

CHAPTER 4
OFFENSES AGAINST PUBLIC PEACE, SAFETY AND MORALS

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8-4-1 **DISORDERLY CONDUCT**

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

- A. Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace;
- B. Transmits in any manner to the fire department of any municipality or fire protection district a false alarm for fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists;
- C. Transmits in any manner or 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.
- 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.
- 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. Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance 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;
- G. Permits any assembly of people for the purpose of committing any unlawful act or breach of the peace, or any riotous, offense or disorderly conduct, in or upon any premises owned or occupied by him or under his control or 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.
- H. Disturbs, tends to disturb or aids in disturbing the peace of others by violent, tumultuous, offensive or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control.
- I. Loiters or strolls in, about or upon any street, alley or other public way or public place, or in any public gathering or assembly, or in or around any store, shop or business or commercial establishment, or on any private property or place without lawful business or conducts himself in a lewd, wanton or lascivious manner in speech or behavior.
- J. Penalty: Any person, firm or corporation violating this section shall be fined not less than \$50.00 nor more than \$500.00 for each offense and be responsible for the Village's cost of prosecution. 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.

8-4-2 **WEAPONS** 1995-96-571

- A. Carrying Concealed Weapons: Unless authorized by law, no person shall wear under his clothing, or conceal about his person, or display in a threatening like manner, any dangerous or deadly weapon including, but not by way of limitations, any pistol, revolver, sling shot, cross-knuckles, or knuckles of lead, brass or other metal, or any bowie knife, or any knife resembling a bowie knife, or any knife with a switch-blade or device whereby the blade or blades can be opened by a button, pressure on the handle or other mechanical contrivance.
- B. Possession of Dangerous or Deadly Weapons:
 - 1. Except within his own domicile, no person shall have in his possession, carry or use a revolver or pistol of any description, shotgun or rifle which may be used for the explosion of cartridges, or any air rifle, "B-B" gun, gas-operated gun or spring gun.
 - 2. Unless under the direct supervision of a parent or legal guardian, any person 17 years of age or younger is prohibited from carrying or discharging any firearm, toy or weapon commonly known as a peashooter, slingshot or beany, or any bow made for

the purpose of throwing or projecting missiles of any kind by any means whatsoever, whether such instrument is called by any name set forth herein or by any other name.

3. Except as provided in Section 8-4-2, no person shall discharge any firearms in the Village. In addition to those firearms defined by the State Statutes, for purposes of this Section, firearms shall include pump air rifles, CO₂ pellet guns and any other device capable of discharging a projectile if used with intent to inflict harm to person or property or to assault or threaten harm to a person or property or when used in a reckless manner.
- 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.
- D. Penalty: Any person, firm or corporation violating this section shall be fined not less than \$50.00 nor more than \$500.00 for each offense and be responsible for the Village's cost of prosecution. 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.

8-4-3 **POSSESSION AND USE OF BIDI CIGARETTES, SMOKING HERBS, TOBACCO ACCESSORIES AND TOBACCO PRODUCTS** *Amended, 2010-11-853*

- A. Definitions: Terms used in this Section 8-4-3 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.

B. Purchase and Use of Tobacco Products Prohibited:

1. No person under 18 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 18 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 following 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 8-4-3-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 products in any of its forms.
2. Penalty: If a minor violates this Section 8-4-3-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 18 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 8-4-3-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 or 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 18 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 43-15-D2, any person who knowingly violates or shall knowingly cause the violation of any provision of this Section 8-4-3-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 8-4-3-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, not less than \$250 or more than \$600, and for a third or subsequent offense within a 2-year period, 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

8-4-4 **CURFEW** 2003-04-717

- A. Definitions: The following definitions are applicable to this Section 8-4-4:

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 8-4-4-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 8-4-4, 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 8-4-4 unless the police officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception in Section 8-4-4-C applies.
- F. Penalty: Any violation of this Chapter 4 is punishable by a fine not to exceed \$500. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

8-4-5 **BATTERY** 2003-04-713

No person shall commit a battery in the Village. A person commits battery if he 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.

