



## TITLE XIII

### GENERAL OFFENSES

#### CHAPTER 130: GENERAL OFFENSES

Section

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**Updated September 9, 2021**

*Section 130.12 Removed*

**Updated April 23, 2020**

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## CHAPTER 130: GENERAL OFFENSES

### § 130.01 RETAIL THEFT

ILCS Ch. 720, Act 5, §§ 16-25(a) and 16-25(c) are adopted and incorporated in full as if fully set forth herein.

Penalty, see § 130.99

### § 130.02 CRIMINAL TRESPASS TO REAL PROPERTY

ILCS Ch. 720, Act 5, §§ 21-3(a) and (b) are adopted and incorporated in full as if set out herein, with the deletion of "...commits a Class C misdemeanor" for division (a) and the addition of "...commits a violation of this chapter" to division (a).

Penalty, see § 130.99

### § 130.03 UNLAWFUL USE OF WEAPONS

ILCS Ch. 720, Act 5, §§ 24-1(a)(1) through (a)(4) and (a)(8) are adopted and incorporated in full as if set out herein.

Penalty, see § 130.99

### § 130.04 CRIMINAL DAMAGE TO PROPERTY

ILCS Ch. 720, Act 5, § 21-1(1) is adopted and incorporated in full as if set out herein. The acts described in this section are violations of this chapter if the damage to property does not exceed \$100.

Penalty, see § 130.99

### § 130.05 DISORDERLY CONDUCT

ILCS Ch. 720, Act 5, §§ 26-1(a)(1) – (12), inclusive, are adopted and incorporated in full as if set out herein.

ILCS Ch. 720, Act 5, §§ 26-1 — (12), inclusive, are adopted and incorporated in full as if set out herein, with the addition of "Fails to obey an order by a peace officer, traffic control aide, fire department official, or other official, who has identified himself as such, or is otherwise reasonably identifiable as such, issued under circumstances where it is reasonable to believe that the order is necessary to allow public safety officials to address a situation that threatens the public health, safety or welfare" to division (a) as subsection (13).

Penalty, see § 130.99

### § 130.06 POSSESSION OF CANNABIS

ILCS Ch. 720, Act 550, §§ 4(a) and (b) are adopted and incorporated in full as if set out herein. ILCS Ch. 720, Act 550, § 3 is incorporated herein for applicable definitions.

Penalty, see § 130.99

## § 130.07 SALE OF TOBACCO TO MINORS

ILCS Ch. 720, Act 675, §§ 1 and 1.5 are adopted and incorporated in full as if set out herein.  
Penalty, see § 130.99

## § 130.08 ASSAULT, BATTERY, AND FIGHTING

It shall be unlawful for any person to commit any assault or battery or to fight in any public place in the Village. Any person found to have committed a violation of this section shall be subject to any of the penalties set forth in § 130.99 of this chapter.

## § 130.09 NOISE

### I. Sound-Amplifying Devices

- A. Definitions: For the purpose of this article, whenever the following term appears, it shall have the following meaning, unless a different meaning is clear from the context:

**SOUND-AMPLIFYING DEVICE** - Any device utilizing electric current which amplifies a musical instrument, tuner, phonograph record, magnetic tape, recordings in any format, any electronically synthesized sound or the human voice.

- B. Noise Prohibited: It shall be unlawful to use or operate a sound-amplifying device so that the device produces loud and raucous sounds at a distance greater than 50 feet from said device unless one has obtained a permit to do so from the Village Board.

- C. Permit Required; Application; Conditions: Anyone desiring to use or operate a sound-amplification device beyond the limits stated in B must make application for a permit to the Chief of Police or Designee to do so. The Chief of Police or Designee shall issue a permit to anyone who applies for same. Each permit is valid for one calendar day. Each permittee shall comply with all the terms of this article, including but not limited to D and shall be responsible for seeing that the sound-amplifying device is used or operated in accordance therewith.

