

CHAPTER 27

OFFENSES

ARTICLE I - DEFINITIONS

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

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

ARTICLE II - GENERALLY

27-2-1 **DISTURBING POLICE OFFICER/FIREFIGHTER.** No person shall, by violent or disruptive behavior, disturb any police officer, any firefighter, the Police Chief, and/or the Fire Chief in the discharge of his duties; nor shall any person assault, strike, or fight with any police officers, any firefighters, the Police Chief, and/or the Fire Chief in the discharge of his/her duties or permit such conduct in or upon any house or premises in the City owned or possessed by him/her or under his/her management and control. Abusive or vulgar language in the presence of an officer, firefighter, the Police Chief and/or the Fire Chief does not become a crime unless the language provokes a breach of the peace or constitutes fighting words evoking some violent response. **(See 65 ILCS 5/11-1-1) (Ord. No. 99-43; 11-22-99)**

27-2-2 **IMPERSONATION OF OFFICER.** No person in the City shall falsely represent himself to be an officer of the City or shall, without being duly authorized by the City, exercise or attempt to exercise any of the duties, functions or powers of the City officer, or hinder, obstruct, resist or otherwise interfere with any City officer in the discharge of the duties of his office. **(See 720 ILCS 5/32-5.1)**

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

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

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

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

27-2-5 DISTURBING THE PEACE. No person shall disturb the peace of any individual or private family, or of any lawful congregation within the City by any noise or amusement, or by vulgar or profane language, or by any disorderly or unreasonable conduct. **(See 65 ILCS 5/11-5-2)**

27-2-6 ADMISSION FEES: FRAUDULENTLY AVOIDING PAYMENT OF. It shall be unlawful for any person to fraudulently enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert or other place where admission fees are charged; provided, however, that nothing herein contained shall be deemed to prohibit or restrict the free admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement.

27-2-7 TOBACCO REGULATIONS - MINORS.

(A) **Definitions.**

- (1) **Person** as used herein shall include any natural person, partnership, limited liability company, corporation, company or other business or entity, or the manager, agent, officer, or employee of any of them.
- (2) **Tobacco Products** as used herein shall include cigarettes, cigars, smokeless tobacco, or other tobacco products.
- (3) **Tobacco Vendor** as used herein shall mean all persons engaged in the business of selling tobacco products at retail in the City.

(B) **Tobacco Vendor Prohibitions and Requirements, Sale to Minors Prohibited.**

- (1) **Prohibited Sales and Delivery.** It shall be unlawful for any person, including any tobacco vendor to sell, offer for sale, give away or deliver tobacco products to any person under the age of **eighteen (18) years**.
- (2) **Certain Free Distributions or Sales Prohibited.** It shall be unlawful for any tobacco vendor or any person in the business of selling or otherwise distributing, promoting or advertising tobacco products, or any employee or agent of any such tobacco vendor or person, in the course of such tobacco vendor's or person's business, to distribute, give away, or delivery tobacco products free of charge to any person on any right-of-way.
- (3) **Penalty.** Any person, firm or corporation who violates any of the provisions of this Section shall, in addition to such other relief as the law may afford, be punishable by a minimum penalty of not less than **One Hundred Dollars (\$100.00)**.

(C) **Purchase by Minor Prohibited.**

- (1) **Generally.** It shall be unlawful for any person under the age of **eighteen (18) years** to purchase tobacco products, or to misrepresent their identity or age, or the use of any false or altered identification for the purpose of purchasing tobacco products.
- (2) **Penalty.** Any person, firm or corporation who violates any of the provisions of this Section shall, in addition to such other relief as the law may afford, be punishable by a minimum penalty of not less than **Fifty Dollars (\$50.00)**.

(D) **Possession by Minor Prohibited.**

- (1) **Generally.** It shall be unlawful for any person under the age of **eighteen (18) years** to possess any tobacco products; provided that

the possession by a person under the age of **eighteen (18) years** is under the direct supervision of the parent or guardian of such person in the privacy of the parent's or guardian's home shall not be prohibited.

- (2) **Penalty.** Any person, firm, or corporation who violates any of the provisions of this Section shall, in addition to such other relief as the law may afford, be punishable by a minimum penalty of not less than **Twenty-Five Dollars (\$25.00)**.
- (3) **Tobacco: Possession/Purchase by Minors Prohibited.** The penalties for possession or purchasing tobacco products by minors as provided in this Section shall be as follows:
- (a) **First Offense.** First time violators of said ordinance provisions may, at the discretion of the court, be ordered to complete a program of education regarding the dangers of tobacco use, or fined not less than the sum of **Twenty-Five Dollars (\$25.00)** for violation of **Section 27-2-7(C)** (purchase) or **Ten Dollars (\$10.00)** for violation of this Section (possession). It shall be the policy of the City to recommend, absent aggravating circumstances, that such first time violators receive a sentence of supervision subject to completion of an appropriate program of education as directed by the court.
- (b) **Subsequent Offenses.** Those who violates **Section 27-2-7(C)** (purchase) for the second and subsequent time shall be fined not less than **Fifty Dollars (\$50.00)**, nor more than **One Hundred Dollars (\$100.00)**. Those who violate **Section 27-2-7(D)** (possession) for the second and subsequent time shall be fined not less than **Twenty-Five Dollars (\$25.00)**, nor more than **Fifty Dollars (\$50.00)**.

(Ord. No. 97-39; 11-10-97) (See 720 ILCS 675/1)

27-2-8 SMOKELESS TOBACCO.

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

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

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

27-2-9 UNLAWFUL CONDUCT ON A PUBLIC WAY.

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

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

(C) It shall be unlawful to urinate on public ways.

(D) It shall be unlawful to urinate on private property when such conduct could be seen from a public way or from private property open to the public.

27-2-10 AID IN ESCAPE. It shall be unlawful to rescue or attempt to rescue or shall abet or encourage the rescue or escape of any person from the custody of any officer or other person legally having him in charge, or shall molest or interfere with any officer or other person so legally having him in charge, or shall, in any manner, aid, abet or encourage the rescue or the attempt to escape from

any person legally committed thereto, or shall supply or attempt to supply any such person with any weapon or with any implement or means whereby an escape might be affected, or with any intoxicating liquors, drugs or other article(s) without the consent of the officer in charge. **(See 720 ILCS 5/31-7)**

27-2-11 **ESCAPES.** It shall be unlawful for any person convicted of any offense or in lawful custody to escape or attempt to escape from custody. **(See 720 ILCS 5/31-6(C))**

27-2-12 **FALSE PRETENSES.** It shall be unlawful for any person to obtain any food, drink, goods, wares, or merchandise under false pretenses, or to enter public places and call for refreshments or other articles and receive and refuse to pay for same, or to depart without paying for or satisfying the person from whom he received the food, goods, wares, and/or merchandise.

27-2-13 **RENTING PREMISES FOR UNLAWFUL PURPOSES.** It shall be unlawful for any person to rent, use, or allow to be used, any building or property owned by him, for any purpose whereby riotous or disorderly persons are gathered.

27-2-14 **AID TO AN OFFENSE.** It shall be unlawful for any person, in any way or manner, to aid, abet, counsel, advise or encourage any other person in the commission of any of the acts mentioned herein or in any manner encourage the commission of such offense hereby defined.

27-2-15 **POSTING BILLS.** It shall be unlawful for any person to paste, post, paint, print or nail any handbill, sign, poster, advertisement, or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door, or gate without the consent, in writing, of the owner of the wall, door or gate; provided, however, that this Section shall not prevent posting by proper City and County officials of election signs, polling place signs and other signs or placards necessary under the law to the conduct of elections, except they may not be attached to a tree.

27-2-16 **INTOXICATION IN PUBLIC.** No person shall, in the City, be found in a state of intoxication or drunk in any street or other public place, or shall be found drunk lying or roving about the streets, alleys, or sidewalks of this City or the private grounds of any of the inhabitants thereof, or being drunk as aforesaid, shall disturb the peace, order and quiet of the City, or the peace and quiet of the citizens thereof by loud and unusual noises, disorderly conduct, indecent language or behavior or in any other manner. **(See 65 ILCS 5/11-5-3)**

27-2-17 **BEGGING.** No person shall beg or solicit alms within the City without having obtained permission in writing from the Mayor. **(See 65 ILCS 5/11-5-4)**

27-2-18 **CONCEALED WEAPONS.** No person shall, within the City, carry or wear under his clothes, or concealed about his person, any pistol or colt, or sling-shot, or cross knuckles or knuckles of lead, brass or other metal, or any switchblade knife or razor, bowie knife, dirk knife or dirk, dagger or any other dangerous or deadly weapon. This Section does not apply to the officers or members of the Police Department, nor to any sheriff or deputy sheriff or constable of this State, nor to any United States Marshal. This Section shall not apply to those persons who have a State of Illinois concealed carry permit for a gun.

27-2-19 DISCHARGE OF FIREARMS OR BOW AND ARROW. It shall be unlawful to discharge any firearm, bow and arrow or air gun in the City or so that the bullet, arrow, missile or projectile therefrom enters the City without written permission from the Mayor, provided that this Section shall not be construed to prohibit any officer of the law to discharge a firearm in the performance of his duty; nor to prevent any citizen from discharging a firearm when lawfully defending his person or property; nor to prevent the discharge of bow and arrow by students upon school grounds while under the direct and immediate supervision of teachers or other school supervisory personnel.

27-2-20 GAMES IN STREET. No person shall, upon any City street, fly any kite or play any game of ball or engage in any amusement or practice having a tendency to injure or annoy any person passing in the streets or on the sidewalks.

27-2-21 STORAGE OF EXPLOSIVES.
 (A) **Nitroglycerine; Dynamite, Etc.** No person shall have, keep, possess, or store at or in any place within the City, any nitroglycerine, dynamite or giant powder, or any form or combination of any of them.
 (B) **Blasting Powder, Etc.** No person shall keep, possess or store any gun or blasting powder or any gun or explosive cotton at or in any one place in the City in any quantity exceeding **five (5) pounds.** (See 65 ILCS 5/11-8-4)

27-2-22 THROWING ROCKS. No person in the City shall throw or cast any rock or stone or any other missile upon or at any building, tree, or other public or private property, or at any person in any street, avenue, alley or public place.

