

CHAPTER 43
OFFENSES AGAINST PUBLIC PEACE,
SAFETY AND MORALS

43.01 DISORDERLY CONDUCT. No person shall engage in disorderly conduct in the Village. A person commits disorderly conduct when he/she knowingly:

- A. Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace;
- B. Transmits in any manner to the fire department of any city, town, village or fire protection district a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists;
- C. Transmits in any manner to another a false alarm to the effect that a bomb or other explosive of any nature is concealed in such place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb or explosive is concealed in such place;
- D. 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.
- E. Any offense arising under this Section 43.01, for which a specific penalty is not stated may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class C violation in Chapter 1.07-E.

43.02 RESISTING OR OBSTRUCTING A PEACE OFFICER. No person shall resist or obstruct a peace officer in the Village. A person who knowingly resists or obstructs the performance by one known to the person to be a peace officer of any authorized act within his official capacity commits the offense of resisting or obstructing a peace officer. Any offense arising under this Section 43.02, may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class D violation in Chapter 1.07-E.

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

- A. Causes bodily harm to an individual;
- B. Make physical contact of an insulting or provoking nature with an individual.
- C. Any offense arising under this Section 43.03, may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class D violation in Chapter 1.07-E.

43.04 ASSAULT. No person shall commit an assault in the Village. A person commits an assault when, without lawful authority, he/she engages in conduct which places another in reasonable apprehension of receiving battery. Any offense arising under this Section 43.04, may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class C violation in Chapter 1.07-E.

43.05 FIREARMS.

A. Except as provided herein, the discharge of any firearm or hunting in the Village is prohibited:

1. For purposes of this Section 43.05, the term “slug” is a solid projectile including but not limited to a bullet.
2. No person shall discharge any firearms within the Village. In addition to those firearms defined by the Illinois Compiled Statutes, for purposes of this section, firearms shall include pump air rifles, potato guns, CO2 pellet guns and any other device capable of discharging a projectile if used with intent to inflict harm to person or property or to assault or threaten harm to a person or property or when used in a reckless manner. It shall be unlawful to discharge any firearm or airgun, BB gun, or any toy gun, projecting lead or any missiles except in a regularly established shooting gallery within the Village of Johnsburg, provided that this section shall not be construed to prohibit any officer of the law from discharging a firearm in the performance of his/her duty, nor to any citizen from discharging a firearm when lawfully defending person or property.
2. Hunting and target or skeet shooting is permitted in the Village only when permission has been granted by the property owner on whose land such activity occurs. Such hunting and shooting is limited to land that is zoned A-1 or A-2 Agricultural District from sunrise to sunset. It shall also be unlawful under this ordinance for any person to discharge any firearm for any purposes within 300 yards of a school, park, place of gathering, commercial district or an inhabited dwelling without first obtaining written permission from the owner and tenant of such adjacent properties pursuant to 520 ILCS 5/2.33(u).
3. Shotgun ammunition which discharges 21 projectiles or less in a single discharge, including all types of slugs, is prohibited in the Village, except when used for hunting purposes.
4. This Section shall not apply to:
 - a. Peace officers in the line of duty;
 - b. Any citizen discharging a firearm when lawfully defending person or property;
 - c. The discharge of starter pistols at sporting events;
 - d. The discharge of nail guns or other devices used by contractors in the performance of a construction project;
 - e. The discharge of firearms in military and funeral ceremonies;
 - f. Animal training devices used by animal trainers;

- g. Thunder cannons and devices used to disperse animals and birds; and
- h. Weapons that fire only non-projectile charges and pellets.

**B. Discharge of bows and arrows and crossbows prohibited within the Village limits of
Johnsburg, Illinois;**

(1) Definitions:

Bow and arrows shall mean a bow and arrow combination that requires completely manual operation without any means to cock the weapon. This definition excludes bow and arrow combinations considered as toys and intended to release arrows incapable of penetrating a target or other surface.

Crossbow shall mean a traditional crossbow utilizing a mechanism wherein the weapon can be cocked and left in a stable state until it is subsequently released or fired at a later time via a trigger mechanism.

(2) It shall be unlawful for any person within the Village Limits to discharge any bow and arrow or crossbow unless that person complies with the following regulations and in either subsections 41-6 (C) or 41-6(D).

(a) It shall be unlawful for any person to discharge any type of bow and arrow or crossbow within Johnsburg Village Limits in a manner that endangers persons or property.

(b) It shall be unlawful for any person to discharge any type of bow and arrow or crossbow in such a manner that causes, or reasonably could cause, the arrow or bolt to land on any property other than the property on which the arrow or bolt was discharged, unless written permission is granted by the impacted property owner(s) and where the target and shooter are at least one hundred (100) yards from the nearest habitable dwelling.

(c) It shall be unlawful to use and/or discharge any type of bow and arrow or crossbow on public property unless authorized by the Johnsburg Village Board.

(3) The use of any type of bow and the discharge of target arrows is permitted within Johnsburg Village Limits for the purpose of target shooting. Any person who participates in target shooting pursuant to this subsection shall abide by subsection 43.05.01(B) and the following rules:

(1) It shall be unlawful for any person fifteen (15) years of age or younger to participate in target shooting unless under the direct supervision and control of a parent or legal guardian.

(2) It shall be unlawful for any person who participates in target shooting pursuant to this subsection to discharge a broad-head or any type of hunting arrow.

(4) The use of longbow, re-curve and/or compound bows, or crossbows, and the discharge of broad-head or other hunting arrows or bolts is permitted within Johnsburg

Village Limits for the purpose of taking game as regulated by the Illinois Department of Natural Resources and with the written permission of the property owner. Hunting using bows and arrows or crossbows shall be limited to land that is zoned A-1 or A-2 Agricultural District from sunrise to sunset pursuant to Chapter 22.10A1 thru 10A.2, Zoning, and subject to the provisions of subsection 43.05.01(B).

C. Any violation of this Section may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class D violation in Section 1.07-E of this Code.

43.06 WEAPONS.

- A. Unless authorized by law, no person shall wear under his/her clothing, or conceal about his/her person, or display in a threatening-like manner, any dangerous or deadly weapon including, but not limited to, any pistol, revolver, rifle, shotgun, sling shot, knuckles, any bowie or similar knife, or any knife with a switchblade or device whereby the blade or blades can be opened by a button, pressure on the handle or other mechanical contrivance.
- B. No person shall sell, give or transfer any such weapon or firearm to any minor person under the age of 18 unless authorized by law and No person shall sell, give or transfer any such handgun or pistol to any minor person under the age of 21 unless authorized by law.
- C. Any offense arising under this Section 43.06, may be settled and compromised by the offender by payment to the Village the sum - \$750.00.
- D. A minor under the age of 21 shall not be in possession of or carry about his person on school grounds any concealed pistol, switchblade, knife of any size blade, razor, slingshot, metal knuckles or any other weapon or thing of deadly character unless authorized by law.

