

TITLE 9 POLICE REGULATIONS

CHAPTER 1 POLICE DEPARTMENT

9-1-1: DEPARTMENT CREATED:

There is hereby created a police department for the village, which shall consist of the chief of police, and such other officers as from time to time authorized by the village board. (Ord. 90-O-558, 12-3-1990)

9-1-2: CHIEF OF POLICE:

- A. Appointment, Term: The chief of police shall be appointed by the village president, with the advice and consent of the board of trustees, and shall serve at the discretion and pleasure of the village president.
- B. Rank: The chief of police shall be the head of the department, and have supervision over all officers and members thereof.
- C. Residency Exemption: The chief of police need not be a resident of the village.
- D. Duties: The duties of the chief of police are set forth in the police department rules and regulations of the village, as adopted and approved by this chapter, and as may be amended from time to time. (Ord. 90-O-558, 12-3-1990)

9-1-3: RULES AND REGULATIONS:

The board of trustees shall adopt rules and regulations. These rules shall apply to all members of the department.

The "Rules and Regulations, Kildeer Police Department, Kildeer, Illinois" dated December 3, 1990, a copy of which is on file in the office of the village clerk, is made a part hereof by reference, setting forth the rules and regulations. Said rules and regulations may be amended from time to time. (Ord. MM-O-806A, 7-3-2000)

CHAPTER 2

VANDALISM; PARENTAL RESPONSIBILITY

9-2-1: BACKGROUND:

Acts of vandalism resulting in damage to real or personal property within the Village pose a threat to the value of property and the welfare of residents. It is in the best interests of the Village that such acts be prosecuted by the Village as a local offense; that penalties therefor be imposed which are related to the nature of the act and the type of offender; and that the parents or legal guardians of minors found guilty of such acts be held responsible for any monetary penalty or order of restitution or reparation imposed. The diligent pursuit of such interests will tend to increase parental supervision of minors and reduce the incidence of juvenile vandalism, thus advancing the welfare of residents of the Village. (Ord. 77-O-242, 2-3-1977)

9-2-2: DEFINITIONS:

For the purposes of this Chapter, the following definitions shall apply:

CONDITIONAL DISCHARGE: An action taken by the court which allows removal of the conviction from the record of an individual if certain conditions are met.

LEGAL GUARDIAN: Shall include a person appointed guardian, or given custody of a minor by any court of record, but does not include a person appointed guardian, or given custody of a minor under the "Illinois Juvenile Court Act"¹⁽¹⁾.

MINOR: A person who has attained eleven (11) years of age but who has not yet reached nineteen (19) years of age.

PERSON: Shall include any individual, firm, partnership, association, corporation, company or organization of any kind.

PROPERTY: Shall include any real estate including improvements thereon, and tangible personalty. (Ord. 77-O-242, 2-3-1977)

9-2-3: OFFENSES:

Within the corporate limits of the Village no person shall:

- A. Knowingly or recklessly damage any property of another person without his consent; or

- B. Knowingly and without authority enter into or obtain control over any motor vehicle, bicycle, aircraft or watercraft or any part thereof of another person without his consent. (Ord. 77-O-242, 2-3-1977)

9-2-4: PENALTY:

Every person found guilty of an offense shall be subject to either or both the following penalties: (Ord. 77-O-242, 2-3-1977)

- A. A fine not in excess of the maximum as set forth in Section 1-4-1 of this Code. (Ord. 77-O-242, 2-3-1977; amd. Ord. 95-O-707, 11-6-1995)
- B. A period of conditional discharge not to exceed one year.
1. The conditions of a conditional discharge shall include that the defendant:
 - a. Not violate any criminal statute or quasi-criminal ordinance of any jurisdiction; and
 - b. Report to and appear in person before such person or agency as directed by the court.
 2. The conditions of conditional discharge may, in addition, require that the defendant:
 - a. Work or pursue a course of study or vocational training;
 - b. Undergo medical or psychiatric treatment, or treatment for drug addiction or alcoholism;
 - c. Make restitution or reparation in an amount not to exceed actual loss or damage to property and pecuniary loss; and
 - d. If a minor, to reside with his parent or in a foster home; attend school; attend a nonresidential program for youth; or contribute to his own support at home or in a foster home.
 3. When a court orders restitution or reparation as a condition for a conditional discharge, the court shall determine the amount and conditions of payment. When the conditions of payment have not been satisfied, the court, at any time prior to the expiration or termination of the period of conditional discharge may impose an additional period of not more than two (2) years. Only the conditions of payment shall continue to apply during such conditional period. The court shall retain all of the incidents of the original sentence, including the authority to modify or enlarge the original conditions and to revoke the penalty of conditional discharge if the conditions of payment are violated during such additional period.
 4. When a petition is filed charging a violation of a condition imposed for conditional

discharge, the court:

- a. May order a summons to the offender to appear; or order a warrant for the offender's arrest where there is danger of his fleeing the jurisdiction or causing serious harm to others or when the offender fails to answer a summons. The issuance of such warrant or summons shall stay the sentence of conditional discharge until the final determination of the charge, and the term of conditional discharge shall not run so long as the offender has not answered the summons, or warrant.
 - b. Shall conduct a hearing of the alleged violation. The court may admit the offender to bail pending the hearing.
 - c. Shall receive evidence in open court with the right of confrontation, cross-examination and representation by counsel. The Village has the burden of going forward with the evidence and proving the violation by the preponderance of the evidence.
 - d. Shall not revoke a conditional discharge for failure to comply with conditions of a sentence which imposes financial obligations upon the offender unless such failure is due to his wilful refusal to pay.
 - e. May modify the conditions of a conditional discharge on motion of the Village or on its own motion or at the request of the offender after notice to all parties and a hearing.
5. If the court finds that the offender has violated a condition at any time prior to the expiration or termination of the period, it may continue the offender on the existing period, with or without modifying or enlarging the conditions, or may impose any other penalty that was available at the time of the initial penalty.
6. A judgment revoking probation or conditional discharge is a final appealable order.