27-2-23 DESTRUCTION OF PUBLIC PROPERTY. No person in the City shall deface, destroy, or in any way, injure any public property, or any other apparatus of the City.

27-2-24 ABANDONED REFRIGERATORS OR ICEBOXES. It shall be unlawful for any person to abandon or discard in any place accessible to children any refrigerator, icebox or ice chest, of a capacity of **one and one-half (1 1/2) cubic feet** or more, which has an attached lid or door which may be opened or fastened shut by means of an attached latch. The owner, lessee, or manager of such place, who knowingly permits such abandoned or discarded refrigerator, icebox or ice chest to remain there in such condition, shall be guilty of violating this Code. (See 720 ILCS 505/1)

27-2-25 HALLOWEEN CURFEW. It shall be illegal for any person to engage in Halloween practice, commonly called "**Trick or Treat**", by calling at the homes or dwelling places within the City, either masked or unmasked, except on a day designated by the City Council and no later than **8:00 P.M.** unless otherwise provided by the City Council. (See 65 ILCS 5/11-1-5)

27-2-26 THEFT OF RECYCLABLES UNLAWFUL. It shall be unlawful for any person to collect, obtain, possess or pickup any recyclable item(s) from any receptacle or collection point where service is provided by an authorized waste hauler licensed by the municipality or from any specified recycling center within the City limits unless said person is acting as an agent for the City or acting as an agent for a waste hauler licensed by the City.

27-2-27 THROWING OBJECTS FROM MOTOR VEHICLES. Pursuant to the police powers in **65 ILCS 5/11-1-1** it shall be unlawful for any person occupying or driving a motor vehicle, whether moving or not, to shoot, throw, cast, launch or drop any object, liquid or substance at any person, animal or structure, wherein the possibility of harm, injury or damage may occur as a result of these actions.

The driver and/or all passengers shall be, upon conviction, fined in accordance with the provisions of the City Code and shall be liable for all damage, injury or harm caused by the activity. **(See Section 27-3-2)**

27-2-28 DEPOSITING OF SNOW AND ICE RESTRICTED. No person shall deposit or cause to be deposited any snow and ice on or against a fire hydrant or on any sidewalk, roadway, or loading or unloading areas of a public transportation system, except that snow and ice may be windrowed on curbs incident to the cleaning of sidewalks in business districts. **(See 65 ILCS 5/11-80-13)**

27-2-29 PROTECTIVE COVERING OR FENCING. Any person, corporation or partnership which either owns, or maintains, or uses, or abandons any open well, cesspool, cistern, quarry, recharging basin, catch basin, sump, excavation for the erection of any building structure or excavation created by the razing or removal of any building structure without covering or surrounding such installation with protective fencing is guilty of a violation of **Section 1-1-20** of this Code. The provisions of this Act shall not apply during the course of repair, construction, removal or filling of any of the structures or conditions herein described while any worker is present at the location thereof either performing services thereon or as a watchman to guard such location. **(See 720 ILCS 605/1)**

27-2-30 CURFEW HOURS FOR MINORS.

(A) **Definitions.** Whenever used in this Section.

- (1) **"Curfew hours"** means:
 - (a) 11:00 P.M. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 A.M. of the following day; and
 - (b) 12:01 A.M. until 6:00 A.M. on Saturday; and
 - (c) 12:01 A.M. until 6:00 A.M. on Sunday.
- (2) **"Emergency"** means 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.
- (3) **"Establishment"** means 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.
- (4) **"Guardian"** means:
 - (a) A person who, under court order, is the guardian of the person of a minor; or
 - (b) A public or private agency with whom a minor has been placed by a court.
- (5) **"Minor"** means any person under **eighteen (18) years** of age.
- (6) **"Operator"** means 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.
- (7) **"Parent"** means a person who is:
 - (a) A natural parent, adoptive parent, or stepparent of another person; or

- (b) At least **twenty-one (21) years** of age and authorized by a parent or guardian to have the care and custody of a minor.
- (8) **"Public Place"** means 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.
- (9) **"Remain"** means to:
 - (a) linger or stay; or
 - (b) 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.
- (10) **"Serious bodily injury"** means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(B)

Offenses.

- (1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the City 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 City 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) 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) In a motor vehicle involved in interstate travel;
 - (d) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - (e) Involved in an emergency;
 - (f) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
 - (g) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civil 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 City, a civic organization or another similar entity that takes responsibility for the minor;
 - (h) 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; or
 - (i) Married or had been married or is an emancipated minor under the Emancipation or Mature Minors Act, as amended.
- (2) It is a defense to prosecution under subsection (B)(3) 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) is present. **(See 65 ILCS 5/11-1-5 and 720 ILCS 555/1)**

27-2-31 SANCTITY OF FUNERAL AND MEMORIAL SERVICES. It shall be unlawful for a person to violate any of the following provisions of this Section:

(A) Engaging in any loud protest of signing, chanting, whistling or yelling with, or without, noise amplification including but not limited to bullhorns, auto horns and microphones within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(B) Displaying any visual images that convey fighting words, actual or veiled threats against any other person within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(C) Blocking access to any facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(D) Ending in a directed protest march or picket at any public location within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates.

27-2-32 USE OF UPHOLSTERED FURNITURE IN OUTDOOR LOCATIONS PROHIBITED.

(A) Upholstered or other furniture designed or manufactured primarily for indoor use shall not be used or allowed to remain:

- (1) on unenclosed exterior porches or balconies;
- (2) in an open area on private property exposed to outdoor weather conditions.

(B) It shall not be a defense to said prohibition that such furniture is covered by plastic cover, or other tarpaulin, canvas or sheeting.

(C) This prohibition shall not apply to the following:

- (1) wood, metal, or plastic furniture;
- (2) outdoor patio furniture with weather-resistant cushions;
- (3) upholstered furniture designated for prepaid special pickup or delivery by public or private hauler, provided that such remain outdoors for a period not to exceed **seventy-two (72) hours**.

27-2-33 LOUD AND UNNECESSARY NOISE. No person in the City shall create any unreasonably loud or unnecessary noise and disturb the peace and quiet of the City or of any citizens thereof by:

(A) Sounding of any horn, whistle, siren, or other signaling device, except where necessary to warn of the danger of an approaching vehicle;

(B) Playing of radio, loud speaker, public address system, or other electronic device in a loud and unnecessary manner;

(C) Keeping any animal or bird which by frequent and long continued noise disturbs the comfort and repose of any person in the vicinity;

(D) Unnecessary banging, pounding, clanging, clattering, or other loud noises not necessary in the performing of any useful work.

27-2-34 **ABETTING OR ENCOURAGING VIOLATION.** No person shall abet or encourage any unlawful act or any violation of any provision of the City Code.

27-2-35 **UNATTENDED MACHINERY.** It shall be unlawful for any person to permit any construction, compaction, earth-grading or farm machinery which is self-propelled and moves upon the surface of the earth, and which is owned or controlled by him to stand for any period of time unattended without locking the ignition system or otherwise rendering said machinery inoperable so as to prevent any person unauthorized by the owner or individual in control thereof from starting said machinery.

27-2-36 **FORTUNE TELLING.** No person in the City shall pursue the calling of a fortune teller or practice fortune telling, soothsaying, or the like and receive payment in any manner therefor.

27-2-37 **GRASS AND WEEDS ALONG STREETS.** Property owners and/or residents shall be required to cut the grass and weeds of the abutting or fronting lawn strip regardless of whether it is owned by the City or by the owner of the adjacent abutting private property. This requirement shall be in full force and effect regardless of whether the strip of lawn abuts the private property or is between the street and the sidewalk that abuts the property. **(Ord. No. 2004-34; 12-27-04) (See Article II of Chapter 25 for additional regulations.)**

27-2-38 **TRASH CONTAINERS.** It shall be unlawful for a person to leave his or her trash container adjacent to the street right-of-way or the sidewalk for longer than **twelve (12) hours** after it was emptied or picked-up. Provided however, trash containers may be set adjacent to the street right-of-way or sidewalk the evening before the pick-up.

27-2-39 **BURNING MATERIALS.** No person shall burn or cause to be burned within the limits of the City any leaves, grass, wood, or any other materials in any outside open fire between the hours of sundown to sunrise, or at such other times as may be ordered by the Fire Chief for the protection of the public safety. No material of any kind may be burned on the surface of "curb and guttered" streets at any time. Leaves, grass and yard waste may be burned in open ditches during permissible burning times. No other materials, except as specified herein, may be burned in open ditches. **(Ord. No. 07-62; 10-22-07) (See Section 33-2-18)**

27-2-40 **WILD GAME SANCTUARY.** It shall be unlawful to trap, hunt, shoot, or attempt to shoot or molest in any manner, any type of wild game, any bird, or wild fowl, or to rob bird nests or wild fowl nests. If starlings, pigeons, or similar birds are found to be congregating in such numbers in a particular locality so that the birds constitute a nuisance or menace to health or property, in the opinion of the Commission of Public Health and Safety, then said birds may be destroyed in such numbers and in such manner as is deemed advisable by said health authorities under the supervision of the Chief of Police. **(Ord. No. 99-46; 11-22-99)**

27-2-41 **HUNTING ON CITY PROPERTY.** Hunting and all other forms of recreational usage in any manner whatsoever is prohibited on City-owned property unless specifically permitted by the City Council. **(Ord. No. 04-27; 11-22-04)**

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

ARTICLE III

OFFENSES AGAINST PROPERTY

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

(A) obtains or exerts unauthorized control over property of the owner; or

(B) obtains by deception, control over property of the owner; or

(C) obtains by threat, control over property of the owner; or

(D) obtains control over stolen property knowing the property to have been stolen by another or under such circumstances as would reasonably induce him to believe that the property was stolen; and

(1) intends to deprive the owner permanently of the use or benefit of the property;

(2) knowingly uses, conceals or abandons the property in such a manner as to deprive the owner permanently of such use or benefit;

(3) uses, conceals or abandons the property, knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.

