

## Chapter 9

### NUISANCES and OFFENSES AGAINST PUBLIC PEACE, SAFETY and MORALS

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#### 9.01 PUBLIC NUISANCES PROHIBITED

No person shall erect, contrive, cause, continue, maintain, or permit to exist, any public nuisance within the corporate limits of the Village.

#### 9.02 PUBLIC NUISANCES DEFINED *Amended, 492*

A. GENERALLY: A public nuisance is a thing, act, occupation, condition, or use of property which shall continue for such length of time as to:

1. Substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public;
2. In any way render the public insecure in life or in the use of property;
3. Greatly offend the public morals or decency;
4. Unlawfully and substantially interfere with, obstruct or tend to obstruct, or

render dangerous for passage any street, alley, highway, navigable body of water, or other public way.

B. PUBLIC NUISANCES AFFECTING HEALTH: The following acts, omissions, places and things hereby specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition herein.

1. All decayed, harmfully adulterated, or unwholesome food or drink sold or offered for sale to the public; or
2. Carcasses of animals, birds, or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death; or
3. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, abandoned vehicles or machinery, scrap metal, or any material in which flies, mosquitoes, disease carrying insects, rats, or other vermin may breed; or which may constitute a fire hazard; or
4. All stagnant water in which mosquitoes, flies, or other insects can multiply; or
5. Garbage cans which are not fly-tight; or
6. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, or industrial dust within the Village limits in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property; or
7. The pollution of any private or public well or cistern, stream, lake, canal, or body of water by sewage, creamery or industrial wastes, or other substances; or
8. Any use of property, substances, or things within the Village emitting or causing any foul, offensive, nauseous, noxious, foul-smelling or disagreeable odors or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure, or inconvenience the health of any appreciable number of persons within the Village; or
9. All abandoned wells not securely covered or secured from public use; or
10. Any obstruction in or across any water course, drainage ditch or ravine; or
11. Any open burning contrary to county ordinances; or
12. The deposit of garbage, rubbish, or any offensive substance on any street, sidewalk, or public place, or on any private property, except as may be permitted by ordinance; or

13. Any noxious weed on private property as defined by 505 ILCS 100/1 *et seq.*

C. PUBLIC NUISANCES OFFENDING MORALS AND DECENCY: The following acts, omissions, places, conditions, and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of herein:

1. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, sexual intercourse, or gambling;
2. All gambling devices and slot machines;
3. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured, or rectified without a permit or license as provided for by this Code; and
4. Any place or premises within the Village where ordinances or State laws relating to public health, safety, peace, morals, or welfare are openly, continuously, repeatedly, and intentionally violated.

D. PUBLIC NUISANCES AFFECTING PEACE AND SAFETY: The following acts, omissions, places, conditions, and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions herein:

1. All buildings erected, repaired, or altered in violation of the provisions of the ordinances of the Village relating to materials and manner of construction of building and structures; or
2. All unauthorized signs, signals, markings, or devices which purport to be or may be mistaken as official traffic control devices placed or maintained upon or in view of any public highway or railway crossing; or
3. All trees, hedges, or other obstructions which prevent persons driving vehicles on public streets, alleys, or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk; or
4. All limbs of trees which project over a public sidewalk less than 8 feet above the surface thereof or less than 15 feet above the surface of a public street; or
5. All use or display of fireworks except as provided by the laws of the State and ordinances of the Village; or

6. All buildings or structures so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human use; or
7. All wires over streets, alleys, or public grounds which are strung less than 15 feet above the surface of the street or ground; or
8. All obstructions of streets, alleys, sidewalks, or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Village or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose thereof has been accomplished; or
9. All open and unguarded pits, wells, excavations, or unused basements freely accessible from any public street, alley, or sidewalk; or
10. All abandoned refrigerators or ice boxes; or
11. Any unauthorized or unlawful use of property abutting on a public street, alley, sidewalk, walkway, or of a public street, alley, sidewalk or walkway which causes large crowds of people to gather, obstructing traffic and free use of the streets, alleys, sidewalks or walkways; or
12. Any advertisements or signs affixed to any building, wall, fence, sidewalk, street, or other private or public property without permission of the owner thereof; or
13. Any sign, marquee, or awning which is in an unsafe condition, or which overhangs any roadway, or which overhangs any sidewalk less than 8 feet above the sidewalk surface; or
14. Any condition or practice constituting a fire hazard; or
15. Any nuisance so defined in the Illinois Compiled Statutes; or
16. All unsheltered storage of old, unused, stripped, junked, and other automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements, and/or equipment and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, within the corporate limits of this Village; or
17. All unsheltered storage of unlicensed automobiles for a period of 10 days or more within the corporate limits of the Village; or
18. All signs advertising garage sales, yard sales, or other similar sales other than those permitted pursuant to the Sign Regulations of this Code.

**9.03 ABATEMENT OF PUBLIC NUISANCES** *Amended, 492*

A. **INSPECTION OF PREMISES:** Whenever a complaint is made to the Village that a public nuisance exists, or has existed, within the Village, the Chief, Superintendent of Public Works, or Building Inspector (“Inspecting Officer”) shall forthwith inspect or cause to be inspected the premises and shall make a written report of their findings to the Administrator. Whenever practicable, the Inspecting Officer shall cause photographs to be made of the premises and shall file the same with the Administrator.

B. **SUMMARY ABATEMENT:**

1. **Notice to Owner:** If the Inspecting Officer determines that a public nuisance exists on private property and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Inspecting Officer shall serve a notice on the property owner and to post a copy of the notice on the premises. Such notice shall direct the property owner to abate or remove such nuisance within 24 hours. For purposes of this Section, the owner is the person who was sent the property tax bill on the property for the taxable year immediately preceding the nuisance determination.
2. **Abatement by Village:** If the nuisance is not abated within the time provided or if the owner cannot be found, the Inspecting Officer may cause the abatement or removal of such public nuisance.

C. **ABATEMENT BY COURT ACTION:** If the Inspecting Officer determines that a public nuisance exists on private premises but the nature of such nuisance is not an immediate danger to the public health, safety, peace, morals, or decency, he shall file a written report of his findings to the respective enforcement agency, who shall cause an action to abate such nuisance to be commenced in the name of the Village.

#### **9.04 COST OF ABATEMENT**

In addition to the penalty imposed by this Code for the erection, contrivance, creation, continuance, or maintenance of the public nuisance, the cost of abating a public nuisance by the Village, including reasonable attorney fees incurred, shall be collected as a debt from the owner, occupant, or person causing, permitting, or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as other liens.

#### **9.05 ABANDONED MOTOR VEHICLES**

A. **ABANDONING VEHICLE:** The abandonment of a motor vehicle or any part thereof anywhere in the Village, in view of the general public, is unlawful except on the property of the owner in a completely enclosed permanent building or structure. Removal of the abandoned vehicle or part thereof may be authorized by order of the Chief after expiration of 7 days from the date of violation.

B. **NOTICE TO POLICE:** When an abandoned, lost, stolen, or unclaimed motor vehicle or other vehicle comes into the temporary possession or custody of a person in this State,

not the owner of the vehicle, such person shall immediately notify the Police Department when the vehicle is within the corporate limits of the Village.

Upon receipt of such notification, the Chief shall authorize a towing service to remove and take possession of the abandoned, lost, stolen, or unclaimed motor vehicle or other vehicle.

