

## Chapter 46

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**ARTICLE I. IN GENERAL**

**Secs. 46-1—46-30. Reserved.**

**ARTICLE II. OFFENSES AGAINST  
PUBLIC PEACE AND SAFETY**

**Sec. 46-31. Disorderly conduct.**

(a) No person shall engage in disorderly conduct in the village. A person commits disorderly conduct when he knowingly:

- (1) Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace;
- (2) 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;
- (3) While acting as a collection agency as defined in the "Collection Agency Act," 225 ILCS 425/1 et seq., or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor;
- (4) Transmits or causes to be transmitted a false report to the Department of Children and Family Services under Section 4 of the "Abused and Neglected Child Reporting Act," 325 ILCS 5/4;
- (5) Transmits or causes to be transmitted a false report to the department of public health under the Nursing Home Care Act, 210 ILCS 45/1-101 et seq.;
- (6) Transmits or causes to be transmitted a false report under Article II of "An Act in relation to victims of violence and abuse," approved September 16, 1984, as amended, 320 ILCS 15/0.01 et seq.;
- (7) Transmits or causes to be transmitted a false report to any public safety agency without the reasonable grounds neces-

sary to believe that transmitting such a report is necessary for the safety and welfare of the public; or

- (8) Calls the number "911" for the purpose of making or transmitting a false alarm or complaint and reporting information when, at the time the call or transmission is made, the person knows there is no reasonable ground for making the call or transmission and further knows that the call or transmission could result in the emergency response of any public safety agency.
- (9) Fails to obey a lawful order of dispersal by a person known to be a peace officer, where three or more persons are committing acts of disorderly conduct in the immediate vicinity, which acts are likely to cause substantial harm or serious inconvenience, annoyance or alarm.
- (10) Engages in any fraudulent scheme, device or trick to obtain money or other valuable thing, or the practice of fortune telling, palmistry, card reading, astrology, clairvoyance or other scheme to obtain money or other value.
- (11) Possesses less than 10 grams of cannabis, as defined in Illinois Cannabis Control Act, 720 ILCS 550/3(a).
- (12) Uses obscene, profane, threatening or inciting language in any public place, which by their very utterance, inflict injury or tend to incite an immediate breach of the peace.

(b) A person who violates any of the provisions of this section shall be punished as provided in section 1-11 of this Code.

(Code 1977, § 43.01; Ord. No. 2002-48, § 1, 5-20-2002)

**Sec. 46-32. Resisting officer.**

No person shall knowingly resist or obstruct the performance by one known to the person to be

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a peace officer or correctional institution employee (as defined in 720 ILCS 5/31-1(b)) of any authorized act within his official capacity.  
(Code 1977, § 43.02)

**State law reference**—Similar provisions, 720 ILCS 5/31-1(a).

**Sec. 46-33. Loafing on street corners, public places.**

No person shall obstruct or encumber any street corner or other public place by lounging in or about the street corner or other public place after being requested to move on by any police officer.

(Code 1977, § 43.05)

**Cross reference**—Streets, sidewalks and other public places, ch. 66.

**Sec. 46-34. Electric and barbed wire fences.**

No person shall maintain electric fence or any fence containing barbed wire along or near any public sidewalk. Fences with barbed wire may be used if the barbed wire is more than six feet above the ground level.

(Code 1977, § 43.12)

**Sec. 46-35. Throwing objects from elevated structures.**

It shall be unlawful to throw, drop or otherwise cause an object to fall from bridges, trestles, overpasses, amusement devices or other elevated structures in the village.

(Code 1977, § 43.17)

**Sec. 46-36. Alcoholic beverages: possession and consumption.**

It shall be unlawful to transport, carry, possess or have any alcoholic liquor in or upon or about any motor vehicle except in the original package and with the seal unbroken.

(Code 1977, § 43.20)

**Cross reference**—Alcoholic beverages, ch. 6.

**State law reference**—Similar provisions, 20 ILCS 305/9-101.

**Sec. 46-37. Operation of mini bikes and all terrain vehicles.**

(a) *Motorized bikes and all terrain vehicles.* For the purposes of this section every motor vehicle which is self-propelled by an internal combustion engine which is designed with a seat or saddle for the use of the rider and is primarily designed to travel off the paved portion of the roadway, but excluding implements of husbandry, and not subject to be licensed under the statutes of the state shall be considered a minibike or all terrain vehicle.

(b) *Area of operations.* The term "area of operation" as utilized in this section shall mean any area zoned for outdoor recreational purposes C/S1 as is set forth in the zoning ordinances of the village.

(c) *Restrictions.* Operation of motorized bikes or all terrain vehicles is prohibited except in areas zoned for outdoor recreational purposes C/S1. It shall be unlawful for any person to operate a minibike or all terrain vehicle within the village, except in those areas zoned special for their use as an outdoor recreational area as set forth in the village zoning ordinances.

(d) *Penalty.* Any person, firm or corporation found guilty of violating the terms of this section shall be subject to a fine of not less than \$10.00 nor more as provided in section 1-11 for each offense.

(Code 1977, § 43.24)

**Secs. 46-38—46-60. Reserved.**

**ARTICLE III. OFFENSES AGAINST THE PERSON**

**Sec. 46-61. Assault.**

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

(b) No person shall commit an assault in the village.

(Code 1977, § 43.03)

**State law reference**—Similar provisions, 720 ILCS 5/12-1(a).

**Sec. 46-62. Battery.**

(a) A person commits battery if he intentionally or knowingly without legal justification and by any means:

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

(b) No person shall commit a battery in the village.