43.07 FIREWORKS.

- A. The term fireworks shall mean and include any explosive composition or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect of a temporary exhibition nature by explosion, combustion, deflagration or detonation, and shall include blank cartridges, toy cannons in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, sky rockets, Roman candles, bombs or other fireworks of like construction and any fireworks containing any explosive compound; or any tablets or other device containing any explosive substance, or containing combustible substances producing visual effects. The term "fireworks" shall not include snake or glow worm pellets; smoke devices, sparklers, "booby traps", "snappers", "trick matches", "cigarette loads" and "auto burglar alarms", toy pistols toy canes, toy guns, or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive compound are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for the explosion; and toy pistol paper or plastic cap which contain less than twenty-

five hundredths grains of explosive mixture; the sale and use of which shall be permitted at all times.

No person shall sell, offer for sale, use or explode any fireworks in the Village except the Board of Trustees may grant a permit for a public display of fireworks under such conditions as it may impose under the provisions of Chapter 127 1/2, Section 128 of the Illinois Revised Statutes.

- B. Any offense arising under this Section 43.07, may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class C violation in Chapter 1.07-E.

43.08 FIRES. See Chapter 20.

43.09 BARBED WIRE FENCES. No person shall maintain any fence containing barbed wire along or near any public sidewalk. Any offense arising under this Section 43.09, may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class B violation in Chapter 1.07-E.

43.10 NOISE. No person shall disturb the peace and quiet of any other person by creating excessive noise on his or any property. Excessive noise shall include but, not by way of limitation, any of the following:

- A. Loud playing of phonographs, radios, television sets, or music machines, or musical instruments.
- B. Barking or howling dogs and cats.
- C. Vehicles without mufflers, or the unnecessary use of horns on vehicles.
- D. No construction shall take place between the hours of 8:00 p.m. and 7:00 a.m. the following day with the exception that said construction shall not begin before 8:30 a.m. on Sundays.
- E. The use of any power lawn mower, or other noisy machine between the hours of 8:00 p.m. and 7:00 a.m. the following day with the exception that use of said equipment or other motorized machines shall not begin before 8:30 a.m. on Sundays. Upon periods where there is greater than 2 inches of accumulation of snow on the ground, snow blowers may be utilized except between the hours of midnight – 5:00 a.m.
- F. Any offense arising under this Section 43.10, may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class B violation in Chapter 1.07-E.

- G. Noise emanating from any outdoor activity, including but not limited to, outdoor gathering of persons, shall not violate any of the provisions of this or any other Village code and must cease no later than 11:00 p.m.

43.11 DAMAGING PROPERTY. No person shall damage, destroy or deface any village property or any public or private property without permission of the owner. Any offense arising under this Section 43.11, may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class D violation in Chapter 1.07-E.

43.12 LITTERING. No person shall litter any public or private property with paper or other debris or foreign matter. Any stored or transported materials susceptible to blowing or scattering shall be adequately covered or protected to prevent littering. Any offense arising under this Section 43.12, may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class B violation in Chapter 1.07-E.

43.13 TRESPASSES.

- A. Prohibited. It shall be unlawful for any person to commit a trespass within this Village upon either public or private property.
- B. Specifically Enumerated Trespasses; Suppression. Without constituting any limitation upon the provisions of this section, any of the following acts by any person shall be deemed included among those that constitute trespasses in violation of the provisions of this section, and appropriate action may be taken hereunder at any time, or from time to time, to prevent or suppress any violation or violations of this section, the aforesaid enumerated acts so included, being as follows, to-wit:
1. Any entry upon the premises, or any part thereof, of another, including any public property in violation of a notice posted or exhibited at the main entrance to such premises or at any point of approach or entry or in violation of any notice, warning or protest given orally or in writing, by any owner or occupant thereof; or
 2. The pursuit of a course of conduct or action incidental to the making of any entry upon the land of another in violation of a notice posted or exhibited at the main entrance to such premises or at any point of approach or entry, or in violation of any notice, warning or protest given orally or in writing by any owner or occupant thereof; or
 3. A failure 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
 4. An entry into or upon any vehicle, aircraft or watercraft made without the consent of the person having the right to the possession or control thereof, or a failure or refusal to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such rights.

- C. Any offense arising under this Section 43.13, may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class D violation in Chapter 1.07-E.

43.14 COMBUSTIBLE REFUSE. See Chapter 20.04-B

43.15 PARADES AND DEMONSTRATIONS.

- A. No person shall participate in or promote any parade or demonstration on any street or other public property unless a permit therefore has been issued by the Village.
- B. Application for such permit shall be made at least seventy-two (72) hours before the event and shall provide such information as the Village shall require for proper protection of the public.
- C. No such parade or demonstration shall be held during the nighttime or in any such manner as to obstruct the orderly use by the public of any street or public place.
- D. The Village may issue such permit subject to such reasonable restrictions as he/she shall deem necessary to safeguard the residents of the Village and to protect private and public property.
- E. Any offense arising under this Section 43.15, may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class B violation in Chapter 1.07-E.

43.16 BATHING. It shall be unlawful for any person to bathe at any public place, or in any place open to public view, unless such person is adequately or decently clothed or garbed in a bathing suit. It shall be unlawful for any person to robe or disrobe at any public place or in any place open to public view, or to change clothing, or to change into or out of a bathing suit in a manner or act of public indecency to lewd exposure of the body done with intent within the corporate limits of the Village.

Any offense arising under this Section 43.16, may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class B violation in Chapter 1.07-E.