The towing service will safely keep the towed vehicle and its contents, maintain a record of the tow until the vehicle is claimed by the owner, or any other person legally entitled to possession thereof, or until it is disposed of as provided by this Section.

C. REMOVAL OF VEHICLES:

1. When a motor vehicle or other vehicle is abandoned on a public right-of-way in the Village 10 hours or more, its removal by a towing service may be authorized by order of the Chief.
2. When an abandoned, unattended, wrecked, burned, or partially dismantled motor vehicle or other vehicle is creating a traffic hazard because of its position in relation to the highway, a towing service may be authorized by order of the Chief.
3. When a vehicle is removed from either public or private property, as authorized by order of the Chief, the owner of the vehicle will be responsible for all towing costs.

D. RECORDS OF VEHICLE REMOVED: When a motor vehicle or other vehicle is authorized to be towed away, the Police Department shall keep and maintain a record of the vehicle towed, listing the color, year of the manufacture, manufacturer's trade name, manufacturer's series name, body style, vehicle identification number, and license plate year and number displayed on the vehicle. The record shall also include the date and hour of tow, location towed from, location towed to, reason for towing, and the name of the officer authorizing the tow.

E. SEARCH FOR OWNER: When the Police Department does not know the identity of the registered owner or other legally entitled person, it will cause the motor vehicle records of the State to be searched by a directed communication to the Secretary of State for the purpose of obtaining the required ownership information.

The Police Department shall cause the stolen vehicle files of the Illinois State Police to be searched by a directed communication to the Illinois State Police for stolen or wanted information on the vehicle. When the Illinois State Police files are searched with negative results, the information contained in the National Crime Information Center (NCIC) files will be searched by the Illinois State Police. The information determined from these record searches will be used by the Police Department in sending a notification by certified mail to the owner or legally entitled person advising where the vehicle is held, requesting a disposition be made, and setting forth public sale information.

F. RECLAIMING VEHICLES: Any time before a motor vehicle or other vehicle is

sold at public sale or disposed of as provided herein, the owner or other person legally entitled to its possession may reclaim the vehicle by presenting to the Police Department proof of ownership or proof of the right to possession of the vehicle. No vehicle shall be released to the owner or other person under this Section until all towing and storage charges and fines have been paid.

G. **SALE OF VEHICLE:** Whenever an abandoned, lost, stolen, or unclaimed motor vehicle or other vehicle, 7 years of age or newer, remains unclaimed by the registered owner or other person legally entitled to its possession for a period of 30 days after notice has been given as provided herein, the Police Department having possession of the vehicle shall cause it to be sold at public sale to the highest bidder. Notice of the time and place of the sale shall be posted in a conspicuous place for at least 10 days prior to the sale on the premises where the vehicle has been impounded. At least 10 days prior to the sale, the Police Department shall cause a notice of the time and place of the sale to be sent by certified mail to the registered owner or other person known by the Police Department or towing service to be legally entitled to the possession of the vehicle. Such notice shall contain a complete description of the vehicle to be sold and what steps must be taken by any legally entitled person to reclaim the vehicle. In those instances where the certified notification specified herein has been returned by the postal authorities to the Police Department due to the addressee having moved, or being unknown at the address obtained from the registration records of this State, the sending of a second certified notice will not be required. When the identity of the registered owner or other person legally entitled to the possession of an abandoned, lost or unclaimed vehicle of 7 years of age, or newer cannot be determined by any means provided for in this Section, the vehicle may be sold as provided herein or disposed of in the manner authorized by this Section without notice to the registered owner or other person legally entitled to the possession of the vehicle.

H. **OLDER VEHICLES:** When an abandoned vehicle of more than 7 years of age is impounded as specified by this Section, it will be kept in custody for a minimum of 10 days for the purpose of determining ownership, the contacting of the registered owner by the U.S. Mail, public service, or in person for a determination of disposition, and an examination of the Illinois State Police stolen motor vehicle files for theft and wanted information. At the expiration of the 10-day period, without the benefit of disposition information being received from the registered owner, the Chief will authorize the disposal of the vehicle as junk only.

A motor vehicle or other vehicle classified as a classic or customized antique vehicle is excluded from this Section.

I. **RECORDS:** When a motor vehicle or other vehicle in the custody of the Police Department is reclaimed by the registered owner or other legally entitled person, or when the vehicle is sold at public sale or other wise disposed of as provided in this Section, a record of the transaction shall be maintained by the Police Department for a period of one year from the date of the sale or disposal.

J. **DISPOSITION OF SALE PROCEEDS:** When a vehicle located within the corporate limits of the Village is authorized to be towed away by the Chief and disposed of as set forth in this Section, the proceeds of the public sale or disposition, after the deduction of towing, storage, and processing charges, shall be deposited with the Village.

K. **LIABILITY OF OFFICERS:** Any police officer, towing service owner, operator, or employee shall not be held to answer or be liable for damages by the registered owner or his legal representatives, or any other person legally entitled to the possession of a motor vehicle or other vehicle when the vehicle was processed and sold or disposed of as provided by this Section.

**9.06 CUTTING AND REMOVAL OF NEGLECTED WEEDS, GRASS, TREES AND BUSHES** *Amended, 492*

A. **NOXIOUS WEEDS, GRASS, TREES AND BUSHES DECLARED NUISANCE:** Any weeds such as or known as jimson, burdock, ragweed, thistle, cocklebur, or other weeds of like kind, and bushes of the species of tall, common or European Barberry, otherwise known as *Barberis Vulgaris*, or its horticultural varieties, found growing in any place or location within the corporate limits of the Village, are declared to be a nuisance. It shall be unlawful for any person to cause or permit any such weeds or bushes to grow or remain in any place or location within the corporate limits of the Village to a height in excess of 8 inches. It is also hereby declared to be a nuisance and shall be unlawful for any person to cause or permit grass to grow or remain in any place or location within the corporate limits of the Village to a height in excess of 8 inches except as it abuts a public right-of-way for a distance less than 10 feet. For purposes of this Section, neglected weeds, grass, trees and bushes are herein referenced as "Nuisance Greenery".

B. **REMOVAL OF NUISANCE GREENERY:** It shall be the duty of every owner of every lot or tract of land within the corporate limits of the Village, to cut, destroy or remove, or cause to be cut, destroyed or removed, every Nuisance Greenery as hereinabove described upon every such lot or tract of land in such manner and on or before such time as such weeds, bushes or grass reach or exceed the height of 8 inches. Upon the failure of any such owner to remove the Nuisance Greenery it shall be the duty of the Chief or Building Inspector to serve or cause to be served a notice upon any such owner of any premises upon which any such Nuisance Greenery is caused or permitted to grow in violation of the provisions of this Section, demanding the abatement of such growth as a nuisance, within a period of 10 days from the date of such service. Failure of any owner to comply with the provisions and demands of such notice shall constitute a violation of the provisions of this Section.

C. **ABATEMENT:** If, upon the expiration of the 10-day period provided in the notice, the owner has not removed the Nuisance Greenery as directed it shall be the duty of the Village to eliminate the nuisance by cutting, destroying or otherwise removing the Nuisance Greenery and to keep an account of the expense thereof. Such expense shall be charged to the property owner. After the removal activities the Village shall send a notice, by personal service or certified mail, to the person to whom was sent the tax bill for the property taxes for the taxable year immediately preceding the removal activities. Such notice shall identify the Code violation(s), describe the removal activity and contain a common description of the underlying parcel. It shall be the duty of the property owner to pay such expense.

