

**CHAPTER 43**  
**OFFENSES AGAINST PUBLIC PEACE, SAFETY AND MORALS**

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**43.01        DISORDERLY CONDUCT**

No person shall engage in disorderly conduct in the Village. A person commits disorderly conduct when he or she 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 or she 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 or her 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 or she may endanger himself or other persons or property, or alarm or disturb other persons in his/her 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/her or under his/her 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 two or more persons acting together and without authority of law;
  - b. The assembly of two or more persons to commit an unlawful act; or
  - c. The assembly of two 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/her control.
11. Uses paint or other medium in any way to deface, damage or destroy property.

#### **43.02 RESISTING OR OBSTRUCTING A PEACE OFFICER**

No person shall resist or obstruct a peace officer in the Village. A person who knowingly resists or obstructs the performance by one known to the person to be a peace officer of any authorized act within his or her official capacity commits the offense of resisting or obstructing a peace officer.

#### **43.03 BATTERY**

No person shall commit a battery in the Village. A person commits battery if he or she intentionally or knowingly, without legal justification and by any means:

1. Causes bodily harm to an individual;
2. Makes physical contact of an insulting or provoking nature with an individual.

#### **43.04 ASSAULT**

No person shall commit an assault in the Village. 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.

#### **43.05 WEAPONS**

A. WEAPONS: Unless authorized by law, no person shall wear under his or her clothing, or conceal about his or her 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 switchblade or device whereby the blade or blades can be opened by a button, pressure on the handle or other mechanical contrivance. No person under the age of 13 shall carry any air rifle on any public

street, road, highway or public land within the Village, unless such person carries such a rifle unloaded and enclosed in a case.

B. DISCHARGE OF FIREARMS: No person shall discharge any firearms in the Village. In addition to those firearms defined by the Illinois Compiled Statutes, for purposes of this section, firearms shall include pump air rifles, potato guns, CO<sub>2</sub> pellet guns, arrows, missiles and any other device capable of discharging a projectile. No hunting shall be permitted within the corporate limits of the Village.

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.

#### **43.06 FIREWORKS**

A. DEFINITIONS: In addition to those definitions in Appendix A herein, terms used in this Section 43.06 are defined as follows:  
**Act:** The Pyrotechnic Distributor and Operator Licensing Act, 225 ILCS 227/1 *et seq.*

**BATFE:** The federal Bureau of Alcohol, Tobacco and Firearms Enforcement.

**Consumer fireworks display (or consumer display):** The detonation, ignition or deflagration or consumer fireworks to produce a visual or audible effect.

**Consumer fireworks:** 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 U.S. Department of Transportation under 49 C.F.R. 172.101. Consumer fireworks do not include snake or glow work pellets; smoke devices; trick noisemakers known as "party poppers," "booby traps," "snappers," "trick matches" and "cigarette loads;" auto burglar alarms; sparklers; toy pistols, toy canes, toy guns or other devices in which paper or plastic caps containing twenty-five hundredths 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 hundredths grains of

explosive mixture; the same and use of which shall be permitted at all times.

**Lead pyrotechnic operator:** The individual with overall responsibility for the safety, setup, discharge and supervision of a pyrotechnic display.

**Pyrotechnic display:** the detonation, ignition or deflagration of display fireworks or flame effects to produce the visual or audible effect of an exhibitional nature before the public, invitees or licensees, regardless of whether admission is charged.

B. PYROTECHNIC DISPLAYS: No pyrotechnic display shall be conducted in the Village without a pyrotechnic display permit issued by the Board of Trustees. Such permit shall not be issued to any person who is not licensed under the Act as a lead pyrotechnic operator supervising the display. Such pyrotechnic display shall be conducted in accordance with the Act and its administrative rules (41 Ill. Admin Code 235).

All pyrotechnic displays permitted in the Village shall be performed in compliance with the rules and regulations adopted by the Office of the State Fire Marshall and in accordance with the Act and the Fireworks Use Act (425 ILCS 35/1 et seq.).

C. APPLICATION: At least 15 business days prior to the pyrotechnic display being conducted, the lead pyrotechnic operator shall apply for a permit from the Village, which shall be in writing and signed by the applicant. The application and the following documents shall be submitted to the Village for approval by the Board of Trustees:

1. A current BATFE license for distribution of display fireworks;
2. Proof of insurance coverage for General Liability of \$1,000,000 per occurrence with a \$2,000,000 aggregate, an additional \$1,000,000 excess umbrella policy, Worker's Compensation with statutory levels and employer's liability of \$500,000 per occurrence. All Certificates of Insurance must have the Village of Lake in the Hills listed as an additional insured.
3. Proof of a current United States Department of Transportation (USDOT) Identification Number;
4. Proof of a current USDOT Hazardous Materials Registration Number;

5. Application fee of \$250; and
6. Proof of approval of such proposed display by the chief of the fire protection district that has jurisdiction where the display will be conducted.

The Board of Trustees may waive the permit fee for not-for-profit entities.

D. PROHIBITION: No person shall sell, offer for sale, possess, use or explode any illegal fireworks as defined in the State Fire Marshal Code. In addition, consumer displays are prohibited.