9-2-5: LIABILITY OF PARENT OR LEGAL GUARDIAN OF MINOR OFFENDER:

The parent or legal guardian of an unemancipated minor residing with such parent or legal guardian shall be presumed, in the absence of evidence to the contrary, to have failed to exercise proper parental responsibility and said minor shall be deemed to have committed the acts described below with the knowledge and permission of the parent or guardian, in violation of this Chapter, upon the occurrence of the events described in subsections A, B and C below:

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

person or property; and

- B. Said parent or legal guardian shall have received a written notice thereof, either by certified or registered mail, return receipt requested, or by personal service, with a certificate of personal service returned, from a representative of the Village; and
- C. If at any time within one year following receipt of the notice set forth in subsection B above, said minor is either adjudicated to be in violation of any ordinance, law or Statute, as described in subsection A above, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law or Statute as described in subsection A above.

The parent or legal guardian of an unemancipated minor who is residing with such parent or legal guardian when found to have failed to exercise proper parental responsibility as per the terms of this Chapter, shall be liable for any fine or condition of restitution or reparation imposed by a court upon said minor for violation of the instant ordinance; provided that said minor has not paid said fine or made restitution or reparation within the time prescribed by the court. (Ord. 77-O-242, 2-3-77)

CHAPTER 3 GENERAL OFFENSES

9-3-1: DISCHARGE OF WEAPONS:

- A. It shall be unlawful for any person to discharge any gun within the village limits; provided, however, that this section shall not apply to a duly authorized police officer while engaged in the discharge of his duties. For the purposes of this section, "gun" shall mean and include any rifle, pistol, shotgun, firearm, BB gun, pellet gun, or any other instrument which discharges a projectile, such as a bullet or pellet.
- B. Any person who violates the terms of this section shall, upon conviction, be fined a sum of not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00) for each offense. Each discharge shall be considered a separate offense. (Ord. 91-O-590, 9-4-1991)

CHAPTER 4 OBSCENITY

9-4-1: DEFINITIONS:

For the purposes of this Chapter, the following definitions shall apply:

DISTRIBUTE: To transfer possession or make available for viewing by any other person, whether or not consideration passes.

EXPLICITLY SEXUAL MATERIAL: Any picture, drawing, photograph, motion picture or other representation of a sexual nature which is harmful and obscene to children.

KNOWINGLY: Having general knowledge of or having reason to or a belief or reasonable grounds for belief which warrants, indicates or suggests further inspection or injury or both of the character and content of any material described herein.

OBSCENE: An item shall be deemed to be obscene if the average person using contemporary adult community standards would find that the work, taken as a whole, appeals to the prurient interest, and describes in a patently offensive way sexual conduct and the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

Obscenity may encompass, but not be limited to, the depiction of the following acts, which meet the definition above, between humans, between animals, and/or between humans and animals.

- A. Masturbation.
- B. Oral genital acts.
- C. Oral or manual genital or breast stimulation.
- D. Rape.
- E. Voyeurism.
- F. Flagellation.
- G. Cunnilingus.
- H. Fellatio.
- I. Homosexual acts or lesbian acts.
- J. Transvestisms.
- K. Sodomy; incest.
- L. Bestiality.

- M. Anal sex, buggery; pederasty.
- N. Ultimate sex acts, normal or perverted, actual, simulated or animated.
- O. Lewd exhibition of genitals, pubic hair, anus, vulva or female breast nipples.
- P. Sexual stimulation or penetration with an artificial sexual device.
- Q. Oral copulation.
- R. Torture in the context of a sexual encounter.
- S. Sadomasochism, real or simulated.
- T. The inflicting, or simulated depiction thereof, of bodily harm on another during the course of a sexual encounter.
- U. Distortion of the genitals manually or by graphic artistry.
- V. Depiction of any imminent abnormal sexual activity.
- W. Any artificial human penis or vagina or device primarily designed physically to stimulate genitals, or any description, advertisement or offer to sell such device.
- X. Excretory functions.

PERSON: Any individual, partnership, firm, association, corporation, or other legal entity.

PUBLIC DISPLAY: Material that is visible on a billboard, viewing screen, theatre, marquee, newsstand, display rack, window, showcase, display case or other similar display area that is visible from a public street, sidewalk, park, or any other public place or from the property of others. For purposes of this Section "other public place" means any premises which is for the time made public by the assemblage of people including but not limited to hotels, motels, taverns, restaurants, theatres, meeting rooms of social, fraternal, or religious organizations.