- D. Terms of Permit:

1. The permit shall only be in effect from 10:00 a.m. to 11:00 p.m., local time, Sunday through Saturday.
2. The sound-amplification device shall not produce loud and raucous sounds greater than 100 feet from the device.
3. The permit shall not allow loud and raucous sounds within 50 feet of a school or church during the hours they are in session or within 50 feet of a hospital or nursing home.

- E. Noise within Multiple-Family Structures: It shall be unlawful to use or operate a sound-amplifying device so that the device produces loud and raucous sounds within a multiple-family structure from 11:00 p.m. to 10:00 a.m., local time, Sunday through Saturday.
- F. Exemptions: The provisions of this article shall not apply to emergency vehicles, warning or anti-theft devices, units of governments or carillons.

## II - Reasonable Person Standard

- A. Purpose: This article is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of the Village of Huntley through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity.
- B. Findings:
  - 1. Loud and raucous noise degrades the environment of the Village of Huntley to a degree that:
    - (a) Is harmful to the health, welfare, and safety of its inhabitants and visitors;
    - (b) Interferes with the comfortable enjoyment of life and property;
    - (c) Interferes with the well-being, tranquility, and privacy of the home; and
    - (d) Both causes and aggravates health problems.
  - 2. Both the effective control and the elimination of loud and raucous noise are essential to the health and welfare of the Village's inhabitants and visitors, and to the conduct of the normal pursuits of life, including recreation, work, and communication.
  - 3. The use of sound-amplification equipment creates loud and raucous noise that may, in a particular manner and at a particular time and place, substantially and unreasonably invade the privacy, peace, and freedom of inhabitants of, and visitors to, the Village.
  - 4. Certain short-term easing of noise restrictions is essential to allow the construction and maintenance of structures, infrastructure, and other elements necessary for the physical and commercial vitality of the Village.
- C. Scope: This article applies to the control of all sound originating within the jurisdictional limits of the Village of Huntley.

D. Definitions: As used in this article, the following terms shall have the meanings indicated:

**EMERGENCY** - An occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

**EMERGENCY WORK** - Any work performed for the purpose of preventing or alleviating physical trauma or property damage, whether actually caused or threatened by an emergency, or work by private or public utilities when restoring utility service.

**VILLAGE MANAGER** - The Village Manager of the Village of Huntley or the Manager's designee.

**NOISE-SENSITIVE AREA** - Includes, but is not limited to, a posted area where a school, hospital, nursing home, church, court, public library, or similar institution is located.

**PERSON** - Any individual, firm, association, partnership, joint venture, or corporation.

**PUBLIC RIGHT-OF-WAY** - Any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by a government entity.

**PUBLIC SPACE** - Any real property or structures on real property owned by a government entity and normally accessible to the public, including but not limited to parks and other recreational areas.

**RESIDENTIAL AREA** - Any real property which contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming, for residential use.

E. General Prohibition: No person shall make, continue, or cause to be made or continued:

(1) Any unreasonably loud or raucous noise; or

(2) Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity, within the jurisdictional limits of the Village; or

(3) Any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighborhood from which said noises emanate, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.

Factors for determining whether a sound is unreasonably loud and raucous include, but are not limited to, the following:

- (1) The proximity of the sound to sleeping facilities, whether residential or commercial;
  - (2) The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;
  - (3) The time of day or night the sound occurs;
  - (4) The duration of the sound; and
  - (5) Whether the sound is recurrent, intermittent, or constant.
- F. Noise Prohibited: The following acts are declared to be per se violations of this article. This enumeration does not constitute an exclusive list:
1. Unreasonable noises: The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous or unusual noise, disturbance, commotion or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park, or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent residences or which will not detrimentally affect the operators of adjacent places of business are exempted from this provision.
  2. Vehicle horns, signaling devices, and similar devices: The sounding of any horn, signaling device, or other similar device on any automobile, motorcycle, or other vehicle in the Village for more than 10 consecutive seconds. The sounding of any horn, signaling device, or other similar device as a danger warning is exempt from this prohibition.
  3. Non-emergency signaling devices: Sounding or permitting the sounding of any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for more than 10 consecutive seconds in any hourly period. The reasonable sounding of such devices by houses of religious worship, ice cream trucks, seasonal contribution solicitors or by the Village for traffic control purposes are exempt from the operation of this provision.
  4. Emergency signaling devices: The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in Subsection D(1) and (2) below.

