.
- (F) **"Public Place"** means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public Places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit, whether open to the public at large, or whether entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, night clubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal or similar organizations. Premises, or portions thereof, such as homes and hotel rooms, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.

27-11-3 **PROHIBITION.** It shall be unlawful for any person to knowingly or intentionally appear nude in a public place or in any other place that is readily visible to the public, except a place provided or set apart for nudity. It shall also be unlawful for any person or entity maintaining, owning, or operating any public place to operate and to knowingly, or with reason to know, permit or allow any person to appear nude in such public place, except a place provided or set apart for nudity.

27-11-4 **LIMITATION.** This Article shall not be deemed to address photographs, movies, video presentations, or any other non-live performance.

27-11-5 **ADULT ENTERTAINMENT FACILITY.** It shall be unlawful within a municipality to locate an adult entertainment facility within **one thousand (1,000) feet** of the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing, and place of religious worship.

For the purposes of this Section, "adult entertainment facility" means:

- (A) a striptease club or pornographic movie theatre whose business is the commercial sale, dissemination, or distribution of sexually explicit material, shows, or other exhibitions or
- (B) an adult bookstore or adult video store in which **twenty-five percent (25%)** or more of its stock-in-trade, books, magazines, and films for sale, exhibition, or viewing on-premises are sexually explicit material. **(See 65 ILCS 5/11-5-1.5)**

ARTICLE XII - OFFENSES AGAINST PUBLIC MORALS

27-12-1 PUBLIC INDECENCY.

(A) Any person of the age of **seventeen (17) years** and upwards who performs any of the following acts in a public place commits a public indecency:

- (1) An act of sexual penetration or sexual conduct as defined in **720 ILCS 5/12-12**; or
- (2) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of the person. Breast-feeding of infants is not an act of public indecency.

(B) "Public place" for purposes of this section means any place where the conduct may reasonably be expected to be viewed by others.

(C) **Sentence.** Public indecency is a Class A misdemeanor. A person convicted of a third or subsequent violation for public indecency is guilty of a Class 4 felony.
(720 ILCS 5/11-9) (See 133.01)

27-12-2 POSSESSION, PRESENTATION, AND DISTRIBUTION OF OBSCENE MATERIAL.

(A) **Elements of the Offense.** A person commits obscenity when, with knowledge of the nature or content thereof, or recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof, he:

- (1) Sells, delivers or provides, or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene;
- (2) Presents or directs an obscene play, dance or other performance or participates directly in that portion thereof which makes it obscene;
- (3) Publishes, exhibits or otherwise makes available anything obscene;
- (4) Performs an obscene act or otherwise presents an obscene exhibition of his body for gain;
- (5) Creates, buys, procures or possesses obscene matter or material with intent to disseminate it in violation of this Section, or of the penal laws or regulations of any other jurisdiction; or
- (6) Advertises or otherwise promotes the sale of material represented or held out by him to be obscene, whether or not it is obscene.

(B) **Obscene Defined.** Any material or performance is obscene if:

- (1) The average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest;
- (2) The average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and
- (3) Taken as a whole, it lacks serious literary, artistic, political or scientific value.

(C) **Interpretation of Evidence.** Obscenity shall be judged with reference to ordinary adults, except that it shall be judged with reference to children or other specially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be specially designed for or directed to such an audience. Where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter is lacking in serious literary, artistic, political or scientific value. In any prosecution for an offense under this Section evidence shall be admissible to show:

- (1) The character of the audience for which the material was designed or to which it was directed;
- (2) What the predominant appeal of the material would be for ordinary adults or a special audience, and what effect, if any, it would probably have on the behavior of such people;
- (3) The artistic, literary, scientific, educational or other merits of the material, or absence thereof;
- (4) The degree, if any, of public acceptance of the material in this State;
- (5) Appeal to prurient interest, or absence thereof, in advertising or other promotion of the material;
- (6) Purpose of the author, creator, publisher or disseminator.

(D) **Sentence.** Obscenity is a Class A misdemeanor. A second or subsequent offense is a Class 4 felony.

(E) **Prima Facie Evidence.** The creation, purchase, procurement or possession of a mold, engraved plate or other embodiment of obscenity specially adapted for reproducing multiple copies, or the possession of more than **three (3) copies** of obscene material shall be prima facie evidence of an intent to disseminate.

(F) **Affirmative Action.** It shall be an affirmative defense to obscenity that the dissemination:

- (1) Was not for gain and was made to personal associates other than children under **eighteen (18) years** of age; or
- (2) Was to institutions or individuals having scientific or other special justification for possession of such material.

(G) **Forfeiture of Property.**

(1) **Legislative Declaration.** Obscenity is a far-reaching and extremely profitable crime. This crime persists despite the threat of prosecution and successful prosecution because existing sanctions do not effectively reach the money and other assets generated by it. It is therefore necessary to supplement existing sanctions by mandating forfeiture of money and other assets generated by this crime. Forfeiture diminishes the financial incentives which encourage and sustain obscenity and secures for the state, local government and prosecutors a resource for prosecuting these crimes.

(2) **Definitions.** For the purpose of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Person. An individual, partnership, private corporation, public, municipal, governmental or quasi-municipal corporation, unincorporated association, trustee or receiver.

Property. Real estate, including things growing on, affixed to and found in land, and any kind of interest therein; and tangible and intangible personal property, including rights, privileges, interests, claims and securities.

(3) **Forfeiture of Property.** Any person who has been convicted previously of the offense of obscenity and who shall be convicted of a second or subsequent offense of obscenity shall forfeit to the state:

- (a) Any property constituting or derived from any proceeds such person obtained, directly or indirectly, as a result of such offense; and
- (b) Any of the person's property used in any manner, wholly or in part, to commit such offense.

(4) **Forfeiture Hearing.** At any time following a second or subsequent conviction for obscenity, the court shall, upon petition by the Attorney General or the State's Attorney, conduct a hearing to determine whether

there is any property that is subject to forfeiture as provided hereunder. At the forfeiture hearing the people shall have the burden of establishing by preponderance of the evidence that such property is subject to forfeiture.