43.17 CURFEW.

- A. It is unlawful for a person less than 17 years of age to be present at or upon any public assembly, building, place, street or highway at the following times:
1. Between 12:01 a.m. and 6:00 a.m. Saturday;
 2. Between 12:01 a.m. and 6:00 a.m. Sunday;

3. Between 11:00 p.m. on Sunday to Thursday, inclusive, and 6:00 a.m. on the following day.
- B. It shall not be a violation under this Chapter if the child engaged in the prohibited conduct was:
1. Engaged in a business or occupation which the laws of the State of Illinois authorize a person less than 17 years of age to perform.
 2. Accompanied by the child's parent, legal guardian, custodian, sibling, stepbrother or stepsister at least 18 years of age.
 3. Accompanied by an adult at least 18 years of age who has been approved by the child's parent, guardian or custodian.
 4. Participating in, going to or returning from:
 - (a) employment which the laws of this state authorize a person less than 17 years of age to perform;
 - (b) a school recreational activity;
 - (c) a religious event;
 - (d) An emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;
 - (e) an activity involving the exercise of the child's rights protected under the First Amendment to the United States Constitution or Article 1, Sections 3, 4 and 5 of the Constitution of the State of Illinois, or both;
 - (f) An activity conducted by a non-profit or governmental entity that provides recreation, education, training, or other care under the supervision of one or more adults.

A citation for violation of subsection A of this Section may be issued by a Police Officer only if he/she reasonably believes that a violation has occurred and none of the factors enumerated in subsection B apply.

- C. Penalty. Any offense arising under this Section 43.17 may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class B violation in Chapter 1.07-E herein.

43.18 PARENTAL RESPONSIBILITY.

- A. Definition. As used in this section of the Municipal code unless the context otherwise requires, the terms have the meanings ascribed to them:
1. "Legal Guardian" means a person appointed guardian or given custody of a minor by a Circuit Court of the State, but does not include a person appointed guardian or given custody of a minor under the "Juvenile Court Act", Chapter 37, 701-1 et seq. Illinois Revised Statutes 1975, as amended.
 2. "Minor" means a person who is above the age of eleven years but not yet nineteen (19) years of age.

- B. It shall be unlawful for any parent or legal guardian of an unemancipated minor who resides with such parent or legal guardian to fail to pay for actual damages for the willful or malicious acts of such minor which cause injury to a person or to property.
- C. A parent or legal guardian of an unemancipated minor who resides with such parent or legal guardian shall be liable for actual damages caused by said minor and shall be presumed to have failed to exercise proper parental responsibility and said minor shall be deemed to have acted with the knowledge and permission of the parent or guardian in violation of this Ordinance whenever:
 - 1. Said minor shall be adjudged to be in violation of any Ordinance, Law or Statute prohibiting willful and malicious acts which cause injury to a person or property.
 - 2. Said parent or legal guardian shall have served upon them a notice in writing that said minor has received a non-judicial sanction from the Village of Johnsburg Police Department or other governmental agency as a result of an admission of guilt by said minor of a violation of an Ordinance, Law or Statute prohibiting willful and malicious acts which caused injury to a person or property and subsequent to receipt of said notice said minor is adjudicated to be in violation of an Ordinance, Law or Statute or receives a non-judicial sanction from any governmental agency as a result of an admission of guilt by said minor in violation of an Ordinance, Law or Statute.
- D. Recovery of damages shall be pursuant and limited to an amount provided by Chapter 70, Parental Responsibility Law, Section 55, Limitation of Damages - Damages Allowable, Illinois Revised Statutes, 1975, as amended.
- E. This Ordinance shall not affect the recovery of damages in any other cause of action where the liability of the parent or legal guardian is predicated on a common law basis.

43.19 ROLLER SKATES, STREET SKATES, SKATEBOARDS, BICYCLES AND UNLICENSED MOTORIZED VEHICLES REGULATED.

- A. No person shall roller skate, ride a skateboard, ride a bicycle, ride a scooter or operate any type of unlicensed motorized vehicle anywhere within the municipal boundaries of the Village of Johnsburg without complying with the terms of this Ordinance. As used herein, to "roller skate" shall mean to skate on any type of roller skates or street skates. "Unlicensed Motorized Vehicles" shall include, but are not limited to, any motorized scooter, ATV, motorbike, and snowmobile.
- B. Streets/Sidewalks: No person shall roller skate, ride a skateboard or ride a bicycle in a reckless manner on any public street or sidewalk without exercising due care for the safety of other persons using the street, or sidewalk; and/or vehicles utilizing the public streets. The use of unlicensed and licensed motorized vehicles on any sidewalk is prohibited except for law enforcement use.

- C. Unauthorized Use or Private Parking Areas: No person shall roller skate, ride a skateboard, ride a bicycle, ride a scooter, or operate any unlicensed motorized vehicle on privately owned property unless said person shall have the permission of the owner of the property. Commercial establishments with public parking areas may post their public parking areas as "No Skateboarding, Roller Skating, Bicycle Riding or Operating unlicensed Motorized Vehicles" and said posting shall act as notice to all persons that skateboarding, roller skating, bicycle riding and operating unlicensed motorized vehicles are hereby prohibited without written permission by the owner and at their own risk.
- D. Notification: Any person or entity owning or operating a public or private area may notify the police to remove or cause to be removed any person roller skating, skateboarding, riding a bicycle or operate any unlicensed motorized vehicle on their property.
- E. Settlement of Offense: Any offense arising under this Section 43.19, may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class B violation in Chapter 1.07-E.

43.20 POSSESSION AND USE OF BEEDI CIGARETTES, E-CIGARETTES/VAPING DEVICES, SMOKING HERBS, TOBACCO ACCESSORIES, SMOKELESS TOBACCO, LIQUID/SYRUP PRODUCTS CONTAINING NICOTINE, NICOTINE POUCHES, NICOTINE INFUSED OR SUBSTANCE

- A. Definitions: Terms used in this Section 43.20 are defined as follows:

Beedi cigarette: a product that contains tobacco that is wrapped in temburni or tendu leaf or that is wrapped in any other material identified by rules of the Illinois Department of Public Health that is similar in appearance or characteristics to the temburni or tendu leaf.

E-Cigarettes: A cigarette-shaped device containing a nicotine-based liquid that is vaporized and inhaled, used to simulate the experience of smoking tobacco.

Vaping Devices: Devices which produce an aerosol by heating a liquid/syrup usually containing Nicotine. Smoking herbs: all substances of plant origin and their derivatives, including but not limited to broom, calea, California poppy, damiana, hops, ginseng, lobelia, jimson weed and other members of the Datura genus, passion flower and wild lettuce, which are processed or sold primarily for use as smoking materials.

Smokeless tobacco: any finely cut, ground, powdered or leaf tobacco that is intended to be placed in the oral cavity; any tobacco product that is suitable for dipping or chewing.

Tobacco accessories: cigarette papers, pipes, holders of smoking materials of all types, cigarette rolling machines and other items, designed primarily for the smoking or ingestion of tobacco products or of substances made illegal under any statute or of substances whose sale, gift, barter or exchange is unlawful.