- (a) Testing of an emergency signaling device shall occur between 7:00 a.m. and 7:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five minutes.
  - (b) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm shall terminate within 15 minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this article.
5. Radios, televisions, boom boxes, phonographs, stereos, musical instruments and similar devices:
- (a) The use or operation of a radio, television, boom box, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passersby, or is plainly audible at a distance of 50 feet from any person in a commercial, industrial area, or public space.
  - (b) The use or operation of a radio, television, boom box, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet, and comfort of neighbors in residential or noise-sensitive areas, including multi-family or single-family dwellings.
6. Loudspeakers, amplifiers, public address systems, and similar devices:
- (1) The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system, or other device for producing or reproducing sound between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, and 11:00 p.m. and 10:00 a.m. on weekends (Friday and Saturday nights) and holidays in the following areas:
    - (1) Within or adjacent to residential or noise-sensitive areas;
    - (2) Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud and raucous.
  - (2) This shall not apply to any public performance, gathering, or parade for which a permit has been obtained from the Village.

7. Yelling, shouting, and similar activities: Yelling, shouting, hooting, whistling, or singing in a residential of noise-sensitive areas or in public places, between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities.
8. Animals and birds: Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls or otherwise cares for the animal or bird. Sounds made by animals or birds in animal shelters, kennels, veterinary hospitals, pet shops or pet kennels licensed under and in compliance with licensing and permitting provisions set forth in this code are exempt from this subsection.
9. Loading or unloading merchandise, materials, equipment: The creation of unreasonably loud, raucous, and excessive noise in connection with the loading or unloading of any vehicle at a place of business or residence.
10. Construction or repair of buildings, excavation of streets and highways: the construction, demolition, alteration or repair of any building or the excavation of streets and highways other than:

Monday through Friday	7:00 a.m. - 8:00 p.m.;
Saturday	8:00 a.m. - 7:00 p.m.; and
Sunday or holidays	8:00 a.m. - 7:00 p.m.

In cases of emergency, construction or repair noises are exempt from this provision. In non-emergency situations, the Building Inspector or Village Manager, or its designees, may issue a permit, upon application, if the Building Inspector or Village Manager, or their designees, determines that the public health and safety, as affected by loud and raucous noise caused by construction or repair of buildings or excavation of streets and highways is between the hours of 7:00 p.m. and 7:00 a.m. will not be impaired, and if the Building Inspector or Village Manager, or their designees, further determines that loss or inconvenience would result to a party in interest. The permit shall grant permission in non-emergency cases for a period of not more than three days. The permit may be renewed once for a period of three days or less.

11. Noise-sensitive areas (schools, courts, churches, hospitals, and similar institutions): The creation of any unreasonably loud and raucous noise adjacent to any noise-sensitive area while it is in use, which unreasonably interferes with the workings of the institution or which disturbs the persons in these institutions, provided that conspicuous signs and delineating the boundaries of the noise-sensitive area are displayed in the streets surrounding the noise-sensitive area.
12. Blowers, and similar devices: In residential or noise-sensitive areas, between the hours of dusk and 7:00 a.m., the operation of any noise-creating blower, power fan, or any internal combustion engine, the operation of which causes noise due



to the explosion of operating gases of fluids, provided that the noise is unreasonably loud and raucous and can be heard across the property line of the property from which it emanates.

13. Commercial establishments adjacent to residential property: Unreasonably loud and raucous noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of the establishment, between the hours of 10:00 p.m. and 7:00 a.m. which is plainly audible at a distance of five feet from any residential property.

G. Exemptions: Sounds caused by the following are exempt from the prohibitions set out in F and are in addition to the exemptions specifically set forth in F.

