

## CHAPTER 27

### OFFENSES

#### ARTICLE I - DEFINITIONS

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

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

#### ARTICLE II - GENERALLY

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

**27-2-2**        **IMPERSONATION OF OFFICER.** No person in the Village shall falsely represent himself to be an officer of the Village or shall, without being duly authorized by the Village, exercise or attempt to exercise any of the duties, functions or powers of the Village officer, or hinder, obstruct, resist or otherwise interfere with any Village officer in the discharge of the duties of his office, or attempt to prevent any such officer from arresting any person, either by force or by giving notice to such person, or attempt to rescue from such officer any person in his custody, or impersonate any of the members of the Police Force of this Village, or maliciously or with the intention of deceiving any person, wear the uniform of or a uniform similar to that worn by the members of the Police Department, or use any of the signs, signals or devices adopted and used by the Police Department. (See 65 ILCS Sec. 5/32-5.1)

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

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

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

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

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

**27-2-6**            **BARBED WIRE AND ELECTRIC FENCES.** It shall be unlawful for any person to erect or maintain any electrically-charged fence or barbed wire or other such sharp, pointed fence below eight feet (8') in height, except in an agricultural or conservation zone district.

**27-2-7**            **ADMISSION FEES: FRAUDULENTLY AVOIDING PAYMENT**  
**OF.** It shall be unlawful for any person to fraudulently enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert or other place where admission fees are charged; provided, however, that nothing herein contained shall be deemed to prohibit or restrict the free admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement.

**27-2-8**            **SALE OF CIGARETTES OR TOBACCO TO MINORS.** No minor under eighteen (18) years of age shall buy any cigar, cigarette, smokeless tobacco or tobacco in any of its forms. No person shall sell, buy for, distribute samples of or furnish any cigar, cigarette, smokeless tobacco or tobacco in any of its forms, to any minor under eighteen (18) years of age.

For the purpose of this Section, "smokeless tobacco" means any tobacco products that are suitable for dipping or chewing. (See 720 ILCS Sec. 675/1)

**27-2-9**            **SMOKELESS TOBACCO.**  
(A)                Definition. For the purposes of this Section, the term "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

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

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

**27-2-10**           **UNLAWFUL CONDUCT ON A PUBLIC WAY.**  
(A)                It shall be unlawful for a pedestrian to stand upon any sidewalk or public way, except as near as reasonably possible to the building line or curb line if such standing interferes with the use of said sidewalk by other pedestrians.

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

**27-2-11**           **AID IN ESCAPE.** It shall be unlawful to rescue or attempt to rescue or shall abet or encourage the rescue or escape of any person from the custody of any officer or

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

**27-2-12**            **ESCAPES.** It shall be unlawful for any person convicted of any offense or in lawful custody to escape or attempt to escape from custody. (See 720 ILCS Sec. 5/31-6(C))

**27-2-13**            **FALSE PRETENSES.** It shall be unlawful for any person to obtain any food, drink, goods, wares, or merchandise under false pretenses, or to enter public places and call for refreshments or other articles and receive and refuse to pay for same, or to depart without paying for or satisfying the person from whom he received the food, goods, wares, and/or merchandise.

**27-2-14**            **RENTING PREMISES FOR UNLAWFUL PURPOSES.** It shall be unlawful for any person to rent, use, or allow to be used, any building or property owned by him, for any purpose whereby riotous or disorderly persons are gathered.

**27-2-15**            **AID TO AN OFFENSE.** It shall be unlawful for any person, in any way or manner, to aid, abet, counsel, advise or encourage any other person in the commission of any of the acts mentioned herein or in any manner encourage the commission of such offense hereby defined.

**27-2-16**            **POSTING BILLS.** It shall be unlawful for any person to paste, post, paint, print or nail any handbill, sign, poster, advertisement, or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door, or gate without the consent, in writing, of the owner of the wall, door or gate; provided, however, that this Section shall not prevent posting by proper Village and County officials of election signs, polling place signs and other signs or placards necessary under the law to the conduct of elections, except they may not be attached to a tree.