D. **LIEN:** The Village shall have a continuing lien upon the underlying parcel containing the Nuisance Greenery in violation of this Section, for or on account of which it is necessary for any expense to be suffered or incurred by the Village for the removal of the Nuisance Greenery. Every lien shall, upon compliance with the conditions hereinafter set forth,

become and be prior and superior to the rights and interest of creditors, encumbrances, purchasers and other parties in interest in such premises and real estate.

Such lien may be preserved and enforced in the following manner: The Village shall, within one year after the removal cost is incurred, file a notice of lien in the office of the Recorder of Deeds. The notice of lien shall contain a description of the underlying parcel, the amount of the removal cost and the date or dates when the removal cost was incurred by the Village. No such lien shall be defeated in the proper amount thereof because of error or overcharging on the part of the Village, nor shall any such lien be defeated upon proof that the expense or cost or charge resulted from or was incurred by reason or fault of any tenant or occupant or other person in possession other than the owner.

E. FORECLOSURE OF LIEN: If payment shall not be made as provided in this Section of any amount due by virtue of its provisions when the same shall become due, the Village may file or cause to be filed a petition or bill in the appropriate court for a foreclosure of mortgages. Such suit shall be commenced within 2 years after the accrual of such expense or cost or charge. Any decree rendered in court may be enforced and collected as other decrees or judgments in such court.

The remedy provided in this Section shall not be construed to abridge or in any manner interfere with the right and power of the Village to enforce the collection thereof by an action at law or as otherwise provided in this Section, but the remedy herein provided shall be taken and held as an additional means to enforce payment of such delinquent expense or cost or charge.

## **9.07 ALARMS**

A. NOTIFICATION REQUIRED: It shall be unlawful for any person, firm, or corporation to lease or own an alarm system (including burglar alarm and fire alarm systems), or be in control of any premises, including single-family and multi-family dwellings and business places, wherein an alarm system is operated or maintained without first having obtained an Alarm System Permit from the Police Department for such system. No permit shall be required for alarm systems contained in or on vehicles.

B. PERMIT REQUIRED: Any person who desires to install or continue use of an alarm system, including on-premises alarm systems, shall first apply for an Alarm System Permit from the Police Department for each alarm system installed. Each application, which shall be provided by the Police Department, shall be signed by the applicant and shall include, among other things, the following (and if applicable):

1. Name, address, and telephone number of the establishment where the alarm is located;
2. Name, address, and telephone number of the owner or manager;
3. Business hours of the establishment;
4. List of persons authorized access to the establishment during non-business hours;

5. Procedure to be followed in the event of an alarm;
6. Emergency call list of personnel to notify in the event of an alarm;
7. Description and location of the alarm on the premises;
8. The name and address of the alarm business monitoring or maintaining the alarm; and
9. Permit fee, to be determined from time to time by the Village Board.

C. ANNUAL NOTIFICATION INFORMATION: On an annual basis, or more frequently if necessary, every security alarm user shall provide to the Police Department current information about the alarm system and alarm system environment. Each alarm user shall provide current information as required by the Alarm System Permit. Failure to provide current information shall be considered a violation of this Section.

D. STATE LICENSE: Except for those alarms used by the Village and other units of government, only private alarm contractors who have been licensed by the Illinois Department of Professional Registration shall be permitted to install alarm systems in the Village and only private security contractors licensed by the Illinois Department of Professional Registration shall be permitted to monitor alarm systems that have been installed in the Village.

E. FALSE ALARMS, ADDITIONAL CHARGES, REGISTRATION, AND PERMIT REFOCATION:

1. Commencing 30 days from the date the alarm system is installed and placed in service at the premises, if the Police Department responds to more than 8 false alarms in a calendar year, the alarm user or alarm agency shall pay the following sum(s) to the Village. The fine shall be paid to the Village within 30 days after the alarm user or alarm agency is notified of the violation:  
  
7 or 8 false alarms: \$25 per occurrence;  
9 or 10 false alarms: \$50 per occurrence; and  
11 or more false alarms: \$100 per occurrence.
2. If the Police Department responds to a false alarm and it is determined the cause of the false alarm was the negligence of the alarm business for failing to contact the Police Department of work being done on the alarm, the alarm business shall be subject to the fine sums in Section 9.07-E1.
3. After 20 false alarms the Police Department may revoke the Alarm System permit.

F. AUTOMATIC DIALER ALARMS: Automatic dialer alarms that dial directly into the Police Department are not allowed to be used within the corporate limits of the Village,

with the exception of those used by the Village and those authorized by the Chief based upon special facts involving medical and/or life threatening circumstances.

G. **AUDIBLE ALARMS:** Any alarm that emits an audible alarm is required to have a cut-off timer that will shut the alarm off automatically after 30 minutes.

H. **LIMITATION ON VILLAGE LIABILITY:** The Village shall take every reasonable precaution to assure that alarm signals and prerecorded alarm messages received by the Village are given appropriate attention and are acted upon with dispatch. Nevertheless, the Village shall not be liable for:

1. Any defects in the operation of the automatic signaling devices;
2. Any failure or neglect to respond appropriately upon receipt of an alarm from such source; or
3. For failure or neglect of any person in connection with the installation and operation of equipment, the transmission of alarm signals and prerecorded alarm messages or the relaying of such signals and messages.

In the event the Village finds it necessary to disconnect a defective alarm detection system, the Village shall incur no liability by such action.

## **9.08 DISORDERLY CONDUCT**

No person shall engage in disorderly conduct in the Village. A person commits disorderly conduct when he knowingly:

1. Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace;
2. Transmits in any manner to the fire department of any municipality or fire protection district a false alarm or fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists;
3. Transmits in any manner to another a false alarm to the effect that a bomb or other explosive of any nature is concealed in such 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 is concealed in such place.
4. 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.
5. Enters upon the property of another and for a lewd or unlawful purpose and deliberately looks into a dwelling on the property through any window or other opening in it.

6. With the purpose of causing public danger, alarm, disorder, nuisance, he commits any of the following acts in a public place:
  - a. Commits an act in a violent manner toward another whereby that other person is placed in danger of his life or health;
  - b. Commits an act in a violent manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;
  - c. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, health or property of another;
  - d. Interferes with another's pursuit of a lawful occupation by acts of violence;
  - e. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic on a public way and refuses to clear such public way when ordered to do so by a peace officer or other lawful authority;
  - f. Incites, attempts to incite or is involved in attempting to incite a riot or unlawful disturbance;
  - g. Uses abusive language or threats to any peace officer or any other person when such words have a direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment are not prohibited;
  - h. Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance in a public place or affecting a public place or another person's premises to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square or common, whereby the public peace is broken or disturbed, or the traveling public annoyed;
  - i. Fails to obey a lawful order to disperse by a peace officer where one or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is threatened;
  - j. Uses abusive or obscene language or makes an obscene gesture in public;
  - k. Assembles with three or more persons for the purpose of using force or violence to disturb the public peace;
  - l. Assembles with three or more persons for the purpose of violating any provision of this Code; and
  - m. Appears in any public place and is under the influence of alcohol or controlled substance, to the degree that he may endanger himself or other persons or property, or alarm or disturb other persons in his vicinity.
7. Permits any assembly of two or more persons for the purpose of committing any unlawful

act or breach of the peace, or any riotous, offense or disorderly conduct, in or upon any premises owned or occupied by him or under his control.