1. Motor vehicles on traffic ways of the Village, provided that the prohibition of F continues to apply.
2. Repairs of utility structures which pose a clear and immediate danger to life, health, or significant loss of property.
3. Sirens, whistles, or bells lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision, civil defense, police activity, or imminent danger, provided that the prohibition contained in F continues to apply.
4. The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.
5. Repairs or excavations of bridges, streets or highways by or on behalf of the Village, the State, or the Federal Government, between the hours of 7:00 p.m. and 7:00 a.m., when public welfare and convenience renders it impractical to perform the work between 7:00 a.m. and 7:00 p.m.
6. Outdoor school and playground activities. Reasonable activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to school athletic and school entertainment events.
7. Other outdoor events. Outdoor gatherings, public dances, shows and sporting events, and other similar outdoor events, provided that a permit has been obtained from the appropriate permitting authority.
8. Snow clearing/removal equipment after at least 2 inches of snow has accumulated.

H. Enforcement:

1. The following individuals shall enforce this article: The Police Chief or duly acting members of the Police Department will have primary responsibility for the

enforcement of the noise regulations contained herein. Nothing in this article shall prevent the Police Chief from obtaining voluntary compliance by way of warning, notice or education.

2. If a person's conduct would otherwise violate this article and consists of speech or communication; of a gathering with others to hear or observe speech or communication; or of a gathering with others to picket or otherwise express in a nonviolent manner a position on social, economic, political or religious questions; the person must be ordered to, and have the opportunity to, move, disperse, or otherwise remedy the violation prior to arrest or a citation being issued.

I. Penalty:

1. A person who violates a provision of this ordinance is guilty of a petty offense and is subject to a fine of \$100.00 for a first violation of this Ordinance; \$250.00 for a second violation that occurs in any twelve (12) month period; and, \$500.00 for any third violation.
2. Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.

- J. Effect on Previous Legislation: A prosecution which is pending on the effective date of this article and which arose from a violation of an ordinance repealed by this article, or a prosecution which is started within one year after the effective date of this article arising from a violation of an ordinance repealed by this article, shall be tried and determined exactly as if the ordinance had not been repealed.

### **§ 130.10 THEFT**

ILCS Ch. 720, Section 5/16-1 is adopted and incorporated in full as if fully set forth herein.  
Penalty, see § 130.99

### **§ 130.11 THEFT OF LOST OR MISLAID PROPERTY**

ILCS Ch. 720, Section 5/16-2 is adopted and incorporated in full as if fully set forth herein.  
Penalty, see § 130.99

### **§ 130.12 RESERVED**

### **§ 130.13 FISHING REGULATIONS**

Purpose: It has been determined that the implementation of the regulations set forth in this section are in the best interest and general welfare of residents of the Village and, in particular, the residents of the subdivisions in which certain ponds located in subdivisions are built within the corporate boundaries of the Village of Huntley. Any person found to have committed a

violation of this section shall be subject to any of the penalties set forth in § 130.99 (C) of this chapter.

- A. All fishing in any pond owned by the Village of Huntley shall be catch-and-release only and no person shall be allowed to permanently remove any fish from any such pond. Any fish caught in any pond owned by the Village of Huntley shall be returned to the pond immediately after being un-hooked. The party catching and releasing any such fish shall at all times act in a manner reasonably designed to minimize and prevent physical injury to such fish.
- B. No fish caught in any pond owned by the Village of Huntley may be kept in any bucket, keep net, cage or any other type of device that is designed to keep fish alive in a captive manner. The obligation set forth in section A to catch and release any fish caught in any Village owned pond means that the fish must be released without any artificial or manmade constraints. This Section (B) does not apply to minnows that are brought to the pond for purposes of bait.
- C. It shall be unlawful to utilize in any manner fish caught in the pond for live bait. This prohibition extends to blue gills, bass, cat fish and any other type of fish caught in the pond, including minnows.
- D. Nothing in this section is in any way intended to supersede any regulatory provisions adopted by any other governmental agency with authority over fish or aquatic life including, but not limited to, the provisions of the Illinois Fish and Aquatic Life Code. It is the intention of the Village of Huntley that such regulations be used in harmony with the provisions of this section.

