

CHAPTER 43
OFFENSES AGAINST PUBLIC PEACE, SAFETY AND MORALS

43.01	Disorderly Conduct
43.02	Resisting or Obstructing a Peace Officer
43.03	Battery
43.04	Assault
43.05	Weapons
43.06	Fireworks
43.07	Fires
43.08	Barbed Wire Fences
43.09	Noise
43.10	Parental Responsibility
43.11	Damaging Property
43.12	Littering
43.13	Trespasses
43.14	Combustible Refuse
43.15	Parades and Demonstrations
43.16	Bathing
43.17	Tobacco
43.18	Curfew
43.19	Defective Piers
43.20	Theft of Service
43.21	Roller Skates, Street Skates and Skateboards Regulated
43.22	Laser Pointers
43.23	Street Gang Activity
43.24	Alcoholic Beverages
43.25	Drug Paraphernalia; Definitions
43.26	Persons Responsible for Unlawful Activities on Their Premises
43.27	Penalty

43.01 DISORDERLY CONDUCT

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

1. Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace;
2. Transmits in any manner to the fire department of any municipality or fire protection district a false alarm or fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists;
3. Transmits in any manner to another a false alarm to the effect that a bomb or other explosive of any nature is

concealed in such place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb or explosive is concealed in such place.

4. Transmits in any manner to any peace officer, public officer or public employee a report to the effect that an offense has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense has been committed.
5. Enters upon the property of another and for a lewd or unlawful purpose and deliberately looks into a dwelling on the property through any window or other opening in it.
6. With the purpose of causing public danger, alarm, disorder, nuisance, he or she commits any of the following acts in a public place:
 - a. Commits an act in a violent manner toward another whereby that other person is placed in danger of his or her life or health;
 - b. Commits an act in a violent manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;
 - c. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, health or property of another;
 - d. Interferes with another's pursuit of a lawful occupation by acts of violence;
 - e. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic on a public way and refuses to clear such public way when ordered to do so by a peace officer or other lawful authority;
 - f. Incites, attempts to incite or is involved in attempting to incite a riot or unlawful disturbance;
 - g. Uses abusive language or threats to any peace officer or any other person when such words have a direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment are not prohibited;

- h. Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance in a public place or affecting a public place or another person's premises to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square or common, whereby the public peace is broken or disturbed, or the traveling public annoyed;
 - i. Fails to obey a lawful order to disperse by a peace officer where one or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is threatened;
 - j. Uses abusive or obscene language or makes an obscene gesture in public;
 - k. Assembles with three or more persons for the purpose of using force or violence to disturb the public peace;
 - l. Assembles with three or more persons for the purpose of violating any provision of this Code; and
 - m. Appears in any public place and is under the influence of alcohol or controlled substance, to the degree that he or she may endanger himself or other persons or property, or alarm or disturb other persons in his/her vicinity.
7. Permits any assembly of two or more persons for the purpose of committing any unlawful act or breach of the peace, or any riotous, offense or disorderly conduct, in or upon any premises owned or occupied by him/her or under his/her control.
8. Interrupts or disturbs any lawful assembly of people by making any loud or unusual noise, or by rude or indecent behavior, or by profane, obscene or improper discourse or conduct.
9. Engages in Mob Action: Mob action consists of any of the following:
- a. The use of force or violence disturbing the public peace by two or more persons acting together and without authority of law;

- b. The assembly of two or more persons to commit an unlawful act; or
 - c. The assembly of two or more persons, without authority of law, for the purpose of doing violence to the person or property of anyone supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence.
10. Disturbs, tends to disturb or aid in disturbing the peace of others by violent, tumultuous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his/her control.
11. Uses paint or other medium in any way to deface, damage or destroy property.

43.02 RESISTING OR OBSTRUCTING A PEACE OFFICER

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

43.03 BATTERY

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

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

43.04 ASSAULT

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

43.05 WEAPONS

- A. WEAPONS: Unless authorized by law, no person shall wear

under his or her clothing, or conceal about his or her person, or display in a threatening like manner, any dangerous or deadly weapon including, but not limited to any pistol, revolver, sling shot, knuckles, any bowie or similar knife, or any knife with a switch-blade or device whereby the blade or blades can be opened by a button, pressure on the handle or other mechanical contrivance. No person under the age of 13 shall carry any air rifle on any public street, road, highway or public land within the Village, unless such person carries such a rifle unloaded and enclosed in a case.