**27-2-17**            **INTOXICATION IN PUBLIC.** No person shall, in the Village, be found in a state of intoxication or drunk in any street or other public place, or shall be found drunk lying or roving about the streets, alleys, or sidewalks of this Village or the private grounds of any of the inhabitants thereof, or being drunk as aforesaid, shall disturb the peace, order and quiet of the Village, or the peace and quiet of the citizens thereof by loud and unusual noises, disorderly conduct, indecent language or behavior or in any other manner. (See 65 ILCS Sec. 5/11-5-3)

**27-2-18**            **BEGGING.** No person shall beg or solicit alms within the Village without having obtained permission in writing from the Mayor. (See 65 ILCS Sec. 5/11-5-4)

**27-2-19**            **CONCEALED WEAPONS.** No person shall, within the Village, carry or wear under his clothes, or concealed about his person, any sling-shot, or cross knuckles or knuckles of lead, brass or other metal, or any switchblade knife or razor, bowie knife, dirk knife or dirk, dagger or any other dangerous or deadly weapon; provided, however, that this

Section shall not prohibit the carrying or wearing, or concealing about the person, any handgun. This Section does not apply to the officers or members of the Police Department, nor to any sheriff or deputy sheriff or constable of this State, nor to any United States Marshal. (Ord. 2013-08-05-A, 8/5/2013)

**27-2-20**      **DISCHARGE OF FIREARMS OR BOW AND ARROW.** It shall be unlawful to discharge any firearm, bow and arrow or air gun in the Village or so that the bullet, arrow, missile or projectile therefrom enters the Village without written permission from the Mayor, provided that this Section shall not be construed to prohibit:

(A)            Any officer of the law from discharging a firearm in the performance of his duty;

(B)            Any citizen from discharging a firearm when lawfully defending his personal property; or

(C)            Any citizen from discharging a firearm, bow and arrow or air gun when:

(1)            The property upon which such firearm, bow and arrow or air gun is discharged is zoned "A-1 Agricultural District";

(2)            The parcel upon which such firearm, bow and arrow or air gun is discharged is equal to or greater than **ten (10) acres**;

(3)            The bullet, arrow, missile or projectile projected from the firearm, bow and arrow or air gun does not enter upon any property upon which the discharge of a firearm, bow and arrow or air gun is prohibited; and

(4)            The discharge of the firearm, bow and arrow or air gun is at least 300 yards away from an inhabited dwelling, unless the person responsible for such discharge has first obtained permission from the owner or tenant of the inhabited dwelling. (Ord. 2012-12-10-C, 12/10/2012)

**27-2-21**      **GAMES IN STREET.** No person shall, upon any Village street, fly any kite or play any game of ball or engage in any amusement or practice having a tendency to injure or annoy any person passing in the streets or on the sidewalks.

**27-2-22**      **STORAGE OF EXPLOSIVES.**

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

(B)            Blasting Powder, Etc. No person shall keep, possess or store any gun or blasting powder or any gun or explosive cotton at or in any one place in the Village in any quantity exceeding five (5) pounds. (See 65 ILCS Sec. 5/11-8-4)

**27-2-23**      **THROWING ROCKS.** No person in the Village shall throw or cast any rock or stone or any other missile upon or at any building, tree, or other public or private property, or at any person in any street, avenue, alley or public place.

**27-2-24**      **DESTRUCTION OF PUBLIC PROPERTY.** No person in the Village shall deface, destroy, or in any way, injure any public property, or any other apparatus of the Village.

**27-2-25**      **FORTUNE TELLING.** No person in the Village shall pursue the calling of a fortune teller or practice fortune telling, soothsaying, or the like and receive payment in any manner therefor.

**27-2-26**            **ABANDONED REFRIGERATORS OR ICEBOXES.** It shall be unlawful for any person to abandon or discard in any place accessible to children any refrigerator, icebox or ice chest, of a capacity of one and one-half (1 1/2) cubic feet or more, which has an attached lid or door which may be opened or fastened shut by means of an attached latch. The owner, lessee, or manager of such place, who knowingly permits such abandoned or discarded refrigerator, icebox or ice chest to remain there in such condition, shall be guilty of violating this Code. (See 720 ILCS Sec. 505/1)

**27-2-27**            **HALLOWEEN CURFEW.** (Repealed by Ordinance No. 635)

**27-2-28**            **CURFEW.**

(A)            **Established.** It shall be unlawful for a person less than seventeen (17) years of age to be present at or upon any public assembly, building, place, street or highway at the following times, unless accompanied and supervised by a parent, legal guardian or other responsible companion at least eighteen (18) years of age, approved by a parent or legal guardian or unless engaged in a business or occupation which the laws of this State authorize a person less than seventeen (17) years of age to perform:

- (1)            Between 11:00 P.M. on Sunday to Thursday, inclusive and 6:00 A.M. on the following day.
- (2)            Between 12:00 Midnight on Friday and Saturday, inclusive and 6:00 A.M. on the following day.