E. PENALTY:

1. Any person, firm or corporation violating any provision of this Section 43.06 shall be subject to a fine of not less than \$250 nor more than \$1,500 and Village's cost of prosecution, including reasonable attorney fees. Restitution by the violator shall also be made to any property damaged or destroyed or person injured.
2. In addition to any other applicable penalty, any person, firm, co-partnership or corporation who violates any pyrotechnic display permit shall not be entitled to apply for a pyrotechnic display permit during the remainder of the year in which the violation occurred and during the ensuing calendar year.

F. NOISE: Notwithstanding the issuance of a permit for a pyrotechnic display, the lead pyrotechnic operator must comply with all noise restrictions of the Village, including but not limited to subsection 43.09 of the Village's Municipal Code.

**43.07 FIRES**

No person shall start or maintain any fire in any street sidewalk, park or public place, or any place within 30 feet of any building or structure and as provided for in Chapter 12 of this Code.

**43.08 BARBED WIRE FENCES**

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

## 43.09 NOISE

A. It shall be unlawful for any person within the Village to make, continue, or cause to be made or continued, any loud, unnecessary or unusual noise which unreasonably annoys, disturbs, injures and/or endangers the comfort, repose, convenience, health, peace or safety of another person(s), within the limits of the Village.

B. Sound level regulation.

1. The Village's Zoning Code Section 19.2, Performance Standards, Noise, is hereby adopted and incorporated into this subsection, and any noise in excess of the Maximum Noise Levels prescribed therein shall be deemed a per se violation of this Section. Compliance with one or more performance standard shall not otherwise negate a violation of this subsection, Section, or any other applicable law.
2. Sound levels under this subsection (B) shall be measured with a sound level meter manufactured in accordance with standards set forth by the American National Standards Institute or as the Village may otherwise adopt. Under this section, noise capable of being accurately measured with such equipment shall be deemed to be noise which causes fluctuations of the sound level meter with a variation of no more than plus or minus two decibels.
3. Any stationary or fixed noise-producing device installed in the Village after May 28, 2015, shall comply with this Section.
4. Existing stationary noise-producing devices or noise-producing devices which are permanent fixtures on real property shall be modified to comply with this Section by Jan. 1, 2017 or upon replacement or repair, whichever occurs first.

C. Construction Activity: Operating or permitting the operation of any tools, machinery, equipment, or vehicles used in conjunction with a specific site development or demolition activity for which the operator has a valid permit issued by the Village (or other unit of government with jurisdiction over the site) to conduct shall not be in violation of subsection B of this ordinance



so long as the work is conducted between the hours of 7:00 a.m. and 8:00 p.m.

D. It shall not be a violation of subsection B of this ordinance to operate lawn maintenance equipment or vehicles between the hours of 7:00 a.m. and 8:00 p.m., or to operate snow-removal equipment or vehicles. Nothing in this Noise Section shall be construed to prevent any activity reasonably necessary to prevent injury to any person(s) or to prevent significant damage to property at any time.

E. Penalty for violation. Unless otherwise stated, any person, party, firm, or corporation who violates any of the provisions of this Section shall be subject to a penalty no less than \$150. Each day that a violation continues shall constitute a separate offense. The Village may seek forfeiture of any contractor's bond, in place with the Village, as a means of satisfying any penalties assessed for violations of this section.

**43.10 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. A parent or legal guardian of an unemancipated minor who resides with such parent or legal guardian shall be liable for actual damages caused by said minor and shall be presumed to have failed to exercise proper parental responsibility and said minor shall be deemed to have acted with the knowledge and permission of the parent or guardian in violation of this Section 43.10 whenever:

1. Said minor shall be adjudged to be in violation of any ordinance, law or statute prohibiting willful and malicious acts which cause injury to a person or property.
2. Said parent or legal guardian shall have served upon them a notice in writing that said minor has received a non-judicial sanction from the Police Department or other governmental agency as a result of an admission of guilt by said minor of a violation of an ordinance, law or statute prohibiting will full and malicious acts which

caused injury to a person or property and subsequent to receipt of said notice said minor is adjudicated to be in violation of an ordinance, law or statute or receives a non-judicial sanction from any governmental agency as a result of an admission of guilt by said minor in violation of an ordinance, law or statute.

C. Recovery of damages shall be pursuant and limited to an amount provided by the Illinois Compiled Statutes, as amended.

D. This Section 43.10 shall not affect the recovery of damages in any other cause of action where the liability of the parent or legal guardian is predicated on a common law basis.

#### **43.11 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.

#### **43.12 LITTERING**

No person shall litter on 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.

### **43.13 TRESPASSES**

A. PROHIBITED: It shall be unlawful for any person to commit a trespass within this Village upon either public or private property.

B. SPECIFICALLY ENUMERATED TRESPASSES; SUPPRESSION: Without constituting and limitation upon the provisions of this Section 43.13, any of the following acts by any person shall be deemed included among those that constitute trespasses in violation of the provisions of this Section 43.13, 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 Section 43.13, the aforesaid enumerated acts so included, being as follows, to-wit:

1. An entry upon the premises, or any part thereof, of another, including any public property in violation of a notice posted or exhibited at the main entrance to such 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 any entry upon the land of another in violation of a notice posted or exhibited at the main entrance to such premises or at 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, whether 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 the possession or control thereof, or a failure or refusal to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such right.