Tobacco products: cigars, cigarettes, smokeless tobacco or tobacco.

Liquid/Syrup products containing Nicotine: products designed for use in vaping devices that by design convert the liquid/syrup to an aerosol that provides for ingestion of the Nicotine through the mouth or nose.

Nicotine Pouches: pouches or similar products containing Nicotine primarily for oral ingestion which contain no tobacco leaf.

B. Purchase and Use of Tobacco Products Prohibited:

1. No person under 21 years of age shall purchase any tobacco/Nicotine product in any of its forms. No person shall sell, purchase for, distribute samples of or furnish any tobacco/Nicotine product in any of its forms to any person under 21 years of age. Tobacco/Nicotine products may be sold through a vending machine only when such tobacco/Nicotine products are not sold along with non-tobacco/non-Nicotine products in the vending machine and only in the following locations:

a. Factories, businesses, offices, private clubs and other places not open to the general public.

b. Places to which persons under 21 years of age are not permitted access.

c. Places where alcoholic beverages are sold and consumed on the premises.

d. Places where the vending machine is under the direct supervision (the owner or employee has an unimpeded line of sight to the vending machine) of the owner of the establishment or an employee over 21 years of age. The sale of tobacco/Nicotine products from a vending machine under direct supervision of the owner or an employee of the establishment is considered a sale of tobacco/Nicotine products by that person.

e. Places where the vending machine can only be operated by the owner or an employee over age 21 either directly or through a remote control device if the device is inaccessible to all customers.

2. Penalty: Any person violating any provision of this Section 43.20-B is guilty of a petty offense and for the first offense shall be fined \$200, \$400 for the second offense in a 12-month period, and \$750 for the third or any subsequent offense in a 12-month period and be responsible for the Village's cost of prosecution, including reasonable attorney fees.

C. Possession of Tobacco Products:

1. No person under 21 years of age shall possess any tobacco/Nicotine product in any of its forms.

2. Penalty: If a minor (17 years of age or under) violates this Section 43.20-C the minor shall be guilty of a petty offense and may be fined Class A fine and be sentenced to 15 hours of community service for the first offense. If a second violation occurs within a 12-month period after the first offense the fine shall be Class B fine and 25 hours of community service. For a third or subsequent violation that occurs within a 12-month period after the first offense, the fine shall be Class C fine and 40 hours of community service. If there is a second or subsequent violation not within a 12-month time period after the first violation, a fine of Class B fine and 15 hours of community service shall be assessed. For any violation the violator shall be responsible for the Village's cost of prosecution, including reasonable attorney fees

D. Tobacco Accessories and Smoking Herbs:

1. Sale to Persons under 21 years of age Prohibited: No person shall knowingly sell, barter, exchange, deliver or give away or cause or permit or procure to be sold, bartered, exchanged, delivered or given away tobacco accessories or smoking herbs to any person under 21 years of age.

2. Sale of Beedi Cigarettes: No person shall knowingly sell, barter, exchange, deliver or give away a Beedi cigarette to another person, nor shall a person cause or permit or procure a Beedi cigarette to be sold, bartered, exchanged, delivered or given away to another person.

3. Sale of Cigarette Paper: No person shall knowingly offer, sell, barter, exchange, deliver or give away cigarette paper or cause, permit or procure cigarette paper to be sold, offered, bartered, exchanged, delivered or given away except from premises or an establishment where other tobacco products are sold.

4. Sale of Cigarette Paper from Vending Machines: No person shall knowingly offer, sell, barter, exchange, deliver or give away cigarette paper or cause, permit or procure cigarette paper to be sold, offered, bartered exchanged, delivered or given away by use of a vending or coin-operated machine or device. For purposes of this Section 43.20-D4, cigarette paper shall not include any paper that is incorporated into a product to which a tax stamp must be affixed under the Cigarette Tax Act (35 ILCS 130/1 et seq.) or the Cigarette Use Tax Act (35 ILCS 135/1 et seq.).

5. Use of Identification Cards: No person in the furtherance or facilitation of obtaining smoking accessories and smoking herbs shall display or use a false or forged identification card or transfer, alter or deface an identification card.

6. Warning to Minors: Any person, firm, partnership, company or corporation operating a place of business where Nicotine products, tobacco accessories, and smoking herbs are sold or offered for sale shall post in a conspicuous place upon the premises a sign which there shall be imprinted the following statement: "NICOTINE PRODUCTS, SALE OF

TOBACCO ACCESSORIES, AND SMOKING HERBS TO PERSONS UNDER 21 YEARS OF AGE OR THE MISREPRESENTATION OF AGE TO PROCURE SUCH A SALE IS PROHIBITED BY LAW.” The sign shall be printed on a white card in red letters at least one-half inch in height.

7. Penalty:

- a. Except for Section 43.20-D2, any person who knowingly violates or shall knowingly cause the violation of any provision of this Section 43.20-D shall be guilty of a Class C misdemeanor and shall be fined pursuant to 730 ILCS 5/5-4.5-65(e). In addition, the violator shall be responsible for the Village’s cost of prosecution, including reasonable attorney fees.
- b. Any person who knowingly violates or shall knowingly cause the violation of Section 43.20-D2 shall be guilty of a petty offense for which the offender shall be fined as follows: for the first offense, not less than \$200 or more than \$400, for a second offense within a 2-year period, not less than \$200 or more than \$750, and for a third or subsequent offense within a 2-year period, not less than \$400 or more than \$750. In addition, the violator shall be responsible for the Village’s cost of prosecution, including reasonable attorney fees.

E. Retailers and their employees are required:

1. To check a photo identification showing a date of birth of anyone under the age of 27 before selling tobacco products.
2. To sell tobacco/Nicotine products only in a direct, face-to-face exchange.
3. Not to sell or distribute individual cigarettes or samples of cigarettes except in the original packaging, and no package shall contain less than 20 cigarettes.
4. To only accept coupons for redemption from adults (21 years of age or older) at the store, not through the mail.
5. To have all tobacco/Nicotine advertisements and promotional material that have any pictures or colors removed. Only advertisements or material with black text on a white background are allowed. (Exception: inside places that never have anyone under the age of 21 present, pictures or colors are permitted if the advertisements are not visible from the outside and cannot be removed.)
6. To have all outdoor advertisements and promotional material (including on store windows) that are within 1,000 feet of a school or public playground removed. Beyond 1,000 feet, only ads or material with black text on a white background are allowed.

7. Not to give hats, t-shirts or any other gift items to anyone in exchange for a tobacco proof-of-purchase or as part of the sale of tobacco products.