8. Interrupts or disturbs any lawful assembly of people by making any loud or unusual noise, or by rude or indecent behavior, or by profane, obscene or improper discourse or conduct.
9. Engages in mob action: mob action consists of any of the following:
  - a. The use of force or violence disturbing the public peace by 2 or more persons acting together and without authority of law;
  - b. The assembly of 2 or more persons to commit an unlawful act; or
  - c. The assembly of 2 or more persons, without authority of law, for the purpose of doing violence to the person or property of anyone 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.
10. Disturbs, tends to disturb or aid in disturbing the peace of others by violent, tumultuous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control.
11. Uses paint or other medium in any way to deface, damage or destroy property.
12. PENALTY: Any person violating this Section shall be fined not less than \$100 for each offense and be responsible for reimbursing the Village's cost of prosecution including attorney fees incurred by the Village. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to any property damaged or destroyed or person injured.

#### **9.09 WEAPONS** *Amended, 483*

A. WEAPONS: Unless authorized by law, no person shall wear under his clothing, or conceal about his person, or display in a threatening like manner, any dangerous or deadly weapon including, but not limited to any pistol, revolver, sling shot, knuckles, any bowie or similar knife, or any knife with a switch-blade or device whereby the blade or blades can be opened by a button, pressure on the handle or other mechanical contrivance.

B. DISCHARGE OF FIREARMS: No person shall discharge any firearms in the Village with the intent to inflict harm to a person or property or when used in a reckless manner. This Section shall not be construed to prohibit sworn police officers acting in the performance of their duties or during training authorized by the Chief of Police.

C. DISPLAY AND SALE OF SPECIFIED WEAPONS: No pawnbroker, second-hand dealer or other person engaged in business in the Village shall display or place on exhibition in any show window or other window facing upon any street, any pistol, revolver or other firearm, with a barrel less than 12 inches in length, or any brass or metal knuckles, or any

club loaded with lead or other weight, or any blackjack or billy club. Weapons displayed for sale shall be incapable of firing. In non-business hours said weapons shall be stored in a secured and locked vault, safe or security box.

D. PENALTY. Any person violating this Section shall be fined not less than \$100 for each offense and be responsible for the Village's cost of prosecution including attorney fees incurred by the Village. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to any property damaged or destroyed or person injured.

## 9.10 BARBED WIRE FENCES

No person shall maintain any fences containing barbed wire along or near any public sidewalk.

## 9.11 NOISE

A. DEFINITIONS: In addition to the definitions found in Appendix A of this Code, for purposes of this Section, the following words and phrases, whether capitalized or not, shall have the following meanings:

**Construction:** Any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or of public or private right-of-way, structures, utilities or similar property.

**Demolition:** Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

**Emergency:** Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

**Emergency work:** Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

**Impulsive sound:** Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

**Industrial area:** As defined in the Prairie Grove Zoning Code.

**Motor carrier vehicle engaged in interstate commerce:** Any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

**Motor vehicle:** Any vehicle that is propelled or drawn on land by a motor, such as, but not limited to, passenger car, truck, truck trailer, semitrailer, camper, go-cart, snowmobile, amphibious raft on land, dune buggy or racing vehicle, but not including motorcycles.

**Motorcycle:** An unenclosed motor vehicle having a saddle for the use of the operator and two or

three wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.

**Muffler or sound dissipative device:** A device for abating the sound of escaping gases of an internal combustion engine.

**Noise:** Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

**Noise disturbance:** Any sound which either:

1. Endangers or injures the safety or health of humans or animals, or
2. Annoys or disturbs a reasonable person or normal sensitivities, or
3. Endangers or injures personal or real property.

**Person:** Any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

**Powered model vehicle:** Any self-propelled airborne, waterborne or land born plane, vessel or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

**Public right-of-way:** Any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

**Public space:** Any real properties or structures thereon which are owned or controlled by a governmental entity.

**Real property boundary:** An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

**Residential area:** As defined in the Prairie Grove Zoning Code.

**Weekday:** Any day Monday through Friday, which is not a legal holiday.

B. **NOISE SENSITIVE ZONE RECOMMENDATIONS:** The Village Board may designate the noise sensitive zone which contains noise sensitive activities. Existing quiet zones shall be considered noise sensitive zones until otherwise designated. Noise sensitive activities include, but are not limited to, operation of a school, public library, church, hospital and nursing home.

C. **NOISE DISTURBANCES PROHIBITED:** No person shall unreasonably make, continue or cause to be made or continued, any noise disturbance. Noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way shall be exempt from this Section.

D. **RADIOS, TELEVISION SETS, MUSICAL INSTRUMENTS AND SIMILAR DEVICES:** No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound:

1. Between the hours of 11 p.m. and 7 a.m. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone, except for activities open to the public and for which a permit has been issued by the Village Board;
2. In such a manner as to create a noise disturbance at 50 feet or 15 meters from such a device, when operated in or on a motor vehicle on a public right-of-way or public space;
3. In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier;

This Section shall not apply to noncommercial spoken language covered until Section 9.12-E herein.

E. **LOUDSPEAKER OR PUBLIC ADDRESS SYSTEMS:** No person shall:

1. Use or operate for any noncommercial purpose any loudspeaker, public address system or similar device between the hours of 11 p.m. and 7 a.m. the following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone.
2. Use or operate for any commercial purpose any loudspeaker, public address system or similar device as follows:
  - a. Such that the sound creates a noise disturbance across a real property boundary or within a noise sensitive zone; or
  - b. Between the hours of 11 p.m. and 7 a.m. the following day on a public right-of-way or public space.

F. **STREET SALES:** No person shall offer for sale or sell anything by shouting or outcry within any residential or commercial area.

G. **LOADING AND UNLOADING:** No person shall load, unload, open, close or otherwise handle boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 8 p.m. and 7 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.

H. **CONSTRUCTION:** Except as provided herein and except for emergency work of

public service utilities, no person shall operate or permit the operation of any tools, machinery or equipment used in construction, drilling or demolition work or land development between the hours of 8 p.m. and 7 a.m. the following day on weekdays and Saturdays and between the hours of 6 p.m. and 9 a.m. the following day on Sundays and holidays, such that the sound creates a noise disturbance across a residential real property boundary or within a noise sensitive zone.

I. **VEHICLE OR MOTORBOAT REPAIRS AND TESTING:** No person shall repair, rebuilt, modify or test any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.

J. **PLACES OF PUBLIC ENTERTAINMENT:** No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in any place of public entertainment at a sound level greater than 90 dBA as read by the slow response on a sound level meter at any point that is normally occupied by a customer, unless a conspicuous and legible sign is located outside such place, near the public entrance, stating:

**WARNING: SOUND LEVELS WITHIN  
MAY CAUSE PERMANENT  
HEARING IMPAIRMENT**

K. **POWERED MODEL VEHICLES:** No person shall operate or permit the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary, in a public space or within a noise sensitive zone between the hours of 10 p.m. and 7 a.m. the following day. The maximum sound levels in a public space during the permitted period of operation shall be measured at a distance of 50 feet or 15 meters from any point on the path of the vehicle.

L. **STATIONARY NON-EMERGENCY SIGNALING DEVICES:** Except for devices used in conjunction with places of religious worship, no person shall sound or permit the sounding of any electronically amplified signal from any stationary bell, chime, siren, whistle or similar device intended primarily for non-emergency purposes, from any place for more than 10 minutes in any hourly period.