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

(See 720 ILCS 5/16-1)

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

(A) To knowingly damage any property of another without his consent; or

(B) recklessly, by means of fire or explosive, damage property of another; or

(C) knowingly start a fire on the land of another without his consent; or

(D) knowingly injure a domestic animal of another without his consent; or

(E) knowingly deposit on the land or in the building of another, without his consent, any stink bomb or any offensive smelling compound and thereby, intend to interfere with the use by another of the land or building. **(See 720 ILCS 5/21-1)**

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

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

27-3-5 **DAMAGE OR DESTRUCTION OF STREET SIGNS PROHIBITED.** It shall be unlawful for any person in any manner or form, to deface, disfigure, damage or destroy any of the street signs or parts thereof located in the City.

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

27-3-7 CLIMBING UTILITY POLES. It shall be unlawful for any person in the City to climb upon any telegraph pole, telephone pole, electric light pole, or sign pole unless in the performance of his duties.

27-3-8 VANDALISM. No person shall willfully, without the consent of the owner, cut, pick, mar, mutilate, injure, or remove any tree, shrub, bush, plant, flower, vegetable, or other growth nor deface, mar, tear down, or injure any building structure, sign, public notice, vehicle, fence, monument, tomb stone, statue, or other object of ornament or utility in any public park, arboretum, street, or other public place, or on any private property in the municipality.

27-3-9 LOITERING UNLAWFUL.

(A) **Defined.** As used in this Section, "loitering" shall mean remaining idle in essentially **one (1) location** and shall include the concepts of spending time idly, loafing or walking about aimlessly, and shall also include the colloquial expression "hanging around".

(B) **Prohibited.** No person, after first being warned by a law enforcement officer, shall loiter, stand, sit or lie in or upon any public or quasi-public sidewalk, street, curb, crosswalk, walkway area, mall or that portion of private property utilized for public use, so as to hinder or obstruct unreasonably the free passage of pedestrians thereon, nor shall any person block or obstruct, or prevent the free access to the entrance of any building open to the public. **(Ord. No. 1206; 07-11-88)**

27-3-10 FALSE ALARMS.

(A) **Defined.** False alarms shall be defined herein as any report to any police, fire, health or safety organization or to the county 9-1-1 system that the responding agency determines to be without merit or justification.

(B) **Penalty.** There shall be imposed a fine of **One Hundred Twenty-Five Dollars (\$125.00)** per false alarm for each false alarm placed in any calendar year from any **one (1) location** after the **third (3rd) false alarm** from that location.

(C) **Number of Alarms.** For purposes of this Section, the number of false alarms from any **one (1) location** shall be determined based upon the number of calls placed from each address, whether it be a business or residential address, during the course of the year, regardless of occupancy. **(Ord. No. 97-41; 11-10-97) (See Section 27-4-1(C))**

ARTICLE IV

PUBLIC HEALTH, SAFETY AND DECENCY

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

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

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

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

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

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

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

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

(See 720 ILCS 5/26-1)

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

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

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

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

(See 720 ILCS 5/31-8)

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

(A) **Drive-in Business.** A drive-in business within the meaning of this Code shall be deemed to be any business where meals, sandwiches, cold drinks, beverages, ice cream, food, drink, or consumer services are served directly to or are permitted to be consumed by patrons in or upon automobiles, motorcycles, or other vehicles parked on the premises.

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

(1) No person on the premises of a drive-in business shall race the motor of any motor vehicle, needlessly bring to a sudden start or stop, any motor vehicle, blow any horn of any motor vehicle, or cause to be made any

loud or unseemly noise, nuisance or disturbance whereby the quiet and good order of the premises or the neighborhood are disturbed.

- (2) The following acts or conduct of any persons entering a drive-in business or premises are hereby declared to be unlawful, and any person found guilty of any such acts shall be guilty of a violation of this Article:
- (a) Entering the premises of any drive-in business with any motor vehicle of any description and parking such vehicle and leaving the premises (thereby leaving such vehicle parked and unoccupied), without express consent of the owner or operator of such business, in which event, such motor vehicle shall be subject to a parking citation or may be impounded subject to the usual impounding charges.
 - (b) Entering the premises in or upon a motor vehicle and using said premises for cruising, racing as a shortcut to another street or to annoy or endanger any person or persons or other vehicle or vehicles lawfully on said premises.
 - (c) For three (3) or more persons to congregate on the premises and linger or loiter at any location on the premises of any drive-in business, other than in the building or in a legally parked motor vehicle.
 - (d) For any person who, while on the premises of any drive-in business, in the presence or hearing of another, to curse or abuse such person or use any violently abusive language under circumstances reasonably calculated to provoke a breach of the peace.

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

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

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

27-4-5 TRAPPING ANIMALS. It shall be unlawful for anyone to trap game or fur-bearing animals unless permission is granted by the City Council.

27-4-6 FIGHTING. No person in the City shall start a fight, offer to fight, engage in a fight, assault or strike another person or provoke a breach of the peace by threatening to assault or strike another person.

27-4-7 LOUD AND UNNECESSARY NOISE AND MUSIC.
 (A) No person or entity in the City shall create any unreasonably loud or unnecessary noise and disturb the peace and quiet of the City or of any citizens thereof by:

- (1) Sounding of any horn, whistle, siren, or other signaling device, except where necessary to warn of the danger of any approaching vehicle;
- (2) Playing of radio, loud speaker, public address system, or other electronic device in a loud and unnecessary manner;
- (3) Keeping any animal or bird which by frequent and long continued noise disturbs the comfort and repose of any person in the vicinity;
- (4) Unnecessary banging, pounding, clanging, clattering, or other loud noises not necessary in the performing of any useful work;

- (5) Excessively loud operation of motor vehicles, including, but not limited to automobiles, motorcycles and motorbikes.

(B) The following acts are declared to be unreasonably loud or disturbing noises in violation of this Code, to wit:

- (1) The playing, using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, stereo, or other machine or device for the producing, or reproducing or broadcast of music or other sound in a loud or disturbing manner between the hours of **1:00 a.m.** and **8:00 a.m.**, wherein the sound emanating from such device is plainly audible at a distance of **fifty (50) feet** from the source or is plainly audible inside a neighboring residential occupancy with the doors and windows closed.
- (2) The playing, using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, stereo or other machine or device for the producing, or reproducing or broadcast of sound in such manner wherein the sound emanating from such device is plainly audible inside a school, church, hospital, medical clinic or nursing home during operating or business hours with the doors and windows closed.
- (3) For the purpose of this Section, "plainly audible" means any sound that can be detected by a person using his or her unaided hearing faculties. An Enforcement Officer need not determine the title of a song, specific words or the artist performing the song; the detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound. A "residential occupancy" includes single family dwellings, multiple family dwellings, boarding house rooms, hotel rooms or motel rooms.
- (4) The following uses and activities shall be exempt from these regulations:
 - (a) School sponsored activities conducted on school property at times other than between the hours of **10:00 p.m.** and **7:00 a.m.** (Additional hours by permit)
 - (b) Church related activities conducted on church property at times other than between the hours of **10:00 p.m.** and **7:00 a.m.** (Additional hours by permit)
 - (c) Authorized City sponsored or permitted parades and events.
- (5) The first violation of the Section shall result in a written or verbal warning and the issuance of a ticket by the City with a fine of no less than **Seventy-Five Dollars (\$75.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**. If a second or subsequent violation occurs within **ninety (90) days** of a previous written or verbal warning, the City shall order the permanent cessation of the activity causing or creating the violation or the revocation of any permits or license for any business in violation of the Section and issue a subsequent ticket with a fine not to exceed **Seven Hundred Fifty Dollars (\$750.00)**, each day a violation occurs shall be considered a separate offense.

27-4-8 **PROFANITY.** No person in the City shall use obscene, profane, vulgar, offensive, or unseemly language to the annoyance or vexation of others.

27-4-9 **PEEPING TOM.** No person in the City shall enter upon the property of another and for a lewd and unlawful purpose deliberately look into a dwelling or property through the window or other opening in the City.

27-4-10 **NUDITY PROHIBITED.** All nude or semi-nude performances, use of employees who are nude or semi-nude or any promotion of nude or semi-nude exhibition are hereby prohibited. (**Ord. No. 1334; 05-24-93**)

27-4-11 **SCAVENGERS PROHIBITED.**
 (A) The term "**scavenger**" as used in this Section shall mean a person who collects or disposes of refuse, wastes or rubbish as described in **Article III**, of **Chapter 25** of this Code.
 (B) It shall be unlawful for any person to work or function as a scavenger, as defined herein, in the City. No person shall scavenge through any trash receptacle, dumpster, or container.

27-4-12 **FALSE REPORT OF OFFENSE.** No person shall transmit in any manner to any police officer or other public official 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.

27-4-13 **INTERFERING WITH FIREMEN.** No person shall, at any fire, hinder, delay, resist, or obstruct any officer, fireman, or other person in the discharge of his duties or neglect or refuse to obey the lawful command of any police officer or fireman at the scene of a fire.

27-4-14 **ASSAULT, BATTERY, AFFRAY AND RECKLESS CONDUCT.** It shall be unlawful for any person to knowingly start a fight, or to fight, or to commit any assault and battery or perform any reckless conduct anywhere within the City.

(A) **Assault Defined.** A person commits an assault when, without lawful authority, he engages in conduct which places another in reasonable apprehension of receiving a battery.

(B) **Battery Defined.** A person commits battery if he intentionally or knowingly, without legal justification, and by any means:

- (1) causes bodily harm to any individual; or
- (2) makes physical contact of an insulting or provoking nature with an individual.