43.21 FALSE ALARMS.

A. Definitions: Terms used in this section shall mean as follows:

Alarm Business: Any business operated by a person who is engaged in the activity of altering, installing, leasing, maintaining, moving, repairing, replacing, selling, servicing or responding to an emergency alarm system, or which causes any of these activities to take place.

Alarm Detection System: An assembly of equipment arranged to signal the presence of a hazard requiring urgent attention to which the police or fire/ambulance service departments are expected to respond.

Alarm User: Any person or business on whose premises an alarm system is maintained other than alarm systems on a motor vehicle.

B. Registration: Any person who desires to install or continue use of an emergency alarm system, including on-premises alarm systems, shall register with the Police Department each alarm system installed. Each application, which shall be provided by the Police Department, shall be signed by the applicant and shall include, among other things, the following:

1. Name, address and telephone number of the establishment where the alarm is located;
2. Name, address and telephone number of the owner or manager;
3. Business hours of the establishment;
4. List of persons authorized access to the establishment during non-business hours;
5. Procedure to be followed in the event of an alarm;
6. Emergency call list of personnel to notify in the event of an alarm;
7. Description and location of the alarm on the premises; and
8. The name and address of the Alarm Business monitoring or maintaining the alarm.

Any changes to the information on the application shall be reported, in writing, to the Police Department within 30 days of any change.

- C. Automatic Dialer Alarms: Automatic dialer alarms that dial directly into the Police Department are not allowed to be used within the corporate limits of the Village, with the exception of those used by the Village.
- D. Audible Alarms: Any alarm that emits an audible alarm is required to have a cut-off timer that will shut the alarm off automatically after 15 minutes and remain off until manually reset.
- E. False Alarm: Any person owning or leasing an alarm system that transmits an alarm activation shall be deemed to have transmitted a false alarm and be in violation of this section if that person's alarm system transmits more than five false alarms within any 12-month period. For purposes of determining guilt under this section, a person's knowledge and intent are not elements of this offense.

A false alarm is the activation of an alarm system through mechanical or electronic failure, malfunction, improper installation or the negligence of the owner or lessee of an alarm system of his employees or agents, except that the following shall not be considered false alarms:

1. Alarms occurring on a repeated basis without apparent cause within the first 30 days after installation of the Alarm Detection System, and where continuous effort, in the opinion of the Police Administrator, is being made jointly by the Alarm User, the Alarm Business and any other concerned person to correct the malfunction expeditiously.
 2. Alarms caused by actual illegal entry or attempted entry of which there is visible evidence.
 3. Alarms caused by an on-premises fire.
 4. Alarms intentionally caused by a person acting under a reasonable belief that a need exists to call the police or fire/ambulance department.
 5. Alarms caused by tornadoes, earthquakes, major floods or other natural disaster or conditions.
- F. Any offense arising under this Section 43.21, may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class B violation in Chapter 1.07-E.

43.22 GRAFFITI.

- A. For purposes of this subsection, the term "graffiti" shall mean any symbol, announcement, insignia, name identification, inscription, picture, or similar marking, including without limitation any letter, word, numeral, emblem or combination thereof, that is painted, writ-

ten, drawn, scratched or in any other way placed on any wall, fence, sign, building or other structure, or any sidewalk, pavement, post, stone, tree or other real or personal property, private or public, except as specifically permitted by Village code, ordinance or regulation.

- B. Graffiti Prohibited: It is hereby declared unlawful and a public nuisance for any person to place graffiti on any property and for any owner or person having control of any property to allow, permit or otherwise tolerate the graffiti to be placed or to remain on that property.
- C. Duty to Remove Graffiti: Every owner of property or person having control of property shall, at his or her own expense, properly remove, cover or otherwise eradicate any graffiti which is placed on that property.
- D. Settlement of Offense: Any person who fails to remove graffiti as required in Section 43.22-C within 14 days after written notification from the Village to remove such graffiti shall be fined the sum of money stated for a Class C violation in Chapter 1.07-E for each offense plus the Village's costs of prosecution. A separate offense shall be deemed to have been committed for each day on which a violation occurs or continues after such initial notice has been given.
- E. Village Remedies: In addition to assessing the penalty provided in Section 43.22-D, and if the owner of property or the person having control of property fails to take action required by said Section 43.22-D within 30 days after written notification from the Village to remove such graffiti, then the Village may take all such steps as are necessary to remove such graffiti. Such steps may include, without limitation, all action necessary to remove, cover or otherwise eradicate the graffiti, and may also include action for an injunction requiring such owner or person to remove the graffiti within a time period determined by a court of competent jurisdiction.
- F. Remedies Against Perpetrator: The Village's exercise of the remedies provided in this Section 43.22 shall not prevent the owner of the property from recovering, through civil suit or otherwise, the cost of removal of graffiti or other reparation for damage from the person or persons responsible for placing the graffiti on such owner's property.

All costs incurred by the Village in taking any action pursuant to Section 43.22-E shall be borne by the owner of the property or the person having control of the property. If such owner or person fails to reimburse the Village for costs necessary to abate the nuisance within 30 days after the Village issues an invoice for such costs, then such costs shall become a lien on the property and the Village may perfect such lien with the McHenry County Recorder of Deeds and take all such action as may be necessary to foreclose and collect on such lien.

- G. Liability of Parent or Legal Guardian of Minor Defendant: The parent or legal guardian of a minor defendant who resides with such parent or legal guardian shall be liable for any fine or condition of restitution or reparation imposed by a court upon a minor for violation

of Section 43.22, provided that the minor has not paid said fine or made restitution or reparation within the time that said parent or legal guardian has been served with summons or notice to appear in the original cause and all proceedings thereafter as provided by law.

43.23 DEFECATION OR URINATION IN PUBLIC. It shall be unlawful for any person to defecate or urinate in public on any public or private property. Any offense arising under this Section 43.23, may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class C violation in Chapter 1.07-E.

43.24 DRUG PARAPHERNALIA

A. **DEFINITIONS:** For the purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Cocaine Spoon. A spoon with a bowl so small that the primary use for which it is reasonably adapted or designed is to hold or administer cocaine, and which is so small as to be unsuited for the typical, lawful uses of a spoon. A cocaine spoon may or may not be merchandised on a chain and may or may not be labeled as a “cocaine” spoon or “coke” spoon.

Control Substance. Any drug, substance, or immediate precursor enumerated in 720 ILCS 570/203 and 204, 205 and 206, 207, 207 and 208, 209 and 210, 211 and 212 (Scheds. 1-5) as amended (commonly known as the Controlled Substances Act).