B. DISCHARGE OF FIREARMS: No person shall discharge any firearms in the Village. In addition to those firearms defined by the Illinois Compiled Statutes, for purposes of this section, firearms shall include pump air rifles, potato guns, CO₂ pellet guns, arrows, missiles and any other device capable of discharging a projectile. No hunting shall be permitted within the corporate limits of the Village.

C. DISPLAY AND SALE OF SPECIFIED WEAPONS: No pawnbroker, second-hand dealer or other person engaged in business in the Village shall display or place on exhibition in any show window or other window facing upon any street, any pistol, revolver or other firearm, with a barrel less than 12 inches in length, or any brass or metal knuckles, or any club loaded with lead or other weight, or any blackjack or billy club. Weapons displayed for sale shall be incapable of firing. In non-business hours said weapons shall be stored in a secured and locked vault, safe or security box.

43.06 FIREWORKS

A. DEFINITIONS: In addition to those definitions in Appendix A herein, terms used in this Section 43.06 are defined as follows:

Act: The Pyrotechnic Distributor and Operator Licensing Act, 225 ILCS 227/1 *et seq.*

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

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

Consumer fireworks: Those fireworks that must comply with the construction, chemical composition and labeling regulations of the U.S. Consumer Products Safety Commission, as set forth in 16 C.F.R. Parts 1500 and 1507 and classified as fireworks UN0336 or UN0337 by the U.S. Department of Transportation under 49 C.F.R. 172.101.

Consumer fireworks do not include snake or glow work pellets; smoke devices; trick noisemakers known as "party poppers," "booby traps," "snappers," "trick matches" and "cigarette loads;" auto burglar alarms; sparklers; toy pistols, toy canes, toy guns or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive compound are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for the explosion; and toy pistol paper or plastic caps that contain less than twenty hundredths grains of explosive mixture; the same and use of which shall be permitted at all times.

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

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

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

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

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

1. A current BATFE license for distribution of display fireworks;
2. Proof of \$1,000,000 in product liability insurance;
3. Proof of \$1,000,000 in general liability insurance;

4. Proof of Illinois Worker's Compensation Insurance;
5. Proof of a current United States Department of Transportation (USDOT) Identification Number;
6. Proof of a current USDOT Hazardous Materials Registration Number;
7. Application fee of \$250; and
8. Proof of approval of such proposed display by the chief of the fire protection district that has jurisdiction where the display will be conducted.

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

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

E. PENALTY:

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

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

43.07 FIRES

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

43.08 BARBED WIRE FENCES

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

43.09 NOISE

A. PROHIBITED ACTS: The following acts, and the causing thereof, are declared to be in violation of this Section 43.09:

1. Radios, television sets, musical instruments and similar devices. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produced, reproduces or amplifies sound:
 - a. Between the hours of 11 p.m. and 7 a.m. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone.
 - b. In such a manner as to create a noise disturbance at 50 feet or 15 meters from such device, when operated in or on a motor vehicle on a public right-of-way or public space, or in a boat on public waters; or
 - c. In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier;
2. Loudspeakers and public address systems: Using or operating for any purpose any loudspeaker, public address system or similar device that:
 - a. Such that the sound there from creates a noise disturbance across a real property boundary or within a noise sensitive zone; or