M. **EMERGENCY SIGNALING DEVICES:**

1. Except for emergency purposes or for testing, no person shall intentionally sound or permit the sounding outdoors of any fire, burglar or civil defense alarm siren, whistle or similar stationary emergency signaling devices.
2. Testing of a stationary emergency signaling device shall occur at the same time of day each time such test is performed but not before 7 a.m. or after 6 p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed 60 seconds.
3. Testing of a complete emergency signaling system, including the functioning of the signaling device and the personnel response to the

signaling device, shall not occur more than once in each calendar month. Such testing shall not occur before 7 a.m. or after 6 p.m. A time limit shall be applicable to such complete system testing.

N. **NOISE SENSITIVE ZONES:** No person shall create or cause the creation of any sound within any noise sensitive zone so as to disrupt the activities normally conducted within the zone or disturb or annoy the patients of a hospital, nursing home or similar activity, provided that conspicuous signs are displayed indicating the presence of the zone.

O. **DOMESTIC POWER TOOLS:** No person shall operate or permit the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snowblower or similar device used outdoors in residential areas between the hours of 11 p.m. and 7 a.m. the following day so as to create a noise disturbance across a residential real property boundary.

P. **EMERGENCY EXCEPTIONS:** The provisions of this Section shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.

Q. **EXCEPTIONS:** Exceptions to this Section may be granted by the Village Board upon the filing of an application. Said application shall contain information which demonstrates that bringing the source of sound or activity into compliance with this Section would constitute an unreasonable hardship on the applicant, the Village or on other persons.

R. **MOTOR VEHICLES:** No person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating (GVWT) in excess of 10,000 pounds, or any auxiliary equipment attached to such a vehicle, for a period longer than 15 minutes in any hour while the vehicle is stationary for reasons other than traffic congestion, on a public right-of-way or designated noise sensitive zone, between the hours of 11 p.m. and 7 a.m. the following day.

## **9.12 DAMAGING PROPERTY**

A. **GRAFFITI DEFINED:** Graffiti is any permanent display of any name, identification, letter, numeral, figure, emblem, insignia, picture, outline, character, spectacle, delineation, illustration, symbol or any combination thereof, which without authorization is marked, written, drawn, painted, scratched, inscribed or affixed, and which is a different color from the color of the exterior of those objects of structures described above and to which is affixed.

B. **PROHIBITED:** It shall be unlawful, and is hereby declared a nuisance to place graffiti, or permit graffiti to remain upon any public or private curb stone, flagstone, brick, sidewalk or any portion of any part of any sidewalk or street, or upon any tree, lamp post, telephone pole, utility box, utility pole, stanchion, postal mail receptacle, sign, hydrant, fence, door, wall, window, garage or enclosure, vehicle, bridge, pier or upon any other public or private structure or building.

C. No person shall damage, deface, disturb, destroy or deface any Village property or any public or private property without permission of the owner.

D. PENALTY: Whoever violates any provision of this Section shall be fined not less than \$100 for each offense and be responsible for the Village's cost of prosecution including attorney fees incurred by the Village. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to the owner of any property damaged or destroyed. Nothing herein shall preclude such additional civil remedies available to the person whose property has been damaged or destroyed. Each day any violation or any provision of this Section shall continue shall constitute a separate violation.

### **9.13 LITTERING**

No person shall litter any public or private property with paper or other debris or foreign matter. Any stored or transported materials susceptible to blowing or scattering shall be adequately covered or protected to prevent littering.

### **9.14 COMBUSTIBLE REFUSE**

It shall be unlawful to permit or store any combustible refuse in such manner as to create a fire hazard, or to throw or deposit, or cause to be thrown or deposited, any such refuse of any kind on or in any street, highway, or alley or other public place within the corporate limits of the Village.

### **9.15 PARADES AND DEMONSTRATIONS**

A. No person shall participate in or promote any parade or demonstration on any street or other public property unless a permit has been issued by the Village Board.

B. Application for such permit shall provide such information as the Chief shall require for proper protection of the public.

C. No such parade or demonstration shall be held in any such manner as to obstruct the orderly use by the public of any street or public place.

D. The Village Board may issue such permit subject to such reasonable restrictions as it shall deem necessary to safeguard the residents of the Village and to protect private and public property.

### **9.16 TOBACCO PRODUCTS**

A. DEFINITIONS: In addition to those terms defined in Appendix A of this Code, terms used in this Section are defined as follows:

**Compliance check:** An inspection conducted with the intention of assessing retail sales of tobacco products to minors and enforcing age-of-sales law. Compliance checks are conducted by having designated persons under the age of 18 years of age attempt to purchase tobacco products from vendors.

**License:** A license issued by the Village for the retail sale of tobacco products.

**Licensee:** The holder of a valid Village license for the retail sale of tobacco products.

**Minor:** Any person under the age of 18.

**Public place:** An area to which the public is invited or in which the public is permitted, including but not limited to any right-of-way, shopping center, park, playground and any other property owned by the Village or other unit of government.

**Self-service displays:** The open display of tobacco products and point-of-sale tobacco promotional products that the public has access to without intervention of a store employee.

**Tobacco products:** Any substance containing tobacco leaf including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco and dipping tobacco.

**Vending machine:** Any mechanical, electric or electronic, self-service device which, upon insertion of money, tokens or any form of payment, dispenses tobacco products.

B. **LICENSE REQUIRED:** It shall be unlawful to sell or offer for sale at retail, give away, deliver or to keep with the intention of selling at retail, giving away or delivery tobacco products within the Village without having first obtained a valid tobacco retailer's license from the Village for each location in which tobacco products are sold. The fee for an annual tobacco retailer's license shall be \$100. Said license shall expire on April 30 and is non-transferable except when a licensee changes location.

C. **POSSESSION AND USE OF TOBACCO PROHIBITED:** Except as provided herein, no person under 18 years of age shall possess, buy or use any tobacco product 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. It shall not be a violation of this Section 9.21-C for a minor to possess any tobacco product where:

1. Such use takes place under the direct supervision and approval of the parent, parents or legal guardian of the minor; and
2. Such use takes place in the privacy of a home or established place of worship or tribal meeting place; provided, however, where such use takes place in an established place of worship or tribal meeting place, such use shall not be a violation only where use is in the performance of a religious service or tribal ceremony and the religious group or tribe is legally established and recognized in this State.

D. **WARNING TO MINORS:** Any person, firm, partnership, company or corporation operating a place of business where tobacco products are sold or offered for sale shall post in a conspicuous place upon the premises a sign imprinted with the following statement: SALE OF TOBACCO PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE IS PROHIBITED BY LAW. The sign shall be printed on a white card in red letters at least one inch in height.

E. **IDENTIFICATION REQUIRED:** No licensee shall sell or permit to be sold any tobacco products to an individual appearing younger than 27 years of age without requesting and

examining photographic identification establishing the purchaser's age as 18 years of age or greater.

F. LOCATION: It shall be unlawful for any person to sell, offer for sale, give away or deliver tobacco products within 100 feet of any school, child care facility or other building used for educational or recreational purposes by persons under 18 years of age.

G. TOBACCO SAMPLES, DISTRIBUTION: It shall be unlawful for any licensee or any person, business or tobacco retailer to distribute, give away or deliver tobacco products free of charge, or deliver any coupon or rebate for tobacco products to any person on any right-of-way, park, playground or other property owned by the Village or any unit of government.

H. PROHIBITED SALES: It shall be unlawful for any licensee, person, business or tobacco retailer to sell, permit to be sold or offer for sale any tobacco product by means of self-service displays or any other means other than vendor-assisted sales. Tobacco vending machines or any other devices for the sale or distribution of tobacco products is prohibited.