- (5) **Prior Restraint.** Nothing in this subsection shall be construed as authorizing the prior restraint of any showing, performance or exhibition of allegedly obscene films, plays or other presentations or of any sale or distribution of allegedly obscene materials.
- (6) **Seizure, Sale and Distribution of the Property.**
- (a) Upon a determination under division (G)(4) that there is property subject to forfeiture, the court shall authorize the Attorney General or the State's Attorney, except as provided in this Section, to seize all property declared forfeited upon terms and conditions as the court shall deem proper.
- (b) The Attorney General or State's Attorney is authorized to sell all property forfeited and seized pursuant to this Chapter, and, after the deduction of all requisite expenses of administration and sale, shall distribute the proceeds of such sale, along with any moneys forfeited or seized, in accordance with division (G)(6)(c). If the Attorney General or State's Attorney believes any such property describes, depicts or portrays any of the acts or activities described in division (G)(6)(c)2., he shall apply to the court for an order to destroy such property, and if the court determines the property describes, depicts or portrays such acts it shall order the Attorney General or State's Attorney to destroy such property.
- (c) All monies and the sale proceeds of all other property forfeited and seized pursuant hereto shall be distributed as follows:
1. **Fifty percent (50%)** shall be distributed to the unit of local government whose officers or employees conducted the investigation into and caused the arrest or arrests and prosecution leading to the forfeiture, or, if the investigations, arrest or arrests and prosecution leading to the forfeiture were undertaken by the Sheriff, this portion shall be distributed to the County for deposit in a special fund in the County Treasury appropriated to the Sheriff. Amounts distributed to the County for the Sheriff or to the units of local government hereunder shall be used for enforcement of laws or ordinances governing obscenity and child pornography. In the event, however, that the investigation, arrest or arrests and prosecution leading to the forfeiture were undertaken solely by a state agency, the portion provided hereunder shall be paid into the State Treasury to be used for enforcement of laws governing obscenity and child pornography.
 2. **Twenty-five percent (25%)** shall be distributed to the County in which the prosecution resulting in the forfeiture was instituted, deposited in a special fund in the County Treasury and appropriated to the State's Attorney for the use in the enforcement of laws governing obscenity and child pornography.

3. **Twenty-five percent (25%)** shall be distributed to the Office of the State's Attorney Appellate Prosecutor and deposited in the Obscenity Profits Forfeiture Fund, which is hereby created in the State Treasury, to be used by the Office of the State's Attorneys Appellate Prosecutor for additional expenses incurred in prosecuting appeals arising under ILCS Ch. 720, Act 5, §§ 11-20 and 11-20.1. Any amounts remaining in the Fund after all additional expenses have been paid shall be used by the office to reduce the participating County distributions to the office on a pro-rated basis as determined by the board of governors of the Office of the State's Attorneys Appellate Prosecutor based on the populations of the participating counties.

- (7) **Construction.** It shall be the intent of the General Assembly that this division be liberally construed so as to effect its purposes. The forfeiture of property and other remedies hereunder shall be considered to be in addition, and not exclusive of any sentence or other remedy provided by law. Division (G) shall not apply to any property of a public library or any property of a library operated by an institution accredited by a generally recognized accrediting agency.

(720 ILCS 5/11-20) (See 133.02)

27-12-3 HARMFUL MATERIAL.

(A) **Elements of the Offense.** A person who, with knowledge that a person is a child; that is, a person under **eighteen (18) years** of age, or who fails to exercise reasonable care in ascertaining the true age of a child, knowingly distributes to, or sends or causes to be sent to, or exhibits to or offers to distribute or exhibit any harmful material to a child is guilty of a violation of this Code.

(B) **Definitions.**

- (1) Material is harmful if, to the average person applying contemporary standards, its predominant appeal, taken as a whole, is to prurient interest; that is, shameful or morbid interest in nudity, sex, or excretion which goes substantially beyond customary limits of candor in description or representation of such matters and is material, the redeeming social importance of which is substantially less than its prurient appeal.
- (2) **"Material"** as used in this Code means any writing picture, record or other representation or embodiment.
- (3) **"Distribute"** means to transfer possession of material whether with or without consideration.
- (4) **"Knowingly"** as used in this Section means having knowledge of the contents of the subject matter or recklessly failing to exercise reasonable inspection which would have disclosed the contents thereof.

(C) **Interpretation of Evidence.** The predominant appeal to prurient interest of the material shall be judged with reference to average children of the same general age of the child to whom such material was offered, distributed, sent or exhibited unless it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it is designed for specially susceptible groups, in which case, the predominant appeal of the material shall be judged with reference to its intended or probable recipient group.

In prosecutions under this Section where circumstances of production, presentation, sale, dissemination, distribution, or publicity, indicate the material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the material and can justify the conclusion that the redeeming social importance of the material is, in fact, substantially less than its prurient appeal.

(D)

Affirmative Defenses.

- (1) Nothing in this Section shall prohibit any public library or any library operated by an accredited institution of higher education from circulating harmful material to any person under **eighteen (18) years** of age, provided such circulation is in aid of a legitimate scientific or educational purpose, and it shall be an affirmative defense in any prosecution for a violation of this Section that the act charged was committed in aid of legitimate scientific or educational purposes.
- (2) Nothing in this Section shall prohibit any parent from distributing to his child any harmful material.
- (3) Proof that the defendant demanded, was shown and acted in reliance upon any of the following documents as proof of the age of a child shall be a defense to any criminal prosecution under this Section:
 - (a) A document issued by the federal government or any state, county or municipal government, or subdivision or agency thereof, including, but not limited to a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act or an identification card issued to a member of the armed forces.
- (4) In the event an advertisement of harmful material as defined in this Section culminates in the sale or distribution of such harmful material to a child, under circumstances where there was no personal confrontation of the child by the defendant, his employees or agents as where the order or request for such harmful material was transmitted by mail, telephone, or similar means of communication and delivery of such harmful material to the child was by mail, freight, or similar means of transport, it shall be a defense in any prosecution for a violation of this Section that the advertisement contained the following statement or a statement substantially similar thereto, and that the defendant required the purchaser to certify that he was not under the age of **eighteen (18) years** and that the purchaser falsely stated that he was not under the age of **eighteen (18) years**:

"NOTICE: It is unlawful for any person under eighteen (18) years of age to purchase the matter herein advertised. Any person under eighteen (18) years of age who falsely states that he is not under eighteen (18) years of age for the purpose of obtaining the material advertised herein is guilty of a misdemeanor."