(C) **Affray Defined.** A person commits an affray if he engages in a noisy brawl, or quarrel, public fight, riot, or breach of the peace.

(D) **Reckless Conduct Defined.** 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 the safety of an individual, whether they are lawful or are unlawful.

(E) All owners and/or proprietors of businesses in the City, including taverns, shall report all offenses contained in this Section to the police department while occurring or immediately after they occur.

27-4-15 **SALE OF FIREARMS OR WEAPONS TO MINORS.**

(A) It shall be unlawful for any person in the City to sell to any minor person any firearm, bludgeon, blackjack, slingshot, sand-club, sandbag, metal knuckles, dagger, dirk, bill, dangerous knife, stiletto, or any knife commonly referred to as a switchblade, which has a blade that open automatically by hand pressure applied to a button, spring, or other device in the handle of the knife.

(B) It shall be unlawful for any person in the City to sell, lend, rent, give, or otherwise transfer any "air rifle" to a person under **thirteen (13) years** of age, except where the relationship of parent-child, guardian-ward, or adult instructor-pupil exists between such person and the person under **thirteen (13) years** of age.

- (C) It shall be an affirmative defense for any person in the City having sold such weapon that:
- (1) The minor procured the sale by use of false or forged identification cards;
 - (2) That he did not know and could not reasonably have known of the falsity or forgery; and
 - (3) That he exercised reasonable diligence to determine the veracity of the representation.

27-4-16 **INTIMIDATION.** It shall be unlawful for any person to commit an act of intimidating another within the City. A person commits intimidation when, with intent to cause another person to perform or to omit the performance of any act, he communicated to another without otherwise lawful authority a threat to perform any of the following acts:

- (A) Inflict physical harm on the person threatened or any other person or property;
- or
- (B) Subject any person to physical confinement or restraint; or
- (C) Commit any criminal offense; or
- (D) Accuse falsely any person of an offense; or
- (E) Expose any person to hatred, contempt, or ridicule; or
- (F) Unlawfully take action as a public official against anyone or withhold official action or cause such action or withholding; or
- (G) Bring about or continue any strike, boycott, or other collective or mob action.

27-4-17 **USE OF POTABLE WATER SUPPLY.**

(A) **Definitions.** The following definition shall apply to this Section:

- (1) **Person** is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or their legal representatives, agents or assigns.
- (2) **Potable Water** is any water used for human or domestic consumption, including, but not limited to, water used for drinking, bathing, swimming, washing dishes or preparing foods.

(B) **Use of Groundwater as a Potable Water Supply Prohibited.** The use or attempt to use as a potable water supply groundwater from within the corporate limits of the City of Breese by the installation or drilling of wells or by any other method is hereby prohibited. This prohibition extends to any wells owned, utilized or otherwise operated by the City of Breese.

(See 35 III. Adm. Code 620)

27-4-18 **EXCAVATIONS.** It shall be unlawful for any person who owns, maintains, uses, abandons, any open well, cesspool, cistern, quarry, recharging basin, catch basin, sump, excavation for the erection of any building structure or excavation created by the razing or removal of any building structure without covering or surrounding such installation with protective fencing. This Section shall not apply during the course of repair, construction, removal or filling of any of the structures or conditions herein described while any worker is present at the location thereof either performing services thereon or as a watchman to guard such location. **(See 720 ILCS 605/1)**

ARTICLE V - ANTI-LITTER

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

"AIRCRAFT" is any contrivance now known or hereafter invented, used, or designed for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air powered craft and balloons.

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

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

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

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

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

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

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

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

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

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

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

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

27-5-4 RECEPTACLES – UPSETTING, TAMPERING, OR PILFERING. No person shall upset or tamper with a public or private receptacle designed or used for the deposit of litter or cause or permit its contents to be deposited or strewn in or upon any public place or private premises. No person shall pilfer through any public or private receptacles, sealed box, tied bag or other device intended to hold litter for trash pick-up by a disposal service. **(Ord. No. 05-15; 06-13-05)**

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

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

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

27-5-8 LITTERING FROM AIRCRAFT. No person in an aircraft shall throw out, drop or deposit any litter within the City.

27-5-9 LITTER IN PARKS. No person shall deposit litter in any park within the City except in receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any other public place or private premises. Where receptacles are not provided, all such litter shall be removed from the park by the person responsible for its presence and properly disposed of elsewhere in a lawful manner.

27-5-10 HANDBILLS.
 (A) **Public Places.** No person shall deposit or sell any handbill in or upon any public place, provided, however, that it shall not be unlawful on any public place for any person to hand out or distribute without charge to the receiver, any handbill to any person willing to accept it.
 (B) **Private Premises.** No person shall deposit or unlawfully distribute any handbill in or upon private premises or vehicles, except by handing or transmitting any such handbill directly to the occupant of such private premises. Provided, however, that in case of private premises or vehicles which are not posted against the receiving of handbills or similar material, such person, unless requested

by anyone upon such premises not to do so, may securely place any such handbill in such a manner as to prevent such handbill from being deposited by the elements upon any public place or other private premises, except mailboxes, may not be so used when prohibited by federal postal law or regulations.

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

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

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

27-5-11 POSTING NOTICES PROHIBITED. No person shall post or affix any notice, poster, or other paper or device, calculated to attract the attention of the public upon any public place, except as may be authorized or required by law. No person, except the owner or tenant shall post any such notice on private property without the permission of the owner or tenant.

27-5-12 CONSTRUCTION SITES.

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

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

27-5-13 LOADING AND UNLOADING DOCKS. The person owning, operating, or in control of a loading or unloading dock shall maintain private receptacles for collection of litter, and shall, at all times, maintain the dock area free of litter in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

27-5-14 PARKING LOTS.

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

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

(C) **Specifications.** Litter receptacles shall have tight-fitting lids or tops and shall be weighted or attached to the ground or other fixed structures as necessary to prevent spillage. A minimum container size of **twenty (20) gallons** or **75.7 liters** shall be used.

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

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

27-5-15 CLEARING OF LITTER FROM OPEN PRIVATE PROPERTY BY THE CITY.

The procedure for the removal of litter from private premises and the charging of expense(s) thereof as a lien upon such property to be collected shall be in accordance with the state statutes. The Mayor or his designated representative shall be responsible for the implementation of this enforcement program.

(See 65 ILCS 5/11-1-1 and 415 ILCS 105/1 et seq.)

ARTICLE VI - TRESPASS

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

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

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

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

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

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

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

ARTICLE VII

PARENTAL RESPONSIBILITY REGULATIONS

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

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

- (A) Maliciously, recklessly, negligently, or knowingly damaging or destroying or defacing any property within the City, whether such property is owned by the State, County or governmental body or owned by any private person, firm, partnership, or association; or
- (B) maliciously, recklessly, or knowingly, by means of fire or explosive device, damaging, debasing, or destroying any property of another person; or
- (C) maliciously, recklessly, negligently or knowingly starting a fire on land of another person without his consent; or
- (D) maliciously, recklessly or knowingly depositing on land or in the building of another person, without his consent, any stink bomb or any offensive smelling compound and thereby interfering with the use and occupancy by another of the land or building; or
- (E) maliciously, recklessly, or knowingly, and without authority, entering into or obtaining control over any building, house trailer, motor vehicle, aircraft or watercraft or any part thereof of another person without his consent.

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

"MINOR" shall include a person who is above the age of **seven (7) years**, but not yet **eighteen (18) years** of age.

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

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

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

- (A) An unemancipated minor residing with said parent or legal guardian shall either be adjudicated to be in violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of a violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property; and
- (B) Said parent or legal guardian shall have received a written notice thereof, either by certified mail, return receipt requested, or by personal service, with a certificate of personal service returned from the City, following said adjudication or non-judicial sanctions; and
- (C) If, at any time within **one (1) year** following receipt of notice set forth in paragraph (B) above, said minor is either adjudicated to be in violation of any ordinance, law, or statute as described in (A) above, or shall have incurred nonjudicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law, or statute as described in (A) above.

(See 740 ILCS 115/1 et seq. and 740 ILCS 115/4)
(See also 740 ILCS 5/21-1.2 et seq.)

ARTICLE VIII – TRUANCY AND CURFEW CODE

27-8-1 **DEFINITIONS.** As used in this Article unless the context requires otherwise the following words and phrases shall mean:

"CITY CURFEW HOURS" means the period of time specified in **Section 27-2-30** of the Chapter.

"COURT" means the 2nd Judicial Circuit; Franklin County, Illinois.

"CUSTODIAN" means:

- (A) a person who under court order is the custodian of the person of a minor or
- (B) a public or private agency with which the court has placed a minor or
- (C) a person acting in the role of a parent by reason of a private agreement, arrangement, custom or habit.

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

"ESTABLISHMENT" means any privately owned place of business to which the public is invited, including but not limited to any place of amusement or entertainment.

"GUARDIAN" means:

- (A) parent or
- (B) a person who under court order is the guardian of the person of a minor; or
- (C) a public or private agency with which the court has placed a minor.

"MINOR" means a person under **eighteen (18) years** of age.

"PARENT" means a person who is a natural parent, adoptive parent, or step-parent of another person.

"PUBLIC PLACE" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, public ways, sidewalks and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

"RESPONSIBLE ADULT" means a person at least **eighteen (18) years** of age, authorized by a parent, guardian or custodian to have the care and custody of a minor.

"SERIOUS BODILY INJURY" means 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.

"TRUANCY CURFEW HOURS" means the period of the day when the school the minor would normally attend is in session, on days when the school the minor would normally attend is in session.

"TRUANT OFFICER" means any officer, appointee, employee or other agency of any school district or any federal, state or local government, entity or any agency thereof performing the duties of a truant officer under the Illinois Compulsory Attendance Statute. **(105 ILCS 5/26-1 et seq.)**

"TRUANCY REVIEW BOARD" means any agency or entity established by any school district or any federal, state or local governmental entity or any counseling or social agency or any combination thereof recognized by the City and/or the court as an agency which provides service to improve education performance and/or attendance.