Drug Paraphernalia. All equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance as defined in 720 ILCS 570/203 and 204, 205 and 206, 207, 207 and 208, 209 and 210, 211 and 212 (Scheds. 1-5) as amended, or cannabis as defined in 720 ILCS 550/3 *et seq.*, as amended.

1. It includes, but is not limited to:
 - a. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
 - b. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substance;
 - c. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;

- d. Testing equipment used, intended for use or designed for use in identifying, or in analyzing the strength effectiveness or purity of controlled substances;
 - e. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;
 - f. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances;
 - g. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in packaging small quantities of controlled substances;
 - h. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;
 - i. Containers and other objects used, intended for use or designed for use in ingesting, inhaling, or otherwise introducing , cocaine into the human body.
2. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:
- a. Statements by an owner or by anyone in control of the object concerning its use;
 - b. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substances;
 - c. The proximity of the object, in time and space, to a direct violation of this subchapter;
 - 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 of anyone in control of the object, to deliver it to persons whom he knows intend to use the object to facilitate a violation of this subchapter. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this subchapter shall not prevent a finding that the object is intended for use, 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 its use;
- j. The manner in which the object is displayed for sale;
- k. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- l. The existence and scope of legitimate uses for the object in the community; and
- m. Expert testimony concerning its use.

B. PROHIBITIONS.

- 1. It shall be unlawful for any person to sell, offer for sale, display, possess, furnish, supply or give away any cocaine spoon, or any drug paraphernalia except as permitted in the Cannabis Regulation and Tax Act and the Compassionate Use of Medical Cannabis Program Act.
- 2. The prohibition contained in this section shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropractors, veterinarians, pharmacists, or embalmers in the normal lawful course of their respective businesses or professions, nor to public officers or employees which engaged in the performance of their official duties, nor to persons suffering from diabetes, asthma, or any other medical condition requiring self-injection.
- 3. Construction; Severability. It is the legislative intent that all provisions and section, clauses and sentences of the Ordinance be liberally construed, and should any provision, section, clause or sentence be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions, sections, clauses, or sentences, it being the intent that this Ordinance shall stand notwithstanding the validity of any provision, section, clause or sentence.
- 4. Settlement of Offense: Any offense arising under this Section 43.24, may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class D violation in Chapter 1.07-E.

43.25 POSSESSION OF CANNABIS

- A. DEFINITIONS: For purposes of this Section, cannabis is defined as in 720 ILCS 550/3(a), as amended.

B. POSSESSION PROHIBITED: It shall be unlawful for any person who is under the age of 21 to possess any substance containing cannabis within the corporate limits of the Village. Further, it shall be unlawful for any person to possess any substance containing cannabis within the corporate limits of the Village in the following circumstances:

1. in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;
2. on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;
3. in any correctional facility;
4. in a vehicle not open to the public unless the cannabis is in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving;
5. in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;
6. in any part of a building owned in whole or in part, or leased, by the Village; or
7. in any other manner prohibited by state statutes, as they may be amended from time to time.

C. POSSESSION LIMITED:

1. Other than as set forth in Section 43.25-B, it shall be unlawful for any person who is 21 years of age or older and a resident of the State of Illinois to cumulatively possess within the corporate limits of the Village:
 - (i) more than 30 grams of cannabis flower;
 - (ii) more than 500 milligrams of THC contained in a cannabis-infused product; or,
 - (iii) more than 5 grams of cannabis concentrate.

Notwithstanding the foregoing, it shall not be unlawful for registered qualifying patients under the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 *et seq.*) to possess more than 30 grams of any cannabis produced by cannabis plants grown under 10-5(b) of the Cannabis Regulation and Tax Act, provided any amount of cannabis produced in excess of 30 grams of raw cannabis or its equivalent must remain secured within the residence or residential property in which it was grown.

2. Other than as set forth in Section 43.25-B, it shall be unlawful for any person who is 21 years of age or older and not a resident of the State of Illinois to cumulatively possess within the corporate limits of the Village:
 - (i) more than 15 grams of cannabis flower;
 - (ii) more than 250 milligrams of THC contained in a cannabis-infused product; or,

(iii) more than 2.5 grams of cannabis concentrate.

- D. **CULTIVATION PROHIBITED:** It shall be unlawful for i) any person who is under the age of 21, or ii) any person who is 21 years of age or older and not a registered qualifying patient under the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 *et seq.*), to cultivate cannabis plants within the corporate limits of the Village. Further, it shall be unlawful for any person to cultivate cannabis plants within the corporate limits of the Village in any other manner prohibited by state statutes, as they may be amended from time to time.
- E. **CULTIVATION LIMITED:** It shall be unlawful for any person who is 21 years of age or older and a registered qualifying patient under the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 *et seq.*) to cultivate cannabis plants within the corporate limits of the Village:
1. unless the person has been a resident of the State of Illinois for more than 30 days before cultivation;
 2. in excess of 5 plants that are more than 5 inches tall per household without a cultivation center or craft grower license;
 3. outside of an enclosed, locked space;
 4. using cannabis seeds purchased from somewhere other than a dispensary for the purpose of home cultivation and seeds may not be given or sold to any other person;
 5. in a location where they are subject to ordinary public view (within the sight line with normal visual range of a person, unassisted by visual aids, from a public street or sidewalk adjacent to real property, or from within an adjacent property);
 6. without reasonable precautions to ensure the cannabis plants are secure from unauthorized access, including unauthorized access by a person under 21 years of age;
 7. on non-residential property and property that is not lawfully in possession of the cultivator or without the consent of the person in lawful possession of the property.
 8. in a dwelling, residence, apartment, condominium unit, enclosed, locked space, or piece of property which has not been divided into multiple dwelling units and contains in excess of 5 plants at any one time; or,
 9. unless residing at the residence where the cannabis plants are located, except that a registered qualifying patient's authorized agent may tend to the cannabis plants if attending to the residence for brief periods, such as when the qualifying patient is temporarily away from the residence.

A registered qualifying patient who cultivates more than the allowable number of cannabis plants, or who sells or gives away cannabis plants, cannabis, or cannabis-infused products produced under this Section, is liable for penalties as provided by law, including the Cannabis Control Act, in addition to loss of home cultivation privileges as established by rule.