(B)            **Responsibility of Parents and Guardians.** It shall be unlawful for a parent, legal guardian or other person to knowingly permit a person in his custody or control to violate subsection (A) of this Section. (See 65 ILCS Sec. 5/11-1-5)

**27-2-29**            **THEFT OF RECYCLABLES UNLAWFUL.** It shall be unlawful for any person to collect, obtain, possess or pickup any recyclable item(s) from any receptacle or collection point where service is provided by an authorized waste hauler licensed by the municipality or from any specified recycling center within the Village limits unless said person is acting as an agent for the Village or acting as an agent for a waste hauler licensed by the Village.

**27-2-30**            **FALSE ALARMS.**

(A)            A false alarm is defined as an incident in which an electronic signal is received by the Fire and/or Police Department in which the Fire and/or Police Department responds to the alarm and it is determined at the time of arriving at the location from which the fire and/or police alarm is received from that this is a false alarm in that there is no present need for either a police and/or fire dispatch.

(B)            Upon the receipt of the false alarm, the record title alarm owner and tenant, if said real estate is rented, of any piece of real estate location within the Village of New Baden from which this false fire and/or police alarm is electronically sent shall be jointly and severally guilty of an offense as defined in Chapter 730, Section 5/5-1-15, Illinois Compiled Statutes, 1995, and shall be fined One Hundred Fifty Dollars (\$150.00) per offense for each offense in excess of three (3) offenses during any ninety (90) day period. (Ord. No. 528; 05-04-92)

## ARTICLE III

### OFFENSES AGAINST PROPERTY

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

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

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

(E)            It shall be unlawful to commit a petty theft.

(See 720 ILCS Sec. 5/16-1)

**27-3-2**        **CRIMINAL DAMAGE TO PROPERTY.** Any of the following acts by a person shall be a violation of this Code.

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

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

**27-3-4**        **INJURY TO UTILITY WIRES AND POLES.** It shall be unlawful to willfully, maliciously, or negligently break, deface, injure or destroy any telegraph or telephone pole, post or wire, or any electric lightpost, pole, or electric conductor, wire or lamp or any other thing connected with the same or belonging thereto, or any water main, gas main, pipe or hydrant or lamp or lamppost, or anything belonging to or connected therewith or with any of them.

**27-3-5**        **STREET SIGNS; MOLESTING OF PROHIBITED.** It shall be unlawful for any person or persons, in any manner or form, to deface, disfigure, damage or molest any of the street signs or parts thereof located in the Village.

**27-3-6**        **TAMPERING WITH PUBLIC NOTICE.** It shall be unlawful for a person to knowingly and without lawful authority alter, destroy, deface, remove or conceal any public notice, posted according to law, during the time for which the notice was to remain posted. (See 720 ILCS Sec. 5/32-9)

## **ARTICLE IV**

### **PUBLIC HEALTH, SAFETY AND DECENCY**

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

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

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

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

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

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

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

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

(See 720 ILCS Sec. 5/25-1)

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

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

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

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

(See 720 ILCS Sec. 5/31-8)

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

(A)            **Drive-in Business.** A drive-in business within the meaning of this Code

shall be deemed to be any business where meals, sandwiches, cold drinks, beverages, ice cream, food, drink, or consumer services are served directly to or are permitted to be consumed by patrons in or upon automobiles, motorcycles, or other vehicles parked on the premises.

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

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

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

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

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

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

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

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

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

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

**27-4-5 EXCAVATIONS.** It shall be unlawful for any person who owns, maintains, uses, abandons, any open well, cesspool, cistern, quarry, recharging basin, catch basin, sump, excavation for the erection of any building structure or excavation created by the razing or removal of any building structure without covering or surrounding such installation with protective fencing. This Section shall not apply during the course of repair, construction, removal or filling of any of the structures or conditions herein described while any worker is



present at the location thereof either performing services thereon or as a watchman to guard such location. (See 720 ILCS Sec. 605/1)

**27-4-6**            **TRAPPING ANIMALS.** It shall be unlawful for anyone to trap game or fur-bearing animals in the Village.

**27-4-7**            **SALE AND POSSESSION OF CANNABINOIDS.**

(A)            **Definitions.**

- (1)            **"PERSON"** is an individual, corporation, partnership, wholesaler, retailer, or any licensed or unlicensed business;
- (2)            **"ILLEGAL SMOKING PRODUCT"** is any substance, whether described as tobacco, herbs, incense, spice or any blend thereof, regardless of whether the substance is marketed for the purpose of being smoked, which includes any **one (1)** or more of the following chemicals:
  - (a)            2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol (also known as CP47,497) and homologues;
  - (b)            (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (also known as HU-211 or Dexanabinol);
  - (c)            1-Pentyl-3-(1-naphthoyl)indole (also known as JWH-018); or
  - (d)            Butyl-3-(1-naphthoyl)indole (also known as JWH-073).