27-8-2 **CURFEW RESTRICTIONS.**

(A) It is unlawful for any minor to be present in any public place or on the premises of any establishment within the City during curfew hours.

(B) It is unlawful for any parent or guardian or custodian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the City during curfew hours.

(C) It is a defense to prosecution under **Section 27-8-2(A) and (B)** or **Section 27-8-4** (hereinafter) that the minor was:

- (1) accompanied by the minor's parent, guardian, custodian or responsible adult;
- (2) on an errand at the direction of the minor's parent, guardian, custodian or responsible adult; without any detour or stop;
- (3) in a motor vehicle involved in interstate travel with the consent or authorization of a parent, guardian or custodian;
- (4) engaged in, going to or returning home from an employment activity without any detour or stop;
- (5) involved in an emergency;
- (6) on the sidewalk abutting the minor's residence;
- (7) engaged in, going to or returning home from official school, religious or other recreational activity supervised by adults, sponsored by a civic organization, or another similar entity that takes responsibility for the minor;
- (8) exercising First Amendment rights protected by the United States Constitution; or
- (9) emancipated pursuant to law.

27-8-3 **TRUANCY RESTRICTIONS.**

(A) It is unlawful for any minor who is subject to compulsory education or to compulsory continuation education by statute or court order to be present in any public place or on the premises of any establishment within the City during truancy curfew hours.

(B) It is unlawful for any parent, custodian or guardian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the City during truancy curfew hours.

(C) It is a defense to prosecution under this Section or **Section 27-8-4** that the minor was:

- (1) accompanied by a parent, guardian, custodian or responsible adult if engaged in an activity which would constitute an excused absence from the school from which the minor would normally attend;
- (2) involved in an emergency;
- (3) going to or returning from a medical appointment without any detour or stop;
- (4) engaged in, going to or returning home from an employment activity pursuant to a cooperative school vocation program without any detour or stop;
- (5) in possession of valid proof that the minor is a student who has permission to leave the school campus;
- (6) a bona fide participant in an alternative education or home schooling program;
- (7) engaged in or subject to an authorized or excused absence from the school which the minor attends, including but not limited to lunch periods.

27-8-4 ESTABLISHMENT RESTRICTIONS. It is unlawful for any owner, operator or any employee of an establishment to allow a minor to be present or to remain upon the premises of the establishment in violation of **Sections 27-8-2** or **27-8-3** above during curfew or truancy hours.

It is a defense to prosecution, under this subparagraph if the owner, operator or employee of the establishment immediately upon discovery of a minor reasonably believed to be in violation of **Sections 27-8-2** or **27-8-3** notified a law enforcement agency that a minor was present on the premises of the establishment during curfew or truancy hours and refused to leave the establishment after being advised to do so by the owner, operator or employee.

27-8-5 ENFORCEMENT RESTRICTIONS. Every member of the Police Department while on duty is hereby authorized as follows:

(A) For the first offense of any minor violating the provisions of this Code, to issue to the minor a citation, in writing, in the same form as described in paragraph (C) below. For a second offense, the law enforcement officer is authorized to temporarily detain any minor violating the provisions of this Code (regardless of whether a citation is immediately issued) until the parent, custodian or guardian of the minor shall take him or her into custody, but such officer shall immediately upon taking custody of the minor reasonably attempt to communicate with the parent, custodian or guardian of the minor unless subparagraph (E) herein is applicable. A parent, custodian or guardian must take custody of the minor within **one (1) hour** of the time of notice or be subject to a charge of **Twenty-Five Dollars (\$25.00)** per hour as hereinafter provided.

(B) Whenever a Police Officer or Truant Officer witnesses or has knowledge based on reasonable grounds of a violation of this Code by any person, such person may be issued a citation. A citation or complaint may be made to a Police Officer or Truant Officer by any person.

(C) A citation issued hereunder this shall be in writing and shall:

- (1) state the name of the person being cited and the person's address if known;
- (2) set forth the specific section of this Code that was violated, the date of the violation and a brief description of the violation;
- (3) be signed by the issuing Police Officer, Truant Officer or complaining party.

In each instance where a citation is issued to a minor for violation of this Code a minor's parent, custodian or guardian shall be provided a copy of the citation notifying the parent, custodian or guardian of the charge made against the minor.

(D) A minor cited for a citation under this Code must attend a court hearing or Truancy Review Board hearing on the citation and must be accompanied at the hearing by his or her parent, custodian, guardian or other adult person having the legal care and custody of the minor. If any such person fails to attend any court hearing with the minor, and unless the interest of justice would otherwise be served, the court may continue the hearing and shall issue a Notice or a Rule to Show Cause to the person directing that said person to appear at the continued hearing with the minor. Failure of the person to thereafter appear shall subject said person to sanctions for contempt of court as determined by the court.

(E) Every member of the Police Department while on duty is hereby authorized to temporarily detain any minor violating the provisions of **Section 27-8-3** of this Code, regardless of whether a citation is issued, and to deliver and surrender the minor to the lawful authorities of the school that the minor would normally attend.

27-8-6 PENALTY.

(A) Any person who violates any provision of this Article shall, upon conviction thereof, be fined as provided in **Section 1-1-20** of this Code. **(See also Section 1-1-20)**

(B) In lieu of or in addition to a fine, a minor may be ordered to attend counseling or to perform **ten (10) hours** of court approved community service during times other than the minor's hours of school attendance and/or the minor's parent, custodian, guardian or other adult having legal

care or custody of the minor may be ordered to attend a parenting class or series of parenting classes or other counseling approved by the court or recommended by the Truancy Review Board or to attend any program directly related to improving school attendance and/or performance.

(C) In addition to any penalty imposed pursuant to (A) or (B) above, the minor's parents, custodian, guardian or other adult having legal care or custody of the minor may be ordered to pay all amounts imposed as civil liability under **Section 27-8-7** hereinafter.

27-8-7 **CIVIL LIABILITY.** If a minor is detained for a period of time in excess of **one (1) hour** which requires the supervision of the minor by personnel of the Police Department, the parent, custodian, guardian or other adult having legal care or custody of the minor shall be jointly and severally liable for the costs therefore. The parent, custodian, guardian or other adult having legal care or custody of the minor who has committed any offense of this Code shall be assessed and billed for the costs; the costs shall be recoverable in any action enforcing any provision of this Code or in a separate civil action. In addition, the failure to pay the costs shall constitute a violation of this Code and subject the violator to the penalties described within **Section 27-8-6** above. In the event any action is filed, the liable party shall be responsible for all court costs and any reasonable attorney's fees incurred by the City in collecting.

ARTICLE IX - OPEN BURNING

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

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

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

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

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

27-9-2 **BURNING PROHIBITED.** It shall be unlawful to cause or allow open burning of agricultural waste, household trash or garbage.

27-9-3 **RESTRICTIONS ON BURNING OF LANDSCAPE WASTE.** The open burning of landscape waste shall be permitted only on the following conditions:

(A) Landscape waste shall be burned on the premises on which such waste is generated; and

(B) Landscape waste shall be burned only when atmospheric conditions shall readily dissipate contaminants; and,

(C) Landscape waste may be burned only if such burning does not create a visibility hazard on roadways, walkways, or railroad tracks; and,

(D) Open burning of landscape waste may only take place during daylight hours with a person over **eighteen (18) years** of age in attendance during the entire period of burning; and,

(E) No open burning of landscape waste shall be permitted on any streets or roadways; and,

(F) No open burning shall occur during periods of time when the Fire Chief or the Chief of Police have determined that atmospheric conditions or local circumstances make such fires hazardous and dangerous.

(See 415 ILCS 5/1 et seq.)

ARTICLE X - OBSCENITY

27-10-1 OBSCENITY.

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

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

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

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

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

Where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter is lacking in serious literary, artistic, political or scientific value.

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

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

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

27-10-2 HARMFUL MATERIAL.

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

(B) Definitions.

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

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

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

(D) Affirmative Defenses.

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

harmful material to the child was by mail, freight, or similar means of transport, it shall be a defense in any prosecution for a violation of this Section that the advertisement contained the following statement or a statement substantially similar thereto, and that the defendant required the purchaser to certify that he was not under the age of **eighteen (18) years** and that the purchaser falsely stated that he was not under the age of **eighteen (18) years**:

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

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

27-10-3 TIE-IN SALES OF OBSCENE PUBLICATIONS TO DISTRIBUTORS. Any person, firm or corporation, or any agent, officer or employee thereof engaged in the business of distributing books, magazines, periodicals, comic books or other publications to retail dealers who shall refuse to furnish to any retail dealer such quantity of books, magazines, periodicals, comic books or other publications as such retail dealer normally sells because the retail dealer refuses to sell, or offer for sale, any books, magazines, periodicals, comic books or other publications which are obscene, lewd, lascivious, filthy or indecent is guilty of an offense. Each publication sold or delivered in violation of this Section shall constitute a separate offense. **(See 720 ILCS 5/11-22)**

ARTICLE XI – ADULT USES REGULATED

27-11-1 PURPOSE AND ADDITIONAL FINDINGS.

(A) **Purpose.** It is the purpose of this Article to regulate public nudity in order to promote the health, safety, morals, and general welfare of the citizens of the City. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials.

(B) **Findings.** The City Council finds:

- (1) Public places allowing nudity lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled.
- (2) Sexual acts, including masturbation, and oral and anal sex, occur at adult oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, live sex shows or public nudity.
- (3) Allowing public nudity creates unhealthy conditions.
- (4) Persons frequent certain adult theaters, adult arcades, and other adult oriented businesses for the purpose of engaging in sex within the premises of such adult oriented businesses.
- (5) At least **fifty (50)** communicable diseases may be spread by activities occurring in adult oriented businesses involving public nudity, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.
- (6) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States.
- (7) The Surgeon General of the United States in his report of **October 22, 1986**, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.
- (8) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- (9) Sanitary conditions in some adult oriented businesses and those places allowing public nudity are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities, including nudity, and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- (10) Numerous studies and reports have determined that semen is found in the areas of adult oriented businesses allowing public nudity and where persons view "adult" oriented films.
- (11) The findings noted in paragraphs (1) through (10) raise substantial governmental concerns.
- (12) Public places allowing nudity have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
- (13) The general welfare, health, morals and safety of the citizens of the City will be promoted by the enactment of this Article.