(E)

Child Falsifying Age. Any person under **eighteen (18) years** of age who falsely states, either orally or in writing that he is not under the age of **eighteen (18) years**, or who presents or offers to any person any evidence of age and identity which is false or not actually his own for the purpose of ordering, obtaining, viewing or otherwise procuring or attempting to procure or view any harmful material is guilty of a misdemeanor. **(See 65 ILCS Sec. 5/11-5-1) (See 133.03)**

27-12-4 TIE-IN SALES OF OBSCENE PUBLICATIONS TO DISTRIBUTORS. Any person, firm or corporation, or any agent, officer or employee thereof engaged in the business of distributing books, magazines, periodicals, comic books or other publications to retail dealers who shall refuse to furnish to any retail dealer such quantity of books, magazines, periodicals, comic books or other publications as such retail dealer normally sells because the retail dealer refuses to sell, or offer for sale, any books, magazines, periodicals, comic books or other publications which are obscene, lewd, lascivious, filthy or indecent is guilty of an offense. Each publication sold or delivered in violation of this Section shall constitute a separate offense. **(See 720 ILCS Sec. 5/11-22) (See 133.04)**

ARTICLE XIII - GAMBLING OFFENSES

27-13-1 **DEFINITIONS.** For the purposes of this Article the following words and phrases shall have the following meanings ascribed to them respectively.

"Gambling Device". Any clock, tape machine, slot machine, or other machines or device for the reception of money or other thing of value on chance or skill, or upon the action of which money or other thing of value is staked, hazarded, bet, won, or lost; or any mechanism, furniture, fixture, equipment, or other device designed primarily for use in a gambling place. A "gambling device" does not include the following, as more specifically defined in **720 ILCS 5/28-2(a)(1) through (a)(4)**:

- (A) Coin-in-the-slot operated mechanical devices.
- (B) Vending machines.
- (C) Crane games.
- (D) Redemption machines.

"Lottery". Any scheme or procedure whereby one or more prizes are distributed by chance among persons who have paid or promised consideration for a chance to win such prizes, whether such scheme or procedure is called a lottery, raffle, gift, sale, or some other name.

"Policy Game". Any scheme or procedure whereby a person promises or guarantees by any instrument, bill, certificate, writing, token, or other device that any particular number, character, ticket, or certificate shall in the event of any contingency in the nature of a lottery entitle the purchaser or holder to receive money, property, or evidence of debt.

(720 ILCS 5/28-2) (See Section 21-3-17 for legalized video-poker machines)

27-13-2 **GAMBLING.**

- (A) A person commits gambling when, within the corporate limits of the Village, he:
- (1) Plays a game of chance or skill for money or other thing of value, unless excepted in division (B);
 - (2) Makes a wager upon the result of any game, contest, or any political nomination, appointment, or election;
 - (3) Operates, keeps, owns, uses, purchases, exhibits, rents, sells, bargains for the sale or lease of, manufactures, or distributes any gambling device;
 - (4) Contracts to have or give himself or another the option to buy or sell, or contracts to buy or sell, at a future time, any grain or other commodity whatsoever, or any stock or security of any company, as described in **720 ILCS 5/28-1(a)(4)**;
 - (5) Knowingly owns or possesses any book, instrument, or apparatus by means of which bets or wagers have been, or are, recorded or registered, or knowingly possesses any money which he has received in the courses of a bet or wager;
 - (6) Sells pools upon the result of any game or contest of skill or chance, political nomination, appointment, or election;
 - (7) Sets up or promotes any lottery or sells, offers to sell, or transfers any ticket or share for any lottery;
 - (8) Sets up or promotes any policy game or sells, offers to sell, or knowingly possesses or transfers any policy ticket, slip, record, document, or other similar device;
 - (9) Knowingly drafts, prints, or publishes any lottery ticket or share, or any policy ticket, slip, record, document or similar device, except for such activity related to lotteries, bingo games, and raffles authorized by and conducted in accordance with the laws of Illinois or any other state or foreign government;

- (10) Knowingly advertises any lottery or policy game, except for such activity related to lotteries, bingo games, and raffles authorized by and conducted in accordance with the laws of Illinois or any other state; or
 - (11) Knowingly transmits information as to wagers, betting odds, or changes in betting odds by telephone, telegraph, radio, semaphore, or similar means; or knowingly installs or maintains equipment for the transmission or receipt of such information; except that nothing in this division prohibits transmission or receipt of such information for use in news reporting of sporting events or contests.
- (B) Participants in any of the following activities shall not be convicted of gambling;
- (1) Agreements to compensate for loss caused by the happening of chance including without limitation contracts of indemnity or guaranty and life or health or accident insurance;
 - (2) Offers of prizes, awards, or compensation to the actual contestants in any bona fide contest for the determination of skill, speed, strength, or endurance or to the owners of animals or vehicles entered in such contest;
 - (3) Pari-mutuel betting as authorized by the law of this State;
 - (4) Manufacture of gambling devices, including the acquisition of essential parts therefor and the assembly thereof, for transportation in interstate or foreign commerce to any place outside this State when such transportation is not prohibited by any applicable federal law;
 - (5) The game commonly known as "bingo", when conducted in accordance with **230 ILCS 25/1 et seq.**;
 - (6) Lotteries when conducted by the State in accordance with **20 ILCS 1605/1 et seq.**;
 - (7) Possession of an antique slot machine that is neither used nor intended to be used in the operation or promotion of any unlawful gambling activity or enterprise. For the purpose of this division, an "Antique Slot Machine" is one manufactured **twenty-five (25) years** ago or earlier;
 - (8) Raffles when conducted in accordance with **230 ILCS 15/1 et seq.**;
 - (9) Charitable games when conducted in accordance with **230 ILCS 30/1 et seq.**; and
 - (10) Pull tabs or jar games when conducted under **230 ILCS 20/1 et seq.**; and
 - (11) Gambling games conducted on riverboats when authorized under **230 ILCS 10/1 et seq.**
 - (12) Video Gaming Terminal Games at a licensed establishment, licensed Fraternal Organization, or Licensed Veterans establishment when conducted in accordance with the Video Gaming Act (**230 ILCS 40/1 et seq.**) (**Ord. No. 1426; 06-18-12**)