I. LICENSEE'S RESPONSIBILITIES: Every act or omission of any nature constituting a violation of any provision of this Section by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such licensee. Such licensee shall be punishable in the same manner as if such act or omission had been done or omitted by the licensee personally.

J. INSPECTIONS; COMPLIANCE CHECKS: It shall be the duty of Chief and the Building Inspector to conduct annual random, unannounced inspections of all licensed premises for compliance with this Section and the laws of this State. Not less than 3 compliance checks shall take place each year.

K. SALES/DISTRIBUTION VIOLATIONS: The President shall initiate enforcement against any person who violates any provision of this Section, and shall conduct hearings upon the request of the licensee.

L. ENFORCEMENT; VIOLATIONS: The President and the Police Department shall have the authority to enforce this Section. Except for Section 9.17-C, any person who shall knowingly violate, or shall knowingly cause the violation of any provision of this Section, is guilty of a petty offense for which the offender may be fined as follows:

1. In the case of a first violation, the offender shall be fined not less than \$100 and not more than \$500, plus the Village's cost of prosecution, and shall be notified in writing of penalties levied for further violations.
2. In the case of a second violation within a 2-year period, the offender shall be fined not less than \$250 and not more than \$500, plus the Village's cost of prosecution.
3. In the case of a third violation or subsequent offense within a 2-year period, the offender shall be fined not less than \$500 and not more than \$1,000, plus the Village's cost of prosecution.

M. SUSPENSION; LICENSE REVOCATION: Except for Section 9.17-C, a license shall be suspended or revoked for any violation of this Section after notice and a hearing has been conducted on the violation.

1. In the case of a first violation, the licensee shall be fined \$200, plus the Village's cost of prosecution, and shall be notified in writing of penalties levied for further violations.
2. In the case of a second violation, the licensee shall be fined \$500, plus the Village's cost of prosecution, and the license shall be suspended for not less than 30 consecutive business days nor more than 3 months. While the license is suspended all tobacco products' merchandise shall be removed from all areas that are accessible to the public.
3. In the case of a third violation, the licensee shall be fined \$1,000, plus the Village's cost of prosecution, and the license shall be suspended for not less than 6 months nor more than 18 months from the date of the suspension. While the license is suspended all tobacco products' merchandise shall be removed from all areas that are accessible to the public.
4. In the case of a fourth violation, the licensee shall be fined \$1,000, plus the Village's cost of prosecution, and the license shall be revoked. All tobacco products' merchandise shall be removed from all areas that are accessible to the public.

The Village's cost of prosecution shall include all costs associated with the hearing, which may include, but not be limited to, court reporter's fees, cost of preparing and mailing notices and orders and all other miscellaneous expenses incurred by the Village, or such lesser sum as the President may allow. Said costs shall be paid to the Village within 30 days of the notification of the costs. Failure to pay said costs within 30 days of notification is a violation of this Section and may cause the levy of an additional fine.

N. PURCHASE/POSSESSION VIOLATIONS: Any minor that violates Section 9.16-C shall be subject to the following penalties:

1. For the first violation, a fine of \$25 and the Village's cost of prosecution.
2. For the second violation, a fine of not less than \$50 and not more than \$100, plus the Village's cost of prosecution, and the completion of an approved smoking cessation program.
3. For the third and subsequent violations, a fine of not less than \$100 and not more than \$300, plus the Village's cost of prosecution; and the completion of an approved smoking cessation program and not less than 20 hours of community service.

O. **NON-RETALIATION:** No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee, applicant for employment, or customer, because such employee, applicant or customer reported violations of any provisions of this Section.

## 9.17 CURFEW

A. **DEFINITIONS:** In addition to those terms defined in Appendix A of this Code, the following definitions are applicable to this Section:

**Emergency:** An unforeseen combination of circumstances that call 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.

**Establishment:** 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.

**Guardian:** A person who, under court order, is the guardian of the person of a minor; or a public or private agency with whom a minor has been placed by a court.

**Minor:** A person less than 17 years of age.

**Operator:** 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.

**Parent:** A person who is (1) a natural parent, adoptive parent or step-parent or another person; or (2) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

**Public place:** 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.

**Remain:** To linger or stay; or 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.

**Serious bodily injury:** 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. It shall be unlawful for any person less than 17 years of age to be present or upon any public road, street, alley or park, or other lands used for public purposes or in any public place of business or amusement in the Village at the following times unless such person is accompanied and supervised by a parent, legal guardian or other responsible companion at least 18 years of age approved by a parent or legal guardian or unless engaged in a business or occupation which the State statutes authorize a person less than 17 years of age to perform:

1. Between 12:01 a.m. and 6 a.m. Friday;

2. Between 12:01 a.m. and 6 a.m. Saturday; and
3. Between 11 p.m. on Sunday to Thursday, inclusive, and 6 a.m. on the following day.

C. It shall be unlawful for a parent, legal guardian or other person to knowingly allow or permit a person in their custody or legal control to violate this Section.

D. EXCEPTIONS: The following shall constitute valid exceptions to the operation of the curfew:

1. At any time when accompanied by his or her parent, guardian or other adult person responsible for or having the legal care, custody and control of the individual, or an authorized adult;
2. If participating in, going to or returning from, without any detour or stop:
  - (a) An emergency as defined herein;
  - (b) Lawful employment;
  - (c) Attending an official school, religious or other social or recreational activity supervised by adults and sponsored by a unit of government, civic organization or other similar entity that takes responsibility for the attendees;
  - (d) An activity involving the exercise of First Amendment rights protected by the United States Constitution (or those similar rights protected by the State of Illinois Constitution), such as free exercise of religion, freedom of speech and the right of assembly.
3. Is married or had been married or is an emancipated minor under the Emancipation of Mature Minors Act, as amended (750 ILCS 30/1 *et seq.*).

E. ESTABLISHMENTS: The owner, operator or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours or fails to promptly notify the Police Department that a minor is present on the premises of the establishment during curfew hours and refuses to leave.

F. ENFORCEMENT: Before taking any enforcement action under this Section, a police officer shall ask the suspected offender's age and reason for being in the public place or on the premises. The police officer shall not issue a citation or make an arrest under this Section unless the police officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception in Section 9.18-D applies.

G. PENALTY: Any person violating this Section shall be fined not less than \$100 for each offense and be responsible for the Village's cost of prosecution including attorney fees

incurred by the Village. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to any property damaged or destroyed or person injured.

#### **9.18 PARENTAL RESPONSIBILITY**

A. It shall be unlawful for a parent or legal guardian of an unemancipated minor residing with such parent or legal guardian to knowingly allow or permit said minor to commit any violation of a Village ordinance or State statute concerning vandalism, battery, fireworks, obscene conduct, trespass, possession of weapons or alcoholic liquor, curfew, disorderly street gang conduct, suspicious activity, or any other offense or willful or malicious acts to persons or property.

B. The parent or guardian responsible for the willful or malicious acts of the minor child pursuant to this Section shall make full restitution to the injured or damaged party or parties within 10 days after notification by mail. Parents and guardians shall be responsible individually and jointly.

C. PENALTY: Whoever violates any provision of this Section shall be fined not less than \$100 for each offense and be responsible for the Village's cost of prosecution including attorney fees incurred by the Village. Restitution by the violator shall also be made to the owner of any property damaged or destroyed. Nothing herein shall preclude such additional civil remedies available to the person whose property has been damaged or destroyed. Each day any violation or any provision of this Section shall continue shall constitute a separate violation.