27-11-2 DEFINITIONS. As used in this Article:

(A) **"Adult Oriented Business"** means an establishment as defined in the City

Code.

(B) **"Entity"** means any proprietorship, partnership, corporation, association, business trust, joint venture, joint-stock company, or other for profit or not for profit organization.

(C) **"Nude"** means the showing of:

- (1) Human male or female genitals or pubic area with less than a fully opaque covering; or
- (2) Any portion of the anal cleft or cleavage of the male or female buttocks. Attire that is insufficient to comply with this requirement includes, but is not limited to, G-strings, T-backs, thongs, and any other clothing to covering that does not completely and opaquely cover the anal cleft or cleavage of the male or female buttocks; or
- (3) The portion of the human female breast directly or laterally below a point immediately above the top of the areola with less than a fully opaque covering; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided the areola is not exposed.

(D) **"Person"** means any live human being aged **ten (10) years** of age or older.

(E) **"Place Provided or Set Apart for Nudity"** means enclosed single sex public restrooms, enclosed single sex functional shower, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being nude is used for his or her profit or where being nude is used for the promotion of business or is otherwise commercially exploited.

(F) **"Public Place"** means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public Places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit, whether open to the public at large, or whether entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, night clubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal or similar organizations. Premises, or portions thereof, such as homes and hotel rooms, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.

27-11-3 PROHIBITION. It shall be unlawful for any person to knowingly or intentionally appear nude in a public place or in any other place that is readily visible to the public, except a place provided or set apart for nudity. It shall also be unlawful for any person or entity maintaining, owning, or operating any public place to operate and to knowingly, or with reason to know, permit or allow any person to appear nude in such public place, except a place provided or set apart for nudity.

27-11-4 LIMITATION. This Article shall not be deemed to address photographs, movies, video presentations, or any other non-live performance.

27-11-5 ADULT ENTERTAINMENT FACILITY. It shall be unlawful within a municipality to locate an adult entertainment facility within **one thousand (1,000) feet** of the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing, and place of religious worship.

For the purposes of this Section, "adult entertainment facility" means:

(A) a striptease club or pornographic movie theatre whose business is the commercial sale, dissemination, or distribution of sexually explicit material, shows, or other exhibitions or

(B) an adult bookstore or adult video store in which **twenty-five percent (25%)** or more of its stock-in-trade, books, magazines, and films for sale, exhibition, or viewing on-premises are sexually explicit material. **(See 65 ILCS 5/11-5-1.5)**

ARTICLE XII - SYNTHETIC DRUGS

27-12-1 **SALE, POSSESSION OR DELIVERY OF SYNTHETIC COCAINE**
PROHIBITED.

(A) **Definitions.** The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) **Synthetic Cocaine, "Bath Salts" or Substances Containing Cocaine** includes but not limited to the names, MDPK, Magic, Super Coke, PV, Ivory Wave, Ocean, Cloud Nine, Charge Plus, White lightning, Scarface, Hurricane, Charlie Red Dove and White Dove. It is an herbal and chemical product which mimics the effects of Cocaine, including but not limited to Methylenedioxypropylone, (a psychoactive drug), or cathinone derivatives.
- (2) **Deliver or Delivery.** Actual, constructive or attempted transfer of possession of synthetic cocaine or substance containing cocaine, with or without consideration, whether or not there is an agency relationship.
- (3) **Knowledge.** Knows, acts knowingly or with knowledge:
 - (a) the nature or attendant circumstances of his/her conduct described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist, knowledge of a material fact includes awareness of the substantial probability that such fact exists.
 - (b) the result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.
 - (c) knowledge may be inferred from the surrounding circumstances.
- (4) **"Bath salts"** a substance that contains methylenedioxypropylone (MDPV) or contains a norepinephrine-dopamine reuptake inhibitor (NDRI).
- (5) **Manufacture.** The production, preparation, propagation, compounding, conversion or processing of synthetic cocaine or a substance containing cocaine, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cocaine or a substance containing cocaine or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cocaine as an incident to lawful research, teaching or chemical analysis and not for sale.
- (6) **Person.** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.
- (7) **Possession.** Possession may be either actual or constructive.
 - (a) actual possession means exercising physical dominion.
 - (b) constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cocaine or substance containing cocaine or drug paraphernalia.

(B) **Possession of Synthetic Cocaine or Substance Containing Cocaine or "Bath Salts" Prohibited.**

- (1) **Violation.** No person shall possess any substance containing synthetic cocaine or a substance containing cocaine.
- (2) **Penalty.** Any person who pleads guilty or is found guilty by a court of law shall be punished by a minimum fine of not less than **Two Hundred Fifty Dollars (\$250.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**.

- (3) **Administrative Fee.** In addition, any person who violates any provision of this Section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of **One Hundred Dollars (\$100.00)** to be paid to the law enforcement agency for testing of the substance(s) collected.
- (4) **Forfeiture.** Any items which may be seized or forfeited pursuant to **720 ILCS 550/12**, may be forfeited in the same manner as described therein for a violation of this Section.
- (5) **Exception.** Any person who manufactures, distributes, dispenses, or is in possession of any controlled substance or synthetic cocaine for research purposes shall be exempt from the provisions of this Section.

(Ord. No. 2011-13; 03-28-11)

27-12-2 SALE, POSSESSION OR DELIVERY OF SYNTHETIC CANNABIS PROHIBITED.

(A) **Definitions.** The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) **Synthetic Cannabis** includes, but not limited to, the brand names K2 and Spice. It is an herbal and chemical product which mimics the effects of Cannabis, including but not limited to synthetic cannabinoids, cannabicyclohexanol, JWH-018, JWH-073 and HU-210.
- (2) **Deliver or Delivery.** Actual, constructive or attempted transfer of possession of synthetic cannabis, with or without consideration, whether or not there is an agency relationship.
- (3) **Knowledge.** Knows, acts knowingly or with knowledge:
 - (a) the nature or attendant circumstances of his/her conduct, described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist, knowledge of a material fact includes awareness of the substantial probability that such fact exists.
 - (b) the result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.
 - (c) knowledge may be inferred from the surrounding circumstances.
- (4) **Manufacture.** The production, preparation, propagation, compounding, conversion or processing of synthetic cannabis, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cannabis or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cannabis as an incident to lawful research, teaching or chemical analysis and not for sale.
- (5) **Person.** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.
- (6) **Possession.** Possession may be either actual or constructive.
 - (a) actual possession means exercising physical dominion.
 - (b) constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cannabis or drug paraphernalia.
- (7) **Produce or Production.** Planting, cultivating, tending or harvesting.

(B) **Possession of Synthetic Cannabis Prohibited.**

- (1) **Violation.** No person shall possess any substance containing synthetic cannabis.

- (2) **Penalty.** Any person who pleads guilty or is found guilty by a court of law shall be punished by a minimum fine of not less than **Two Hundred Fifty Dollars (\$250.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**.
- (3) **Administrative Fee.** In addition, any person who violates any provision of this Section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of **One Hundred Dollars (\$100.00)** to be paid to the law enforcement agency for testing of the substance(s) collected.
- (4) **Forfeiture.** Any items which may be seized or forfeited pursuant to **720 ILCS 550/12**, may be forfeited in the same manner as described therein for a violation of this Section.
- (5) **Exception.** Any person who manufactures, distributes, dispenses, or is in possession of any controlled substance or synthetic cannabis for research purposes pursuant to **720 ILCS 550/11**, as hereafter amended, shall be exempt from the provisions of this Section.

ARTICLE XIII

REGULATION OF RESIDENCES OF REGISTERED SEX OFFENDERS

27-13-1 **DEFINITIONS.** The following definitions apply to this Section:

(A) A **"Child Sex Offender"** includes any person required to register his or her residence address with any State, or with the federal government, as a result of his or her conviction as a sex offender, where the victim of that sex offense was under the age of **eighteen (18) years** at the time of the offense. A **"Child Sex Offender"** includes, but is not limited to, any person required to register under the Illinois Sex Offender Registration Act, **730 ILCS 150/1 et seq.**, as now or as hereafter amended, where the victim was under the age of **eighteen (18) years** at the time of the offense. A **"Child Sex Offender"** further includes, but is not limited to, any person who has been convicted of any of the following statutory offenses, or convicted of attempting to commit any of the following statutory offenses, as now or hereafter amended, involving a victim under the age of **eighteen (18) years**:

- (1) Sexual exploitation of a child (**720 ILCS 5/11-9.1**);
- (2) Predatory criminal sexual assault of a child (**720 ILCS 5/12-14.1**);
- (3) Indecent solicitation of a child (**720 ILCS 5/11-6**);
- (4) Public indecency committed on school property (**720 ILCS 5/11-9**);
- (5) Child luring (**720 ILCS 5/10-5(b)(10)**);
- (6) Aiding and abetting child abduction (**720 ILCS 5/10-7 or 720 ILCS 5/10-(b)(10)**);
- (7) Soliciting for a juvenile prostitute (**720 ILCS 5/11-15.1**);
- (8) Patronizing a juvenile prostitute (**720 ILCS 5/11-18.1**);
- (9) Exploitation of a child (**720 ILCS 5/11-19.2**);
- (10) Child pornography (**720 ILCS 5/11-20.1**);
- (11) Criminal sexual assault (**720 ILCS 5/12-13**);
- (12) Aggravated criminal sexual assault (**720 ILCS 5/12-14**);
- (13) Aggravated criminal sexual abuse (**720 ILCS 5/12-16**);
- (14) Kidnapping or aggravated kidnapping (**720 ILCS 5/10-1 or 5/10-2**);
- (15) Unlawful restraint or aggravated unlawful restraint (**720 ILCS 5/10-3 or 5/10-3.1**).

and also as defined by **720 ILCS 5/11-9.3**.