(Code 1977, § 43.04)

**State law reference**—Similar provisions, 720 ILCS 5/12-3.

**Secs. 46-63—46-90. Reserved.**

**ARTICLE IV. OFFENSES AGAINST  
PROPERTY**

**Sec. 46-91. Theft.**

(a) *Defined.* A person commits theft when he knowingly:

- (1) Obtains or exerts unauthorized control over property of the owner;



- (2) Obtains by deception control over property of the owner;
- (3) Obtains by threat control over property of the owner;
- (4) Obtains control over stolen property knowing the property to have been stolen by another or under such circumstances as would reasonably induce him to believe that the property was stolen; or
- (5) Obtains or exerts control over property in the custody of any law enforcement agency which is explicitly represented to him by any law enforcement officer or any individual acting in behalf of a law enforcement agency as being stolen, and:
  - a. Intends to deprive the owner permanently of the use or benefit of the property;
  - b. Knowingly uses, conceals or abandons the property in such a 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) *Prohibited.* No person shall commit theft in the village.

(Code 1977, § 43.06)

**State law reference**—Similar provisions, 720 ILCS 5/16-1(a)(1)—(5)(A)—(C).

#### **Sec. 46-92. Criminal damage to property.**

No person shall:

- (1) Knowingly damage any property of another without his consent;
- (2) Recklessly by means of fire or explosive damage property of another;
- (3) Knowingly start a fire on the land of another without his consent;
- (4) Knowingly injure a domestic animal of another without his consent; or
- (5) Knowingly deposit on the land or in the building of another, without his consent,

any stink bomb or any offensive smelling compound and thereby intends to interfere with the use by another of the land or building.

(Code 1977, § 43.14)

**State law reference**—Similar provisions, 720 ILCS 5/21-1(a) (f).

#### **Sec. 46-93. Graffiti; prohibition and penalties.**

It is unlawful for any person to inscribe, draw, or otherwise place upon the surface of any structure, street, sidewalk, or wall that is privately or publicly owned, any word, phrase, diagram, symbol, sketch, or letters where the contents thereof are visible to any member of the general public, and contain references to any sexual activity, to any portion of the human anatomy, to gang or criminal activities, to personal relationships, or to defamatory material about public or private persons. Upon a conviction of the provisions of this section, the person shall be subject to punishment as provided in section 1-11. Additionally, a mandatory requirement shall be imposed by any court finding a person guilty of violating the provisions in this section as a condition to any probation or supervision that full and complete restitution be made to the owner of the property for expenses incurred in the removal of the material and the repair of the structure or wall. It shall be an affirmative defense to the alleged violation of this section if such activity was undertaken with the prior consent of the owner of the property, which consent demonstrates that the owner was aware of the content and method of the inscription to be placed on the structure, street, sidewalk, or wall. (Ord. No. 95-48, § 1(43.25), 5-22-1995)

#### **Sec. 46-94. Graffiti removal.**

It shall be the duty of the owner of any street, sidewalk, business, residence, or other structure upon which any graffiti, inscription, or representation is made to remove such graffiti, inscription, or representation, and to otherwise restore the structure, street, or sidewalk to its prior condition within three days of the occurrence of the offense. The owner of the property shall be entitled to restitution and compensation for the direct costs incurred in the repair and restoration of their

property from any person convicted of the prohibited activity upon the submission of receipts evidencing payments of such costs, and provided the court entering the finding or conviction for the offense shall so order. Upon a conviction of the provisions of this section, the person shall be punished as provided in section 1-11. (Ord. No. 95-48, § 1(43.26), 5-22-1995)

**Sec. 46-95. Criminal trespass to real property.**

(a) Whoever:

- (1) Knowingly and without lawful authority enters or remains within or on a building;
- (2) Enters upon the land of another, after receiving, prior to such entry, notice from the owner or occupant that such entry is forbidden;
- (3) Remains upon the land of another, after receiving notice from the owner or occupant to depart; or
- (4) Enters upon one of the following areas in or on a motor vehicle (including an off-road vehicle, motorcycle, moped, or any other powered two-wheel vehicle), after receiving prior to that entry, notice from the owner or occupant that the entry is forbidden or remains upon or in the area after receiving notice from the owner or occupant to depart:
  - a. Any field that is used for growing crops or which is capable of being used for growing crops;
  - b. An enclosed area containing livestock;
  - c. An orchard; or
  - d. A barn or other agricultural building containing livestock; commits a violation of this section. For purposes of subsection (a)(1) of this section, this section shall not apply to being in a building which is open to the public while the building is open to the public during its normal hours of operation; nor shall this section apply to a person who enters a public

building under the reasonable belief that the building is still open to the public.

(b) A person has received notice from the owner or occupant within the meaning of subsection (a) of this section if he has been notified personally, either orally or in writing including a valid court order as defined by 725 ILCS 5/112A-3(7) granting the remedy provided in 725 ILCS 5/112A-14(b)(2), or if a printed or written notice forbidding such entry has been conspicuously posted or exhibited at the main entrance to such land or the forbidden part thereof.

(c) This section does not apply to any person, whether a migrant worker or otherwise, living on the land with permission of the owner or of his agent having apparent authority to hire workers on such land and assign them living quarters or a place of accommodations for living thereon, nor to anyone living on such land at the request of, or by occupancy, leasing or other agreement or arrangement with the owner or his agent, nor to anyone invited by such migrant worker or other person so living on such land to visit him at the place he is so living upon the land.

(d) A person shall be exempt from prosecution under this section if he beautifies unoccupied and abandoned residential and industrial properties located within any municipality. For the purpose of this subsection, "unoccupied and abandoned residential and industrial property" means any real estate:

- (1) In which the taxes have not been paid for a period of at least two years; and
- (2) Which has been left unoccupied and abandoned for a period of at least one year;

and "beautifies" means to landscape, clean up litter, or to repair dilapidated conditions on or to board up windows and doors.