- F. **MEDICAL USE OF CANNABIS:** Notwithstanding the foregoing, it shall not be unlawful for any registered qualifying patients to possess cannabis consistent with the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 *et seq.*), as amended, the terms of which are incorporated herein.
- G. **PUBLIC USE OF CANNABIS:** It shall be unlawful for any person to use cannabis:
1. in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;
 2. on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;
 3. in any correctional facility;
 4. in any motor vehicle;
 5. in a private residence that is used at any time to provide licensed childcare or other similar social service care on the premises;
 6. in any public place or privately owned parking lot or walkway where retail business is conducted (as used in this Section, “public place” means any part of a building or property owned in whole or in part, or leased, by the Village, parks, and sidewalks);
 7. knowingly in close physical proximity to anyone under 21 years of age who is not a registered medical cannabis patient under the Compassionate Use of Medical Cannabis Pilot Program Act.
 8. in any other manner prohibited by state statutes, as they may be amended from time to time.
- H. **PUBLIC DISPLAY OF CANNABIS:** It shall be unlawful for any person to display cannabis in any public place (as used in this Section, “public place” means any part of a building or property owned in whole or in part, or leased, by the Village, parks, and sidewalks).
- I. **VIOLATION; PENALTY:** Whoever violates any provision of this Section 43.25 shall be fined as follows: not less than \$200 and not more than \$300 for a first offense; not less than \$400 and not more than \$600 for a subsequent offense. Each day that a violation continues shall be considered a separate offense.

43.26 THEFT

- A. A person commits a theft when he or she:
1. Obtains or exerts unauthorized control over property of the owner; or
 2. Obtains by deception control over property of the owner; or
 3. Obtains by threat control over property of the owner; or

4. Obtains control over stolen property knowing the property to have been stolen by another, and
 - a. Intends to deprive the owner permanently of the use or benefit of the property; or
 - b. Knowingly uses, conceals or abandons the property in such manner as to deprive the owner permanently of such use or benefit; or
 - c. Uses, conceals or abandons the property knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.
- B. For the purpose of this section, property shall mean anything of value. Property includes real estate, money, commercial instruments, admission or transportation tickets, written instruments representing or embodying rights concerning anything of value, labor or services, or otherwise of value to the owner; things growing on, affixed to, or found on land, or part of or affixed to any building, electricity, gas and water; birds, animals and fish, which ordinarily are kept in a state of confinement, food and drink; samples, cultures, microorganisms, specimens, records, recordings, documents, blueprints, drawings, maps, and whole or partial copies, descriptions, photographs, prototypes or models thereof which constitutes, represent, evidence, reflect or record a secret scientific, technical, merchandising, production or management, information, design, process, procedure, formula, invention or improvement; recyclable materials placed for collection in front of a residence or other building as part of the Village's recycling program; the containers used to hold recyclable materials.
- C. Settlement of Offense: Any offense arising under this Section 43.26, may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class D violation in Chapter 1.07-E.

43.27 FALSE REPORTS.

- A. Any person who 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.
- B. Any person who provides information in an oral or written report with knowledge or reason to believe that the information is false shall be fined as provided in accordance of fine schedule.
- C. Settlement of Offense: Any offense arising under this Section 43.27, may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class C violation in Chapter 1.07-E.

43.28 DECEPTIVE PRACTICE.

A person commits deceptive practice when, with the intent to obtain control over property or to pay for property, labor or services of another, he or she issues or delivers a check or other order upon a real or fictitious depository for the payment of money, knowing that it will not be paid by the depository.

Failure to have sufficient funds or credit with the depository when the check or other order is issued or delivered or when such check or other order is presented for payment and dishonored on each of two occasions at least seven (7) days apart, is prima facie evidence that the offender knows that it will not be paid by the depository.

Any offense arising under this Section 43.28, may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class C violation in Chapter 1.07-E.

43.29 CONTRIBUTING TO THE DELINQUENCY OF A CHILD. Any person who knowingly permits, causes, aids or encourages any child under the age of 18 years old to be or become a delinquent child, and to violate or attempt to violate any Federal, State law or municipal ordinance shall be guilty of contributing to the delinquency of a child and upon a finding or plea of guilty pay a fine as stated for a Class D violation in Chapter 1.07-E for each occurrence and costs and be prohibited from any contact with such child during a period of supervision imposed by the Court.

43.30 TAKE OFF AND LANDNG OF VERTICAL LIFT VEHICLES

- A. The take off or landing of any helicopter, rotary winged aircraft, or other vehicle with vertical take off and landing capability is prohibited within any area of the Village of Johnsburg that is zoned residential or estate in accordance with the Village of Johnsburg Zoning Map.
- B. Notwithstanding anything contained in this ordinance to the contrary, it shall not be unlawful for any helicopter, rotary winged aircraft, or other vehicle with vertical take off and landing capability that is owned, operated or under the control of any governmental body or agency thereof to land or take off from property that is zoned residential in times of medical or other emergency.
- C. Any person violating this ordinance shall be fined not less than \$500 nor more than \$1,000 for each offense, and each landing or take off shall be regarded as a separate offense.

43.31 RETAIL THEFT

- A. Definitions: All the terms and phrases used herein shall have the same meaning as ascribed to them in article 16A of the criminal code of 1961 and amendments thereto; except, should the term "person" be limited therein to natural persons who have attained the age of seventeen (17) years or more, said limitation is specifically excluded herein, and the term "person" is made applicable to all natural persons who have attained the age of thirteen (13) years or more.
- B. Offense of Retail Theft: A person commits the offense of retail theft when he or she knowingly:
1. Takes possession of, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of retaining such merchandise or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the full retail value of such merchandise; or
 2. Alters, transfers, or removes any label, price tag, marking, indicia of value or any other markings which aid in determining the value affixed to any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment and attempts to purchase such merchandise personally or in consort with another at less than the full retail value with the intention of depriving the merchant of the full retail value of such merchandise; or
 3. Transfers any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment from the container in or on which such merchandise is displayed to any other container with the intention of depriving the merchant of the full retail value of such merchandise; or
 4. Under-rings with the intention of depriving the merchant of the full retail value of such merchandise; or
 5. Removes a shopping cart from the premises of a retail mercantile establishment without the consent of the merchant given at the time of such removal with the intention of depriving the merchant permanently of the possession, use or benefit of such cart; or
 6. Represents to a merchant that he or another is the lawful owner of property, knowing that such representation is false, and conveys or attempts to convey that property to a merchant who is the owner of the property in exchange for money, merchandise credit or other property of the merchant; or
 7. Uses or possesses any theft detection shielding device or theft detection device remover with the intention of using such device to deprive the merchant permanently of the possession, use or benefit of any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment without paying the full retail value of such merchandise; or