9-4-2: OBSCENITY PROHIBITED:

It shall be unlawful for any person to commit obscenity which shall mean and include any act in which a person with knowledge of the nature or content thereof or recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof:

- A. Sells, delivers, or provides, or offers or agrees to sell, deliver, or provide any obscene writing, picture, record, or other representation or embodiment of the obscene; or,
- B. Presents or directs an obscene play, dance, or other performance or participates directly in

that portion thereof which makes it obscene; or,

- C. Publishes, exhibits, or otherwise makes available anything obscene; or,
- D. Performs an obscene act or otherwise presents an obscene exhibition of his body for gain; or,
- E. Creates, buys, procures or possesses obscene matter or material with intent to disseminate it in violation of this Chapter or of the penal laws or regulations of any other jurisdiction; or,
- F. Advertises or otherwise promotes the sale of material represented or held out by him to be obscene, whether or not it is obscene. (Ord. 82-O-353, 10-4-1982)

9-4-3: INTERPRETATION OF EVIDENCE:

Obscenity shall be judged with reference to ordinary adults, except that it shall be judged with reference to children or other specially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be specially designed for or directed to such audience. In any prosecution for an offense under this Chapter, evidence shall be admissible to show:

- A. The character of the audience for which the material was designed or for which it was directed.
- B. What the predominant appeal of the material would be for ordinary adults or a special audience, and what affect if any, it would probably have on the behavior of such people.
- C. The artistic, literary, scientific, educational or other merits of the material, or absence thereof.
- D. The degree, if any, of public acceptance of the material in this Village.
- E. Appeal to prurient interest, or absence thereof, in advertising or other promotion of the materials.
- F. Purpose of the author, creator, publisher or disseminator. (Ord. 82-O-353, 10-4-1982)

9-4-4: AFFIRMATIVE DEFENSE:

It shall be an affirmative defense to obscenity that the dissemination:

- A. Was not for gain and was made to personal associations in private setting other than children under age eighteen (18) years of age.
- B. Was to institutions or individuals having scientific or other special justification for

possession of such material. (Ord. 82-O-353, 10-4-1982)

9-4-5: MINORS:

It is unlawful for any person to knowingly distribute to or send or cause to be sent to, or exhibit to, or offer to distribute or exhibit any obscene material to a child. For the purpose of this Section, a child shall be defined to be a person under eighteen (18) years of age.

It shall be a violation of this Chapter for any person under eighteen (18) years of age to falsely state, either orally or in writing, that he is not under the age of eighteen (18) years or who presents or offers to any person any evidence of age and identity which is false or not actually his own for the purpose of ordering, obtaining, viewing, or otherwise procuring or attempting to procure or view any obscene material.

Nothing in Section 9-4-4 shall prohibit any public library or accredited educational institution from circulating obscene materials to any person under the age of eighteen (18) years provided such circulation was with parental consent and was for a legitimate scientific or educational purpose. (Ord. 82-O-353, 10-4-1982)

9-4-6: PUBLIC DISPLAY OF EXPLICIT SEXUAL MATERIAL PROHIBITED:

It is the purpose of this Section to prohibit the public display of explicit sexual material to protect children from exposure to such materials. It shall be unlawful for any person to publicly display explicit sexual material or advertisements therefor or fail to remove any such material or advertisement placed upon real property in the person's possession and control. Violations of this Section shall include, but not be limited to, explicit sexual films at outdoor movie theaters, even though located on private property; obvious display of magazines, periodicals, books, newspapers on any rack, stand or counter which contain explicit sexual pictures harmful and obscene to children. Nothing in this Section shall prohibit any public library or accredited educational institution from allowing access to materials to any person under the age of eighteen (18) years, provided such access was with parental consent or provided such material is to be used for a legitimate scientific or educational purpose. (Ord. 97-O-743, 3-6-1997)

9-4-7: SEVERABILITY:

If any subsection, paragraph, sentence, clause or phrase of this Chapter shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Chapter, which shall continue in full force and effect, and to this end the provisions of this Chapter are hereby declared to be severable. (Ord. 82-O-353, 10-4-1982)

9-4-8: PENALTY:

Any person, firm, corporation, association, or other legal entity violating any of the provisions of this Chapter shall be fined not less than two hundred dollars (\$200.00), nor more than the maximum as set forth in Section 1-4-1 of this Code for each offense, and each day that such violation shall occur or continue shall constitute a separate and distinct offense. (Ord. 82-O-353, 10-4-1982; amd. Ord. 95-O-707, 11-6-1995)

CHAPTER 5 TRESPASS

9-5-1: DEFINITIONS:

For the purposes of this Chapter, the following definitions shall apply:

PERSON: An individual, corporation, partnership, association, or any other legal entity.