(e) No person shall be liable in any civil action for money damages to the owner of unoccupied and abandoned residential and industrial property which that person beautifies pursuant to subsection (d) of this section.

(f) This section does not prohibit a person from entering a building or upon the land of another for emergency purposes. For purposes of this subsection, "emergency" means a condition or circumstance in which an individual is or is reasonably believed by the person to be in imminent danger of serious bodily harm or in which property is or is reasonably believed to be in imminent danger of damage or destruction.

(g) Any person violating any provision of this section relating to criminal trespass to land shall, upon conviction, be subject to a fine not less than \$5.00 nor more than as provided in section 1-11. (Code 1977, § 43.22)

**Secs. 46-96—46-120. Reserved.**

## ARTICLE V. OFFENSES AGAINST MORALS

### **Sec. 46-121. Keeping a place of prostitution.**

No person who has or exercises control over the use of any place which could offer seclusion or shelter for the practice of prostitution, shall perform any of the following acts, which shall constitute keeping a place of prostitution:

- (1) Knowingly grant or permit the use of such place for the purpose of prostitution;
- (2) Grant or permit the use of such place under circumstances from which he could reasonably know that the place is used or is to be used for purposes of prostitution; or
- (3) Permit the continued use of a place after becoming aware of facts or circumstances from which he should reasonably know that the place is being used for purposes of prostitution.

(Code 1977, § 43.18)

**State law reference**—Similar provisions, 720 ILCS 5/11-17.

### **Sec. 46-122. Obscenity.**

(a) *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 content thereof, he:

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

(b) *Obscene defined.* Any material or performance is obscene if:

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

(c) *Interpretation of evidence.* Obscenity shall be judged with reference to ordinary adults, except that it shall be judged with reference to children or other specially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be specially designed for or directed to such an audience. Where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter is lacking in serious literary, artistic, political or scientific value. In any prosecution for an offense under this section evidence shall be admissible to show:

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

(d) *Prima facie evidence.* The creation, purchase, procurement or possession of a mold, engraved plate or other embodiment of 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) *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;

- (2) Was to institutions or individuals having scientific or other special justification for possession of such material.

(Code 1977, § 43.19)

**State law reference**—Similar provisions, 720 ILCS 5/11-20(a) (c), (e),(f).

**Secs. 46-123—46-150. Reserved.**

## ARTICLE VI. NUISANCES AND PROPERTY ENHANCEMENT\*

### Sec. 46-151. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Animal* means any types of animals, both domesticated and wild, male, female or neutered, singular and plural.

*Campgrounds* mean where overnight, weekly or monthly occupation of land by mobile homes or recreational vehicles or tents may be made.

*Deteriorated or deterioration* means a lowering in quality of the condition or appearance of a building, structure or premises, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay, neglect, damage or lack of maintenance.

*Director* means the director of the community development department or his/her designee.

*Dumping ground* means any area that is used for the storing, leaving, or abandoning of refuse, garbage, waste, earth, rock or debris, including construction, agricultural, landscape, residential, commercial and industrial solid waste.

*Improved area* means an area having a surface of asphalt, concrete, crushed rock, gravel, or masonry, maintained free of all vegetation and contained within a permanent curb or border, con-

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\***Editor's note**—Ord. 2003-07, § 1, adopted Feb. 17, 2003, repealed art. VI, §§ 46-151—46-157, in its entirety. Section 3 of said ordinance enacted new provisions to read as herein set out. Prior to amendment, art. VI pertained to nuisances and derived from Code 1977, §§ 12.02—12.07; and Ord. No. 97-60, § 1, adopted May 19, 1997.

structed of asphalt, concrete, masonry, metal, wood or other approved permanent material secured to or embedded in the ground, delineating the improved area from the remainder of the yard area.

*Inoperable vehicle* means a vehicle which, for a period of at least seven (7) consecutive days, the engine, wheels, or other parts have been altered, damaged, or otherwise so treated that the vehicle is incapable of being driven under its own motor power. However, nothing in this subsection shall apply to any motor vehicle that is kept within a building when not in use or to a motor vehicle on the premises of a place of business engaged in the wrecking or junking of motor vehicles. "Inoperable motor vehicle" shall not include a motor vehicle that has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations.

*Junkyard* means a place used for the storage, keeping or abandonment of junk, stripped, substantially damaged, discarded or dismantled vehicles or machinery, or parts thereof, scrap metals, rags or other scrap materials; including places used for the wrecking, disassembling, repair or rebuilding of vehicles or machinery of any kind. The term junk as used in this definition does not include ongoing restoration projects.

*Mobile home* means a structure designed for permanent habitation, and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location, or subsequent locations, at which it is intended to be a permanent home or for office purposes, mounted upon wheels, or any other device upon which it may readily be transported, and designed to permit the occupancy thereof as a dwelling place for one or more persons. Even if structure rests on a permanent foundation, with wheels, tongue, hitch and axle or lug bolts permanently removed, it shall be construed as a mobile home. A mobile home may be with or without mechanical power.

*Mobile home park* means any plot of ground where mobile homes are invited or allowed to be located regardless of whether or not any charge is made for the use of such plot of ground.

*Ongoing restoration project* means a project involving a single vehicle or machinery that is kept in a clean and neat condition during the term of active repair and rebuilding.

*Parking lot* means any plot of ground used for temporary storage of automobiles.

*Person* means and includes any person, firm, association, organization, partnership, business trust, corporation, company or other entity.

*Public nuisance* means a thing, act, occupation, condition or use of property which shall continue for such length of time as to substantially annoy, injure or endanger the comfort, health, repose or safety of the public; in any way render the public insecure in life or in the use of property; greatly offend the public morals or decency; unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way. This definition is in addition to, and not a limitation upon, the definition of "public nuisance" as provided by common law, statutory law and lawful municipal declaration of public nuisance.