(B)            **Unlawful to Sell, Offer, Gift or Display.** It shall be unlawful for any person to sell, offer to sell, gift, or publicly display for sale any illegal smoking product.

(C)            **Unlawful Possession.** It shall be unlawful to any person to knowingly possess any illegal smoking product.

(D)            **Injunctive Relief.** The Village may, through its Village Attorney, apply to any court of competent jurisdiction for a restraining order, whether temporary or permanent, and/or an injunction, whether preliminary or permanent, prohibiting any person from selling, offering for sale, gifting or publicly displaying any illegal smoking product, whether such violation has already occurred or is anticipated by the Village to occur.

(E)            **Penalty.** Any person that violates subsection (B) or (C), above, shall be subject to a fine pursuant to Section 1-1-20 of this Code. (Ord. No. 831; 5-3-10)

**27-4-8**            **ADVERTISEMENT OF ALCOHOLIC BEVERAGES**

**PROHIBITED.** Any advertisement upon Village property, including but not limited to, the Village Park and the Village welcome sign, shall not contain the name, picture, depiction or other reference to any alcoholic beverage. (Ord. No. 842; 10-4-10)

**27-4-9**            **POSSESSION OF DRUG PARAPHERNALIA**

(A)            **DEFINITION.** The term “**drug paraphernalia**” means all equipment, products, and materials of any kind which are used, intended for use, or marketed for use with illegal cannabis or drugs, as defined by Illinois Compiled Statutes, or designed for use in planting, propagating, cultivating, growing, harvesting, manufactured, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the Illinois Controlled Substance Act, Illinois Compiled Statutes, Chapter 720, Paragraph 570/100, et seq., “Drug paraphernalia” includes, but is not limited to:

- (1) Kits used, intended for use or designed for use in the planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance is derived;
- (2) Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- (3) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (4) Testing equipment, used for, intended for use, or designed for use in identifying or analyzing the strength, effectiveness or purity of controlled substances;
- (5) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;
- (6) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances;
- (7) 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;
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (9) Capsules, balloons, envelopes and other containers used, intended for use or designed for use packaging small quantities of controlled substances;
- (10) Containers and other objects used or designed for use in storing or concealing controlled substances;
- (11) Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body;
- (12) Objects used, intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
  - (a) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;
  - (b) Water pipes;
  - (c) Carburetion tubes and devices;
  - (d) Smoking and carburetion masks;
  - (e) Roach clips or other objects used to hold burning materials, such as marijuana cigarette; which has become too small or short to be held in the hand;
  - (f) Miniature cocaine spoons and cocaine vials;
  - (g) Chamber pipes;
  - (h) Carburetor pipes;
  - (i) Electric pipes;
  - (j) Air-driven pipes;
  - (k) Chilarms;
  - (l) Bongos;

(m) Ice pipes or chillers.

(B) **DETERMINATION OF DRUG PARAPHERNALIA.** In determining whether an object is “drug paraphernalia”, a court or other authority should consider, in addition all the other relevant factors, the following:

- (1) Statements by an owner or anyone in control of the object concerning its use;
- (2) The proximity of the object, in time and place, to a direct violation of the Article;
- (3) The proximity of the object to controlled substances;
- (4) The existence of any residue or controlled substances on the object;
- (5) Direct or circumstantial evidence of the intent of an owner or 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 Article; and the innocence of any owner or anyone in control of the object, as to a direct violation of this Article, shall not prevent a finding that the object is intended or designed for use as “drug paraphernalia”;
- (6) Instructions, oral or written, provided with the object concerning its use;
- (7) Descriptive materials accompanying the object which explain or depict its use;
- (8) National and local advertising concerning the object’s use;
- (9) The manner in which the object is displayed for use;
- (10) 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;
- (11) The existence and scope of legitimate uses for the object in the community;
- (12) Expert testimony concerning the object’s use.