8-4-6 **ASSAULT** 2003-04-713

No person shall commit an assault in the Village. A person commits an assault when, without lawful authority, engages in conduct which places another in reasonable apprehension of receiving a battery.

8-4-7 **FIREWORKS** 2003-04-713, Amended, 2006-07-776

- A. Sale of Fireworks: No person shall sell or offer for sale any fireworks, including aerial or ground displays and as defined in Section 1 of the Fireworks Use Act (425 ILCS 35/1), in the Village.
- B. Use, Explosion of Fireworks: No person shall use or explode any fireworks, including aerial or ground displays, in the Village without a permit issued by the Village Board. The Village Board may issue a permit for the public display of fireworks only after it has determined that the site for said display is safe and appropriate and only under such conditions as it may impose under the provisions of Section 2 of the Fireworks Use Act (425 ILCS 35/2) ("Act"), and those conditions contained herein and other conditions deemed necessary or desirable by the Village Board for the safety and welfare of the public
- C. Insurance: The permit applicant shall be required to provide proof of liability insurance in a sum of not less than \$3,000,000 conditioned on compliance with the provisions of this Section. The insurance shall be issued by an insurance company authorized to do business in the State of Illinois.
- D. Conditions: In order to operate a fireworks display a permit applicant must:

1. Attend training conducted at a fire department/district or similar authorized agency.
 2. Apply for a site inspection by the Hebron-Alden-Greenwood Fire Protection District.
 3. Only approved consumer fireworks from a registered consumer fireworks distributor-retailer shall be used in a fireworks display.
 4. Copies of all supporting documentation demonstrating compliance with the Act shall be submitted to the Village with the permit application.
- E. Penalty: Any person, firm or corporation shall be fined not less than \$100 for each offense and be responsible for the Village's cost of prosecution. 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.

8-4-8 **POSSESSION OR CONSUMPTION OF ALCOHOLIC LIQUOR** 2003-04-713

- A. Any person under the age of 21 years shall not purchase or accept a gift of alcoholic liquor or have alcoholic liquor in his possession except as provided herein.
- B. No person under 21 years of age shall consume alcoholic liquor except as provided herein.
- C. The dispensing or serving of alcoholic liquor by a person under 21 years of age but not under 18 years of age in connection with his or her employment as an employee of any retail licensee, as provided in Section 3-2-16 of this Code, is not prohibited by this Section 8-4-8.
- D. The possession and dispensing or consumption of alcoholic liquor by a person under 21 years of age in the performance of a religious service or ceremony or the consumption by a person under 21 years of age under the direct supervision and approval of the parents or parent of such person in the privacy of a home is not prohibited by this Section 8-4-8.
- E. No person shall consume alcoholic liquor on any street, sidewalk or other public way within the Village.

8-4-9 **GATHERINGS WHERE ONE OR MORE PERSONS ARE UNDER THE AGE OF 21 YEARS** 2003-04-713

- A. It shall be unlawful for any person to knowingly permit a gathering at a residence which he or she occupies of two or more persons where any one or more of the persons is under 21 years of age and the following factors also apply:
 1. The person occupying the residence knows that the person or persons under the age of 21 is either in possession of or is consuming an alcoholic beverage; and

2. The possession or consumption of the alcohol by the person under 21 is not otherwise permitted by this Section; or
 3. The person occupying the residence knows that the person under the age of 21 leaves the residence in an intoxicated condition.
- B. For the purposes of this Section 8-4-9, where the residence has an owner and a tenant or lessee, there is a rebuttable presumption that the residence is occupied only by the tenant or lessee.
- C. Penalty: Whoever violates any provision of this Section 8-4-9 shall be fined not less than \$100 nor more than \$1,000. Each day on which a violation continues shall constitute a separate violation.

8-4-10 **TRESPASSES** 2003-04-713

- 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 any limitation upon the provisions of this Section 8-4-10, any of the following acts by a person shall be deemed included among those that constitute trespasses in violation of the provisions of this Section 8-4-10, or from time to time, to prevent or suppress any violation or violations of this Section 8-4-10, 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 point of approach or entry, or in violation of any notice, warning or protest given orally or in writing by any owner or occupant thereof; or
 3. A failure of refusal to depart from the premises of another in case of being requested, either orally or in writing, to leave by any owner or occupant thereof; or
 4. An entry into or upon any vehicle, aircraft or watercraft made without the consent of the person having the right to 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.