TRESPASS: A. An entry upon any premises or any part thereof of another including any public property in violation of a notice posted or exhibited at the main entrance to said premises or at any point or approach or entry; or

B. An entry upon the premises or any part thereof of another in violation of any notice, warning, or protest given orally or in writing by any owner or occupant thereof; or

C. A failure or refusal to depart from any premises of another after being requested either orally or in writing to leave by any owner or occupant thereof. (Ord. 83-O-362, 6-6-1983)

9-5-2: TRESPASSES PROHIBITED:

It shall be unlawful for any person to commit a trespass within the Village upon either public or private property. (Ord. 83-O-362, 6-6-1983)

9-5-3: SEVERABILITY:

If any section, paragraph, clause, or provision of this Chapter shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Chapter. (Ord. 83-O-362, 6-6-1983)

9-5-4: PENALTY:

Any person violating any of the provisions of this Chapter shall, upon conviction thereof, be fined a sum as set forth in Section 1-4-1 of this Code for each offense committed. (Ord. 83-O-362, 6-6-1983; amd. Ord. 95-O-707, 11-6-1995)

CHAPTER 6

ALARM SYSTEMS

9-6-1: PURPOSE:

It is the purpose of this chapter to encourage proper maintenance of alarm systems to eliminate false alarms due to negligence on the part of the owners and to thereby provide better service in those instances in which there exists legitimate needs for an emergency police response. (Ord. 83-O-367, 7-12-1983)

9-6-2: DEFINITIONS:

For the purposes of this chapter, the following definitions shall apply:

ALARM SYSTEM: An assembly of equipment device(s) designed to signal the presence of a hazard requiring urgent attention and to which police or fire personnel are expected to respond; and, for the purposes of this definition, includes internal premises systems in which an audible signal emits sounds or flashing light or beacon designed to signal persons outside the premises.

DIRECT ALARM SYSTEM: An alarm system which utilizes a telephone line which has as its sole use the transmission of an alarm signal to a central receiving facility operated and maintained by or on behalf of the village.

FALSE ALARM: A false alarm shall be deemed to have occurred when a Kildeer police unit responds to a direct alarm or to a call for assistance based on an alarm activated to another third party when the chief of police determines that said alarm was caused by a mechanical failure of the system, neglect of the owner to keep the system working properly, or careless use of the system. It shall not be considered a false alarm in the event that the chief of police is unable to determine that the reason for activation of the alarm is attributed to the mechanical failure of the system, neglect of the owner to keep the system working properly, or to the owner's careless use of the system.

NONDIRECT ALARM SYSTEM: Any alarm system, including, but not limited to, a direct dialing system, which is not a direct alarm system.

PERSON: Any individual, corporation, partnership, association, or any other legal entity. (Ord.

83-O-367, 7-12-1983)

9-6-3: PERMIT REQUIRED:

No person shall connect or suffer or permit a direct alarm connection from any building, place, or premises to a receiving station owned or operated by or on behalf of the village without first obtaining a permit therefor from the Kildeer police department. (Ord. 83-O-367, 7-12-1983)

9-6-4: PERMIT APPLICATION PROCEDURE:

- A. No permit shall be issued except upon written application to the chief of police.
- B. Said application shall be in the form prescribed by the chief of police. Said application shall include language to the effect that the applicant shall indemnify and hold harmless the village for any failure of service or any damages that might result from the installation or operation of the alarm system.
- C. An applicant shall certify that alarm system maintenance will be provided and be available twenty four (24) hours per day, seven (7) days per week. (Ord. 83-O-367, 7-12-1983)

9-6-4-5: EXISTING CONNECTIONS:

Those individuals who presently have a direct alarm connection to a village facility shall procure a permit as above described on or before August 1, 1983. In the event that said individuals do not procure said permit within said time, then in that event, said individuals shall be subject to termination of the connection privilege upon seven (7) days' written notice from the village police department. (Ord. 83-O-367, 7-12-1983)

9-6-5: EXEMPTION:

The preceding sections of this chapter shall not apply to the installation and operation of any nondirect alarm system which is not connected directly to a receiving station owned, operated, and maintained by or on behalf of the village police department. The village recommends that any alarm system installed by an owner conform to the most recent specifications of the American National Standards Institute, Underwriter Laboratory, or equivalent specifications of an approved rating bureau. (Ord. 83-O-367, 7-12-1983)

9-6-6: SERVICE CHARGES FOR FALSE ALARMS:

Any person who fails to maintain or secure proper maintenance for his alarm system shall pay a service charge for false alarms resulting therefrom. An individual who has a direct alarm connection to a receiving station owned, operated, and maintained by or on behalf of the village

shall pay a service charge of twenty five dollars (\$25.00) each for the fourth and fifth false alarm in any calendar year; and the sum of fifty dollars (\$50.00) for each false alarm thereafter in the same calendar year. (Ord. 83-O-367, 7-12-1983)

9-6-7: MAINTENANCE OF RECORDS:

The chief of police shall maintain accurate records of all false alarms as well as all activated alarms. The chief of police shall give written notice to any owner who experiences two (2) false alarms in a calendar year. Said notice shall notify the owner that the owner shall be subject to service charges for each false alarm commencing with a fourth false alarm in any calendar year. (Ord. 83-O-367, 7-12-1983)

9-6-8: DISCONNECTION:

The village police department may revoke any permit heretofore issued and/or disconnect any direct alarm system connection of any owner in any of the following events:

- A. The owner fails to pay any service charges assessed within thirty (30) days of invoice.
- B. The owner fails to obtain a permit for a direct alarm system connection as required by the terms of this chapter.
- C. The chief of police determines that the owner's alarm system is unreliable and/or not properly maintained. For the purpose of this section, the chief of police may make such a determination in the event that the police department receives more than ten (10) false alarms in any calendar year. (Ord. 83-O-367, 7-12-1983)

9-6-9: DISCONNECTION NOTICE:

In the event that the chief of police determines to disconnect any direct alarm connection for any of the reasons set forth in the preceding section, then in that event, the chief of police shall give written notice thereof to the owner and provide said owner with seven (7) days to cure the defect, if possible. At the conclusion of the seven (7) day period, in the event that the chief of police determines that the owner has not cured said defect, then in that event, the chief of police may cause said disconnection to occur. (Ord. 83-O-367, 7-12-1983)

9-6-10: RECONNECTION PROCEDURE:

In the event that an owner has had his system terminated as a direct alarm system to the village facilities pursuant to the terms of this chapter, the owner can reapply for a permit by paying a reapplication fee of one hundred dollars (\$100.00) and by providing sufficient documentation to establish that his alarm system will fully comply with the requirements of this chapter. (Ord.