(C) **OFFENSES AND PENALTIES.**

- (1) **Possession of Drug Paraphernalia.** It is unlawful for any person to use or possess with the intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Illinois Controlled Substance Act (720 ILCS Sec. 570/100 et seq.). Any person violating Section is guilty of a crime and shall be fined not less than **Two Hundred Fifty Dollars (\$250.00)**, nor more than **Seven Hundred Fifty Dollars (\$750.00)**.
- (2) **Manufacture or Delivery of Drug Paraphernalia.** It is unlawful for any person to deliver, to sell, to possess with the intent to deliver or sell, or to manufacture with the intent to deliver or sell, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, inhale or otherwise introduce into the human body a controlled substance in violation of the Illinois Controlled Substance Act (720 ILCS Sec. 570/100 et seq.). Any person violating this Section is guilty of a crime and shall be fined not less than **Two Hundred Fifty Dollars (\$250.00)**, nor more than **Seven Hundred Fifty Dollars (\$750.00)**.

- (3) Delivery of Drug Paraphernalia to a Minor. Any person **eighteen (18) years** of age or older who violates subsection (B) of this Section by delivering, selling, or giving drug paraphernalia to a person under the age of eighteen (18) years is guilty of an additional offense and shall be fined not less than **Two Hundred Fifty Dollars (\$250.00)**, nor more than **Seven Hundred Fifty Dollars (\$750)**. (Ord. 2013-05-06-B, 5/6/2013)

**27-4-10**      **POSSESSION OF CANNABIS.**

(A)      **DEFINITION.** For the purpose of this section, Cannabis includes marihuana, hashish and other substances which are identified as including any parts of the plant Cannabis Sativa, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.

(B)      **OFFENSE AND PENALTY**

- (1)      It is unlawful for any person to knowingly possess cannabis. This section shall be deemed to apply – and a person who has unlawfully possessed a substance containing cannabis may be charged with a violation of this section – only when the amount of the substance cannabis, that was unlawfully possessed, was not more than two and one-half (2.5) grams. If the amount of the substance containing cannabis, that was unlawfully possessed, contains more than two and one-half (2.5) grams, this section shall not apply, and the person(s) who possessed more than two and one-half (2.5) grams, shall be charged with a violation of the Illinois Cannabis Control Act (720 ILCS 550/4) as indicated.
- (2)      Any person convicted of violating this Section shall be fined not less than **two hundred fifty dollars (\$250.00)**, nor more than **seven hundred fifty dollars (\$750.00)**. (Ord. 2013-05-06-B, 5/6/2013)

## ARTICLE V - ANTI-LITTER

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**27-5-8**            **LITTER IN PARKS.** No person shall deposit litter in any park within the Village except in receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any other public place or private premises. Where receptacles are not provided, all such litter shall be removed from the park by the person responsible for its presence and properly disposed of elsewhere in a lawful manner.

**27-5-9**            **HANDBILLS.**  
(A)                Public Places. No person shall deposit or sell any handbill in or upon any public place, provided, however, that it shall not be unlawful on any public place for any person to hand out or distribute without charge to the receiver, any handbill to any person willing to accept it.  
(B)                Private Premises. No person shall deposit or unlawfully distribute any handbill in or upon private premises, except by handing or transmitting any such handbill

directly to the occupant of such private premises. Provided, however, that in case of private premises which are not posted against the receiving of handbills or similar material, such person, unless requested by anyone upon such premises not to do so, may securely place any such handbill in such a manner as to prevent such handbill from being deposited by the elements upon any public place or other private premises, except mailboxes may not be so used when prohibited by federal postal law or regulations.

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

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

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

**27-5-10 POSTING NOTICES PROHIBITED.** No person shall post or affix any notice, poster, or other paper or device, calculated to attract the attention of the public upon any public place, except as may be authorized or required by law. No person, except the owner or tenant shall post any such notice on private property without the permission of the owner or tenant.

**27-5-11 CONSTRUCTION SITES.**

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

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

**27-5-12 LOADING AND UNLOADING DOCKS.** The person owning, operating, or in control of a loading or unloading dock shall maintain private receptacles for collection of litter, and shall, at all times, maintain the dock area free of litter in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

**27-5-13 PARKING LOTS.**

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

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

(C) **Specifications.** Litter receptacles shall have tight-fitting lids or tops and shall be weighted or attached to the ground or other fixed structures as necessary to prevent

spillage. A minimum container size of twenty (20) gallons or 75.7 liters shall be used.

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

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

**27-5-14 CLEARING OF LITTER FROM OPEN PRIVATE PROPERTY BY THE VILLAGE.** The procedure for the removal of litter from private premises and the charging of expense(s) thereof as a lien upon such property to be collected shall be in accordance with the state statutes. The Mayor or his designated representative shall be responsible for the implementation of this enforcement program.

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

## ARTICLE VI - TRESPASS

**27-6-1 TRESPASSES PROHIBITED.** It shall be unlawful for any person, firm, or corporation to commit a trespass within this municipality upon either public or private property.