8. Obtains or exerts unauthorized control over property of the owner and thereby intends to deprive the owner permanently of the use or benefit of the property when a lessee of the personal property of another fails to return it to the owner, or if the lessee fails to pay the full retail value of such property to the lessor in satisfaction of any contractual provision requiring such, within ten (10) days after written demand from the owner for its return. A notice in writing, given after the expiration of the leasing agreement, by registered mail, to the lessee at the address given by the lessee and shown on the leasing agreement shall constitute proper demand.
- C. Theft by Emergency Exit: A person commits the offense of theft by emergency exit when he or she commits a retail theft, as defined in subsection (B) of this section, and to facilitate the theft he or she leaves the retail mercantile establishment by use of a designated emergency exit.
- D. Presumption: If any person conceals upon said person's body or among said person's belongings, un-purchased merchandise displayed, held, stored, or offered for sale in a retail mercantile establishment and removes that merchandise beyond the last known station for receiving payments for that merchandise in that retail mercantile establishment; such person shall be presumed to have possessed, carried away, or transferred such merchandise with the intention of retaining it or with the intention of depriving the merchant permanently of the possession, use, or benefit of such merchandise without paying the full retail value of such merchandise.
- E. Detention: Any merchant who has reasonable grounds to believe that a person has committed retail theft may detain such person, on or off the premises of a retail mercantile establishment, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:
1. To request identification;
 2. To verify such identification;
 3. To make reasonable inquiry as to whether such person has in such person's possession un-purchased merchandise and to make reasonable investigation of the ownership of such merchandise;
 4. To inform a peace officer of the detention of the person and surrender that person to the custody of a peace officer;
 5. When such person is a minor, to inform a peace officer, the parents, guardian, or other private person interested in the welfare of that minor of this detention and to surrender custody of such minor to such person. A merchant may make a detention as permitted hereinabove off the premises of a retail mercantile establishment only if such detention is pursuant to an immediate pursuit of such person.

- a. If an off premise detention of a minor occurs, by an agent of the retailer, it shall be deemed that the minor is not in violation of this ordinance; rather the minor shall be referred to the Circuit Court of McHenry County juvenile court in the form of a juvenile offense report/petition for a violation of 720 ILCS 5/16A-1 et.seq
- F. Affirmative Defense: A detention performed pursuant to and in accordance with this section does not constitute an arrest or an unlawful restraint, and this section may be pleaded in any way of an affirmative defense to false arrest, false imprisonment, or any other cause of action for damages or liability where the essence of said cause is the detention made pursuant hereto.
- G. Penalty:
 1. Violations of subsection (B) of this section, as a first offense, shall be punished as follows: If the retail value of the owner's merchandise equals less than fifty dollars (\$50.00), the offense shall be a class D violation. If the retail value of the owner's merchandise equals fifty dollars (\$50.00) or more, the offense shall be a class E violation.
 2. Any person violating subsection (B) of this section, as a second or subsequent offense, shall be punished as a class E violation. The second offense shall be at least two (2) years after the first offense otherwise the offender will be charged by state statute.

Footnote 1: 720 ILCS 5/16A-1 et seq.

43.32 THEFT OF LOST OR MISLAID PROPERTY

- A. Definitions: All the terms and phrases used herein shall have the same meaning as ascribed to them in articles 15 and 16 of the criminal code of 1961¹ and amendments thereto; except, should the term "person" be limited therein to natural persons who have attained the age of seventeen (17) years or more, said limitation is specifically excluded herein, and the term "person" is made applicable to all natural persons who have attained the age of thirteen (13) years or more.
- B. Offense: A person commits the offense of theft of lost or mislaid property when said person:
 1. Knows or learns the identity of the owner, or knows, or is aware of, or learns of, a reasonable method of identifying the owner; and
 2. Fails to take reasonable measures to restore the property to the owner; and
 3. Intends to deprive the owner permanently of the property; or knowingly uses, conceals, or abandons the property in such a manner as to deprive the owner permanently of such use or benefit; or uses, conceals, or abandons the property knowing such use,

concealment, or abandonment probably will deprive the owner permanently of such use or benefit.

- C. Penalty: A person convicted of the offense of theft of lost or mislaid property shall be a Class E violation. (Ordinance Chapter 1.07 Settlement of Offenses)

Footnote 1: 720 ILCS 5/15-1 et seq., 5/16-1 et seq.

43.33 GARAGE SALES

- A. Purpose. It is the purpose of this Chapter to provide for the regulation of the nature and frequency of garage sales, in order to insure public safety, provide proper parking control and to prevent any annoyance or harm which might otherwise occur from the uncontrolled operation of such sales in districts not zoned for commercial use.
- B. Definition. For purposes of this Chapter, the term “garage sale” shall mean and include all sales of tangible personal property conducted on premises in the Village that are zoned for residential use, regardless of the name by which such sale may be called.
- C. Number of Sales. No more than two garage sales shall be conducted on the same premises by the same household within any calendar year. No more than one sale may be held within a seven day period by the same household on the same premises.
- D. Time limitations. No garage sale shall be conducted over a period of more than three consecutive calendar days, nor shall any such sale begin before 8:30 a.m. or continue later than 5:00 p.m. on any given day.
- E. Types of merchandise. Garage sales shall be limited to the sale of household goods and furnishings which have been in use in the dwelling unit located on the premises on which such sales are conducted. No person, firm or corporation shall, at any garage sale, sell at retail any goods purchased or acquired in wholesale lots.
- F. Signs. Any person, firm or corporation licensed under the provisions of this Chapter may erect one sign on such premises where the sale is to take place which shall be removed no later than three hours after conclusion of sale. One sign at each entrance to the subdivision in which the premises is located shall also be permitted which shall be removed no later than 24 hours after the conclusion of the sale. Time is of the essence.
- G. Persons and sales accepted. The provisions of this Chapter shall not apply to or affect the following persons or sales:

- (a) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
 - (b) Persons acting in accordance with their powers and duties as public officials.
 - (c) Any persons selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which separate items not exceed three (3) in number with only one of any type of item permitted.
 - (d) Any sale which falls within the provisions of ILCS.
 - (e) Any sale conducted by a charitable or religious organization where the sale is being held entirely as a fund-raising activity for said organization.
- H. Settlement of Offense: Any offense arising under this Section 43.33, may be settled and compromised by the offender by payment to the Village the sum of money stated for a Class A violation in Chapter 1.07-E.