#### **9.19 THEFT OF SERVICE**

No person shall make any unauthorized connection, physically, electrically, acoustically, inductively or otherwise, with any part of the cable television system existing in the Village for the purpose of enabling himself or others to receive television signals, radio signals, pictures, programs, sounds or any other information or intelligence transmitted over the cable television system without payment to the owner of the cable television system.

No person shall, without the consent of the owner of the cable television system, willfully tamper with, remove or injure any cable, wires, or other equipment used for the distribution programs, sounds, or any other information or intelligence transmitted over said cable television system.

#### **9.20 BICYCLES, TRICYCLES, SKATEBOARDS OR SIMILAR MOTORIZED AND NON-MOTORIZED RECREATIONAL DEVICES**

A. DEFINITIONS: In addition to the terms defined in Appendix A of this Code, the following words, when used in this Section, shall have the following meanings:

**Village property:** Any sidewalk, street right-of-way, Village park, Village parking lot/area or any other public property owned by the Village.

**Motorized wheelchair:** As defined in 625 ILCS 5/1-148.3, as amended.

**Personal use vehicle and personal use device:** Vehicles, devices or means of transportation or recreation which include, but are not limited to, the following: skateboard, bicycle, tricycle, roller blade, roller skate, or other similar device, whether non-motorized or motorized (electric, gasoline engine or other form of external power), mini-bike, pedalcycle, recreational device or vehicle, snowmobile, go-kart, moped, all-terrain vehicles (ATV), golf cart or other such motorized or non-motorized devices or vehicles or modes of transportation.

B. USE OF PERSONAL USE VEHICLES AND DEVICES: Except as provided in Section 9.21-C herein, it shall be unlawful and is hereby declared a nuisance for any person to operate, ride on, be pushed on or traverse on a personal use vehicle or personal use device on any Village property or on any private property without the permission of the property owner.

C. EXEMPTIONS:

1. Motorized wheelchairs shall be permitted to operate on any Village property so long as operated in a safe and orderly manner.
2. Non-motorized bicycles, tricycles, skateboards and other non-motorized recreational devices or vehicles may be operated on sidewalks in residential zoning districts provided the operators remain in single file, yield the right-of-way to pedestrians, and, when approaching a pedestrian, reduce the speed of the device to a speed which is no greater than necessary to continue the safe operation of the device, and without impairing the right-of-way of the pedestrian or without causing alarm or danger and/or damage to the pedestrian and/or property.
3. Special events that are conducted with a written permit issued by the Chief.
4. Any personal use vehicle or device licensed and registered pursuant to the Illinois Vehicle Code shall be permitted on any Village street or parking lot/area.
5. Any employee of any unit of government may operate any personal use vehicle or device owned by a unit of government in the course of their duties on any Village property.

**9.21 NO SMOKING** *Amended, 440*

A. DEFINITIONS: In addition to those terms defined in Appendix A of this Code, for the purposes of this Section, the following terms have the meanings ascribed to them in this Section unless different meanings are plainly indicated by the context:

**Bar:** An establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and that derives no more than 10 percent of its gross revenue from the sale of food consumed on the premises. Bar includes, but is not limited to, taverns, nightclubs, cocktail lounges, adult entertainment facilities and cabarets.

**Employee:** A person who is employed by an employer in consideration for direct or indirect monetary wages or profits or a person who volunteers his or her services for a non-profit entity.

**Employer:** A person, business, partnership, association or corporation, including a municipal corporation, trust or non-profit entity that employs the services of one or more individual persons.

**Enclosed area:** All space between a floor and a ceiling that is enclosed or partially enclosed with (i) solid walls or windows, exclusive of doorways, or (ii) solid walls with partitions and no windows, exclusive of doorways, that extend from the floor to the ceiling, including, without limitation, lobbies and corridors.

**Enclosed or partially enclosed sports arena:** Any sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller rink, ice rink, bowling alley or other similar place where members of the general public assemble to engage in physical exercise or participate in athletic competitions or recreational activities or to witness sports, cultural, recreational or other events.

**Gaming equipment or supplies:** Gaming equipment/supplies as defined in the Illinois Gaming Board Rules of the Illinois Administrative Code.

**Gaming facility:** An establishment utilized primarily for the purposes of gaming and where gaming equipment or supplies are operated for the purposes of accruing business revenue.

**Healthcare facility:** An office or institution providing care or treatment of diseases, whether physical, mental, or emotional or other medical, physiological or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals, weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories and offices of surgeons, chiropractors, physical therapists, physicians, dentists and all specialists within these professions. Healthcare facility includes all waiting rooms, hallways, private rooms, semiprivate rooms and wards within healthcare facilities.

**Place of employment:** Any area under the control of a public or private employer that employees are required to enter, leave, or pass through during the course of employment, including but not limited to entrances and exits to places of employment, including a minimum distance of 15 feet from entrances, exits, windows that open and ventilation intakes that serve an enclosed area where smoking is prohibited; offices and work areas; restrooms; conference and classrooms; break rooms; cafeterias and other common areas. A private residence or home-based business, unless used to provide licensed child care, foster care, adult care or other similar social service care on the premises, is not a place of employment.

**Private club:** A not-for-profit association that (i) has been in active and continuous existence for at least three years prior to the effective date of the Act, whether incorporated or not, (ii) is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, (iii) is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose, but not for pecuniary gain, and (iv) only sells alcoholic beverages incidental to its operation. For purposes of this definition, private club means an organization

that is managed by a board of directors, executive committee, or similar body chosen by the members at an annual meeting, has established bylaws, a constitution, or both to govern its activities, and has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. 501.

**Private residence:** the part of a structure used as a dwelling, including, without limitation: a private home, townhouse, condominium, apartment, mobile home, vacation home, cabin or cottage. For the purposes of this definition, a hotel, motel, inn, resort, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home or assisted living facility shall not be considered a private residence.

**Proprietor:** Any individual or his designated agent who, by virtue of his office, position, authority or duties, has legal or administrative responsibility for the use or operation of property.

**Public place:** Any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the State of Illinois, or any other public entity and regardless of whether a fee is charged for admission, including a minimum distances of 15 feet from entrances, exits, windows that open and ventilation intakes that serve an enclosed area where smoking is prohibited. A public place does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises. A public place includes but is not limited to enclosed indoor areas used by the public or serving as a place of work including, but not limited to, hospitals, restaurants, retail stores, offices, commercial establishments, elevators, indoor theaters, libraries, museums, concert halls, public conveyances, educational facilities, nursing homes, auditoriums, enclosed or partially enclosed sports arenas, meeting rooms, schools, exhibition halls, convention facilities, polling places, private clubs, gaming facilities, and all government owned vehicles and facilities, including buildings and vehicles owned, leased or operated by the State or State subcontract, healthcare facilities or clinics, enclosed shopping centers, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, public restrooms, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, reception areas, and no less than 75 percent of the sleeping quarters within a hotel, motel, resort, inn, lodge, bed and breakfast or other similar public accommodation that are rented to guests, but excludes private residences.

**Restaurant:** An eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands and private and public school cafeterias, that gives or offers for sale food to the public, guests or employees, and/or a kitchen or catering facility in which food is prepared on the premises for serving elsewhere. Restaurant includes a bar area within the restaurant.

**Retail tobacco store:** A retail establishment that derives more than 80 percent of its gross revenue from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. Retail tobacco store does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food or restaurant license.