**27-6-2 SPECIFICALLY ENUMERATED TRESPASSES - SUPPRESSION.** Without constituting any limitation upon the provisions of Section 27-6-1 hereof, any of the following acts by any person, firm, or corporation shall be deemed included among those that constitute trespasses in violation of the provisions of Section 27-6-1, and appropriate action may be taken hereunder at any time, or from time to time, to prevent or suppress any violation or violations of this Article; the aforesaid enumerated acts so included, being as follows, to-wit:

(A) An entry upon the premises of another, or any part thereof, including any public property, in violation of a notice posted or exhibited at the main entrance to the premises, or at any point of approach or entry or in violation of any notice, warning or protest given orally or in writing, by any owner or occupant thereof; or

(B) the pursuit of a course of conduct or action incidental to the making of an entry upon the land of another in violation of a notice posted or exhibited at the main entrance to the premises or at any point of approach or entry, or in violation of any notice, warning or protest given orally or in writing by any owner or occupant thereof; or

(C) a failure or refusal to depart from the premises of another in case of being requested, either orally or in writing to leave by any owner or occupant thereof; or

(D) an entry into or upon any vehicle, aircraft or watercraft made without the consent of the person having the right to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such right.

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



## ARTICLE VII

### PARENTAL RESPONSIBILITY REGULATIONS

**27-7-1**        **DEFINITIONS.** For the purpose of this Article, the following definitions shall apply:

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

(A)            Maliciously, recklessly, negligently, or knowingly damaging or destroying or defacing any property within the Village, whether such property is owned by the State, County or governmental body or owned by any private person, firm, partnership, or association; or

(B)            maliciously, recklessly, or knowingly, by means of fire or explosive device, damaging, debasing, or destroying any property of another person; or

(C)            maliciously, recklessly, negligently or knowingly starting a fire on land of another person without his consent; or

(D)            maliciously, recklessly or knowingly depositing on land or in the building of another person, without his consent, any stink bomb or any offensive smelling compound and thereby interfering with the use and occupancy by another of the land or building; or

(E)            maliciously, recklessly, or knowingly, and without authority, entering into or obtaining control over any building, house trailer, motor vehicle, aircraft or watercraft or any part thereof of another person without his consent.

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

**"MINOR"** shall include a person who is above the age of eleven (11) years, but not yet eighteen (18) years of age.

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

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

**27-7-2**        **PARENTS AND GUARDIANS RESPONSIBLE FOR ACTS.** The parent or legal guardian of an unemancipated minor residing with such parent or legal guardian shall be presumed, in the absence of evidence to the contrary to have failed to exercise proper parental responsibility and said minor shall be deemed to have committed the acts described herein with the knowledge and permission of the parent or guardian in violation of this Article upon the occurrence of the events described in (A), (B) and (C) below:

(A)            An unemancipated minor residing with said parent or legal guardian shall either be adjudicated to be in violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of a violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or

property; and

(B) Said parent or legal guardian shall have received a written notice thereof, either by certified mail, return receipt requested, or by personal service, with a certificate of personal service returned from the Village, following said adjudication or non-judicial sanctions; and

(C) If, at any time within one (1) year following receipt of notice set forth in paragraph (B) above, said minor is either adjudicated to be in violation of any ordinance, law, or statute as described in (A) above, or shall have incurred nonjudicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law, or statute as described in (A) above.

## ARTICLE VIII - OBSCENITY

### 27-8-1 OBSCENITY.

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

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

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

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

(C) Interpretation of Evidence. Obscenity shall be judged with reference to ordinary adults except that it shall be judged with reference to children or other specially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be specially designed for or directed to such an audience.

Where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the

conclusion that the matter is lacking in serious literary, artistic, political or scientific value.

In any prosecution for an offense under this section, evidence shall be admissible to show:

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

(D) **Prima Facie Evidence.** The creation, purchase, procurement or possession of a mold, engraved plat or other embodiment or obscenity, specially adapted for reproducing multiple copies, or the possession of more than three (3) copies of obscene material shall be prima facie evidence of an intent to disseminate. (See 65 ILCS Sec. 5/11-5-1)

## **27-8-2 HARMFUL MATERIAL.**

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

### (B) **Definitions.**

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

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

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

fact, substantially less than its prurient appeal.