- b. Between the hours of 10 p.m. and 7 a.m. the following day on a public right-of-way or public space.
3. Animals or birds: Owning, possessing or harboring any animal or bird which frequently or for continued duration, howls, barks, meows, squawks or makes other sounds which create noise disturbance across a residential real property boundary or within a noise sensitive zone.
4. Site Development Activity: Operating or permitting the operation of any tools or equipment used in conjunction with a specific site development activity, such as site work, road construction, building construction, drilling or demolition.
 - a. Between the hours of 8 p.m. and 7:30 a.m. the following day on weekdays and Saturdays and all day on Sundays.
 - b. This Section 43.09-A-4 shall not apply to the use of domestic power tools subject to Section 43.09-A-7.
 - c. The Village President and Board of Trustees may grant a waiver of Section 43.09-A-4-a to an organization or individual for the construction of a public facility or use when the granting of such a waiver serves a public interest.
5. Vehicle or motorboat repairs and testing: Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.
6. Powered model vehicles: Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary, or in a public space or within a noise sensitive zone between the hours of 10 p.m. and 7 a.m. the following day.
7. Domestic power tools: Operating or permitting the operation of any mechanically powered saw, sander,

drill, grinder, lawn or garden tool or similar device (excepting snowblowers as required for snow removal) used outdoors in residential areas between the hours of 8 p.m. and 6:30 a.m. the following day with the exception that use of said domestic power tools shall not begin before 8:30 a.m. on Sundays and national holidays or at any time if not properly muffled so as to cause a noise disturbance across a residential real property boundary.

43.10 PARENTAL RESPONSIBILITY

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

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

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

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

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

43.11 DAMAGING PROPERTY

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

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

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

43.12 LITTERING

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

43.13 TRESPASSES

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

B. **SPECIFICALLY ENUMERATED TRESPASSES; SUPPRESSION:** Without constituting and limitation upon the provisions of this Section 43.13, any of the following acts by any person shall be deemed included among those that constitute trespasses in violation of the provisions of this Section 43.13, and appropriate action may be

taken hereunder at any time, or from time to time, to prevent or suppress any violation or violations of this Section 43.13, the aforesaid enumerated acts so included, being as follows, to-wit:

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

43.14 COMBUSTIBLE REFUSE

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

43.15 PARADES AND DEMONSTRATIONS

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

B. Application for such permit shall be made at least 7 business days before the event and shall provide such information

as the Chief of Police shall require for proper protection of the public.

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

D. The Chief of Police may issue such permit subject to such reasonable restrictions as he or she shall deem necessary to protect public safety and to safeguard the residents of the Village and to protect private and public property.

43.16 BATHING

It shall be unlawful for any person to bathe at any public place, or in any place open to public view, unless such person is adequately or decently clothed or garbed in a bathing suit; and it shall be unlawful for any person to robe or disrobe at any public place or in any place open to public view, or to change clothing, or to change into or out of a bathing suit at any public place or in any place open to public view, or in an automobile or other motor vehicle on or in any street, highway, alley or other public place within the corporate limits of the Village

43.17 TOBACCO

A. It shall be unlawful for any person to vend, give, deliver or furnish any cigar, cigarette, smokeless tobacco or tobacco in any of its forms to any person under the age of 18 years, or to permit any premises owned by him or her to be frequented by any person under the age of 18 years for the purpose of indulging in the use of cigarettes in any form.

B. It shall be unlawful for any person under the age of 18 years to purchase, accept, possess or consume any cigar, cigarette, smokeless tobacco or tobacco in any of its forms.

43.18 CURFEW

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

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

Establishment: Any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

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

Minor: A person less than 17 years of age.

Operator: Any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

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

Public place: Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

Remain: To linger or stay; or fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

Serious bodily injury: Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

A. Curfew: Except as provided in Section 43.18-C herein, it shall be unlawful for any person less than 17 years of age to be present in or upon any public road, street, alley or park, or other lands used for public purposes or in any public place of business or amusement in the Village at the following times:

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

B. Exceptions: The following shall constitute valid exceptions to the operation of the curfew:

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

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

E. Enforcement: Before taking any enforcement action under this Section 43.18, a police officer shall ask the suspected offender's age and reason for being in the public place or on the premises. The police officer shall not issue a citation or make an arrest under this Section 43.18 unless the police officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception in Section 43.18-C applies.

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

43.19 DEFECTIVE PIERS

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

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

43.20 THEFT OF SERVICE

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

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

43.21 ROLLER SKATES, STREET SKATES AND SKATEBOARDS REGULATED

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

"roller skate" shall mean to skate on any type of roller skates or street skates.