*Recreational vehicle* means any unit designed primarily for living or sleeping purposes, equipped with wheels, or placed upon a wheeled device for the purpose of transporting from place to place. This term shall include, but not be limited to, camping trailers, campers, mobile homes, tent trailers, motor coaches, tent campers, and shall also include those wheeled devices upon which they are placed.

*Roof panel* means a distinct plane of the roof of a building.

*Slum-like* means a building, structure or premises characterized by deterioration or other similar conditions regardless of the condition of other properties in the neighborhood.

*Street or highway* means any recognized thoroughfare in the village including the entire width between the boundary lines of every right-of-way publicly owned or maintained when any part thereof is open to the use of the public for the

purpose of vehicular or pedestrian travel. "Thoroughfare" as used herein shall include municipal sidewalks, trails and pathways.

*Tourist camp* means any plot of ground where cabins are constructed and tourists are invited or allowed to be located regardless of whether or not any charge is made for the use of the same.

*Towing unit* means any vehicle furnishing tractive effort for a mobile home.

*Vehicle* means a machine propelled by power other than human power designed to travel along the ground, water or air to transport persons, property or machinery, and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, boat, aircraft, all-terrain vehicles, go-karts, motocross cycles, sand rails, snowmobiles, and dune buggies.

(Ord. No. 2003-07, § 3, 2-17-2003)

**Cross references**—Definitions generally, § 1-2; traffic and vehicles, ch. 78.

#### **Sec. 46-152. Purpose and scope.**

(a) The purpose of this chapter is to promote the health, safety, and welfare of Gurnee and its residents, and to protect neighborhoods against physical, visual and economic deterioration. To that end, the village intends by this chapter to prohibit nuisances that:

- (1) Contribute to or cause injury or endangerment to the health, safety or welfare of others;
- (2) Are contrary to community standards of decency;
- (3) Are offensive to the senses;
- (4) Unlawfully interfere with, obstruct or tend to obstruct or render dangerous the free passage or use, in the customary manner, of any stream, public park, parkway, square, sidewalk, thoroughfare, street or highway in the village;
- (5) Obstruct the free use of property so as to essentially interfere with the comfortable enjoyment of life and property by the public; or

- (6) Damage or contribute to the deterioration of property or improvements in the community.

(Ord. No. 2003-07, § 3, 2-17-2003)

#### **Sec. 46-153. Enumerated violations.**

(a) It shall be unlawful, and a violation of this Code, for any person, whether as owner, lessee, tenant, occupant or otherwise, to commit, or maintain a nuisance or willfully omit to perform any legal duty relating to the removal of a nuisance.

(b) A nuisance includes any one or more of the following conditions:

- (1) Filthy, littered, debris or trash-covered exterior areas, including exterior areas under any roof not enclosed by the walls, doors or windows of any building; including, but not limited to, areas that contain items such as cans, bottles, wood, metal, plastic, rags, boxes, paper, tires, auto parts; unused, inoperable, worn out or discarded appliances or other household items; lumber, scrap iron, tin and other metal not neatly piled, building material or anything whatsoever that is or may become a hazard to public health and safety, or that may harbor insect, rodent, or vermin infestation. This subsection shall not be deemed to include items kept in covered bins or metal receptacles approved by the county health department or this Code or any other ordinance of the village;
- (2) Exterior areas used or maintained as junkyards or dumping grounds, except:
  - a. Any automobile wrecking yard or other junkyard where the same are permitted by the village zoning regulations and are operating in conformity with all applicable regulations;
- (3) Any inoperable or unregistered vehicle, or parts thereof, outside of or under a roof area not enclosed by walls, doors or windows of any building on any lot, except the safe and neat keeping of:
  - a. Substantially complete inoperable or unregistered vehicles with inflated tires under the roof area of any enclosed building;

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- b. A vehicle undergoing repair, titled to the owner or resident of the property, provided that the repair is complete within 21 days after the repair was begun, provided that not more than two such 21 day repairs will be permitted in any 12 month period;
  - c. Not more than two ongoing restoration projects of inoperable or unregistered vehicles in a backyard area, screened from view at ground level by a substantially opaque fence at a minimum height of five feet or the height of the vehicles, whichever is more, provided that any fence constructed or modified pursuant to this subsection must meet any and all other requirements of the village Code and zoning ordinance;
  - d. Lawful commercial activities involving vehicles as allowed by the zoning ordinance and operating in conformity therewith; or
  - e. Operable, off-road vehicles, under the roof area of any enclosed building, or in a backyard area, screened by a substantially opaque fence at a minimum height of five feet or the height of the vehicles, whichever is more, provided that any fence constructed or modified pursuant to this subsection must meet any and all other requirements of the village Code and zoning ordinance. The community development department of the village shall notify the property owner and/or owner of any inoperable or abandoned motor vehicle in writing that such vehicle has been determined to be a public nuisance and must be removed and/or disposed of within seven days after receipt of such notice. In the event such vehicle is not removed or disposed of within such time, the community development department is authorized hereby to obtain a court order to remove or to cause the removal of such vehicle or parts thereof and the owner shall be responsible for any costs incurred in connection therewith. Nothing in this section shall prohibit the owner of the vehicle from authorizing the village to remove the vehicle.
- (4) To leave or permit to remain outside of any single-family or multifamily dwelling or accessory building any camper, vehicle, or part thereof in any portion of the front or side area of the building visible from the street that is not on an improved surface. As used herein the term "improved surface" shall mean a surface ground condition which is constructed of gravel, pavers, concrete or asphalt. (Cross reference: zoning ordinance 99-143, as amended, recreational vehicle parking)
  - (5) The storing or leaving of any machinery or equipment designed for or used by contractors or builders for commercial purposes, except where permitted by the village building and zoning regulations;
  - (6) Excessive animal waste that is not securely protected from insects and the elements, or that is kept or handled in violation of this Code or any other ordinance of the village or the county;
  - (7) Any object, building, tree, bush or vehicle that interferes with, obstructs, tends to obstruct, or renders dangerous the free passage, use or vision in the customary manner of any sidewalk, thoroughfare, street, or highway in the village;
  - (8) Any landscaping, visible from public property, that is substantially dead, damaged, or characterized by uncontrolled growth, or presents a deteriorated or slum-like appearance; uncultivated plants, weeds, tall grass, uncultivated shrubs or growth (whether growing or otherwise) higher than eight inches; or any dead trees, bushes, shrubs or portions thereof;
  - (9) Any dangerous, deteriorated, abandoned, partially destroyed or unfinished building, addition, appendage or other structure, or any building in violation of the