- A. Definitions: The definitions contained herein shall be observed and applied, except when the context clearly indicates otherwise.

The term “drug paraphernalia” means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance as defined in 720 ILCS 550/3 *et seq.* and 720 ILCS 570/102 through 212, as amended. It includes, but is not limited to:

1. 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;
2. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substance or cannabis;
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 or cannabis;
4. Testing equipment used, intended for use or designed for use in identifying, or in analyzing the strength effectiveness or purity of controlled substances or cannabis;
5. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances or cannabis;
6. 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;
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 or cannabis;
9. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances or cannabis;
10. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances or cannabis;
11. 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:

- 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. Carburization tubes and devices;
- d. Smoking and carburization masks;
- e. 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;
- f. Chamber pipes;
- g. Carburetor pipes;
- h. Electric pipes;
- i. Air-driven pipes;
- j. Chillums;
- k. Bongs; and
- l. Ice pipes or chillers.

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:

1. Statements by an owner or by anyone in control of the object concerning its use;
2. 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;
3. The proximity of the object, in time and space, to a direct violation of this Section 8-4-11;
4. The proximity of the object to controlled substances;
5. The existence of any residue of controlled substances on the object;

6. 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 8-4-11; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this Section 8-4-11, shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
 7. Instructions, oral or written, provided with the object concerning its use;
 8. Descriptive materials accompanying the object which explain or depict its use;
 9. National and local advertising concerning its use;
 10. The manner in which the object is displayed for sale;
 11. 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;
 12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
 13. The existence and scope of legitimate uses for the object in the community; and
 14. Expert testimony concerning its “use.”
- B. It shall be unlawful for any person to sell, offer for sale, display, furnish, supply or give away any cocaine spoon, marijuana pipe, hashish pipe or any drug paraphernalia.
- C. Exceptions: The prohibition contained in this Section 8-4-11 shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropractors and podiatrists, veterinarians, pharmacists or embalmers in the normal lawful course of their respective businesses or professions, nor to common carriers or warehouses or their employees engaged in the lawful transportation of such paraphernalia, nor to public officers or employees while engaged in the performance of their official duties, nor to persons suffering from diabetes, asthma or any other medical condition requiring self injection.
- D. Penalty: Whoever violates any provision of this Section 8-4-11 shall be fined not less than \$150 for each offense and be responsible for the Village’s cost of prosecution including attorney fees incurred by the Village. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to the owner of any property damaged or destroyed. Nothing herein shall preclude such additional civil remedies available to the person whose property has been damaged or destroyed. Any person found guilty shall be responsible for any laboratory fees expended by the Village

for any testing to determine if the drug paraphernalia contains any trace amount of controlled substances.

8-4-12 **POSSESSION OF CANNABIS** 2004-05-735

- A. Definition: For purposes of this Section 8-4-12, cannabis is defined in 720 ILCS 550/3(a).
- B. Possession Prohibited: It shall be unlawful for any person to knowingly possess cannabis within the corporate limits of the Village unless said possession is authorized under Section 11 of the Cannabis Control Act (720 ILCS 550/11).
- C. Violation; Penalty: Whoever violates any provision of this Section 8-4-12 shall be fined as follows for each offense and be responsible for the Village's cost of prosecution including attorney fees incurred by the Village: possession of not more than 2.5 grams of any substance containing cannabis is guilty of a Class C misdemeanor; and possession of more than 2.5 grams but not more than 10 grams of any substance containing cannabis is guilty of a Class B misdemeanor. Said fines shall be pursuant to 730 ILCS 5/5-9-1. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to the owner of any property damaged or destroyed. Nothing herein shall preclude such additional civil remedies available to the person whose property has been damaged or destroyed.