83-O-367, 7-12-1983)

9-6-11: TESTING OF EQUIPMENT:

No direct alarm system shall be tested or demonstrated without the owner having thereto obtained the permission of the village police department. (Ord. 83-O-367, 7-12-1983)

9-6-12: RESERVATION OF RIGHTS:

The village reserves the right at any time to discontinue the service of providing monitoring of any and all alarm systems after written notice to that effect. The village is under no obligation to supply this service to any person. (Ord. 83-O-367, 7-12-1983)

9-6-13: NONDIRECT ALARM PROVISIONS:

It is hereby declared unlawful and a violation of this chapter for any owner of a nondirect alarm system to allow more than three (3) false alarms from that system in any calendar year. The owner of a nondirect alarm system, which has more than three (3) false alarms in any calendar year, shall be fined a sum not less than one hundred dollars (\$100.00) nor more than the maximum as set forth in section 1-4-1 of this code for each false alarm thereafter, commencing with the fourth false alarm in a calendar year. (Ord. 83-O-367, 7-12-1983; amd. Ord. 95-O-707, 11-6-1995)

9-6-14: AVOIDANCE OF PROSECUTION:

(Rep. by Ord. 02-O-852, 6-3-2002)

9-6-15: PENALTY:

Any person who violates any of the provisions of this chapter shall be fined, upon conviction, a sum as set forth in section 1-4-1 of this code for each and every offense, and each day that such offense continues or occurs shall be considered a separate and distinct offense. (Ord. 83-O-367, 7-12-1983; amd. Ord. 95-O-707, 11-6-1995)

CHAPTER 7
THEFT PROHIBITED

9-7-1: DEFINITIONS:

- A. Property: "Property" means anything of value. Property includes real estate, money, commercial instruments, admission or transportation tickets, written instruments representing or embodying rights concerning anything of value, labor, or services, or otherwise of value to the owner; things growing on, affixed to, or found on land, or part of or affixed to any building; electricity, gas and water; birds, animals and fish, which ordinarily are kept in a state of confinement; food and drink; samples, cultures, micro-organisms, specimens, records, recordings, documents, blueprints, drawings, maps, and whole or partial copies, descriptions, photographs, computer programs or data, prototypes, or models thereof, or any other articles, materials, devices, substances, and whole or partial copies, descriptions, photographs, prototypes, or models thereof which constitute, represent, evidence, reflect or record a secret scientific, technical, merchandising, production or management information, design, process, procedures, formula, invention, or improvement.
- B. Owner: "Owner" means a person, other than the offender, who has possession of or any other interest in the property involved, even though such interest or possession is unlawful, and without whose consent the offender has no authority to exert control over the property.
- C. Permanent Deprivation: To "permanently deprive" means to:
1. Defeat all recovery of the property by the owner; or
 2. Deprive the owner permanently of the beneficial use of the property; or
 3. Retain the property with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return; or
 4. Sell, give, pledge, or otherwise transfer any interest in the property or subject it to the claim of a person other than the owner.
- D. Deception: "Deception" means knowingly to:
1. Create or confirm another's impression which is false and which the offender does not believe to be true; or
 2. Fail to correct a false impression which the offender previously has created or confirmed; or
 3. Prevent another from acquiring information pertinent to the disposition of the property involved; or
 4. Sell or otherwise transfer or encumber property, failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether such impediment is or

is not valid, or is or is not a matter of official record; or

5. Promise performance which the offender does not intend to perform or knows will not be performed. Failure to perform standing alone is not evidence that the offender did not intend to perform.

E. Threat: A menace, however communicated, to:

1. Inflict physical harm on the person threatened or any other person or on property; or

2. Subject any person to physical confinement or restraint; or

3. Commit any criminal offense; or

4. Accuse any person of a criminal offense; or

5. Expose any person to hatred, contempt or ridicule; or

6. Harm the credit or business repute of any person; or

7. Reveal any information sought to be concealed by the person threatened; or

8. Take action as an official against anyone or anything, or withhold official action, or cause such action or withholding; or

9. Bring about or continue to strike, boycott or other similar collective action if the property is not demanded or received for the benefit of the group which he purports to represent; or

10. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

11. Inflict any other harm which would not benefit the offender.

F. Stolen Property: Property over which control has been obtained by theft.

G. Obtain: Obtain means:

1. In relation to property, to bring about a transfer of interest or possession, whether to the offender or to another, and

2. In relation to labor or services, to secure the performance thereof.

H. Obtains Control: The phrase "obtains or exerts control" over property, includes but is not limited to the taking, carrying away, or the sale, conveyance, or transfer of title to, or interest in, or possession of property.