## **OFFENSES AGAINST PUBLIC HEALTH AND SAFETY**

### **§ 130.20 CURFEW**

(A) Prohibition. 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 unless accompanied and supervised by a parent, legal guardian, or other responsible companion at least 18 years of age approved by a parent or legal guardian or unless engaged in a business or occupation which the laws of this state authorize a person less than 17 years of age to perform:

(1) Between 12:01 a.m. and 6:00 a.m. Saturday;

(2) Between 12:01 a.m. and 6:00 a.m. Sunday; and

(3) Between 11:00 p.m. on Sunday to Thursday, inclusive, and 6:00 a.m. on the following day.

(B) It is unlawful for a parent, legal guardian, or other person to knowingly permit a person in his custody or control to violate division (A).

## § 130.21 PUBLIC POSSESSION OF TOBACCO BY MINORS

Section 120.13 of the Huntley Village Code is incorporated in full in this Section § 130.21 as if fully set forth herein.

It shall be unlawful for any person under 21 years of age to purchase any tobacco product or tobacco paraphernalia, or to misrepresent his or her age or identity for the purpose of purchasing any tobacco product or tobacco paraphernalia.

It shall be unlawful for any person under 18 years of age to possess or use any tobacco product or tobacco paraphernalia.

## § 130.22 CONSTRUCTION STARTING TIMES

All construction activities within 1,000 feet of any residential structure shall be allowed only between the following hours:

Monday through Friday	7:00 a.m. – 8:00 p.m.;
Saturday	8:00 a.m. – 7:00 p.m.; and
Sunday or holidays	10:00 a.m. – 7:00 p.m.

## § 130.23 FIREWORKS

(A) Definition: For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**“FIREWORKS”** shall mean 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 exhibitional nature by explosion, combustion, deflagration or detonation, and shall include blank cartridges, toy or replicated cannons, in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, bottle 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: provided, however, that the term “fireworks” shall not include snake or glow worm pellets, smoke devices, trick noisemakers known as “party poppers”, “booby traps”, “snappers” trick matches, cigarette loads and “auto burglar alarms”; sparklers, toy canes, toy pistols, toy guns, or other devices in which paper or plastic caps containing 25 hundredths grains or less of explosive compound are used.

(B) Public Displays

- a. Pyrotechnic displays and consumer firework displays shall be permitted in the Village of Huntley subject to the provisions of this chapter by persons properly licensed to display fireworks by the State of Illinois.

- b. All pyrotechnic displays and consumer firework displays performed in the Village of Huntley shall be performed in compliance with the rules and regulations adopted by the Office of the State Fire Marshal and in accordance with the Pyrotechnic Distributor and Operating Licensing Act (225 ILCS 227) and the Fireworks Use Act (425 ILCS 35) including, but not limited to, the acquisition of a permit as required under one or both of said statutes.
- c. To the extent that the Huntley Fire Protection District adopts rules and regulations regarding pyrotechnic displays or consumer firework displays that are more stringent than the rules and regulations set forth in the statutes referenced in Section b) of this section, the rules and regulations of the Huntley Fire Protection District, as incorporated by reference herein, shall prevail unless otherwise indicated by the Village of Huntley.

#### (C) Sale or Exploding of Fireworks Prohibited

- a. Except as hereinafter provided it shall be unlawful for any person, firm, corporation, co-partnership, or corporate to knowingly possess, offer for sale, expose for sale, sell at retail or use or explode any fireworks, flame effects, or consumer fireworks.
- b. The prohibition against fireworks contained in this section does not apply to supervised public displays of fireworks if the Village of Huntley has granted a permit.

#### (D) Penalties

- a. Any person, corporation, firm, or entity that violates or aids and abets in the violation of §130.23 shall be fined in accordance with § 130.99 (A).
- b. In addition to any other penalty that may be applicable, any person, firm, co-partnership, or corporate who violates any permit issued to conduct a pyrotechnic display or consumer firework display shall not be entitled to apply for a permit to conduct a pyrotechnic display or consumer firework display during the remainder of the year in which the violation occurred and during the ensuing calendar year.