uniform building code as adopted by the village, and any vacated or abandoned building not securely closed at all times; any wood, metal or other material used for securing a vacated or abandoned building must be made compatible with the color of the building within 30 days of installation;

For any person, or persons, to keep, operate, maintain, or to permit to remain upon any premises owned, used, leased, occupied or controlled by him, her, it or them, any dangerous building or other structure as hereinafter defined. A dangerous building is hereby defined for the purposes of this section to be any building or structure which shall have any one or more of the following characteristics or defects:

- a. Those in which interior walls or vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
- b. Those which, exclusive of the foundation, show 33 percent or more of damage or deterioration of the supporting member or members of 50 percent of damage or deterioration of the nonsupporting enclosing or outside walls or covering.
- c. Those, which have improperly distributed loads upon the floors or roofs or on which, the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
- d. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, or the general health and welfare of the occupants or the village public.
- e. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to healthful living that they are unfit for

human habitation, or are likely to cause sickness or disease so as to risk injury to health, safety or general welfare of those living therein or of persons entering such structures.

- f. Those having light, ventilation and sanitation facilities which are inadequate to protect the health, safety, or general welfare of human being who occupy or may occupy such structures.
  - g. Those having inadequate facilities for egress in case of fire, panic or other circumstances requiring emergency egress, or those having insufficient stairways, elevators or fire escapes, as provided by the building code of the village now and hereinafter in effect.
  - h. Those which are subject to risk of collapse or fall or parts of which are so attached that a part may fall and cause injury to persons or property.
  - i. Those which because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this village.
  - j. Those buildings constructed, reconstructed or altered in violation of any provision of the building, mechanical, plumbing or electrical code or any other ordinance of this village.
- (10) Any putrid, unsound or unwholesome bones, meat, hides, skins or the whole or any part of any dead animal, butcher's trimmings and offal, or any waste vegetable or animal matter in any quantity, garbage, human excreta, sewage or other offensive substances; provided, that nothing contained in this subsection shall prevent the temporary retention of waste in receptacles in the manner approved by the health officer of the county or this Code or any other ordinance of the village;

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- (11) The erection, continuance or use of any building, room or other place in the village that, by noxious exhalations, including but not limited to smoke, soot, dust, fumes or other gases, offensive odors or other annoyances, is discomforting or offensive or detrimental to the health of individuals or of the public;
- (12) Any unguarded or abandoned excavation, pit, well or hole that constitutes a threat to public health, safety or welfare; or any well, cellar, pit or other excavation of more than two (2) feet in depth, on any unenclosed lot, without adequate curbing or covering which will provide protection from falling into such unguarded or abandoned excavation, pit, well or hole;
- (13) Abandoned, used or unused, discarded or stored icebox, refrigerator, freezer, appliance or other containers having a door with a latch or lock that can not be opened from the inside or any structure or building of any nature that is not regularly occupied or is abandoned and in such a physical condition that any person or child could enter and may not reasonably be expected to remove themselves therefrom or it may reasonably be expected that such person or child could be injured thereon;
- (14) Any wall or fence that is missing blocks, boards or other material, or is otherwise deteriorated so as to constitute a hazard to persons or property;
- (15) Any swimming pool areas that are not enclosed as required by the village zoning ordinance; or any swimming pool, architectural pool or spa that creates a health hazard, harbors insect and/or vegetation infestation or presents such a deteriorated appearance that it adversely affects the property values of surrounding properties;
- (16) Making, causing or permitting to be made any noise, vibration, or artificial illumination of such intensity as to interfere substantially and unnecessarily with the use and enjoyment of public or private property by the public, or as to constitute a hazard or threat to the public health, safety or welfare of the people of the village;
- (17) Willfully or negligently permitting or causing the escape or flow of water into the public right-of-way in such quantity, which, in the reasonable engineering opinion of the village engineer, may or does cause flooding or ice hazards, may or does impede vehicular or pedestrian traffic, may or does create a hazardous condition for such traffic, may or does cause damage to the public streets or alleys of the village through the failure or neglect to design, operate or maintain properly any water facility or device, including, but not limited to, swimming pools, architectural pools, spas, sprinklers, hoses, pipes, ditches, standpipes, berms, valves or gates;
- (18) The keeping or harboring of any dog or other animal that by frequent or habitual howling, yelping, barking, crowing or the making of other noises, annoys or disturbs a neighborhood or any number of persons;
- (19) To pollute or render unwholesome or impure the water of any spring, stream, well or pond, or to drain onto or cause water or sewage to flow over or onto the land or premises of another, or public grounds, other than through a regular water course or sewer constructed in the manner provided by the regulations or ordinances adopted by the village;
- (20) The use of any blower, fan, pump, engine, or motor in connection therewith (including but not limited to compression devices and pool filter systems) of a penetrating or continuous nature that disturbs the comfort or repose of persons residing in the vicinity;
- (21) The disposal, dumping or placing of grass or lawn clippings, leaves, shrub and tree pruning or debris and other yard waste or debris on neighboring or adjacent prop-

erty owned by another without the consent or permission of such neighboring or adjacent property owner;