(D) **Affirmative Defenses.**

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

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

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

**27-8-3 TIE-IN SALES OF OBSCENE PUBLICATIONS TO DISTRIBUTORS.** Any person, firm or corporation, or any agent, officer or employee thereof engaged in the business of distributing books, magazines, periodicals, comic books or other

publications to retail dealers who shall refuse to furnish to any retail dealer such quantity of books, magazines, periodicals, comic books or other publications as such retail dealer normally sells because the retail dealer refuses to sell, or offer for sale, any books, magazines, periodicals, comic books or other publications which are obscene, lewd, lascivious, filthy or indecent is guilty of an offense. Each publication sold or delivered in violation of this Section shall constitute a separate offense. (See 720 ILCS Sec. 5/11-22)

## ARTICLE IX – OPEN BURNING

**27-9-1**            **DEFINITIONS.** Unless the context otherwise requires the words and phrases herein defined are used in this Article in the sense given them in the following definitions:

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

**"GARBAGE OR HOUSEHOLD TRASH"** means refuse resulting from the handling, processing, preparation, cooking and consumption of food or food products; including plastic containers.

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

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

**27-9-2**            **BURNING PROHIBITED.** It shall be unlawful to cause or allow open burning of agricultural waste, household trash or garbage; provided, however, that it shall not be unlawful to burn agricultural waste or landscape waste if:

(A)                The property upon which the burning occurs is zoned “A-1 Agricultural District”; and

(B)                The parcel upon which the burning occurs is equal to or greater than **ten (10) acres.** (Ord. 2012-12-10-D, 12/10/2012)

**27-9-3**            **RESTRICTIONS.** Except as provided in this Article IX, no person, firm, company, corporation, association, joint venture, partnership, trust, estate, or other legal entity shall burn any leaves, brush, grass, wood, tree limbs, rubbish, garbage, trash, construction material or waste, or other combustible materials in the Village. Notwithstanding the provisions herein, this Article shall not be construed to prohibit the following:

(A)                Wood fires in fireplaces, stoves, heaters, furnaces, and incinerators safely designed, constructed, and installed for such purposes and complying with all applicable laws, ordinances, regulations, and building codes.

(B)                Outdoor wood fires (i.e., camp fires or bon-fires) for recreational or ceremonial purposes; provided, however that such outdoor wood fires consist only of traditional

firewood, are continuously attended during the course of the burning and the fire is fully extinguished prior to leaving the site of the fire.

(C) Live-Fire-Related training as conducted by the Fire Department, if conducted by burning tree by-products.

(D) Burning of debris or items for Village purposes, as directed by the Village Administrator or the Public Works Commissioner. (Ord. No. 644; 06-04-01: Ord. No. 853; 4-4-11; Ord. 2012-12-10-D, 12/10/2012)

**27-9-4** **PENALTIES.** The penalties under this Section shall be as provided in the Municipal Code of the Village of New Baden, Division IV General Penalty, Section 1-1-20 Penalty. (Ord. No. 602; 04-06-98)

## **ARTICLE X – SEX OFFENDER RESIDENCY REGULATIONS**

**27-10-1** **DEFINITIONS.** Unless the context otherwise requires, the words and phrases herein defined are used in this Article in the sense given them in the following definitions:

(A) **"CHILD SEX OFFENDER"** means any person who:

- (1) Has been charged under Illinois law, or any substantially similar Federal law or law of another State, with a sex offense set forth in subsection (B) of this section or the attempt to commit an included sex offense, and:
  - (a) is convicted of such offense or an attempt to commit such offense; or
  - (b) is found not guilty by reason of insanity of such offense or an attempt to commit such offense; or
  - (c) is found not guilty by reason of insanity pursuant to subsection (c) of Section 104-25 of the Code of Criminal Procedure of 1963 of such offense or an attempt to commit such offense; or
  - (d) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to subsection (a) of Section 104-25 of the Code of Criminal Procedure of 1963 for the alleged commission or attempted commission of such offense; or
  - (e) is found not guilty by reason of insanity following a hearing conducted pursuant to a Federal law or the law of another State substantially similar to subsection (c) of Section 104-25 of the Code of Criminal Procedure of 1963 of such offense or of the attempted commission of such offense; or
  - (f) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to a Federal law or the law of another State substantially similar to subsection (a) of Section 104-25 of the Code of Criminal Procedure of 1963 for the alleged violation or attempted commission of such offense; or
- (2) Is certified as a sexually dangerous person pursuant to the Illinois

Sexually Dangerous Persons Act, or any substantially similar Federal law or the law of another State, when any conduct giving rise to such certification is committed or attempted against a person less than **eighteen (18) years** of age;

- (3) Is subject to the provisions of Section 2 of the Interstate Agreements on Sexually Dangerous Persons Act; or
- (4) Meets any future definition of Child Sex Offender listed in **720 ILCS 5/11-9.4**, as amended from time to time.