### § 130.24 HAZARDOUS MATERIALS RESPONSE

- (A) Definitions: For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**EMERGENCY ACTION** shall mean any action taken at or near the scene of a hazardous materials incident to prevent or minimize harm to human health, to property, or to the environment from the release of hazardous materials, including responding to fires or explosions which are caused by or arise from the hazardous materials incident.

**EMERGENCY RESPONSE AGENCY** shall mean the Village of Huntley (Village) and shall include any government agency(ies) or private entity(ies) whose assistance is requested and is supplied during an Emergency Action.

**HAZARDOUS MATERIAL** shall mean any substance(s) or material(s) defined or listed as a hazardous substance, pollutant, or contaminant in any applicable federal, state, or local laws or regulations or any substances or materials in a quantity or form which, in the determination of the Police Chief or his/her authorized designee, poses an imminent risk to the life, health, safety, or welfare of persons or property within the Village.

**HAZARDOUS MATERIALS INCIDENT** shall mean an occurrence involving the potential or actual release of a hazardous material.

**PERSON** shall mean an individual, a corporation, a partnership, an unincorporated association or any unit of Federal, State or local government.

**COSTS** shall mean those necessary and reasonable costs incurred by the Village in connection with responding to, investigating, mitigating, abating, cleaning, and/or removing the release of a hazardous material. Such costs include, but are not limited to:

1. Disposable materials and supplies acquired, consumed, and expended as a result of the release.
2. Full cost recovery for compensation of Village employees for the time devoted specifically to the release.
3. Rental or leasing of equipment used specifically for the release.
4. Replacement costs for equipment that is contaminated beyond reuse or repair as a result of the release.
5. Decontamination of equipment contaminated during the release.
6. Other special technical services or resources specifically required as a result
7. of the release.
8. Other special services specifically required as a result of the response (e.g., utilities, etc.)
9. Laboratory costs for purposes of analyzing samples taken during the release.
10. Costs associated with the services, supplies, and equipment procured for a specific evacuation.
11. An hourly labor charge for each employee responding and an hourly operations and maintenance charge for each vehicle responding. There shall be a minimum three (3) hour charge for each response.

The Village shall keep a detailed record of all costs associated with a release.

**RELEASE** shall mean any spilling, leaking, pumping, pouring, emitting, escaping, emptying, discharging, injecting, leaching, dumping or disposing of a hazardous

material into or on any land, air, water, well, stream, sewer or pipe so that such hazardous material or any constituent thereof may enter the environment.

**REMEDIAL ACTION** shall mean any action consistent with permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of a hazardous material into the environment, to prevent or minimize the release of hazardous materials so that they do not migrate to cause a substantial present or potential hazard to human health, property or the environment. The term includes, but is not limited to, such actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous materials or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternate water supplies, and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment.

**REMOVAL** shall mean the cleanup or removal of released hazardous materials from the environment, such actions as may be necessary or appropriate to monitor, assess, and evaluate the release or threat of release of hazardous materials, the disposal of removed material, or the taking of such action as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare or the environment. The term includes, but is not limited to, security fencing, provision of alternative water supplies, and temporary evacuation of threatened individuals.

**RESPONSIBLE PARTY OR RESPONSIBLE PARTIES** shall mean a person or persons who:

1. Owns or has custody of hazardous material that is involved in an incident requiring emergency action by an emergency response agency.
2. Causes or substantially contributes to the cause of the incident.

#### (B) Prohibited Acts

No person shall cause, threaten or allow the release of hazardous materials into the environment unless such release is in accordance with an appropriate permit granted by the Illinois Environmental Protection Agency or other State or Federal agency having primary jurisdiction over the release and such release is in such place and manner as will not create a substantial present or potential hazard to human health, property or the environment.

#### (C) Determination of Emergency Action

The Chief of Police or in his absence, his next in command, shall have the authority to determine whether an incident requires emergency action, and to use his judgment as to the nature and extent of the services to be provided by the Village within its capabilities, and whether to utilize other governmental agencies or private entities to provide emergency action.