(C) **Circumstantial Evidence.** In prosecutions under division (A) of this Section, circumstantial evidence shall have the same validity and weight as in any criminal prosecution. (**720 ILCS 5/28-1**) (**See 135.02**)

27-13-3 KEEPING A GAMBLING PLACE.

(A) For purposes of this Section a "Gambling Place" is any real estate, vehicle, boat, or any other property whatsoever used for the purposes of gambling. No person shall knowingly permit any premises or property owned or occupied by him or under his control to be used as a gambling place.

- (B) When any premises is determined by the circuit court to be a gambling place:
- (1) The premises is hereby declared to be a public nuisance and may be proceeded against as such; and

- (2) The premises of any person who knowingly permits thereon a violation of any section of this Chapter shall be held liable for and may be sold to pay any unsatisfied judgment that may be recovered and any unsatisfied fine that may be levied under any section of this Chapter.

(720 ILCS 5/28-3) (See 135.03)

27-13-4 SEIZURE OF GAMBLING DEVICES AND GAMBLING FUNDS.

(A) Every device designed for gambling which is incapable of lawful use or every device used unlawfully for gambling shall be considered a gambling device and shall be subject to seizure, confiscation, and destruction by Village authorities. As used in this Section, a "Gambling Device" includes any slot machine and includes any machine or device constructed for the reception of money or other thing of value and so constructed as to return or cause someone to return on chance to the player thereof money, property, or a right to receive money or property. With the exception of any device designed for gambling which is incapable of lawful use, no gambling device shall be forfeited or destroyed unless an individual with a property interest in the device knows of the unlawful use thereof.

(B) Every gambling device shall be seized and forfeited as contraband to the County wherein the seizure occurs. Any money or other thing of value integrally related to acts of gambling shall be seized and forfeited as contraband to the County wherein the seizure occurs.

(720 ILCS 5/28-5(a),(b)) (See 135.04)

ARTICLE XIV – SMOKE FREE AIR CODE

27-14-1 BACKGROUND. Smoking creates the hazard of injury to the personal health of those in the environment of such smoke as well as the potential of damage to property that may result from the incendiary nature of such activity. It has been determined that breathing ambient smoke is a health hazard to both smokers and nonsmokers. Cigarette smoking also produces several substances that are considered hazardous to health including carbon monoxide, hydrogen cyanide, nitrous oxide and formaldehyde. Secondhand smoke (68% of the total smoke produced by a cigarette) affects the health of the bystander, interfering with respiratory tract defenses, often causing nonsmokers to have allergic or irritative reactions, and is a known cause of lung cancer.

Because the hazards of smoking have a potentially harmful effect, material and direct, on the public health, safety, welfare, comfort, and property of residents of the Village, it is necessary and desirable to establish regulations that prohibit smoking in all enclosed public places, in all enclosed places of employment, near entrances to all such public places and places of employment, in and near open air public dining areas, and within certain unenclosed public places including school grounds, parks and recreation areas and outdoor venues.

27-14-2 PURPOSE. This Article may be cited as the "Smoke Free Air Code," the purpose of which is to protect the public health, comfort and environment by prohibiting smoking in all enclosed public places and places of employment, within **twenty-five (25) feet** of all public entrances to such places, in open air public dining areas and within **twenty-five (25) feet** of such areas, and within certain unenclosed public places including school grounds, parks and recreation areas and outdoor venues in order to ensure that nonsmokers may breathe air free from the hazardous effects of secondhand smoke.

27-14-3 DEFINITIONS. For the purposes of this Article, the following terms shall have the following meanings:

"Business" means any sole proprietorship, partnership, joint venture, corporation, association or other business entity, whether formed for profit or nonprofit purposes. "Business" includes a "club" as defined in this Section.

"Club" means a private not-for-profit association, corporation or other entity consisting of persons who are bona fide paying members and which owns, leases or uses a building or portion thereof, the use of which is restricted primarily to members and their guests.

"Employee" means any person who is employed or retained by a business, and shall include the owner or operator of a sole proprietorship or other similar business entity.

"Employer" means any business that employs one or more employees.

"Enclosed Area" means all space in any structure or building that is enclosed on all sides by any combination of walls, windows, or doorways, extending from floor to the ceiling.

"Open Air Dining Area" means a seating area open to the air that is accessory to a restaurant, hotel, cafeteria, private club or other public place engage din purveying commercial food or beverage service where members of the public, members or guests are invited to sit and receive food and beverage service for a consideration.

"Outdoor Event" means a scheduled outdoor musical, dance, theatrical, dramatic, entertainment or performance event, or a scheduled outdoor community fair, parade, event or market, that is organized, licensed or permitted by the owner of an outdoor venue and to which the public is invited.

"Outdoor Venue" means an outdoor theater, amphitheater, plaza, street or other improved area that is used as a public venue or forum to which members of the general public are invited to listen, view or otherwise participate in an outdoor event that is organized, licensed or permitted by the owner of the venue.