I. Value: The "value" of property consisting of any commercial instrument or any written instrument representing or embodying rights concerning anything of value, labor, or services

or otherwise of value to the owner shall be:

1. The "market value" of such instrument if such instrument is negotiable and has a market value; and
2. The "actual value" of such instrument if such instrument is not negotiable or is otherwise without a market value. For the purpose of establishing such "actual value", the interest or any owner or owners entitled to part or all of the property represented by such instrument, may be shown, even if another "owner" may be named in the complaint, information or indictment.

9-7-2: THEFT:

A person commits theft when he knowingly:

- A. Obtains or exerts unauthorized control over property of the owner; or
- B. Obtains by deception control over property of the owner; or
- C. Obtains by theft control over property of the owner; or
- D. Obtains control over stolen property knowing the property to have been stolen by another or under such circumstances as would reasonably induce him to believe that the property was stolen, and
 1. Intends to deprive the owner permanently of the use or benefit of the property; or
 2. Knowingly uses, conceals or abandons the property in such a manner as to deprive the owner permanently of such use or benefit; or
 3. Uses, conceals, or abandons the property knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.

9-7-3: PRIMA FACIE EVIDENCE; THEFT BY LESSEE:

It shall be prima facie evidence that a person "knowingly obtains or exerts unauthorized control over property of the owner" when a lessee of the personal property of another fails to return it to the owner within thirty (30) days after written demand from the owner for its return. A notice in writing, given after the expiration of the leasing agreement, addressed and mailed, by registered mail, to the lessee at the address given by him and shown on the leasing agreement shall constitute proper demand.

9-7-4: THEFT OF LOST OR MISLAID PROPERTY:

A person who obtains control over lost or mislaid property commits theft when he:

- A. Knows or learns the identity of the owner or knows, or is aware of, or learns of a reasonable method of identifying the owner, and
- B. Fails to take reasonable measure to restore the property to the owner, and
- C. Intends to deprive the owner permanently of the use or benefit of the property.

9-7-5: THEFT OF LABOR OR SERVICES OR USE OF PROPERTY:

A person commits theft when he obtains the temporary use of property, labor or services of another which are available only for hire, by means of threat or deception of knowing that such use is without the consent of the person providing the property, labor or services.

A person commits theft when after renting or leasing a motor vehicle, or any other type of personal property exceeding five hundred dollars (\$500.00) in value, under an agreement in writing which provides for the return of the vehicle or other personal property to a particular place at a particular time, he without good cause wilfully fails to return the vehicle or other personal property to that place within the time specified, and is thereafter served or sent a written demand mailed to the last known address, made by certified mail return receipt requested, to return such vehicle or other personal property within seven (7) days from the mailing of the written demand, and who without good cause wilfully fails to return the vehicle or any other personal property to any place of business of the lessor within such period. (Ord. 83-O-370, 11-7-1983)

9-7-6: OFFENDER'S INTEREST IN PROPERTY:

It is no defense to a charge of theft of property that the offender has an interest therein, when the owner also has an interest to which the offender is not entitled.

Where the property involved is that of the offender's spouse, no prosecution for theft may be maintained unless the parties were not living together as man and wife and were living in separate abodes at the time of the alleged theft. (Ord. 83-O-370, 11-7-1983)

9-7-7: PENALTY:

The acts of theft, theft by lessee, theft of lost or mislaid property, and theft of labor or services or use of property are hereby prohibited. Any person who commits an offense of theft, theft by lessee, theft of lost or mislaid property, or theft of labor or services or use of property shall, upon conviction, be fined a sum as set forth in Section 1-4-1 of this Code for each offense. (Ord. 83-O-370, 11-7-1983; amd. Ord. 95-O-707, 11-6-1995)

CHAPTER 8

DAMAGE AND TRESPASS TO PROPERTY

9-8-1: CRIMINAL DAMAGE TO PROPERTY:

Any of the following acts are hereby declared to be criminal damage to property and are hereby prohibited:

- A. Knowingly damaging any property of another without his consent; or
- B. Recklessly by means of fire or explosive damaging property of another; or
- C. Knowingly starting a fire on the land of another without his consent; or
- D. Knowingly injuring a domestic animal of another without his consent; or
- E. Knowingly depositing on the land or in the building of another, without his consent, any stink bomb or any offensive smelling compound and thereby intending to interfere with the use by another of the land or building;
- F. Knowingly damaging the property of another without his consent by defacing, deforming or otherwise damaging such property by the use of paint or any other similar substance. (Ord. 83-O-370, 11-7-1983)

9-8-2: TRESPASS TO VEHICLES:

It is hereby declared unlawful for any person to knowingly and without authority enter any vehicle, aircraft or watercraft, or any part thereof, of another without his consent. (Ord. 83-O-370, 11-7-1983)

9-8-3: PENALTY:

Any person who commits the offense of criminal damage to property or trespass to vehicles shall, upon conviction, be fined a sum as set forth in Section **1-4-1** of this Code for each offense. (Ord. 83-O-370, 11-7-1983; amd. Ord. 95-O-707, 11-6-1995)

CHAPTER 9

OFFENSES AGAINST PUBLIC PEACE, SAFETY AND MORALS

9-9-1: DISORDERLY CONDUCT:

No person shall engage in disorderly conduct within the village. Any of the following acts shall constitute disorderly conduct:

- A. Doing any act in such an unreasonable manner as to alarm or disturb another and to provoke a breach of the peace;
- B. Transmitting in any manner to the fire department of the city, town, village, or fire protection district a false alarm of fire, knowing at the time of such transmission that there is no reasonable grounds for believing that such fire exists;
- C. Transmitting in any manner to another a false alarm to the effect that a bomb or other explosive of any nature is concealed in such a place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable grounds for believing that such a bomb or explosive is concealed in such a place;
- D. Transmitting in any manner to a 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 grounds for believing that such an offense has been committed;
- E. Entering upon the property of another and for a lewd or unlawful purpose deliberately looking into a dwelling on the property through any window or other opening in it;
- F. Engaging in or aiding or abetting any fight, quarrel or other disturbance;
- G. Disturbing any religious service, funeral, public or private meeting, place of amusement or assembly of persons;
- H. Being intoxicated in a public place or in any other place to the annoyance and disturbance of other persons;
- I. Resisting or obstructing the performance of one known to be a police officer, or any authorized act within the police officer's official capacity;
- J. Attempting to assist any person in custody of police to escape or furnishing any weapon, drugs, liquor to any such person;
- K. Assembling with one or more persons for the purpose of using force or violence to disturb the public peace;
- L. Failing to obey a lawful order of dispersal by a person known to be a peace officer;

- M. Damaging or defacing trees, bushes, gardens, fences, windows, signs, buildings, monuments or vehicles or engaging in any act of vandalism;
- N. Abusing, beating or cruelly injuring any animal;
- O. Knowingly possessing cannabis, which includes marijuana, hashish and other substances which are identified as including any part of the plant Cannabis sativa. (Ord. 83-O-370, 11-7-1983)

9-9-2: ASSAULT:

The offense of assault is hereby prohibited. A person commits an offense of assault when, without lawful authority, he engages in conduct which places another in reasonable apprehension of receiving a battery. (Ord. 83-O-370, 11-7-1983)

9-9-3: BATTERY:

The offense of battery is hereby prohibited. A person commits an offense of battery if he intentionally or knowingly, without legal justification, and by any means:

- A. Causes bodily harm to an individual; or
- B. Makes physical contact of an insulting or provoking nature with an individual. (Ord. 83-O-370, 11-7-1983)

9-9-4: RECKLESS CONDUCT PROHIBITED:

The offense of reckless conduct is hereby prohibited. A person who causes bodily harm to, or endangers the bodily safety of an individual by any means, commits reckless conduct if he performs recklessly the acts which cause the harm or endangers safety, whether they otherwise are lawful or unlawful. (Ord. 83-O-370, 11-7-1983)

9-9-5: FIREWORKS PROHIBITED:

No person shall possess, offer for sale, sell, expose for sale or use or explode fireworks within the village, provided, however, that the village board of trustees may grant a permit for the explosion of fireworks for a public display under such conditions as it deems appropriate in accordance with 425 Illinois Compiled Statutes 35/2.

For the purposes of this section, the term "fireworks" shall have the meaning ascribed to it in 425 Illinois Compiled Statutes 35/1. (Ord. 83-O-370, 11-7-1983)

9-9-6: LITTERING PROHIBITED:

The offense of littering is hereby prohibited. For the purposes of this section, the term "litter" shall have the meaning ascribed to it in 415 Illinois Compiled Statutes 105/3. No person shall dump, deposit, drop, throw, discard, leave, cause or commit the dumping, depositing, dropping, throwing, discarding or leaving of litter upon any public or private property within this village, or upon or into any river, lake, pond or other stream or body of water within this village unless:

- A. The property has been designated by the state or any of its agencies, political subdivisions, units of local government or school districts for the disposal of litter, and the litter is disposed of on that property in accordance with the applicable rules and regulations of the pollution control board;
- B. The litter is placed into a receptacle or other container intended by the owner or tenant in lawful possession of that property for the deposit of litter;
- C. The person is the owner or tenant in lawful possession of the property or has first obtained the consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of the owner or tenant and does not create a public health or safety hazard, a public nuisance, or a fire hazard;
- D. The person is acting under the direction of proper public officials during special cleanup days; or
- E. The person is lawfully acting in or reacting to an emergency situation where health and safety is threatened, and removes and properly disposes of such litter when the emergency situation no longer exists.

No person shall allow litter to accumulate upon real property, of which the person charged is the owner or tenant in control, in such a manner as to constitute a public nuisance or in such a manner that the litter may be blown or otherwise carried by the natural elements on to the real property of another person. (Ord. 83-O-370, 11-7-1983)

9-9-7: INTERFERENCE WITH PEACE OFFICERS:

Interference with peace officers is hereby prohibited. A person commits the offense of interference with a peace officer when he knowingly resists or otherwise obstructs the performance by one known to the person to be a peace officer of any authorized act within his official capacity. (Ord. 83-O-370, 11-7-1983)

9-9-8: PUBLIC INDECENCY:

The offense of public indecency is hereby prohibited. A person commits the offense of public

indecenty if he is of the age of seventeen (17) years or older and he performs any of the following acts in a public place:

- A. An act of sexual intercourse; or
- B. An act of devious sexual conduct; or
- C. A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of the person; or
- D. A lewd fondling or caress of the body of another person of either sex.