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

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

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

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

43.22 LASER POINTERS

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

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

B. Transfer or Sale to Minor Prohibited: No person shall deliver, sell, or otherwise provide a minor with a Class 2 or Class 3A laser pointer as described in this section unless the minor is accompanied by a parent or legal guardian at the time of such delivery, sale, or other transfer.

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

43.23 STREET GANG ACTIVITY

A. VILLAGE BOARD FINDINGS:

1. The Village Board hereby finds and declares that it is the right of every person, regardless of race, color, creed, religious, national origin, sex, gender, sexual orientation, age or disability to be secure and protected from fear, intimidation and physical harm caused by the activities of violent groups and individuals. It is not the intent of this Chapter 43 to interfere with the exercise of the constitutionally protected rights of freedom of expression and association. The Village Board hereby recognizes the constitutional right of every citizen to harbor and express beliefs on any lawful subject whatsoever, to lawfully associate with others who share similar beliefs, to petition lawfully constituted authority for a redress of perceived grievances, and to participate in the electoral process.
2. The Village Board finds, however, that urban, suburban and rural communities, neighborhoods and schools throughout the State are being terrorized and plundered by street gangs. The Village Board finds that there are now several hundred street gangs operating in Illinois, and that while their terrorism is most widespread in urban areas, street gangs are spreading into suburban and rural areas of Illinois, including McHenry County.
3. The Village Board further finds that street gangs are often controlled by criminally sophisticated adults who take advantage of our youth by intimidating and coercing them into membership by employing them as drug couriers and runners, and by using them to commit brutal crimes against persons and property to further the financial benefit to and dominance of the street gang.
4. Street gang activity presents a clear and present danger to public order and safety and is not constitutionally protected. No society is or should be required to endure such activities without redress. Accordingly, it is the intent of the Village Board, by enacting this Chapter 43, to prohibit street gang related activity.

B. For the purpose of this Section 43.23, "street gang" or "gang" is defined as any ongoing organization, association in fact or group of three or more persons, whether formally or informally organized, or any sub-group or affiliated group thereof, having as one of its activities the commission of criminal or illegal acts, including by way of example only and not in anyway limiting or specifying, illegal drug distribution, and whose members individually or collectively engage in or have engaged in a pattern of criminal or illegal acts, and which group frequently, though not necessarily, claim one or more particular geographic territory or "turf" exclusively as its realm of influence and operations.

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

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

43.24 ALCOHOLIC BEVERAGES

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

B. PUBLIC PROPERTY: Consumption or possession of any alcoholic liquors, including beer and wine, at anytime in any public park, street, alley or public place owned, controlled or operated by the Village is prohibited unless a temporary permit authorizing consumption or possession of alcohol has been issued by the Liquor Commissioner.

43.25 DRUG PARAPHERNALIA; DEFINITIONS

A. In addition to the terms defined in Appendix A of this

Code, 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 the Illinois Compiled Statutes 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. Bongos; 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 Article;
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 Article; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this Article, 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. The prohibition contained in this Section 43.25 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 warehousemen 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.

43.26 PERSONS RESPONSIBLE FOR UNLAWFUL ACTIVITIES ON THEIR PREMISES

It shall be unlawful for any person or persons who are the owners or occupants of any premises to allow, initiate or maintain any gathering on that premises in which tenants, invitees, visitors or trespassers engage in any unlawful activity. Unlawful activity shall include, but not be limited to, violations of any sections of this Chapter 43. A person will be deemed to have permitted the gathering if that person is on the premises while the unlawful activity is occurring and has not informed the police thereof. For purposes of this section only, a gathering shall consist of two or more persons who are not occupants or owners of the premises.

43.27 PENALTY

A. Unless otherwise provided in this Chapter 43, any person, firm or corporation violating any section of this Chapter 43 shall be fined not less than \$100.00 for each offense and be responsible for the Village's cost of prosecution. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to any property damaged or destroyed or person injured.

B. A defendant who has been found guilty and ordered to pay a fine under this Chapter 43 may petition the court to convert all or part of the fine into court-approved public or community service, to

be performed as directed by and to be verified by the Department of Court Services.

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

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

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

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

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

Recodified September 13, 2001

Amended March 25, 2004

Amended August 24, 2006

Amended March 23, 2007

Amended June 12, 2008