"Place of Employment" means an area under the control of a public or private employer within the Village that employees normally frequent during the course of employment, and includes, without limitation, common work areas, private offices, auditoriums, classrooms, conference and meeting rooms, cafeterias, elevators, employee lounges, staircases, hallways, restrooms, medical facilities, private clubs, and the interior of a vehicle of public conveyance. "Place of Employment" also includes the home office portion of a private dwelling, but only if the home office is used by more than one employee or is frequented by business invitees.

"Place of Employment" does not include that part of a private dwelling used as a home office by a single employee only who resides in that dwelling.

"Park" means a public park or recreation area that is open to and used by the general public.

"Public Entrance" means the doorway or other entrance to a public place that is open to and intended for use by the general public for ingress and egress to the public place.

"Public entrance" also means a doorway or other entrance for pedestrian ingress and egress to a place of employment; (i) that is open to and intended for use by the general public or business invitee's ingress and egress to the place of employment; (ii) where employees are required or permitted to enter or exit the place of employment.

"Public Place" means an area that is open to and used by the general public, or any area to which the public is invited or in which the public is permitted, including without limitation:

- (A) vehicles of public conveyance;
- (B) common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators and staircases) of apartment buildings, condominiums, dormitory buildings, nursing home care facilities, and other multiple family residential structures;
- (C) common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators and staircases) of any building or structure that is accessible to the public including without limitation office, commercial, and industrial buildings, banks and financial institutions, educational institutions, health care facilities such as hospitals, clinics and doctor's offices, museums, libraries, restaurants, polling places, government and Village-owned buildings, food stores, cafeterias, theaters, auditoriums, train and bus stations, hotels, motels, and retail and service establishments.

(D) rooms, chambers, halls, or other locations within which meetings, hearings, or gatherings are held, to which the public is invited or in which the public is permitted, including specifically, but without limitation, any enclosed area under the control of the Village where there is in progress any public meeting.

"Public place" shall not include:

(A) a private dwelling unit, unless said dwelling is also used as a day care facility for children or adults; provided that rooms in nursing homes or long-term care facilities occupied by one or more persons who have requested in writing a room where smoking is permitted shall be considered private dwelling units; or

(B) hotel or motel rooms designated as smoking, provided that no more than **twenty percent (20%)** of the available rooms for rent in any single building shall be designated as smoking rooms.

"School Grounds" mean all public or private outdoor school grounds, but excluding any open areas specifically designated and permitted by the school administration for smoking by adults who are invited to use such area for smoking.

"Smoke" or "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or in any form.

27-14-4 PROHIBITION IN ENCLOSED PUBLIC PLACES.

- (A) It is unlawful to smoke in any enclosed area of any public place.
- (B) It shall be unlawful for the owner, occupant or lessee, as the case may be, who is in control of a public place to knowingly permit smoking in any enclosed area in a public place.

27-14-5 PROHIBITION IN UNENCLOSED PUBLIC PLACES AND OUTDOOR VENUES.

- (A) It is unlawful to smoke in the following unenclosed public places:
- (1) The seating areas of all outdoor arenas, stadiums and amphitheaters.
 - (2) Public parks and recreation areas.
 - (3) School grounds.
 - (4) Public sidewalks within **fifteen (15) feet** of a public entrance, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.
 - (5) Public sidewalks within **fifteen (15) feet** of an open air dining area, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.
- (B) It is unlawful to smoke in or within **fifteen (15) feet** of an outdoor venue during the time that an outdoor event is taking place.

27-14-6 PROHIBITION IN PLACES OF EMPLOYMENT.

- (A) It is unlawful to smoke in any enclosed area of any place of employment.
- (B) It shall be unlawful for any employer to knowingly permit smoking in any enclosed area of any place of employment.

27-14-7 PROHIBITION IN OPEN AIR DINING AREAS.

- (A) It is unlawful to smoke in open air dining area.
- (B) It shall be unlawful for the owner, occupant or lessee, as the case may be, in control of an open air dining area to knowingly permit smoking in the area available for open air dining.
- (C) it is unlawful to smoke within **fifteen (15) feet** of an open air dining area.

27-14-8 PROHIBITION AT PUBLIC ENTRANCES.

- (A) It is unlawful to smoke within **fifteen (15) feet** of a public entrance to a public place or to a place of employment.
- (B) It is unlawful for any person or persons to gather or congregate for the purpose of smoking within **fifteen (15) feet** of a public entrance.

27-14-9 DESIGNATION OF OTHER NO-SMOKING AREAS. Nothing in this Article shall be deemed to limit the owner, occupant or lessee of a public place or a place of employment to further prohibit smoking by designating outdoor areas not subject to the restrictions in this Article as a place where smoking is also prohibited, provided that the owner, occupant or lessee shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the designated outdoor area.

27-14-10 NO RETALIATION. No person, business or employer shall discharge, refuse to hire, or in any manner retaliate against an employee or customer because that employee or customer reports a violation of this Article or exercises by rights afforded by this Article.

27-14-11 SIGNS.

- (A) Each owner, lessor, lessee, employer, or other person in control of a public place shall post conspicuous "No Smoking" signs in the enclosed area of any public place where smoking is prohibited. Such "No Smoking" signs shall have a white field with the words "No Smoking" printed in red letters, **four (4) inches** high with a **one-half (1/2) inch** face, or shall bear the international "No

Smoking" symbol, which consists of a pictorial representation of a cigarette enclosed in a circle with a bar across it. It shall be unlawful for any person to remove, deface or obscure any sign posted pursuant to the provisions of this Article.

(B) Each owner, lessor, lessee, employer or other person in control of a public park or recreation area, or of a school ground, shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the park, recreation area or school ground.

(C) Each owner, lessor, lessee, management company or other person in control of an outdoor venue shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the outdoor venue during outdoor events.