### **43.14 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.

**43.15 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 therefore has been issued by the Chief of Police.
- B. Application for such permit shall be made at least 7 business days before the event and shall provide such information as the Chief of Police shall require for proper protection of the public.
- C. No such parade or demonstration shall be held during the hours from dusk to dawn, or in any such manner as to obstruct the orderly use by the public of any street or public place.
- D. The Chief of Police may issue such permit subject to such reasonable restrictions as he or she shall deem necessary to protect public safety and to safeguard the residents of the Village and to protect private and public property.

**43.16 PUBLIC INDECENY, NUDITY, AND BATHING**

- A. It shall be unlawful for any person to bathe at any public place, or in any place open to public view, unless such person is adequately or decently clothed or garbed in a bathing suit; and it shall be unlawful for any person to robe or disrobe at any public place or in any place open to public view, or to change clothing, or to change into or out of a bathing suit at any public place or in any place open to public view, or in an automobile or other motor vehicle on or in any street, highway, alley or other public place within the corporate limits of the Village
- B. No person shall urinate or defecate on the public way, or on any outdoor public property, or on any outdoor private property. This provision does not apply to appropriately authorized, maintained, and enclosed portable toilet facilities.
- C. It shall be unlawful for any person to knowingly, intentionally, or recklessly appear, or cause or allow another person to appear, nude, as defined in Section 32.06.01 of this Code, in a public place, including without limitation any establishment open to the public, or in any other place which is readily visible to the public.
- D. No person shall intentionally, knowingly, or recklessly commit an act of public indecency, which shall include the following or similar acts in a public place, including without limitation any place where the conduct may reasonably be expected to be viewed by others:

1. An act of sexual penetration or sexual conduct; or
2. A lewd exposure of specified anatomical areas, as defined in Section 32.06.01 of this Code.

**43.17 POSSESSION AND USE OF BIDI CIGARETTES, SMOKING HERBS, TOBACCO ACCESSORIES AND TOBACCO PRODUCTS**

A. Definitions: In addition to those terms defined in Appendix A of this Code, terms used in this Section 43.17 are defined as follows:

**Bidi Cigarette:** A product that contains tobacco that is wrapped in temburni or tendu leaf or that is wrapped in any other material identified by rules of the Illinois Department of Public Health that is similar in appearance or characteristics to the temburni or tendu leaf.

**Smoking Herbs:** All substances of plant origin and their derivatives, including but not limited to broom, calea, California poppy, damiana, hops, ginseng, lobelia, jimson weed and other members of the Datura genus, passion flower and wild lettuce, which are processed or sold primarily for use as smoking materials.

**Smokeless Tobacco:** Any finely cut, ground, powdered or leaf tobacco that is intended to be placed in the oral cavity; any tobacco product that is suitable for dipping or chewing.

**Tobacco Accessories:** Cigarette papers, pipes, holders of smoking materials of all types, cigarette rolling machines and other items, designed primarily for the smoking or ingestion of tobacco products or of substances made illegal under any statute or of substances whose sale, gift, barter or exchange is unlawful.

**Tobacco Products:** Cigars, cigarettes, smokeless tobacco or tobacco, electronic cigarettes, alternative nicotine products and liquid nicotine.

B. Purchase and Use of Tobacco Products Prohibited:

1. No person under 21 years of age shall purchase any tobacco product in any of its forms. No person shall sell, purchase for, distribute samples of or furnish any tobacco product in any of its forms to any person under 21 years of age. Tobacco products may be sold through a vending machine only when such tobacco products are not sold along with non-

tobacco products in the vending machine and only in the follow locations:

- a. Factories, businesses, offices, private clubs and other places not open to the general public.
- b. Places to which persons under 18 years of age are not permitted access.
- c. Places where alcoholic beverages are sold and consumed on the premises.
- d. Places where the vending machine is under the direct supervision (which means that the owner or employee has an unimpeded line of sight to the vending machine) of the owner of the establishment or an employee over 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.
- e. Places where the vending machine can only be operated by the owner or an employee over age 18 either directly or through a remote control device if the device is inaccessible to all customers.

2. Penalty: Any person violating any provision of this Section 43.17-B is guilty of a petty offense and for the first offense shall be fined \$200, \$400 for the second offense in a 12-month period, and \$600 for the third or any subsequent offense in a 12-month period and be responsible for the Village's cost of prosecution, including reasonable attorney fees.

C. Possession of Tobacco Products:

1. No person under 18 years of age shall possess any tobacco product in any of its forms.
2. Penalty: If a minor violates this Section 43.17-C the minor shall be guilty of a petty offense and may be fined \$25 or sentenced to 15 hours of community service for the first offense. If a second violation occurs within a 12-month period after the first offense, the fine shall be \$50 and 25 hours of community service. For a third or

subsequent violation that occurs within a 12-month period after the first offense, the fine shall be \$100 and 30 hours of community service. If there is a second or subsequent violation not within a 12-month time period after the first violation, a fine of \$25 or 15 hours of community service shall be assessed. For any violation the violator shall be responsible for the Village's cost of prosecution, including reasonable attorney fees.