- (22) To keep or suffer to be kept any wild animal or reptile which by reason of its size, habit, direct poisonous character, emission of odorous or noxious substances, ferocity, dangerous propensities or otherwise is dangerous or hazardous to the public health, safety or welfare, or otherwise constitutes a nuisance. It is no defense to a prosecution for a violation of this section that the keeper of any animal or reptile, the keeping of which is prohibited by the previous sentence, has attempted, successfully or otherwise, to domesticate such animal or reptile;
- (23) All stagnant water in which mosquitoes, flies or other insects can multiply.
- (24) Garbage cans and/or dumpsters which are not covered;
- (25) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse, gambling or the unlawful use or unlawful sale of controlled substances;
- (26) All gambling devices and slot machines which are held, stored or used in violation of the State of Illinois' gaming laws, excluding the state lottery;
- (27) All use of display of fireworks except as permitted by the laws of the State of Illinois and ordinances of the village; or
- (28) All wires over streets, alleys or public grounds that are strung less than fifteen (15) feet above the surface of the street or ground.

(c) Nothing in subsections (1) through (5) of this section shall be deemed to apply to safe and neat outdoor accessory storage, use or repair of items customarily associated with the lawful use of such property in the village, screened by a substantially opaque fence at a minimum height of five feet or the height of the storage, use or repair, whichever is more, provided that any fence

constructed or modified pursuant to this subsection must meet any and all other requirements of the village Code.

(Ord. No. 2003-07, § 3, 2-17-2003)

**Sec. 46-154. Mobile home/recreational vehicle habitation and maintenance.**

(a) *Habitation and maintenance.*

- (1) It shall be unlawful for any person to maintain a mobile home in the village, except as herein specifically permitted.
- (2) Removal of the wheels or other transporting device, except the temporary detachment of a towing unit, from any mobile home shall be construed as converting the same into a permanent structure subject to all requirements of the Gurnee Building Code, plumbing code and zoning ordinance.
- (3) Except as to the occasional or temporary visitor, guest or recreational use, the living or residing in any motor home, tent, trailer, camper or other vehicle that is not a permanent residential structure or housing unit anywhere within the village, except in designated and approved camping or trailer parks with necessary water, sanitary facilities and electrical connections. For purposes of this section, the occasional or temporary visitor shall mean a non-resident family member or guest who has an established residence elsewhere who is visiting for not more than 30 days in a 12 month period; provided, if the visitor intends a longer than 30 day visit, the owner and visitor may apply for one 30 day extension with the community development department, and the one 30 day extension may be granted where the visitor satisfactorily demonstrates that the motor home, tent, trailer, camper or other vehicle is not being used as a permanent residence.
- (4) A mobile home may be parked or stored in the village regardless of the other provisions of this section so long as it is not used for living or sleeping purposes during such time it is so stored or parked, and

provided moreover that it shall not be a nuisance and does not constitute a fire hazard.

- (5) It shall be unlawful for transients to park their mobile homes on the streets of the village for a period of time not to exceed one hour, unless an emergency requires that they be parked for a greater length of time.
- (6) It shall be unlawful hereafter to establish mobile home parks or tourist camps, as defined above in the village.
- (7) It shall be the duty of either the owner of the property on which a bona fide guest with a mobile home is located or the owner of the mobile home to register with the director of community development of the village within 24 hours after such mobile home is parked on the said property. No charge shall be made for their permit or for an extension of time permit.
- (8) Mobile homes that are permitted in the village shall be open to inspection by the director of community development or his/her designee at all reasonable times and the county health department.
- (9) It shall be the duty of the director of community development or his/her designee to enforce the provisions of this section.

(Ord. No. 2003-07, § 3, 2-17-2003)

**Sec. 46-155. Placing on property vehicles, boats and trailers which are for sale.**

(a) It is the purpose of this section to eliminate and minimize the risk to vehicles and pedestrian traffic and to the public in general where vehicles, boats, trailers or other recreational vehicles or equipment are placed on private or public property along the streets and arterials for sale. The following is determined to be a nuisance:

- (1) The placing or parking along street and road rights-of-way or in direct and plain view thereof of any vehicle, licensed or unlicensed, boat, trailer, motor home, mobilized equipment or machinery, recreational vehicle and equipment placed or

parked on property that is owned by someone other than the owner of the vehicle, licensed or unlicensed, boat, trailer, motor home, mobilized equipment or machinery, recreational vehicle and equipment for the purpose of selling the same. The placing or parking of any vehicle, licensed or unlicensed, boat, trailer, motor home, mobilized equipment or machinery, recreational vehicle and equipment on property owned by another includes business and commercial property so long as the business is not lawfully engaged in selling the particular vehicle, licensed or unlicensed, boat, trailer, motor home, mobilized equipment or machinery, recreational vehicle and equipment.

(Ord. No. 2003-07, § 3, 2-17-2003)

**Sec. 46-156. Other enumerated violations.**

(a) It shall be unlawful and a violation of this Code for any person to erect, maintain, use, place, deposit, cause, allow, leave or permit to remain on any of the below-described premises any of the following:

- (1) In a residential district, any trailer that was designed or is used for any commercial purpose in excess of 21 feet in length;
- (2) For any single-family or multifamily dwelling or accessory building:
  - a. Any wood surfaces unprotected from the elements by paint or other protective treatment, except those naturally resistant to decay;
  - b. Chipping or peeling paint in excess of 25 percent of any surface area visible from public property;
  - c. Broken, rotted, split, curled or missing roofing material of at least 25 square feet and in excess of 25 percent of any roof panel; or
  - d. Replacement materials and paint used to repair or repaint exterior surfaces of a building unless they shall be visually compatible with the remainder of the materials and paint on the exterior of the structure.