(B) **"School"** means any real property used primarily for educational or child care purposes, including, but not limited to, elementary schools, middle schools, high schools, dance studios, licensed child day care facilities, and pre-schools.

(C) **"Loiter"** shall mean standing or sitting idly, whether or not the person is in a vehicle or remaining in or around property that is from time to time frequented by persons under the age of **eighteen (18) years**.

(D) **"Park"** includes any playground, walking track, athletic field, gymnasium, basketball court, baseball diamond, or other real estate owned or controlled by a school or unit of a local government, that is designated primarily for recreation. The term "Park" includes ancillary restrooms and vehicle parking lots designated for use primarily by park patrons or school students and their families.

(E) **"Public Pool"** includes any parcel of real estate containing any natatorium or other improved real estate, designated or intended for swimming, water recreation, or water sports. Whether operated or owned by a public entity, or to which memberships are sold to the public.

27-13-2 **PROHIBITED ACTS.**

(A) It is unlawful for a child sex offender to reside within **five hundred (500) feet** of any of the following:

- (1) The real property comprising any school attended by persons under the age of **eighteen (18) years**;
- (2) The real property comprising any park; or

(3) Any public pool.

(B) It is unlawful for any child sex offender to loiter on any public property, public right-of-way, or area designated for parking of motor vehicles, within **five hundred (500) feet** of any of the following, unless the person loitering is with a child under the age of **eighteen (18) years** and the person loitering is a parent, step-parent, aunt, uncle, cousin, sibling, or step-sibling of that child under the age of **eighteen (18) years**;

(1) The real property comprising any school attended by persons under the age of **eighteen (18) years**;

(2) The real property comprising any park; or

(3) Any public pool.

(C) It is unlawful for any child sex offender to loiter on any public property, public right-of-way, or area designated for parking of motor vehicles, within **five hundred (500) feet** of any of the following, unless the person loitering is with a child under the age of **eighteen (18) years** and the person loitering is a parent, step-parent, aunt, uncle, cousin, sibling, or step-sibling of that child under the age of **eighteen (18) years**;

(1) The real property comprising any school attended by persons under the age of **eighteen (18) years**;

(2) The real property comprising any park; or

(3) Any public pool.

(D) It is unlawful for any person, corporation, business, partnership, trust, manager, or other entity, to enter into a lease agreement, or to renew any lease agreement, letting residential real estate to a child sex offender, where the lot line of the residential property is within **five hundred (500) feet** of any of the following:

(1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or

(2) The real property comprising any park; or

(3) Any public pool.

27-13-3 PENALTY. Any person found guilty of violating paragraphs (B) or (C) or (D) of **Section 27-13-2** shall be subject to a fine between **One Hundred Dollars (\$100.00)** and **One Thousand Dollars (\$1,000.00)**, with each day a violation continues constituting a separate offense. Any person, corporation, business, partnership, trust, manager, or other entity guilty of violating paragraph (D) of **Section 27-13-2** shall be subject to a fine between **One Hundred Dollars (\$100.00)** and **One Thousand Dollars (\$1,000.00)**, revocation of business license, or both. Each day a violation continues shall constitute a separate offense. Any person, corporation, business, partnership, trust, manager, or other entity violating paragraph (D) of **Section 27-13-2** shall be presumed to have had knowledge of the tenant's status as a child sex offender, where that tenant's name, photo, or other identifying information appears on the Illinois State Police statewide sex offender database, as published on the internet on the Illinois State Police World Wide Web home page, per the Sex Offender and Child Murderer Community Notification Law, **730 ILCS 152/101 et seq.**, as now or hereafter amended.

27-13-4 OTHER PROVISIONS.

(A) In the event a court of competent jurisdiction should declare the terms of any portion of this Article invalid or unenforceable, the remainder of this Article shall remain in full force and effect.

(B) All distances designated in this Article shall be measured from the lot line of the park property, public pool property, or school property, and from the lot line of the subject residence.

(C) Nothing in this Article prohibits a child sex offender from residing within **one thousand five hundred (1,500) feet** of any property, if that residence is owned or leased by the child sex offender before the effective date of this Article. This Article is intended to apply to and prevent such new residential lease agreements, and renewals of expired residential leases, entered into after the effective date of this Article.

ARTICLE XIV - DRUG PARAPHERNALIA

27-14-1 **DEFINITIONS.**

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

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

- (f) Miniature cocaine spoons and cocaine vials;
- (g) Chamber pipes;
- (h) Carburetor pipes;
- (i) Electric pipes;
- (j) Air-driven pipes;
- (k) Chilams;
- (l) Bongs;
- (m) Ice pipes or chillers.

27-14-2 **DETERMINATION OF DRUG PARAPHERNALIA.** In determining whether an object is "drug paraphernalia", a court or other authority should consider, in addition to all other relevant factors, the following:

- (A) Statements by an owner or anyone in control of the object concerning its use;
- (B) Prior convictions, if any, of an owner or anyone in control of the object, under any state or federal law relating to any controlled substances;
- (C) The proximity of the object, in time and place, to a direct violation of this Article;
- (D) The proximity of the object to controlled substances;
- (E) The existence of any residue of controlled substances on the object;
- (F) Direct or circumstantial evidence of the intent of an owner or anyone in control of the object to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this Article; and the innocence of any owner or anyone in control of the object, as to a direct violation of this Article, shall not prevent a finding that the object is intended or designed for use as "drug paraphernalia";
- (G) Instructions, oral or written, provided with the object concerning its use;
- (H) Descriptive materials accompanying the object which explain or depict its use;
- (I) National and local advertising concerning the object's use;
- (J) The manner in which the object is displayed for sale;
- (K) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licenses distributor or dealer of tobacco products;
- (L) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise in question;
- (M) The existence and scope of legitimate uses for the object in the community;
- (N) Expert testimony concerning the object's use.

27-14-3 **OFFENSES AND PENALTIES.**

(A) **Possession of Drug Paraphernalia.** It is unlawful for any person to use, or possess with the intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the **Illinois Controlled Substance Act, (720 ILCS 570/100 et seq.)**.

(B) **Manufacture or Delivery of Drug Paraphernalia.** It is unlawful for any person to deliver, to sell, to possess with the intent to deliver or sell, or to manufacture with the intent to deliver or sell, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the **Illinois Controlled Substance Act, (720 ILCS 570/100, et seq.)**.

(C) **Delivery of Drug Paraphernalia to a Minor.** Any person **eighteen (18) years** of age or older who violates subsection (B) of this Section by delivering, selling, or giving drug paraphernalia to a juvenile is guilty of an additional offense, and upon conviction, shall be fined as provided in **Section 1-1-20**.

(D) **Advertisement of Drug Paraphernalia.** It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement, knowing or under

circumstances where one reasonably should know that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(See Section 1-1-20 for penalty.)

27-14-4 FORFEITURE OF PROPERTY.

(A) All articles defined in subsection (B)(1) shall be subject to forfeiture.

(B) Property subject to forfeiture under this Article may be seized by any peace officer upon process issued by any court having jurisdiction over the property. Seizure by any police officer without process may be made:

(1) If the property subject to seizure has been the subject of a prior judgment in favor of the City in an ordinance violation proceeding;

(2) If there is probable cause to believe that the property is either directly or indirectly dangerous to health or safety.

(C) In the event of seizure pursuant to subsection (B), proceedings under subsection (D) shall be promptly instituted.

(D) Property taken or detained under this Article shall not be subject to replevin, but is deemed to be in the custody of the Chief of Police, subject only to the orders of the court having jurisdiction over the forfeiture proceedings. When property is seized under this Article, the Chief of Police may:

(1) Place the property under seal; or

(2) Remove the property to a place designated by him; or

(3) Take custody of the property and remove it to an appropriate location for destruction.

27-14-5 PROHIBITION OF POSSESSION OF WEAPONS, LIQUOR AND DRUGS IN THE CITY HALL. Except for evidence purposes, it shall be unlawful for any person other than police officers to possess within the City Hall:

(A) a dangerous weapon as defined in **Illinois Compiled Statutes, Chapter 720, Section 5/33A-1**, as now and hereafter amended or renumbered, or

(B) alcoholic liquor as defined in **Chapter 21**, or

(C) a controlled substance as defined in **Illinois Compiled Statutes, Chapter 720, Section 570/102**, as now and hereafter amended or renumbered, or

(D) cannabis, as defined in the "**Cannabis Control Act**", **Illinois Compiled Statutes, Chapter 720, Section 550/1, et seq.**, as now and hereafter amended or renumbered.

ARTICLE XV – SMOKE FREE AIR CODE

27-15-1 **SHORT TITLE.** This Article may be cited as the Smoke Free Illinois Act.

27-15-2 **FINDINGS.** The General Assembly finds that tobacco smoke is harmful and dangerous carcinogen to human beings and a hazard to public health. Secondhand tobacco smoke causes at least 65,000 deaths each year from heart disease and lung cancer according to the National Cancer Institute. Secondhand tobacco smoke causes heart disease, stroke, cancer, sudden infant death syndrome, lo-birth-weight in infants, asthma and exacerbation of asthma, bronchitis and pneumonia in children and adults. Secondhand tobacco smoke is the third leading cause of preventable death in the United States. Illinois workers exposed to secondhand tobacco smoke are at increased risk of premature death. An estimated 2,900 Illinois citizens die each year from exposure to secondhand tobacco smoke.

The General Assembly also finds that the United States Surgeon General's 2006 report has determined that there is no risk-free level of exposure to secondhand smoke; the scientific evidence that secondhand smoke causes serious diseases, including lung cancer, heart disease, and respiratory illnesses such as bronchitis and asthma, is massive and conclusive; separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate secondhand smoke exposure; smoke-free workplace policies are effective in reducing secondhand smoke exposure; and smoke-free workplace policies do not have an adverse economic impact on the hospitality industry.