D. Tobacco Accessories and Smoking Herbs:

1. Sale to Minors Prohibited: No person shall knowingly sell, barter, exchange, deliver or give away or cause or permit or procure to be sold, bartered, exchanged, delivered or given away tobacco accessories or smoking herbs to any person under 21 years of age.
2. Sale of Bidi Cigarettes: No person shall knowingly sell, barter, exchange, deliver or give away a bidi cigarette to another person, nor shall a person cause or permit or procure a bidi cigarette to be sold, bartered, exchanged, delivered or given away to another person.
3. Sale of Cigarette Paper: No person shall knowingly offer, sell, barter, exchange, deliver or give away cigarette paper or cause, permit or procure cigarette paper to be sold, offered, bartered, exchanged, delivered or given away except from premises or an establishment where other tobacco products are sold.
4. Sale of Cigarette Paper from Vending Machines: No person shall knowingly offer, sell, barter, exchange, deliver or give away cigarette paper or cause, permit or procure cigarette paper to be sold, offered, bartered exchanged, delivered or given away by use of a vending or coin-operated machine or device. For purposes of this Section 43.17-D4, cigarette paper shall not include any paper that is incorporated into a product to which a tax stamp must be affixed under the Cigarette Tax Act (35 ILCS 130/1 *et seq.*) or the Cigarette Use Tax Act (35 ILCS 135/1 *et seq.*).
5. Use of Identification Cards: No person in the furtherance of facilitation of obtaining smoking accessories and smoking herbs shall display or use

a false or forged identification card or transfer, alter or deface an identification card.

6. Warning to Minors: Any person, firm, partnership, company or corporation operating a place of business where tobacco accessories and smoking herbs are sold or offered for sale shall post in a conspicuous place upon the premises a sign which there shall be imprinted the following statement: SALE OF TOBACCO ACCESSORIES AND SMOKING HERBS TO PERSONS UNDER 21 YEARS OF AGE OR THE MISREPRESENTATION OF AGE TO PROCURE SUCH A SALE IS PROHIBITED BY LAW. The sign shall be printed on a white card in red letters at least one-half inch in height.
7. Penalty:
  - a. Except for Section 43.17-D2, any person who knowingly violates or shall knowingly cause the violation of any provision of this Section 43.17-D shall be guilty of a Class C misdemeanor and shall be fined pursuant to 730 ILCS 5/5-4.5-65(e). The violator shall be responsible for the Village's cost of prosecution, including reasonable attorney fees.
  - b. Any person who knowingly violates or shall knowingly cause the violation of Section 43.17-D2 shall be guilty of a petty offense for which the offender shall be fined as follows: For the first offense, not less than \$100 or more than \$500, for a second offense within a 2-year period of the first offense, not less than \$250 or more than \$600, and for a third or subsequent offense within a 2-year period of the first offense, not less than \$500 or more than \$1,000. In addition, the violator shall be responsible for the Village's cost of prosecution, including reasonable attorney fees.
  - c. These fines are in addition to the administrative provisions for suspension, revocation or forfeiture of a license issued pursuant to Chapter 15 of this Code. Payment of such fine shall not constitute an admission of guilt or innocence for purposes of such



administrative proceedings for suspension, revocation or forfeiture.

#### **43.18 CURFEW**

A. Definitions: In addition to those terms defined in Appendix A of this Code, the following definitions are applicable to this Section 43.18:

**Emergency:** An unforeseen combination of circumstances for 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.

**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. Curfew: Except as provided in Section 43.18-C herein, it shall be unlawful for any person less than 17 years of age to be present in 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:

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

C. 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 errand at the direction of a parent or guardian;
  - (e) 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).

4. If in a motor vehicle when the travel begins and ends outside the corporate limits of the Village;

D. 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.

E. Enforcement: Before taking any enforcement action under this Section 43.18, 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 43.18 unless the police officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception in Section 43.18-C applies.

F. Penalty: Any person, firm or corporation violating any provision of this Section 43.18 shall be fined not more than \$500.00. Each day that a violation exists shall be considered a separate offense.

#### **43.19 DEFECTIVE PIERS**

A. It shall be unlawful for any person or persons owning or leasing property within the Village to maintain a defective or dangerous pier on any water (lake) within the corporate limits of the Village.

B. Upon learning that any pier is in a defective or dangerous condition, the Director of Community Development or designee shall immediately so notify said owner, lessee or other person having charge of the same in writing requiring such person or persons to repair said pier within 10 days of said notice.

#### **43.20 THEFT OF SERVICE**

No person shall make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of the cable television system existing in the Village for the purpose of enabling himself/herself or others to receive television signals, radio signals, pictures, programs, sounds or any other information or intelligence transmitted over said 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.

#### **43.21 ROLLER SKATES, STREET SKATES AND SKATEBOARDS REGULATED**

A. No person shall roller skate or ride a skateboard anywhere within the municipal boundaries of the Village without complying with the terms of this Section 43.21. As used herein, to "roller skate" shall mean to skate on any type of roller skates or street skates.

B. STREETS/SIDEWALKS: No person shall roller skate or ride a skateboard in the streets or upon the sidewalks in a manner whereby the passage of vehicles in and along such streets or the passage of persons along such streets or sidewalks is obstructed or interfered with or whereby the public peace is threatened or disturbed.

C. VILLAGE PARKING AREAS: No person shall roller skate or ride a skateboard upon any Village owned parking lot.

D. BUSINESS DISTRICT: No person shall roller skate or ride a skateboard within any commercial or business area within the Village. As used herein, "commercial" or "business" shall be any area that is zoned B-1 through B-4.

E. SPECIAL EVENTS: Special events that are conducted with a permit issued by the Chief of Police or designee are specifically exempt from this Section 43.21.