8-4-13 **NO SMOKING** 2007-08-822, Amended, 2007-08-828

- A. Definitions: For purposes of this Section, the following terms have the meanings ascribed to them in this Section unless different meanings are plainly indicated by the context:

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

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

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

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

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

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

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

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

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

Private club: A not-for-profit association that (i) has been in active and continuous existence for at least three years prior to the effective date of the Act, whether incorporated or not, (ii) is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, (iii) is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose, but not for pecuniary gain, and (iv) only sells alcoholic beverages incidental to its operation. For purposes of this definition, private club means an organization that is managed by a board of directors, executive committee, or similar body chosen by the members at an annual meeting, has established bylaws, a constitution, or both to govern its activities, and has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. 501.

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

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

Public place: Any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the State of Illinois, or any other public entity and regardless of whether a fee is charged for admission, including a

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

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

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

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

- B. Smoking in Public Places Prohibited: No person shall smoke in a public place or any place of employment or within 15 feet of any entrance to a public place or place of employment. No person may smoke in any vehicle owned, leased, or operated by the State, Village or other political subdivision of the State. Smoking is prohibited in indoor public places and places of employment unless exempted by Section 8-4-13-E.
- C. Smoking Prohibited in Student Dormitories: Notwithstanding any other provision of this Section, smoking is prohibited in any portion of the living quarters, including, but not limited to, sleeping rooms, dining areas, restrooms, laundry areas, lobbies and hallways, of a building used in whole or in part as a student dormitory that is owned and operated or otherwise utilized by a public or private institution of higher education.
- D. Posting of Signs; Removal of Ashtrays; Designation of Other Non-Smoking Areas:

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

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

1. Private residences or dwelling places, except when used as a child care, adult day care, or other healthcare facility or any other home-based business open to the public.
2. Retail tobacco stores in operation prior to January 1, 2008. The retail tobacco store shall annually file with the Illinois Department of Public Health by January 31st an affidavit stating the percentage of its gross income during the prior calendar year that was derived from the sale of loose tobacco, plants or herbs and cigars, cigarettes, pipes or other smoking devices for smoking tobacco and related smoking accessories. Any retail tobacco store that begins operation after the effective date of January 1, 2008, may only qualify for an exemption if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited.
3. Private and semi-private rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed or to remain in a room where smoking is permitted and the smoke shall not infiltrate other areas of the nursing home.
4. Hotel and motel sleeping rooms that are rented to guests and are designated as smoking rooms, provided that all smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into nonsmoking rooms

or other areas where smoking is prohibited. Not more than 25 percent of the rooms rented to guests in a hotel or motel may be designated as rooms where smoking is allowed. The status of rooms as smoking or nonsmoking may not be changed, except to permanently add additional nonsmoking rooms.

- F. Enforcement: The Illinois Department of Public Health, State-certified local public health departments and local law enforcement agencies shall enforce the provisions of this Section and may assess fines pursuant to Section 8-4-14-G. Any person may register a complaint with the Illinois Department of Public Health, a State-certified local public health department or a local law enforcement agency for a violation of this Section.
- G. Violations:
1. A person, corporation, partnership, association or other entity, who violates this Section, shall be fined no less than \$100 and not more than \$250 plus the Village's cost of prosecution, including reasonable attorney fees. Each day that a violation continues shall be considered a separate offense.
 2. A person who owns, operates, or otherwise controls a public place or place of employment that violates this Section shall be fined (i) not less than \$250 for the first violation, (ii) not less than \$500 for the second violation within one year after the first violation, and (iii) not less than \$750 for each additional violation within one year after the first violation.
- H. Injunctions: The Illinois Department of Public Health, a State-certified local public health department, local law enforcement agency or any individual personally affected by repeated violations may institute, in the circuit court, an action to enjoin violations of this Section.

8-4-14 **THEFT** 2010-11-858

- A. Retail Theft: It shall be unlawful to commit the offense of retail theft of property not exceeding \$150. A person commits the offense of retail theft when such person 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 such person 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 their person or among their 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 such person 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.
- C. Penalty: Any person who violates any provision of this Section shall be fined not less than \$250 or more than \$750 for the first offense and not less than \$500 or more than \$750 for the second or subsequent offense.