27-14-12 EXEMPTIONS. The prohibition on smoking set forth in Section 6-35 and 6-37 shall not apply to a public place or place of employment of a tobacco dealer that permits customers to sample tobacco products on the premises of the tobacco dealer, provided that smoke generated by smoking on the premises of the tobacco dealer does not infiltrate any other enclosed public place or place of employment. For purposes of this exemption, a tobacco dealer is a retailer whose principal business is the sale at retail of tobacco and tobacco-related products.

27-14-13 PENALTIES.

(A) Any person who smokes in an area where smoking is prohibited under the provisions of this Article shall be guilty of an offense punishable by:

- (1) A fine of not less than **Twenty-Five Dollars (\$25.00)** for a first violation.
- (2) A fine of not less than **Fifty Dollars (\$50.00)** for a second violation.
- (3) A fine of not less than **One Hundred Dollars (\$100.00)** and not more than **Five Hundred Dollars (\$500.00)** for a third and subsequent violation(s).

(B) Any person who owns, manages, operates or otherwise controls a public place, a place of employment or an open air dining area that permits smoking in an area where smoking is prohibited under the provisions of this Article, shall be guilty of an offense punishable by a fine of (i) not less than **One Hundred Dollars (\$100.00)** for the first violation, (ii) not less than **Two Hundred Fifty Dollars (\$250.00)** for the second violations, and (iii) not less than **Five Hundred Dollars (\$500.00)** for each additional violation thereafter, unless said additional violation has occurred within **one (1) year** after the first violation, in which case the minimum fine shall be not less than **One Thousand Dollars (\$1,000.00)**. The maximum amount of fine to be levied herein shall not exceed **Two Thousand Five Hundred Dollars (\$2,500.00)** for each violation.

(C) Each day that any violation of this Article shall continue shall constitute a separate offense.

ARTICLE XV - SYNTHETIC DRUGS

27-15-1 SALE, POSSESSION OR DELIVERY OF SYNTHETIC COCAINE PROHIBITED.

(A) **Definitions.** The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) **Synthetic Cocaine, "Bath Salts" or Substances Containing Cocaine** includes but not limited to the names, MDPK, Magic, Super Coke, PV, Ivory Wave, Ocean, Cloud Nine, Charge Plus, White lightning, Scarface, Hurricane, Charlie Red Dove and White Dove. It is an herbal and chemical product which mimics the effects of Cocaine, including but not limited to Methylenedioxypropylamphetamine, (a psychoactive drug), or cathinone derivatives.
- (2) **Deliver or Delivery.** Actual, constructive or attempted transfer of possession of synthetic cocaine or substance containing cocaine, with or without consideration, whether or not there is an agency relationship.
- (3) **Knowledge.** Knows, acts knowingly or with knowledge:
 - (a) the nature or attendant circumstances of his/her conduct described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist, knowledge of a material fact includes awareness of the substantial probability that such fact exists.
 - (b) the result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.
 - (c) knowledge may be inferred from the surrounding circumstances.
- (4) **"Bath salts"** a substance that contains methylenedioxypropylamphetamine (MDPV) or contains a norepinephrine-dopamine reuptake inhibitor (NDRI).
- (5) **Manufacture.** The production, preparation, propagation, compounding, conversion or processing of synthetic cocaine or a substance containing cocaine, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cocaine or a substance containing cocaine or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cocaine as an incident to lawful research, teaching or chemical analysis and not for sale.
- (6) **Person.** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.
- (7) **Possession.** Possession may be either actual or constructive.
 - (a) actual possession means exercising physical dominion.
 - (b) constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cocaine or substance containing cocaine or drug paraphernalia.

(B) **Possession of Synthetic Cocaine or Substance Containing Cocaine or "Bath Salts" Prohibited.**

- (1) **Violation.** No person shall possess any substance containing synthetic cocaine or a substance containing cocaine.
- (2) **Penalty.** Any person who pleads guilty or is found guilty by a court of law shall be punished by a minimum fine of not less than **Two Hundred Fifty Dollars (\$250.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**.

- (3) **Administrative Fee.** In addition, any person who violates any provision of this Section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of **One Hundred Dollars (\$100.00)** to be paid to the law enforcement agency for testing of the substance(s) collected.
- (4) **Forfeiture.** Any items which may be seized or forfeited pursuant to **720 ILCS 550/12**, may be forfeited in the same manner as described therein for a violation of this Section.
- (5) **Exception.** Any person who manufactures, distributes, dispenses, or is in possession of any controlled substance or synthetic cocaine for research purposes shall be exempt from the provisions of this Section.

**27-15-2
PROHIBITED.**

(A) **Definitions.** The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) **Synthetic Cannabis** includes the brand names K2 and Spice. It is an herbal and chemical product which mimics the effects of Cannabis, including but not limited to synthetic cannabinoids, cannabicyclohexanol, JWH-018, JWH-073 and HU-210.
- (2) **Deliver or Delivery.** Actual, constructive or attempted transfer of possession of synthetic cannabis, with or without consideration, whether or not there is an agency relationship.
- (3) **Knowledge.** Knows, acts knowingly or with knowledge:
 - (a) the nature or attendant circumstances of his/her conduct, described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist, knowledge of a material fact includes awareness of the substantial probability that such fact exists.
 - (b) the result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.
 - (c) knowledge may be inferred from the surrounding circumstances.
- (4) **Manufacture.** The production, preparation, propagation, compounding, conversion or processing of synthetic cannabis, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cannabis or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cannabis as an incident to lawful research, teaching or chemical analysis and not for sale.
- (5) **Person.** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.
- (6) **Possession.** Possession may be either actual or constructive.
 - (a) actual possession means exercising physical dominion.
 - (b) constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cannabis or drug paraphernalia.
- (7) **Produce or Production.** Planting, cultivating, tending or harvesting.

(B) **Possession of Synthetic Cannabis Prohibited.**

- (1) **Violation.** No person shall possess any substance containing synthetic cannabis.