The General Assembly also finds that the Environmental Protection Agency has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation. Air cleaners, which are capable only of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke. The American Society of Heating, Refrigerating and Air-conditioning Engineers (ASHRAE) based its ventilation standards on totally smoke-free environments because it cannot determine a safe level of exposure to secondhand smoke, which contains cancer-causing chemicals, and ASHRAE acknowledges that technology does not exist that can remove chemicals that cause cancer from the air. A June 30, 2005 ASHRAE position document on secondhand smoke concludes that, at present⁶, the only means of eliminating health risks associated with indoor exposure is to eliminate all smoking activity indoors.

27-15-3 **DEFINITIONS.** For the purposes of this Article, the following terms shall have the following meanings:

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

"Department" means the Department of Public Health.

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

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

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

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

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

"Gaming Facility" means an establishment utilized primarily for the purposes of gaming and where gaming equipment or supplies are operated for the purposes of accruing business revenue.

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

"Place of Employment" means any area under the control of a public or private employer that employees are required to enter, leave, or pass through during the course of employment, including, but not limited to entrances and exits to places of employment, including a minimum distance, as set forth in **Section 27-15-15** of this Article, of **fifteen (15) feet** from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited; offices and work areas; restrooms; conference and classrooms; break rooms and cafeterias; and other common areas. A private residence or home-based business, unless used to provide licensed child care, foster care, adult care, or other similar social service care on the premises, it not a "place of employment".

"Private club" means a not-for-profit association that (1) has been in active and continuous existence for at least **three (3) years** prior to the effective date of this amendatory Act of the 95th General Assembly, whether incorporated or not, (2) is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, (3) is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and (4) only sells alcoholic beverages incidental to its operation. For purposes of this definition, "private club" means an organization that is managed by a board of directors, executive committee, or similar body chosen by the members at an annual meeting, has established bylaws, a constitution, or both to govern its activities, and has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. 501.

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

"Public Place" means that portion of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the State of Illinois, or any other public entity and regardless of whether a fee is charged for admission, including a minimum distance, as set forth in **Section 27-15-15** of this Article, of **fifteen (15) feet** from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. A "public place" does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises. A "public place" includes, but is not limited to, hospitals, restaurants, retail stores, offices, commercial establishments, elevators, indoor theaters, libraries, museums, concert halls, public conveyances, educational facilities, nursing homes, auditoriums, enclosed or partially enclosed sports arenas, meeting rooms, schools, exhibition halls, convention facilities, polling places, private clubs, gaming facilities, all government owned vehicles and facilities, including buildings and vehicles owned, leased, or operated by the State or State subcontract, healthcare facilities or clinics, enclosed shopping centers, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, public restrooms, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, reception areas, and no less than **seventy-five percent (75%)** of the sleeping quarters within a hotel, motel, resort, inn, lodge, bed and breakfast, or other similar public accommodations that are rented to guests, but excludes private residences.

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

"Retail Tobacco Store" means a retail establishment that derives more than **eighty percent (80%)** of its gross revenue from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes,

and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. "Retail tobacco store" does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license.

"Smoke" or "Smoking" means the carrying, smoking, burning, inhaling, or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs, or any other lighted smoking equipment.

"State agency" has the meaning formerly ascribed to it in subsection (a) of Section 3 of the Illinois Purchasing Act (now repealed).

"Unit of local government" has the meaning ascribed to it in Section 1 of Article VII of the Illinois Constitution of 1970.

27-15-4 SMOKING IN PUBLIC PLACES, PLACES OF EMPLOYMENT, AND GOVERNMENTAL VEHICLES PROHIBITED. No person shall smoke in a public place or in any place of employment or within **fifteen (15) feet** of any entrance to a public place or place of employment. No person may smoke in any vehicle owned, leased, or operated by the State or political subdivision of the State. Smoking is prohibited in indoor public places and workplaces unless specifically exempted by **Section 27-15-8** of this Article.

27-15-5 POSTING OF SIGNS; REMOVAL OF ASHTRAYS.

(A) "No Smoking" signs or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in each public place and place of employment where smoking is prohibited by this Act by the owner, operator, manager, or other person in control of that place.

(B) Each public place and place of employment where smoking is prohibited by this Article shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

(C) All ashtrays shall be removed from any area where smoking is prohibited by this Article by the owner, operator, manager, or other person having control of the area.

27-15-6 SMOKING PROHIBITED IN STUDENT DORMITORIES. Notwithstanding any other provision of this Article, smoking is prohibited in any portion of the living quarters, including, but not limited to, sleeping rooms, dining areas, restrooms, laundry areas, lobbies and hallways, of a building used in whole or in part as a student dormitory that is owned and operated or otherwise utilized by a public or private institution of higher education.

27-15-7 DESIGNATION OF OTHER NONSMOKING AREAS. Notwithstanding any other provision of this Article, any employer, owner, occupant, lessee, operator, manager, or other person in control of any public place or place of employment may designate a non-enclosed area of a public place or place of employment, including outdoor areas, as an area where smoking is also prohibited provided that such employer, owner, lessee or occupant shall conspicuously post signs prohibiting smoking in the manner described in **Section 27-15-5(A) and (B)** of this Article.

27-15-8 EXEMPTIONS. Notwithstanding any other provision of this Article, smoking is allowed in the following area:

(A) Private residences or dwelling places, except when used as a child care, adult care, or healthcare facility or any other home-based business open to the public.

(B) Retail tobacco stores as defined in **Section 27-15-3** of this Article in operation prior to the effective date of this amendatory Act of the 95th General Assembly. The retail tobacco store shall annually file with the Department by **January 31st** an affidavit stating the percentage of its gross income during the prior calendar year that was derived from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes, or other smoking devices for smoking tobacco and related smoking

accessories. Any retail tobacco store that begins operation after the effective date of this amendatory Article may only qualify for an exemption if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited.

(C) Private and semi-private rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed or to remain in a room where smoking is permitted and the smoke shall not infiltrate other area of the nursing home.

(D) Hotel and motel sleeping rooms that are rented to guests and are designated as smoking rooms, provided that all smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into nonsmoking rooms or other areas where smoking is prohibited. Not more than **twenty-five percent (25%)** of the rooms rented to guests in a hotel or motel may be designated as rooms where smoking is allowed. The status of rooms as smoking or nonsmoking may not be changed, except to permanently add additional nonsmoking rooms.

27-15-9 **ENFORCEMENT; COMPLAINTS.**

(A) The Department, State-certified local public health departments, and local law enforcement agencies shall enforce the provisions of this Act and may assess fines pursuant to **Section 27-15-10** of this Article.

(B) Any person may register a complaint with the Department, a State-certified local public health department, or a local law enforcement agency for a violation of this Article. The Department shall establish a telephone number that a person may call to register a complaint under this subsection (B).

27-15-10 **VIOLATIONS.**

(A) A person, corporation, partnership, association or other entity who violates **Section 27-15-4** of this Article shall be fined pursuant to this Section. Each day that a violation occurs is a separate violation.

(B) A person who smokes in an area where smoking is prohibited under **Section 27-15-4** of this Article shall be fined in an amount that is not less than **One Hundred Dollars (\$100.00)** and not more than **Two Hundred Fifty Dollars (\$250.00)**. A person who owns, operates, or otherwise controls a public place or place of employment that violations **Section 27-15-4** of this Article shall be fined (i) not less than **Two Hundred Fifty Dollars (\$250.00)** for the first violation, (ii) not less than **Five Hundred Dollars (\$500.00)** for the second violation within **one (1) year** after the first violation, and (iii) not less than **Two Thousand Five Hundred (\$2,500.00)** for each additional violation within **one (1) year** after the first violation.

(C) A fine imposed under this Section shall be allocated as follows:

- (1) **one-half (1/2)** of the fine shall be distributed to the Department; and
- (2) **one-half (1/2)** of the fine shall be distributed to the enforcing agency.

27-15-11 **INJUNCTIONS.** The Department, a State-certified local public health department, local law enforcement agency, or any individual personally affected by repeated violations may institute, in a circuit court, an action to enjoin violations of this Article.

27-15-12 **DISCRIMINATION PROHIBITED.** No individual may be discriminated against in any manner because of the exercise of any rights afforded by this Article.

27-15-13 **SEVERABILITY.** If any provision, clause or paragraph of this Article shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect the other provisions of this Article.

27-15-14 **HOME RULE AND OTHER LOCAL REGULATIONS.**

(A) Any home rule unit of government, and any non-home rule municipality, or any non-home rule county within the unincorporated territory of the county may regulate smoking in public places, but that regulation must be no less restrictive than this Article. This subsection (A) is a limitation on the concurrent exercise of home rule power under subsection (i) of the Section 6 of Article VII of the Illinois Constitution.

(B) In addition to any regulation authorized under subsection (A) or authorized under home rule powers, any home rule unit of local government, any non-home rule municipality, or any non-home rule county within the unincorporated territory of the county may regulate smoking in any enclosed indoor area used by the public or serving as a place of work if the area does not fall within the definition of a "public place" under this Article.

27-15-15 **ENTRANCES, EXITS, WINDOWS, AND VENTILATION INTAKES.** Smoking is prohibited within a minimum distance of **fifteen (15) feet** from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited under this Article so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means.

27-15-16 **RULES.** The Department shall adopt rules necessary for the administration of this Article.

27-15-17 **AMENDMENT.** The State Mandates Act is amended by adding section 8.31 as follows: (30 ILCS 805/8.31 new)

Sec. 8.31. Exempt mandate. Notwithstanding Section 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 95th General Assembly.

(410 ILCS 80/Act rep.)

Section 90. The Illinois Clean Indoor Air Act is repealed.

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Statutes amended in order of appearance.

New Act

30 ILCS 805/8.31 new

410 ILCS 80/Act rep.

(Ord. No. 07-65; 12-10-07)