#### **43.22 LASER POINTERS**

A. Possession by Minors Prohibited: It shall be unlawful for any person less than 18 years of age to have in his or her possession, except as provided herein, a laser pointer of the following types:

1. A Helium Neon (HeNe) laser (Class 2) typically operating at a wavelength of 632.8 nMe.
2. A diode laser (Class 3A) typically operating at a wavelength of 670 nMe.

B. Transfer or Sale to Minor Prohibited: No person shall deliver, sell, or otherwise provide a minor with a Class 2 or Class 3A laser pointer as described in this section unless the minor is

accompanied by a parent or legal guardian at the time of such delivery, sale, or other transfer.

C. Limited Exception: Possession of a Class 2 or Class 3A laser pointer by a person under the age of 18 years shall be permitted, but only under the direct supervision of the parent or guardian of such person on private property.

#### **43.23 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 43 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 that 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 43, to prohibit street gang related activity.

B. For the purpose of this Section 43.23, "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.

#### **43.24 ALCOHOLIC BEVERAGES**

A. INTOXICATING LIQUORS: Any police officer having probable cause that intoxicating liquors are being kept in violation of law in any place, shall search such suspected place, and if such officer or person finds upon the premises intoxicating liquors he or she shall seize the same, together with the vessels in which they are contained, with the intent of violating this Chapter 43, and shall arrest any person or persons in charge of such place, or aiding in any manner in carrying on the business conducted in such place.

B. PUBLIC PROPERTY: Consumption or possession of any alcoholic liquors, including beer and wine, at anytime in any public park, street, alley or public place owned, controlled or operated by

the Village is prohibited unless a temporary permit authorizing consumption or possession of alcohol has been issued by the Liquor Commissioner.

#### **43.25 CANNABIS AND SYNTHETIC ALTERNATIVE DRUGS**

##### **A. CANNABIS**

1. DEFINITIONS: For purposes of this Section, cannabis is defined as in 720 ILCS 550/3(a), as amended.
2. POSSESSION PROHIBITED: It shall be unlawful for any person who is under the age of 21 to possess any substance containing cannabis within the corporate limits of the Village. Further, it shall be unlawful for any person to possess any substance containing cannabis within the corporate limits of the Village:
  - (a) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;
  - (b) on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;
  - (c) in any correctional facility;
  - (d) in a vehicle not open to the public unless the cannabis is in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving;
  - (e) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;
  - (f) in any part of a building owned in whole or in part, or leased, by the Village; or
  - (g) in any other manner prohibited by state statutes, as they may be amended from time to time.
3. POSSESSION LIMITED:

- (a) Other than as set forth in Section 43.25(A) (2), it shall be unlawful for any person who is 21 years of age or older and a resident of the State of Illinois to cumulatively possess within the corporate limits of the Village:
  - (i) more than 30 grams of cannabis flower;
  - (ii) more than 500 milligrams of THC contained in a cannabis-infused product; or,
  - (iii) more than 5 grams of cannabis concentrate.

Notwithstanding the foregoing, it shall not be unlawful for registered qualifying patients under the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 *et seq.*) to possess more than 30 grams of any cannabis produced by cannabis plants grown under 10-5(b) of the Cannabis Regulation and Tax Act, provided any amount of cannabis produced in excess of 30 grams of raw cannabis or its equivalent must remain secured within the residence or residential property in which it was grown.

- (b) Other than as set forth in Section 43.25(A) (2), it shall be unlawful for any person who is 21 years of age or older and not a resident of the State of Illinois to cumulatively possess within the corporate limits of the Village:
  - (i) more than 15 grams of cannabis flower;
  - (ii) more than 250 milligrams of THC contained in a cannabis-infused product; or,
  - (iii) more than 2.5 grams of cannabis concentrate.

- 4. CULTIVATION PROHIBITED: It shall be unlawful for i) any person who is under the age of 21, or ii) any person who is 21 years of age or older and not a registered qualifying patient under the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 *et seq.*), to cultivate cannabis plants within the corporate limits of the Village. Further, it shall be unlawful for any person to cultivate cannabis plants within the corporate limits of the Village in any other manner prohibited by state statutes, as they may be amended from time to time.



5. CULTIVATION LIMITED: It shall be unlawful for any person who is 21 years of age or older and a registered qualifying patient under the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 et seq.) to cultivate cannabis plants within the corporate limits of the Village:
- (a) unless the person has been a resident of the State of Illinois for more than 30 days before cultivation;
  - (b) in excess of 5 plants that are more than 5 inches tall per household without a cultivation center or craft grower license;
  - (c) outside of an enclosed, locked space;
  - (d) using cannabis seeds purchased from somewhere other than a dispensary for the purpose of home cultivation and seeds may not be given or sold to any other person;
  - (e) in a location where they are subject to ordinary public view (within the sight line with normal visual range of a person, unassisted by visual aids, from a public street or sidewalk adjacent to real property, or from within an adjacent property);
  - (f) without reasonable precautions to ensure the cannabis plants are secure from unauthorized access, including unauthorized access by a person under 21 years of age;
  - (g) on non-residential property and property that is not lawfully in possession of the cultivator or without the consent of the person in lawful possession of the property.
  - (h) in a dwelling, residence, apartment, condominium unit, enclosed, locked space, or piece of property which has not been divided into multiple dwelling units and contains in excess of 5 plants at any one time; or,
  - (i) unless residing at the residence where the cannabis plants are located, except that a registered qualifying patient's authorized agent may tend to the cannabis plants if

attending to the residence for brief periods, such as when the qualifying patient is temporarily away from the residence.