#### (D) Liability for Costs

Notwithstanding any other provision or rule of law, the following persons shall be jointly and severally liable for all costs of removal and remedial action incurred by the Village as a result of a release or threatened release of a hazardous material:

The owner and operator of a facility or vessel from which there is a release or substantial threat of release of a hazardous material;

1. Any person who, at the time of disposal, transport, storage or treatment of a hazardous material, owned operated the facility or vessel used for such disposal, transport, treatment, or storage from which there was a release or substantial threat of a release of any such hazardous materials;
2. Any person who by contract, agreement, or otherwise has arranged with another party or entity for transport, storage, disposal or treatment of hazardous materials owned, controlled or possessed by such person at a facility owned or operated by another party or entity from which facility there is a release or substantial threat of a release of such hazardous materials;
3. Any person who accepts or accepted any hazardous materials for transport to disposal, storage or treatment facilities from which there is a release or a substantial threat of release of such hazardous materials.

#### (E) Release in Accordance with Law

There shall be no liability under this Chapter for any release permitted by State or Federal law, but only to the extent that such release is made in accordance with applicable State and Federal law, regulations and permit requirements and the ordinances of the Village.

#### (F) Public Duty Immunity

There shall be no liability under this Chapter for damages as a result of any actions taken or omitted by the response authority, his agents and employees with respect to an incident creating a danger to public health, welfare or the environment as a result of any release or threatened release of a hazardous material including, but not limited to, actions taken or omitted in the course of rendering;

1. Remedial action or removal under this Chapter;
2. Care, assistance or advice in accordance with this Chapter;
3. Care, assistance or advice in accordance with the Illinois Emergency Services and Disaster Act of 1975 as amended;
4. Care, assistance or advice at the direction of the response authority;
5. Care, assistance or advice at the direction of an on-site coordinator appointed under said National Contingency Plan, the Illinois Emergency Services and Disaster Act, the Village's Emergency Service and Disaster Basic Plan or such other public



health, safety or emergency agency exercising jurisdiction over the release or threatened release of a hazardous material.

(G) Contractual Indemnification; Subrogation

1. No conveyance, transfer, sale, indemnification, hold harmless, or similar agreement shall be effective to release the owner or operator of any facility or vessel or any person who may be liable for a release or threat of release under this Chapter from the liability imposed under this Chapter. Nothing in this Section shall bar any agreement to insure, hold harmless or indemnify a party to such agreement for any liability under this Chapter.
2. Nothing in this Section, including the provisions of subsection A hereof, shall bar a cause of action that an owner or operator or any other person subject to liability under this Chapter, or a guarantor, has or would have, by reason of subrogation or otherwise against any person.

(H) Costs and Penalties

Any person who is liable for the release or threatened release of a hazardous material who fails without sufficient cause to pay for or provide removal or remedial action upon or in accordance with a notice and request of the response authority, or in accordance with any order of any court having jurisdiction of the matter, shall be liable to the Village for all costs incurred by the Village as a result of such failure to provide or take such removal and remedial action, together with the cost of any removal or remedial action taken by the Village in accordance with this Chapter. In addition, any such person shall be guilty of a violation of this Chapter and shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) for each offense. A separate offense shall be deemed committed for each day on which a violation occurs or continues.

(I) Notification of Reimbursement

1. Within ninety (90) days after providing emergency action, the Village shall notify the responsible party or parties of the Village's claim for reimbursement and shall furnish an itemized listing of the costs incurred. Furnishing such itemized list shall be deemed a request for reimbursement.
2. If the responsible party or parties, as the case may be, do not reimburse the Village within thirty (30) days after receipt of such claim for reimbursement, then the Village is authorized to file suit in the Circuit Court of McHenry County or in any other county where any responsible party resides to collect the amount due.
3. The Village is authorized to file suit on its own behalf and in the behalf of any other governmental agencies or private entities who were requested to provide emergency action.

4. Amounts due from the responsible party or parties shall bear interest at the rate of ten percent (10%) per annum from the date of the emergency action until paid.
5. In addition to all other amounts to which it is entitled, the Village shall also be entitled to recover reasonable attorney fees and all costs incurred in enforcing its rights under this Chapter

(J) Other Remedies

The remedies provided by this Chapter shall be in addition to any other remedies provided by law.