- (3) Outside of any dwelling or building, any required address numbers which are not mounted in a permanent and stationary manner, or are obstructed from view from the street or other public access areas by trees, shrubs, or anything that would tend to hide or obscure the numbers, or are not visible at all times from public access areas to the dwelling or building.

(Ord. No. 2003-07, § 3, 2-17-2003; Ord. No. 2008-95, § I, 12-1-2008)

**Sec. 46-157. Regulations not exclusive as to subject matter.**

The findings, regulations and declarations of this chapter are in addition to, and not a limitation upon, all other applicable codes, regulations, ordinances and statutes now or hereafter in effect within the village. Where there is a conflict between a provision of this chapter and a provision of any other code, regulation, ordinance or statute now or hereafter in effect within the village, then the most restrictive and appropriate provision shall apply and enforcement thereof may be sought accordingly

(Ord. No. 2003-07, § 3, 2-17-2003)

**Sec. 46-158. Commencement of action, citation, contents.**

(a) The community development department is assigned the primary responsibility of enforcing this chapter and is granted the authority expressly and implicitly needed and necessary for enforcement.

(b) Nothing in this section shall preclude employees of the community development department from seeking voluntary compliance with the provisions of this chapter or from enforcing this chapter, proactively or reactively, through warnings, notices to comply, or other such devices designed to achieve compliance in the most efficient and effective manner under the circumstances. Any person who neglects, fails or refuses to correct the violations contained within a notice to comply or other similar device issued pursuant to this chapter may be assessed a reinspection fee for inspections which occur after the compliance date. The fee for these reinspections shall be set

by resolution of the village board. Failure to pay reinspection fees within 14 days of assessment is a violation of this section. Delinquent reinspection fees shall be a lien against the real property where the violation occurred. Liens shall be filed in the office of the recorder of deeds in a form which describes the real property and the reason for the lien. The director of finance shall develop a recordable lien form for the purposes of this section.

(c) Except as provided in section 46-166, the director is authorized to commence a civil action under this chapter by issuing a citation to the occupant of the property where the violation has occurred, the owner of record, or any person responsible for the violation.

(d) The citation form will be established by the director and shall direct the defendant to appear in branch court or, to settle the matter, pay the charges and expenses pursuant to section 46-169 within 14 days after issuance of the citation. The form shall contain a schedule of fines and penalties that are imposed by this chapter and approved by resolution of the village board.

(e) The citation shall be served by delivery of a copy of the defendant by any of the following means:

- (1) By service upon the defendant by the director or his designee;
- (2) By first class mail, postage prepaid, addressed to the defendant at the last known address. Service by mail is deemed complete upon deposit in the U.S. mail;
- (3) By posting the citation on the property where the violation has occurred; or
- (4) By any of the methods for service of court process described in the Illinois Code of Civil Procedure.

(f) The citation shall contain the date and location of the violation, reference to the Gurnee Municipal Code provision or ordinance violated, and notices that within 14 days from the date on

which the citation was issued, the fine for the violation must be paid to and received by the village or to appear in branch court.

(g) The citation shall state that if the defendant fails to appear in court at the time specified, or pay the fine for the violation, judgment by default will be entered in the amount of the fine designated on the citation for the violation charged.

(h) The citation and its service upon the violator shall comply in all respects with applicable court rules for ordinance violation citations. (Ord. No. 2003-07, § 3, 2-17-2003)

**Sec. 46-159. Appearance or payment by mail.**

(a) The defendant shall, at the time specified on the citation, appear in the designated court in person or through his/her/its attorney and enter his/her/its plea according to the rules of court. The court proceedings shall thereafter be pursuant to the rules of court.

(b) The defendant may admit the allegations in the citation and pay the fine indicated by timely mailing the citation to the village hall, together with payment for the amount of the fine and, if paid by check, made payable to the village. Appearance by mail will be deemed complete by the postmarked date on the mailing provided the rules of court pertaining to appearance for trial on the citation are followed. (Ord. No. 2003-07, § 3, 2-17-2003)

**Sec. 46-160. Default judgment.**

If the defendant fails to appear as directed on the citation, the court, upon request of the village prosecutor or director of community development, may enter a default judgment for the amount of the fine indicated for the violation charged, or such higher fine as the prosecutor may request. Nothing herein shall be construed to prevent the prosecutor from requesting that the court enter such other or further relief as may be lawfully available. If a defendant fails to appear at a hearing, the court may enter judgment against the non-appearing defendant for the amount of the appropriate fine. (Ord. No. 2003-07, § 3, 2-17-2003)

**Sec. 46-161. Civil fines and penalties imposed.**

(a) The civil fine for a violation of any provision of this chapter shall be an amount not to exceed \$750.00 per offense.

(b) In the event the violator fails or refuses to appear in court on the day assigned, and a default judgment is to be entered, the prosecutor shall request such additional fines and further relief as may be appropriate under the circumstances.