8-4-15 **DAMAGING PROPERTY** 2010-11-860

- A. No person shall damage, defoul, disturb, destroy or deface any Village property or any public or private property without permission of the owner.
- 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. 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 or structures described above and to which is affixed.

- D. Graffiti Removal: It shall be the duty of the Chief of Police to serve or cause to be served, a notice upon the owner or party in possession of any such object or structure upon which graffiti is present and to demand the abatement of the nuisance within three days. All exterior surfaces shall be kept clean and free of graffiti. Surfaces which have been exposed to graffiti shall be cleaned, painted or in some manner covered, so as to effect the complete removal or the graffiti from that surface and return the surface to its prior condition within three days of receipt of the violation notice to the owner unless extenuating circumstances prevent work from being done, in which case the Chief of Police may give an extension for the removal of graffiti.

8-4-16 **RESISTING OR OBSTRUCTING A POLICE OFFICER** 2010-11-860

It shall be unlawful for any person to resist any member of the Police Department in the discharge of his duties, or in any way interfere with or hinder or prevent him from discharging his duty as such officer, or to prevent or endeavor to do so, and it shall be unlawful to assist any person in the custody of the police force to escape or attempt to escape from such custody, or to attempt to rescue any person in custody.

8-4-17 **TRUANCY** 2011-12-869

- A. For purposes of this Section, the term “truant” is (1) any person between the ages of 7 and 16 who is subject to compulsory school attendance and who is absent, without valid cause, from school attendance during a regular school day or any portion thereof or during a required summer school program established pursuant to 105 ILCS 5/10-22.33B; and (2) any person who is 16, 17 or 18 years of age and enrolled in a public school and who is absent, without valid cause, from school attendance during a regular school day or any portion thereof or during a required summer school program.

The following children are not considered truant:

1. Any child attending a private or parochial school where children are taught the branches of education taught to children or corresponding age and grade in the public schools, and where the instruction of the child in the branches of education is in the English language;
2. Any child who is not enrolled in a public school and is instructed by a legal guardian in a manner equal or superior to that obtainable in the public schools;
3. Any child who is physically or mentally unable to attend school, such disability being certified to either the Alden-Hebron Community Consolidated School District 19 (“school district”) truancy officer or the McHenry County Regional Office of Education truancy officer, by a licensed physician or by a Christian Science practitioner residing in Illinois and listed with the Christian Science Journal; or who is excused for temporary absence for cause by the principal or teacher of the school which the child attends. The exemptions in this Section do not apply to any female who is pregnant or the mother of one or more children, except where a female is

unable to attend school due to a complication arising from her pregnancy and the existence of such complication is certified to the school district truancy officer or McHenry County Regional Office of Education truancy officer by a competent physician;

4. Any child necessarily and lawfully employed according to the provisions of the law regulating child labor may be excused from attendance at school by the school district Superintendent of Schools or by the Regional Superintendent of Schools, on certification of the facts by and the recommendation of the school district Board of Education. If a part-time continuation school is run in the school district, children so excused shall attend the continuation school at least 8 hours each week;
 5. Any child over 12 and under 14 years of age while in attendance at confirmation classes;
 6. Any child absent from school on a particular day or days or at a particular time of day for the reason that s/he is unable to attend classes or to participate in any examination, study or work requirements on a particular day or days or at a particular time of day, because the tenets of his/her religion forbid secular activity on a particular day or days or at a particular time of day; and
 7. Emergency or unforeseen absences due to illness or other causes beyond the control of the person so absenting himself or herself from school without parental or legal guardian permission shall not constitute truancy if permission for such absence has been obtained from the parent or legal guardian and such permission is submitted to the proper school authorities within 24 hours of such absence.
- B. **TRUANCY PROHIBITED:** Upon a complaint signed by an authorized school district official, it shall be unlawful for any person to be truant. Any person who is truant shall be guilty of the offense of truancy and be subject to the penalties hereinafter set forth in this Section.
- C. **PERMITTING MINOR TO BE TRUANT PROHIBITED:** It is unlawful for a parent, legal guardian or other person to knowingly permit a person in his or her custody or control to violate this Section.
- D. **PENALTY:** Upon a complaint being signed by an authorized school district official, any person, firm or corporation violating any provision of this Section shall be fined not less than \$250.00 for the first offense and not less than \$500.00 for each subsequent offense. A separate offense shall be deemed committed on each day during or on which such violation occurs or continues.