- (2) **Penalty.** Any person who pleads guilty or is found guilty by a court of law shall be punished by a minimum fine of not less than **Two Hundred Fifty Dollars (\$250.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**.
- (3) **Administrative Fee.** In addition, any person who violates any provision of this Section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of **One Hundred Dollars (\$100.00)** to be paid to the law enforcement agency for testing of the substance(s) collected.
- (4) **Forfeiture.** Any items which may be seized or forfeited pursuant to **720 ILCS 550/12**, may be forfeited in the same manner as described therein for a violation of this Section.
- (5) **Exception.** Any person who manufactures, distributes, dispenses, or is in possession of any controlled substance or synthetic cannabis for research purposes pursuant to **720 ILCS 550/11**, as hereafter amended, shall be exempt from the provisions of this Section.

ARTICLE XVI

REGULATION OF RESIDENCES OF REGISTERED SEX OFFENDERS

27-16-1 **DEFINITIONS.** The following definitions apply to this Section:

(A) A **"Child Sex Offender"** includes any person required to register his or her residence address with any State, or with the federal government, as a result of his or her conviction as a sex offender, where the victim of that sex offense was under the age of **eighteen (18) years** at the time of the offense. A **"Child Sex Offender"** includes, but is not limited to, any person required to register under the Illinois Sex Offender Registration Act, **730 ILCS 150/1 et seq.**, as now or as hereafter amended, where the victim was under the age of **eighteen (18) years** at the time of the offense. A **"Child Sex Offender"** further includes, but is not limited to, any person who has been convicted of any of the following statutory offenses, or convicted of attempting to commit any of the following statutory offenses, as now or hereafter amended, involving a victim under the age of **eighteen (18) years**:

- (1) Sexual exploitation of a child (**720 ILCS 5/11-9.1**);
- (2) Predatory criminal sexual assault of a child (**720 ILCS 5/12-14.1**);
- (3) Indecent solicitation of a child (**720 ILCS 5/11-6**);
- (4) Public indecency committed on school property (**720 ILCS 5/11-9**);
- (5) Child luring (**720 ILCS 5/10-5(b)(10)**);
- (6) Aiding and abetting child abduction (**720 ILCS 5/10-7 or 720 ILCS 5/10-(b)(10)**);
- (7) Soliciting for a juvenile prostitute (**720 ILCS 5/11-15.1**);
- (8) Patronizing a juvenile prostitute (**720 ILCS 5/11-18.1**);
- (9) Exploitation of a child (**720 ILCS 5/11-19.2**);
- (10) Child pornography (**720 ILCS 5/11-20.1**);
- (11) Criminal sexual assault (**720 ILCS 5/12-13**);
- (12) Aggravated criminal sexual assault (**720 ILCS 5/12-14**);
- (13) Aggravated criminal sexual abuse (**720 ILCS 5/12-16**);
- (14) Kidnapping or aggravated kidnapping (**720 ILCS 5/10-1 or 5/10-2**);
- (15) Unlawful restraint or aggravated unlawful restraint (**720 ILCS 5/10-3 or 5/10-3.1**).

(B) **"School"** means any real property used primarily for educational or child care purposes, including, but not limited to, elementary schools, middle schools, high schools, dance studios, licensed child day care facilities, and pre-schools.

(C) **"Loiter"** shall mean standing or sitting idly, whether or not the person is in a vehicle or remaining in or around property that is from time to time frequented by persons under the age of **eighteen (18) years**.

(D) **"Park"** includes any playground, walking track, athletic field, gymnasium, basketball court, baseball diamond, or other real estate owned or controlled by a school or unit of a local government, that is designated primarily for recreation. The term "Park" shall also include any privately owned recreational area upon which the Village has been authorized by its owner to patrol and enforce the ordinances contained in this Code. The term "Park" shall also include ancillary restrooms and vehicle parking lots designated for use primarily by park patrons or school students and their families.

27-16-2 **PROHIBITED ACTS.**

(A) It is unlawful for a child sex offender to reside within **one thousand five hundred (1,500) feet** of any of the following:

- (1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or
- (2) The real property comprising any park.

(B) It is unlawful for any child sex offender to loiter on any public property, public right-of-way, or area designated for parking of motor vehicles, within **one thousand five hundred (1,500) feet** of any of the following, unless the person loitering is with a child under the age of **eighteen (18) years** and the person loitering is a parent, step-parent, aunt, uncle, cousin, sibling, or step-sibling of that child under the age of **eighteen (18) years**;

- (1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or
- (2) The real property comprising any park.

(C) It is unlawful for any person, corporation, business, partnership, trust, manager, or other entity, to employ a sex offender within **one thousand five hundred (1,500) feet** of any festival or other event which is open to the public.

(D) It is unlawful for any person, corporation, business, partnership, trust, manager, or other entity, to enter into a lease agreement, or to renew any lease agreement, letting residential real estate to a child sex offender, where the lot line of the residential property is within **one thousand five hundred (1,500) feet** of any of the following:

- (1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or
- (2) The real property comprising any park.

27-16-3 PENALTY. Any person found guilty of violating paragraphs (A) or (B) of **Section 27-16-2** shall be subject to a fine between **One Hundred Dollars (\$100.00)** and **Seven Hundred Fifty Dollars (\$750.00)**, with each day a violation continues constituting a separate offense. Any person, corporation, business, partnership, trust, manager, or other entity guilty of violating paragraphs (C) or (D) of **Section 27-16-2** shall be subject to a fine between **One Hundred Dollars (\$100.00)** and **Seven Hundred Fifty Dollars (\$750.00)**, revocation of business license, or both. Each day a violation continues shall constitute a separate offense. Any person, corporation, business, partnership, trust, manager or other entity violating paragraphs (C) or (D) of **Section 27-16-2** shall be presumed to have had knowledge of the employee's or tenant's status as a child sex offender, where the employee's or tenant's name, photo, or other identifying information appears on the Illinois State Police statewide sex offender database, as published on the internet on the Illinois State Police World Wide Web home page, per the Sex Offender and Child Murderer Community Notification Law, **730 ILCS 152/101 et seq.**, as now or hereafter amended.