A registered qualifying patient who cultivates more than the allowable number of cannabis plants, or who sells or gives away cannabis plants, cannabis, or cannabis-infused products produced under this Section, is liable for penalties as provided by law, including the Cannabis Control Act, in addition to loss of home cultivation privileges as established by rule.

6. MEDICAL USE OF CANNABIS: Notwithstanding the foregoing, it shall not be unlawful for any registered qualifying patients to possess cannabis consistent with the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 *et seq.*), as amended, the terms of which are incorporated herein.
7. PUBLIC USE OF CANNABIS: It shall be unlawful for any person to use cannabis:
  - (a) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;
  - (b) on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;
  - (c) in any correctional facility;
  - (d) in any motor vehicle;
  - (e) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;
  - (f) in any public place or privately owned parking lot or walkway where retail business is conducted (as used in this Section, "public place" means any part of a building or property owned in whole or in part, or leased, by the Village, parks, and sidewalks);

- (g) knowingly in close physical proximity to anyone under 21 years of age who is not a registered medical cannabis patient under the Compassionate Use of Medical Cannabis Pilot Program Act.
  - (h) in any other manner prohibited by state statutes, as they may be amended from time to time.
8. PUBLIC DISPLAY OF CANNABIS: It shall be unlawful for any person to display cannabis in any public place (as used in this Section, "public place" means any part of a building or property owned in whole or in part, or leased, by the Village, parks, and sidewalks).
9. VIOLATION; PENALTY: Whoever violates any provision of this Section 43.25 shall be fined as follows: not less than \$200 and not more than \$300 for a first offense; not less than \$400 and not more than \$600 for a subsequent offense. Each day that a violation continues shall be considered a separate offense.

B. SYNTHETIC ALTERNATIVE DRUGS

1. DEFINITIONS: "Synthetic alternative drug" means any product containing a synthetic cannabinoid, stimulant, or psychedelic/hallucinogens, as those terms are defined herein:

- (a) Synthetic cannabinoid means any laboratory-created compound that functions similar to the active ingredient in marijuana, tetrahydrocannabinol (THC), including, but not limited to, any quantity of a natural or synthetic material compound, mixture, preparation, substance and their analog (including isomers, esters, ethers, salts, and salts of isomers) containing a cannabinoid receptor agonist, such as:

JWH-007 (1-pentyl-2-methyl-3-(1-naphthoyl)indole)  
JWH-015 (2-Methyl-1-propyl-1H-indol-3-yl)-1 naphthalenylmethanone  
JWH-018 (1-pentyl-3-(1-naphthoyl)indole)  
JWH-019 (1-hexyl-3-(naphthalene-1-oyl)indole)  
JWH-073 (naphthalene-1-yl-(1-butyndol-3-yl)methanone)  
JWH-081 (4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone)  
JWH-098(4-methoxynaphthalen-1-yl-(1-pentyl-2methylindol-3-yl)methanone)  
JWH-122 (1-Pentyl-3-(4 methyl-1-naphthoyl)indole)  
JWH-164 (7-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone)  
JWH-200 (1-(2-morpholin-4-ylethyl)indol-3-yl)-naphthalen-1-ylmethanone  
JWH-203 (2-(chlorophenyl)-1-(1-pentylindol-3-yl)ethanone)

JWH-210 (4-ethylnaphthalen-1-yl-(1-pentylindol-3-yl)methanone)  
 JWH-251 (1-penyl-3-(2-methylphenylacetyl)indole)  
 JWH-398 (1-penyl-3-(4-chloro-1-naphthoyl)indole)  
 HU-210 (6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol  
 HU-308 ((1R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl) methanol)  
 HU-331 ((3-hydroxy-2-[1R,6R]-3-methyl-6-(1-methylethenyl) cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione)  
 CP 55,940 (2-[1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl) (cyclohexyl[-5-(2-methyloctan-2-yl)phenol])  
 WIN 55,212-2 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-de]-1,4-benzoxazin-6-yl]-1-nepthalenylmethanone)  
 RCS-4 ((4-methoxyphenyl)(1-pentyl-1-H-indol-3-yl)methanone)  
 RCS-8 (1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-methoxyphenyl)enanone)

- (b) Synthetic stimulant means any compound that mimics the effects of any federally controlled Schedule I substance such as cathinone, methcathinone, MDMA and MDEA, including, but not limited to, any quality of a natural or synthetic materials, compound, mixture, preparation, substance and their analog (including salts, isomers, and salts of isomers) containing substances which have a stimulant effect on the nervous system, such as:

v3-Fluoromethcathinone  
 4-Fluoromethcathinone (other name, fledphedrone)  
 3,4-Methylenedioxy-methcathinone (other name, methylone, MDMC)  
 3,4-Methylenedioxy-pyrovalerone (other name, MDPV)  
 4-Methylmethcathinon (other names, mephedrone, 4-MMC)  
 4-Methoxymethcathinone (other names, Methedrone, bk-PMMA, PMMC)  
 4-Ethylmethcathinone (other name, 4-EMC)  
 Ethcathinone  
 Beta-keto-N-methylbenzodioxolylpropylamine (other names, butylone, bk-MBDB)  
 Naphthylpyrovalerone (other names, naphyrone, NRG-1)  
 N,N-dimethylcathinone (other name, metamfepramone)  
 Alpha-pyrrolidinopropiophenone (other name, alpha-PPP)  
 4-methoxy-alpha-pyrrolidinopropiophenone (other name, MOPPP)  
 3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name, MDPPP)  
 Alpha-pyrrolidinovalerophenone (other name, alpha-PVP)  
 6,7-kihydro-5H-indeno(5,6-d)-1-3-dioxal-6-amine (other name, MDAI)