A. General Prohibition: No person shall emit beyond the boundary of his property any sound that unreasonably interferes with another's enjoyment of property or life or with any lawful business or activity so as to violate any regulation set forth herein.

B. Definitions: Terms used in this Section shall have the following meaning:

A-Weighted Sound Level: dB(A), in decibels, a frequency weighted sound pressure level, determined by the use of the metering characteristics and A-weighted network specified in ANSI §.4-1971 (R. 1976) "Specification for Sound Level Meters" and the latest revisions thereof.

Decibel (dB): a unit of measure, on a logarithmic scale to the base 10, of the ratio of the magnitude of a particular sound pressure to a standard reference pressure, which shall be 20 micronewtons per square meter (uN/m²) for purposes of this Section 8-4-18.

Motorcycle: every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

C. Land Classes: For the purposes of this Section 8-4-18, land within the Village's corporate boundaries shall be classified into one of the following three classes:

1. Class A: Areas especially noise sensitive in that they incorporate sleeping quarters such as residential and institutional areas.
2. Class B: Retail commercial and office commercial land uses, and recreational and open space uses.
3. Class C: Manufacturing uses.

The applicable land use classification for undeveloped land shall be determined by the predominant land use of the surrounding property or, if no use is predominant, by the most restrictive designation applicable to any of the surrounding property.

D. Standards Relative to Noise Emitted from Properties:

1. Except for emergency services, the use of emergency equipment and vehicles to provide for the public safety, or the testing and maintenance of emergency equipment, no property owner or occupant shall cause or allow the emission of any noise within the Village's corporate boundaries to abutting property within the Village's corporate boundaries to exceed the exterior levels specified in the table below.

Class of Property Emitting Noise	Between the Hours of:	Maximum Noise Level (db A-level) at Emitter's Lot Line		
		Adjacent to Class A Property	Adjacent to Class B Prop- erty	Adjacent to Class C Prop- erty
Class A	7:01 a.m. and 10:00 p.m.	55	55	61
	10:01 p.m. and 7:00 a.m.	45	45	51
Class B	7:01 a.m. and 10:00 p.m.	62	66	66
	10:01 p.m. and 7:00 a.m.	55	62	66
Class C	7:01 a.m. and 10:00 p.m.	66	66	70
	10:01 p.m. and 7:00 a.m.	62	66	70

Noise shall be measured at any point on or beyond the lot line of the land on which the noise originates.

E. Standards Relative to Noise Emitted from Motorcycles: 16-17-915

1. No person shall operate or cause or allow the operation of a motorcycle within the Village's corporate boundaries at any time or under any conditions of highway grade, load, acceleration or deceleration in such a manner as to exceed the following applicable limit:
 - i. On highways, streets or right of way with speed limits of 35 miles per hour or less within the Village's corporate boundaries, 90 dB(A) when such motorcycle is operating on a grade exceeding 3%, measured with fast meter response at 25 feet from the centerline of lane of travel, or an equivalent sound level limit;
 - ii. On highways, streets or right of way with speed limits of more than 35 miles per hour within the Village's corporate boundaries, 100 dB(A), measured with fast meter response at 25 feet from the centerline of lane of travel, or an equivalent sound level limit.
2. No person may start a motorcycle, or drive a motorcycle, within the Village's corporate boundaries, in a way that makes unnecessary noise such as by way of example, unnecessarily revving such motorcycle when it is stationary or repeatedly opening and closing the throttle when the vehicle is in motion.

F. Penalty: 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 \$250. Each day that 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. In the event that the Village brings an action in

either its Office of Administrative Adjudication or in the Circuit Court to enforce any provision in this Section and the offender is adjudicated liable or found guilty of the charge or violation, then the Village shall be entitled to a judgment against the offender for the amount of attorney's fees and costs expended in the enforcement of such ordinance in addition to the above-described fine amount.