(B) **"SEX OFFENSE"**

- (1) A violation of any of the following sections of the Criminal Code of 1961: 10-5(b)(10) (child luring), 10-7 (aiding or abetting child abduction under Section 10-5(b)(10)), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 11-15.1 (soliciting for a juvenile prostitute), 11-17.1 (keeping a place of juvenile prostitution), 11-18.1 (patronizing a juvenile prostitute), 11-19.1 (juvenile pimping), 11-19.2 (exploitation of a child), 11-20.1 (child pornography), 11-20.3 (aggravated child pornography), 12-14.1 (predatory criminal sexual assault of a child), or 12-33 (ritualized abuse of a child). An attempt to commit any of these offenses.
- (2) A violation of any of the following sections of the Criminal Code of 1961, when the victim is a person under **eighteen (18) years** of age: 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault), 12-16 (aggravated criminal sexual abuse), and subsection (a) of Section 12-15 (criminal sexual abuse). An attempt to commit any of these offenses.
- (3) A violation of any of the following sections of the Criminal Code of 1961, when the victim is a person under **eighteen (18) years** of age and the defendant is not a parent of the victim: 10-1 (kidnapping), 10-2 (aggravated kidnapping), 10-3 (unlawful restraint), 10-3.1 (aggravated unlawful restraint). An attempt to commit any of these offenses.
- (4) Any offense that is added section (d)(2.5) of **720 ILCS 5/11-9.4**, as amended from time to time.

(C) **"PUBLIC PARK"** includes a park, forest preserve, or conservation area under the jurisdiction of the State or a unit of local government.

(D) **"FACILITY PROVIDING PROGRAMS OR SERVICES DIRECTED TOWARDS PERSONS UNDER THE AGE OF 18"** means any facility providing programs or services exclusively directed towards persons under the age of **eighteen (18)**.

(E) **"PLAYGROUND"** means a piece of land owned or controlled by a unit of local government that is designated by the unit of local government for use solely or primarily for children's recreation.

(F) **"CHILD CARE INSTITUTION"** has the meaning ascribed to it in Section 2.06 of the Child Care Act of 1969.

(G) **"DAY CARE CENTER"** has the meaning ascribed to it in Section 2.09 of the Child Care Act of 1969.

(H) **"PART DAY CHILD CARE FACILITY"** has the meaning ascribed to it in Section 2.10 of the Child Care Act of 1969.

(I) **"DAY CARE HOME"** has the meaning ascribed to it in Section 2.18 of the Child Care Act of 1969.

(J) **"GROUP DAY CARE HOME"** has the meaning ascribed to it in Section 2.20 of the Child Care Act of 1969. **(Ord. No. 818; 2-1-10)**

**27-10-2** **RESIDENCY RESTRICTION.** No child sex offender shall reside within **one thousand five hundred (1,500) feet** of a public park, playground, child care institution, day care center, part day child care facility, day care home, group day care home, a facility providing programs or services exclusively directed toward persons under **eighteen (18) years** of age, a school building, or the real property comprising any school that persons under the age of **eighteen (18)** attend. Nothing in this section prohibits a child sex offender from residing within **one thousand five hundred (1,500) feet** of a public park, playground, child care institution, day care center, part day child care facility, day care home, group day care home, a facility providing programs or services exclusively directed toward persons under **eighteen (18) years** of age, a school building, or the real property comprising any school that persons under the age of **eighteen (18)** attend if the property is owned by the child sex offender and was purchased before February 1, 2010. **(Ord. No. 818; 2-1-10)**

**27-10-3** **MEASUREMENT.** The **one thousand five hundred (1,500) feet** distance shall be measured from the edge of the property containing the school building or public park building or the edge of the real property containing the school, public park, playground, child care institution, day care center, part day child care facility, or a facility providing programs or services exclusively directed toward persons under **eighteen (18) years** of age that is closest to the edge of the property of the child sex offender's residence to the edge of the child sex offender's residence that is closest to the aforementioned property. **(Ord. No. 818; 2-1-10)**

**27-10-4** **INJUNCTIVE RELIEF.** In addition to, and without waiving, any other relief that the Village has, or may have, against a child sex offender in violation of this Article, the Village may, through its Village Attorney, apply to any court of competent jurisdiction for a restraining order, whether temporary or permanent, and/or an injunction, whether preliminary or permanent, prohibiting the child sex offender from any violation of this Article, whether such violation has already occurred or is anticipated by the Village to occur. **(Ord. No. 818; 2-1-10)**