Any compound that is structurally derived from 2-amino-1-phenyl-1-propananone by modification or substitution in any of the following ways:  
 in the phenyl ring to any extent with alkyl, alkoxy, alkylenedioxy, haloalkyl, or halide substitutes, whether or not further substituted in the phenyl ring by one or more other univalent substituents;  
 at a 3-position with an alkyl substituent;  
 at the nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups;  
 or by inclusion of the nitrogen atom in a cyclic structure.

- (c) Synthetic psychedelic/hallucinogen means any compound that mimics the effects of any

federally controlled Schedule I substance, including, but not limited to, any quality of a natural or synthetic material, compound, mixture, preparation, substance and their analog (including salts, isomers, esters, ethers of salts of isomers) containing substances which have a psychedelic/hallucinogenic effect on the central nervous system and/or brain, such as:

2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);  
2-(2,5-dimethoxy-4-methylphenyl)ethanamine (2C-D);  
2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine (2C-C);  
2-(4-Iodo-2,5-dimethoxyphenyl) ethanamine (2C-I);  
2-(4-Ethylthio)-2,5-dimethoxyphenyl) ethanamine (2C-T-2);  
2-(4-(Isopropylthio)-2,5-dimethoxyphenyl) ethanamine (2C-T-4)  
2-(2,5-Dimethoxyphenyl) ethanamine (2C-H);  
2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine (2C-N)  
2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine (2C-P).

2. SALE PROHIBITED: It shall be unlawful for any person to sell, offer for sale, or deliver a synthetic alternative drug within the corporate limits of the Village.
3. POSSESSION PROHIBITED: It shall be unlawful for any person to knowingly possess a synthetic alternative drug within the corporate limits of the Village.
4. VIOLATION; PENALTY: Whoever violates any provision of this Section shall be fined not less than \$500 and not more than \$1000 if the violation falls under Section B.2, SALE PROHIBITED, and shall be fined not less than \$200 and not more than \$500 if the violation falls under Section B.3, POSSESSION PROHIBITED. Each day that a violation continues shall be considered a separate offense.

#### **43.26 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 43. 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 two or

more persons who are not occupants or owners of the premises.

**43.27 THEFT**

- A. Retail Theft: It shall be unlawful to commit the offense of retail theft of property not exceeding \$300. A person commits the offense of retail theft when he or she knowingly:
1. Takes possession of, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of retaining such merchandise or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the full retail value of such merchandise; or
  2. Alters, transfers or removes any label, price tag, marking, indicia of value or any other markings which aid in determining value affixed to any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment and attempts to purchase such merchandise personally or in consort with another at less than the full retail value with the intention of depriving the merchant of the full retail value of such merchandise; or
  3. Transfers any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment from the container in or on which such merchandise is displayed to any other container with the intention of depriving the merchant of the full retail value of such merchandise; or
  4. Under-rings with the intention of depriving the merchant of the full retail value of the merchandise; or
  5. Removes a shopping cart from the premises of a retail merchandise establishment without the consent of the merchant given at the time of such removal with the intention of depriving the merchant permanently of the possession, use or benefit of such cart; or
  6. Represents to a merchant that he or she or another is the lawful owner of property, knowing that such representation is false, and conveys or attempts to

convey that property to a merchant who is the owner of the property in exchange for money, merchandise credit or other property of the merchant; or

7. Uses or possesses any theft detection shielding device or theft detection device remover with the intention of using such device to deprive the merchant permanently of the possession, use or benefit of any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment without paying the full retail value of such merchandise; or
8. If any person:
  - a. Conceals upon his or her person or among his or her belongings, unpurchased merchandise displayed, held, stored or offered for sale in a retail mercantile establishment; and
  - b. Removes that merchandise beyond the last known station for receiving payment for that merchandise in that retail mercantile establishment.
9. Village police officers shall be permitted to photograph and fingerprint individuals suspected of violating this Section at the retail mercantile establishment.
10. The merchandise shall be photographed for evidence purposes and returned to the merchant. These photographs shall be deemed primary evidence in the prosecution of individuals who violate this Section.

B. General Theft: It shall be unlawful to commit the offense of theft of property not exceeding \$300. A person commits the offense of theft when he or she knowingly:

1. Obtains or exerts unauthorized control over property of the owner; or
2. Obtains by deception control over property of the owner; or
3. Obtains by threat control over property of the owner; or
4. Obtains control over stolen property knowing the property to have been stolen or under such

circumstances as would reasonably induce him to believe that the property was stolen; or

5. Obtains or exerts control over property in the custody of any law enforcement agency which is explicitly represented to him by any law enforcement officer or any individual acting in behalf of a law enforcement agency as being stolen, and
  - a. Intends to deprive the owner permanently of the use or benefit of the property; or
  - b. Knowingly uses, conceals or abandons the property in such manner as to deprive the owner permanently of such use or benefit; or
  - c. Uses, conceals, or abandons the property knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.