**Smoke or smoking:** The carrying, smoking, burning, inhaling or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs or any other lighted smoking equipment.

B. **SMOKING IN PUBLIC PLACES PROHIBITED:** No person shall smoke in a public place or any place of employment or within 15 feet of any entrance to a public place or place of employment. No person may smoke in any vehicle owned, leased, or operated by the State, Village or other political subdivision of the State. Smoking is prohibited in indoor public places and places of employment unless exempted by Section 9.21-E.

C. **SMOKING PROHIBITED IN STUDENT DORMITORIES:** Notwithstanding any other provision of this Section, smoking is prohibited in any portion of the living quarters, including, but not limited to, sleeping rooms, dining areas, restrooms, laundry areas, lobbies and hallways, of a building used in whole or in part as a student dormitory that is owned and operated or otherwise utilized by a public or private institution of higher education.

D. **POSTING OF SIGNS; REMOVAL OF ASHTRAYS; DESIGNATION OF OTHER NON-SMOKING AREAS:**

1. “No Smoking” signs or the international “No Smoking” symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in each public place and place of employment where smoking is prohibited by this Section by the owner, operator, manager, or other person in control of that place.
2. Each public place and place of employment where smoking is prohibited by this Section shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
3. All ashtrays shall be removed from any area where smoking is prohibited by this Section by the owner, operator, manager, or other person having control of the area.
4. Notwithstanding any other provision of this Section, any employer, owner, occupant lessee, operator, manager, or other person in control of any public place or place of employment may designate a non-enclosed area of a public place or place of employment, including outdoor areas, as an area where smoking is also prohibited provided that such employer, owner, lessee or occupant shall conspicuously post signs prohibiting smoking in the manner described in this Section.

E. **EXEMPTIONS:** Notwithstanding any other provisions of this Section, smoking is allowed in the following areas:

1. Private residences or dwelling places, except when used as a child care, adult day care, or other healthcare facility or any other home-based business open to the public.
2. Retail tobacco stores in operation prior to January 1, 2008. The retail tobacco store shall annually file with the Illinois Department of Public

Health by January 31st an affidavit stating the percentage of its gross income during the prior calendar year that was derived from the sale of loose tobacco, plants or herbs and cigars, cigarettes, pipes or other smoking devices for smoking tobacco and related smoking accessories. Any retail tobacco store that begins operation after the effective date of January 1, 2008, may only qualify for an exemption if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited.

3. Private and semi-private rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed or to remain in a room where smoking is permitted and the smoke shall not infiltrate other areas of the nursing home.
4. Hotel and motel sleeping rooms that are rented to guests and are designated as smoking rooms, provided that all smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into nonsmoking rooms or other areas where smoking is prohibited. Not more than 25 percent of the rooms rented to guests in a hotel or motel may be designated as rooms where smoking is allowed. The status of rooms as smoking or nonsmoking may not be changed, except to permanently add additional nonsmoking rooms.

F. ENFORCEMENT: The Illinois Department of Public Health, State-certified local public health departments and local law enforcement agencies shall enforce the provisions of this Section and may assess fines pursuant to Section 9.21-G. Any person may register a complaint with the Illinois Department of Public Health, a State-certified local public health department or a local law enforcement agency for a violation of this Section.

G. VIOLATIONS:

1. A person, corporation, partnership, association or other entity, who violates this Section, shall be fined no less than \$100 and not more than \$250 plus the Village's cost of prosecution, including reasonable attorney fees. Each day that a violation continues shall be considered a separate offense.
2. A person who owns, operates, or otherwise controls a public place or place of employment that violates this Section shall be fined (i) not less than \$250 for the first violation, (ii) not less than \$500 for the second violation within one year after the first violation, and (iii) not less than \$750 for each additional violation within one year after the first violation.

H. INJUNCTIONS: The Illinois Department of Public Health, a State-certified local public health department, local law enforcement agency or any individual personally affected by repeated violations may institute, in the circuit court, an action to enjoin violations of this

Section.

## **9.22 REMOTE CONTROL DEVICES**

No remote control device, such as model airplanes or toy vehicles, shall be operated on any Village street or parking lot.

## **9.23 STREET GANG ACTIVITY**

### **A. VILLAGE BOARD FINDINGS:**

1. The Village Board hereby finds and declares that it is the right of every person, regardless of race, color, creed, religious, national origin, sex, gender, sexual orientation, age or disability to be secure and protected from fear, intimidation and physical harm caused by the activities of violent groups and individuals. It is not the intent of this Chapter to interfere with the exercise of the constitutionally protected rights of freedom of expression and association. The Village Board hereby recognizes the constitutional right of every citizen to harbor and express beliefs on any lawful subject whatsoever, to lawfully associate with others who share similar beliefs, to petition lawfully constituted authority for a redress of perceived grievances, and to participate in the electoral process.
2. The Village Board finds, however, that urban, suburban and rural communities, neighborhoods and schools throughout the State are being terrorized and plundered by street gangs. The Village Board finds there are now several hundred street gangs operating in Illinois, and that while their terrorism is most widespread in urban areas, street gangs are spreading into suburban and rural areas of Illinois, including McHenry County.
3. The Village Board further finds that street gangs are often controlled by criminally sophisticated adults who take advantage of our youth by intimidating and coercing them into membership by employing them as drug couriers and runners, and by using them to commit brutal crimes against persons and property to further the financial benefit to and dominance of the street gang.
4. Street gang activity presents a clear and present danger to public order and safety and is not constitutionally protected. No society is or should be required to endure such activities without redress. Accordingly, it is the intent of the Village Board, by enacting this Chapter, to prohibit street gang related activity.

B. For the purpose of this Section, “street gang” or “gang” is defined as any ongoing organization, association in fact or group of three or more persons, whether formally or informally organized, or any sub-group or affiliated group thereof, having as one of its activities the commission of criminal or illegal acts, including by way of example only and not in anyway

limiting or specifying, illegal drug distribution, and whose members individually or collectively engage in or have engaged in a pattern of criminal or illegal acts, and which group frequently, though not necessarily, claim one or more particular geographic territory or “turf” exclusively as its realm of influence and operations.

C. It shall be unlawful for any person within the Village to knowingly use, display or wear colors, emblems or insignia on or about their person in public for the purpose of promoting any street gang activity.

D. It shall be unlawful for any person within the Village to knowingly do or make any act, utterance, gesture or display for the purpose of communicating membership of, affiliation with, association with, support of, identification with, sympathy toward or affront or insult toward any street gang, or with actual knowledge that the subject act, utterance, gesture or display is used and recognized as communicative of street gang membership, affiliation, association, support, identification, sympathy or affront.

E. PENALTY: Any person violating this Section shall be fined not less than \$100 for each offense and be responsible for reimbursing the Village’s cost of prosecution including attorney fees incurred by the Village. Each day that a violation continues shall be considered a separate offense.

#### **9.24 PERSONS RESPONSIBLE FOR UNLAWFUL ACTIVITIES ON THEIR PREMISES**

It shall be unlawful for any person or persons who are the owners or occupants of any premises to allow, initiate or maintain any gathering on that premises in which tenants, invitees, visitors or trespassers engage in any unlawful activity. Unlawful activity shall include, but not be limited to, violations of any sections of this Chapter. A person will be deemed to have permitted the gathering if that person is on the premises while the unlawful activity is occurring and has not informed the police thereof. For purposes of this Section only, a gathering shall consist of 2 or more persons who are not occupants or owners of the premises.

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