A public place, for the purposes of this section, means any place where the conduct may reasonably be expected to be viewed by others. (Ord. 83-O-370, 11-7-1983)

9-9-9: CURFEW HOURS FOR MINORS:

- A. Definitions: Whenever used in this section:

CURFEW HOURS: Eleven o'clock (11:00) P.M. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until six o'clock (6:00) A.M. of the following day; and twelve o'clock (12:00) midnight on any Friday or Saturday and until six o'clock (6:00) A.M. of the following day.

EMERGENCY: An unforeseen combination of circumstances or 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: Any person less than eighteen (18) 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: a natural parent, adoptive parent, or stepparent of another person; or at least eighteen (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.

B. Offenses:

1. A minor commits an offense if he remains in any public place or on the premises of any establishment within the village during curfew hours.
2. A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the village during curfew hours.
3. The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

C. Defenses:

1. It is a defense to prosecution under subsection B of this section that the minor was:
 - a. Accompanied by the minor's parent or guardian;
 - b. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - c. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - d. Involved in an emergency;
 - e. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by a unit of government, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the village, a civic organization, or another similar entity that takes responsibility for the minor;
 - f. Exercising first amendment rights protected by the United States constitution, such as the free exercise of religion, freedom of speech, and the right of assembly;
 - g. Is married or had been married or is an emancipated minor under the emancipation of mature minors act, as amended.
2. It is a defense to prosecution under subsection B3 of this section that the owner, operator,

or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

- D. Enforcement: Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection C of this section is present. (Ord. 04-O-899, 4-5-2004)

9-9-9-1: POSSESSION OF ALCOHOLIC BEVERAGES BY MINORS:

- A. Prohibited: No person under the age of twenty one (21) years may purchase, receive, accept, have in his possession or control, or imbibe any alcoholic beverages. For the purposes of this section alcoholic beverages shall mean and include any alcoholic beverage as defined in an act relating to alcoholic liquors approved January 21, 1934, as amended **1(2)**.
- B. Permitting Violation Prohibited: It shall be unlawful for any person to suffer, permit, or allow the violation of the provisions of the preceding section in any motor vehicle, conveyance, house, apartment, room, shed, yard, or area of which such person is the owner, lessee, permittee, bailee, or legal possessor or occupier thereof.
- C. Exceptions: Nothing contained herein shall be applicable to persons under the age of twenty one (21) years:
 - 1. Participating in a religious ceremony.
 - 2. In the presence of and with the approval of their parent or legal guardian in the privacy of a home. (Ord. 88-O-478, 7-11-1988)

9-9-9-2: POSSESSION OF CANNABIS:

It shall be unlawful to knowingly possess any amount of cannabis, or any substance containing or identified as including any part of the plant Cannabis sativa. (Ord. 02-O-852, 6-3-2002)

9-9-9-3: POSSESSION OF DRUG PARAPHERNALIA:

- A. For the purposes of this section, "drug paraphernalia" shall be defined as any equipment, product, or material used in the preparation, measurement, packaging, or introduction of cannabis, intoxicating compounds, or other controlled substances into the human body.
- B. For the purposes of this section, "controlled substances" are defined as any substance described in section 102 of the Illinois controlled substances act.

- C. It shall be unlawful to knowingly possess any item of drug paraphernalia with the intent to use it to prepare, measure, ingest, smoke, inject, inhale, or otherwise introduce cannabis, intoxicating compounds, or other unauthorized controlled substances into the human body.
- D. For the purposes of determining intent, the trier of fact may take into consideration the proximity of any cannabis, intoxicating compounds, or controlled substances to the paraphernalia or the presence of cannabis, intoxicating compounds, or controlled substances on or inside the paraphernalia.
- E. All drug paraphernalia is subject to forfeiture. Property subject to forfeiture under this act may be seized by any peace officer upon process issued by any court having jurisdiction over the property. Judgments in favor of the village in a criminal proceeding based upon this act against a person's specific property shall serve as process authorizing a police officer to seize such property without further process. Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the law enforcement department or agency employing the seizing officer, subject only to the order and judgments of the circuit court having jurisdiction. When property is forfeited under this act the chief administrative officer of the seizing department or agency may retain it for official use, destroy it, or forward it to the Illinois state police, United States department of justice, or its successor agency, for disposition. (Ord. 02-O-852, 6-3-2002)

9-9-10: PENALTY:

Any person who violates any of the provisions of this chapter shall, upon conviction, be fined a sum as set forth in section 1-4-1 of this code for each offense. (Ord. 83-O-370, 11-7-1983; amd. Ord. 95-O-707, 11-6-1995)

CHAPTER 10 ANIMAL CONTROL

9-10-1: INCORPORATION OF PROVISIONS:

The Lake County Board of Health Ordinance, article X, Animal/Rabies Control, approved as amended by the Lake County Board of Health, January 10, 1995 is hereby expressly incorporated in the Village Code as if fully set forth herein. Copies of said Animal Control Ordinance are available for purchase or inspection at the Village Office during normal business hours.

- A. Vicious Animals: Reference is hereby made to subsection 8-1-1B of this Code. (Ord.

95-O-709, 11-6-1995)

Endnotes

1 (Popup - Popup)

S.H.A. 705 ILCS 405/1-1 et seq.

2 (Popup - Popup)

235 ILCS 5/1-1 et seq.