**43.28 DRUG PARAPHERNALIA**

A. Drug Paraphernalia

1. Definitions. For purposes of this Section, drug paraphernalia is defined as in 720 ILCS 600/2(d), as amended, and includes, but is not limited to:
  - (a) Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or cannabis or from which a controlled substance or cannabis can be derived;
  - (b) Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substance or cannabis;
  - (c) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance or cannabis;
  - (d) Testing equipment used, intended for use or signed for use in identifying, or in analyzing the strength effectiveness or purity of controlled substances or cannabis;



- (e) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances or cannabis;
- (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances or cannabis;
- (g) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;
- (h) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding-controlled substances or cannabis;
- (i) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances or cannabis;
- (j) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances or cannabis;
- (k) Hypodermic syringes, needles and other objects used, or intended for use, in parenterally injecting cannabis or controlled substances into the human body;
- (l) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish oil into the human body, such as:
  - i. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
  - ii. Water pipes;
  - iii. Carburization tubes and devices;
  - iv. Smoking and carburization masks;

- v. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- vi. Chamber pipes;
- vii. Carburetor pipes;
- viii. Electric pipes;
- ix. Air-driven pipes;
- x. Chillums;
- xi. Bongs; and
- xii. Ice pipes or chillers.

2. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- (a) Statements by an owner or by anyone in control of the object concerning its use;
- (b) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substances;
- (c) The proximity of the object, in time and space, to a direct violation of this Section;
- (d) The proximity of the object to controlled substances;
- (e) The existence of any residue of controlled substances on the object;
- (f) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this Section; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this Section, shall not prevent a

finding that the object is intended for use, or designed for use as drug paraphernalia;

- (g) Instructions, oral or written, provided with the object concerning its use;
- (h) Descriptive materials accompanying the object which explain or depict its use;
- (i) National and local advertising concerning its use;
- (j) The manner in which the object is displayed for sale;
- (k) 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;
- (l) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- (m) The existence and scope of legitimate uses for the object in the community; and
- (n) Expert testimony concerning its "use."

3. Possession of Drug Paraphernalia Prohibited Under Age 21: It shall be unlawful for any person under the age of 21 to knowingly possess any drug paraphernalia within the corporate limits of the Village except that any person 18 years of age or older may possess up to 20 hypodermic syringes or needles pursuant to the Hypodermic Syringes and Needles Act (720 ILCS 635/1 et seq.), as may be amended, the terms of which are incorporated herein.

4. Possession of Paraphernalia Prohibited Age 21 or Older: It shall be unlawful for any person 21 years of age or older to knowingly possess any drug paraphernalia except as permitted under the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 et seq.), as may be amended, the Cannabis Regulation and Tax Act (410 ILCS 705/1-1 et seq.), as may be amended, and the Hypodermic Syringes

and Needles Act (720 ILCS 635/1 et seq.), as may be amended, the terms of which are incorporated herein.

**43.29 PENALTY**

A. Unless otherwise provided in this Chapter 43, any person, firm or corporation violating any section of this Chapter 43 shall be fined not less than \$100.00 for each offense and be responsible for the Village's cost of prosecution. Any violation which occurs of Section 43.16, while minors are present, shall result in a fine of \$750 for each violation. 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.

B. A defendant who has been found guilty and ordered to pay a fine under this Chapter 43 may petition the court to convert all or part of the fine into court-approved public or community service, to be performed as directed by and to be verified by the Department of Court Services.

C. The public or community service work assigned shall be, whenever available, for the benefit of the Village, or agency or department thereof. If no public or community service work opportunities are available for the benefit of the Village or agency or department thereof, the defendant shall be assigned to perform public or community service work for a not-for-profit organization or agency which provides service to or otherwise benefits the citizens of the Village.

D. One hour of public or community service shall be equivalent to \$5.00 of fine, upon conversion.

E. Neither restitution obligations nor mandatory court costs or attorneys fees may be converted to or discharged by public or community service work.

F. Neither the Village nor any agency or department thereof nor any official or employee thereof acting in the course of their official duties shall be liable for any injury or loss a person may receive while performing public or community service as ordered by the court pursuant to this Section 43.28, nor shall they be liable for any tortuous acts of any person performing public or community service, except for willful wanton misconduct or gross negligence on the part of such governmental unit, official or employee.

G. No person assigned to a public or community service program shall be considered an employee for any purpose, nor shall the Village, McHenry County or not-for-profit organization or agency be obligated to provide any compensation to such person.

*Recodified September 13, 2001*  
*Amended March 25, 2004*  
*Amended August 24, 2006*  
*Amended March 23, 2007*  
*Amended June 12, 2008*  
*Amended June 25, 2009*  
*Amended July 22, 2010*  
*Amended January 23, 2014*  
*Amended May 28, 2015*  
*Amended October 13, 2016*  
*Amended March 14, 2019*  
*Amended October 10, 2019*  
*Amended February 27, 2020*  
*Amended March 12, 2020*  
*Amended April 27, 2023*