### § 130.25 POSSESSION OF DRUG PARAPHERNALIA

ILCS Ch. 720, Section 600/3.5 are adopted and incorporated in full as if fully set forth herein.

Penalty, see § 130.99

## OFFENSES AGAINST PUBLIC MORALS

### § 130.30 OBSCENITY

(A) Definition

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

**OBSCENE.** A thing is **OBSCENE** when the average person, applying contemporary community standards would find that:

- (1) The work, taken as a whole appeals to the prurient interest, that is, a shameful or morbid interest in nudity, sex, or excretion and it goes beyond customary limits of candor in description or representation of such matters;
- (2) The work contains patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated or contains patently offensive representations or descriptions of masturbation, excretory functions, or lewd exhibitions of the genitals;
- (3) The work, taken as a whole, lacks serious literary, artistic, political, or scientific value; and
- (4) A thing is obscene even though the obscenity is latent, as in the case of undeveloped photographs.

**PERSON.** Any individual, firm, partnership, association, or corporation. The use of the masculine gender shall include the feminine gender.

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

- (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, or procures or possesses obscene matter or material with intent to disseminate it in violation of this section; 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.

(C) Interpretation of evidence.

- (1) Obscenity shall be judged with reference to ordinary adults, except that it shall be judged with reference to children or other especially susceptible audiences if it appears from the character of the material or circumstances of its dissemination to be specially designed for or directed to such an audience.
- (2) Where circumstances or 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 utterly without redeeming social importance.
- (3) In any prosecution for an offense under this section evidence shall be admissible to show:
  - (a) The character of the audience for which the material was designed or to which it was directed;
  - (b) 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 or such people;
  - (c) The artistic, literary, scientific, educational, or other merits of the material, or absence thereof;

- (d) The degree, if any, of public acceptance of the material in this state;
- (e) Appeal to the prurient interest, or absence thereof, in advertising or other promotion of the material; and
- (f) Purpose of the author, creator, publisher, or disseminator.

(D) Prima facie evidence. The creation, purchase, procurement, or possession of a mold, engraved plate, or other embodiment or obscenity specially adapted for reproducing multiple copies, or the possession of more than three copies of obscene material shall be prima facie evidence of an intent to disseminate.

(E) Acts of agents or employees. Every act or omission of whatsoever nature constituting a violation of any of this section, by any officer, director, manager, or other agent or employee shall be deemed to be and held to be the act of the employer and the employer shall be punishable in the same manner as if the act or omission had been done or omitted by him personally.

(F) Affirmative defenses. It shall be an affirmative defense to obscenity that the dissemination:

- (1) Was not for gain and was made to personal associates other than children under 18 years of age; or
- (2) Was to institutions or individuals having scientific or other special justification for possession of such material.

(G) 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 a retail dealer, who shall refuse to furnish to any retail dealer such quantity of books, magazines, periodicals, comic books, or other publications as the 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 the offense which is punishable by a fine in accordance with § 130.99(A). Each publication sold or delivered in violation of this act shall constitute a separate petty offense.

## **§ 130.99 PENALTY**

- (A) A person convicted of a violation of any provision of this chapter shall be fined not less than \$50 nor more than \$500 for each and every offense.
- (B) A person convicted of a violation of any provision of §§ 130.10, 130.12 and 130.20 shall be guilty of a petty offense and shall be fined not less than \$25 nor more than \$500.

- (C) Any person convicted of a violation of any provision of § 130.13 shall be subject to a fine in an amount of not less than \$250.00. Provided, for any second offense any such person shall be fined in an amount of not less than \$500.00. The minimum amounts set forth in this section are not intended to act as a limitation on any court of competent jurisdiction of imposing a greater fine, up to the permissible statutory maximum, based upon the circumstances of a given case. In considering the imposition of an increased fine amount the court can take into consideration the number of fish in the offending party's possession at the time of arrest.
- (D) Late Fee: If a fine is not paid within 10 days of the ticket being issued, the minimum penalty is double the amount of the original fine.