27-16-4 OTHER PROVISIONS.

(A) In the event a court of competent jurisdiction should declare the terms of any portion of this Article invalid or unenforceable, the remainder of this Article shall remain in full force and effect.

(B) All distances designated in this Article shall be measured from the lot line of the park property or school property and from the lot line of the subject residence.

(C) Nothing in this Article prohibits a child sex offender from residing within **one thousand five hundred (1,500) feet** of any property, if that residence is owned or leased by the child sex offender before the effective date of this Article. This Article is intended to apply to and prevent such new residential lease agreements, and renewals of expired residential leases, entered into after the effective date of this Article.

ARTICLE XVII – DRUG PARAPHERNALIA

27-17-1 DEFINITIONS.

(A) **"Cannabis"** shall have the meaning ascribed it in Section 3 of the "Illinois Cannabis Control Act" as if that definition were incorporated herein.

(B) **"Controlled Substance"** shall have the meaning ascribed to it in Section 102 of the "Illinois Controlled Substance Act" as if that definition were incorporated herein.

(C) **"Drug Paraphernalia"** shall mean all equipment, products and materials of any kind which are peculiar to and/or marketed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body cannabis or a controlled substance in violation of the "Cannabis Control Act" or the "Illinois Controlled Substances Act." It includes but is not limited to:

- (1) Kits peculiar to and/or marketed for use in manufacturing, compounding, converting, producing, processing or preparing cannabis or a controlled substance;
- (2) Isomerization devices peculiar to and marketed for use in increasing the potency of any species of plant which is cannabis or a controlled substance;
- (3) Testing equipment peculiar to and marketed for private home use in identifying or in analyzing the strength, effectiveness or purity of cannabis or controlled substances;
- (4) Diluents and adulterant peculiar to and marketed for cutting cannabis or a controlled substance by private persons;
- (5) Objects peculiar to and/or marketed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body including, where applicable, the following items:
 - (a) water pipes;
 - (b) carburetion tubes and devices;
 - (c) smoking and carburetion masks;
 - (d) miniature cocaine spoons and cocaine vials;
 - (e) carburetor pipes;
 - (f) electric pipes;
 - (g) air-driven pipes;
 - (h) chillums;
 - (i) bongs;
 - (j) ice pipes or chillers;
- (6) Any item whose purpose, as announced or described by the seller is for use in violation of this act.

27-17-2 POSSESSION OF CANNABIS OR CONTROLLED SUBSTANCE. It shall be unlawful for any person to use, possess, distribute or deliver any cannabis or controlled substance as defined in this Article.

27-17-3 POSSESSION OF DRUG PARAPHERNALIA.

(A) A person who knowingly possesses an item of drug paraphernalia with the intent to use it in ingesting, inhaling or otherwise introducing cannabis or a controlled substance into the human body, or in preparing cannabis or a controlled substance for that use, is guilty of a violation of this Article.

(B) In determining intent under paragraph (A) the trier of fact may take into consideration the proximity of the cannabis or a controlled substance on the drug paraphernalia.

27-17-4 EXEMPTIONS.

(A) Items marketed for use in the preparation, compounding, packaging, labeling, or other use of cannabis or controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.

(B) Items marketed for, or historically and customarily used in connection with, the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting or inhaling of tobacco or any other lawful substance.

Items exempt under this Article include, but are not limited to, garden hoes, rakes, sickles, baggies, tobacco pipes and cigarette-rolling papers.

(C) Items listed in **Section 27-17-1** of this Article which are marketed for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purpose prohibited by this Article.

In determining whether or not a particular item is exempt under this Section, the trier of fact should consider, in addition to all other logically relevant factors, the following:

- (1) The general, usual, customary, and historical use to which the item involved has been put;
- (2) Expert evidence concerning the ordinary or customary use of the item and the effect of any peculiarity in the design or engineering of the device upon its functioning;
- (3) Any written instruction accompanying the delivery of the item concerning the purposes or uses to which the item can or may be put;
- (4) Any oral instructions provided by the seller of the item at the time and place of sale or commercial delivery;
- (5) Any national or local advertising concerning the design, purpose or use of the item involved and the entire context in which such advertising occurs;
- (6) The manner, place and circumstances in which the items was displayed for sale, as well as any item or items displayed for sale or otherwise exhibited upon the premises where the sale was made;
- (7) 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;
- (8) The existence and scope of legitimate uses for the object in the community.

27-17-5 PENALTY. Any person or entity violating this Article shall be subject to a fine of not more than **Seven Hundred Fifty Dollars (\$750.00)** plus court costs.

ARTICLE XVIII - NOISE

27-18-1 DEFINITIONS. The term "person," when used in this chapter, shall mean any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, or any legal successor, representative, agent or agency of the foregoing.

27-18-2 NOISE PROHOBITED. No person shall cause or allow the emission of, beyond the boundaries of his or her property, any sound that unreasonably interferes with the enjoyment of life or with any lawful business or activity.

In determining whether a sound unreasonably interferes with the enjoyment of life or with any lawful business or activity, the following factors shall be considered, including but not limited to:

- (1) Time of day (for example, sound made between the hours of ten (10) p.m. and seven (7) a.m. will be subject to greater scrutiny)
- (2) Location;
- (3) Frequency of sound;
- (4) Duration of sound;
- (5) Necessity of sound (for example, sound made out of necessity to avoid danger will be subject to lessened scrutiny); and
- (6) Volume, pitch or harshness of sound.

27-18-3 **VIOLATION, PENALTY.** Any person who commits the acts prohibited herein shall be guilty of a village ordinance violation. Further, the village attorney may bring an action to enjoin any person from violating this chapter and seek an order from the circuit court ordering the violator to abate any violations of this chapter.