(c) The court may enter judgment for delinquent fines, fees, reinspection fees, and penalties as may be provided by law. In addition, any judgment for an amount certain imposed pursuant to this Code shall constitute a lien against the real property of the owner of the property where the violation occurred. The lien may be perfected by recording a duly executed memorandum of judgment village with the office of the Lake County Recorder of Deeds. Any judgment for civil penalty pursuant to this Code may be collected as any other civil judgment. (Ord. No. 2003-07, § 3, 2-17-2003)

**Sec. 46-162. Rules of procedure and appeal.**

The Illinois Code of Civil Procedure and Supreme Court Rules in ordinance violation cases shall be followed for citations or complaints issued pursuant to this chapter. (Ord. No. 2003-07, § 3, 2-17-2003)

**Sec. 46-163. Each day separate violations.**

Each day that a violation of a provision of this chapter continues to be violated shall constitute a separate offense. (Ord. No. 2003-07, § 3, 2-17-2003)

**Sec. 46-164. Reserved.**

**Sec. 46-165. Unenumerated violations.**

(a) Notwithstanding any other provisions of this chapter, a person who commits a nuisance or willfully omits to perform any legal duty relating to the removal of a nuisance not specifically described herein, but otherwise provided for within the scope of authority to regulate nuisances as

granted to the village by state law, shall nonetheless be in violation of this chapter, provided the following conditions are satisfied:

- (1) The violation must pose a present hazard to public health, safety or welfare;
- (2) The director of community development or his/her designee must submit a report of the violation to the village prosecutor for review. The report shall contain a detailed description of the violation and explain why the violation does not come within the provisions of this chapter; and
- (3) The village prosecutor shall seek enforcement against, and /or abatement of the violation pursuant to the enforcement and/or abatement provisions of this chapter. Provided, however, before any civil action is commenced under this paragraph, the prosecutor shall obtain direction from the village administrator to take such action.

(Ord. No. 2003-07, § 3, 2-17-2003)

**Sec. 46-166. Nuisance abatement and injunction.**

In addition to or in lieu of filing a civil citation or criminal complaint, the director of community development or his/her designee may declare any property an abatable public nuisance, and file a notice to abate or obtain injunctive relief against such nuisance. An abatable public nuisance consists of, but is not limited to, any of the violations described in section 46-153.

(Ord. No. 2003-07, § 3, 2-17-2003)

**Sec. 46-167. Notice to abate or enjoin.**

The notice to abate or enjoin shall be delivered in person or sent by certified mail, return receipt requested, from the director of community development or his/her designee to the person, manager, agent or employee, owner, occupant or lessee of the property to be abated, at his last known address or the address to which the tax bill for the property was last mailed. The notice shall contain the address or property identification number identifying the location of the violation, a statement of the violation, a statement that the person, manager, agent or employee, owner or lessee

of the property has 30 days to abate or correct the violation, and the cost of such removal to the village if the violation is not abated within 30 days. The director may record the notice in the office of the county recorder. If the notice is recorded and compliance with the notice is subsequently satisfied, the director shall record a release of the notice. If the person, manager, agent or employee, owner, occupant or lessee of the property containing the nuisance to be abated cannot be located, such notice of abatement shall be posted upon the buildings, lots or grounds to be abated and shall be clearly legible and in a conspicuous place and shall be published at least two times in a newspaper of general circulation throughout the village, such publications to occur at least seven days apart. The effective date of the notice of abatement shall be the date received if delivered in person, or sent by certified mail, or the date the property is posted or the date of first publication if the alternate method of service is used. Should multiple methods of issuing the notice to abate be utilized, the first method completed shall be sufficient to comply with the provisions of this paragraph.

(Ord. No. 2003-07, § 3, 2-17-2003)

**Sec. 46-168. Abatement by village upon failure of owner.**

Upon the failure to abate by the person upon who[m] notice to abate a nuisance was served pursuant to the provisions of this chapter, the director of community development or his/her designee shall proceed to abate such nuisance and shall prepare a statement of costs incurred or to be incurred in the abatement thereof.

(Ord. No. 2003-07, § 3, 2-17-2003)

**Sec. 46-169. Emergency abatement by the village.**

When, in the opinion of the director of community development or his/her designee there is actual and immediate danger to the public or occupants of a particular premises caused by a nuisance on such premises, the director of community development or his/her designee is hereby authorized and empowered, without any notice or hearing, to order and require such premises to be vacated. The director of community development

or his/her designee shall immediately post the premises, warning of the dangerous condition, and shall then abate such nuisance and prepare a statement of costs incurred in the abatement thereof.

(Ord. No. 2003-07, § 3, 2-17-2003)

**Sec. 46-170. Abatement by village; expense statement.**

(a) When any person, owner, operator, or occupant or lessee of any building, grounds or premises within the village, neglects, fails or refuses to abate such public nuisance for more than 30 days from the effective date of the notice to abate, the village board may authorize the director to abate such public nuisance at the expense of such person, owner, occupant or lessee. All persons, regardless of their legal relationship to the property on which a nuisance exists, who have caused, suffered, allowed, permitted or maintained a nuisance, shall be jointly and severally liable for all fines penalties, fees and costs associated with the abatement of the nuisance.

(b) The director or his authorized representative, when so directed by the village board to abate such public nuisance, shall prepare a verified statement and account of all the expenses incurred by the village or occasioned by or incidental to such abatement and file such verified statement and account with the director of community development or his/her designee of the village. The verified statement shall include an administration charge as set by the village board by motion or resolution (Appendix A) with the cost of recording liens and releases thereof. The administration charge and cost of recording liens and releases shall be collected whether or not the village abates the public nuisance.

(Ord. No. 2003-07, § 3, 2-17-2003)

**Sec. 46-171. Assessment of village abatement costs.**

After the filing of the verified statement and account as set forth in section 46-170, the director shall prepare duplicate copies of a notice of lien and record one copy with the office of the county recorder, and within ten days thereafter serve by certified mail the remaining copy of such notice of

lien upon the person, owner, operator or occupant of the buildings, grounds or premises. If the owner, operator or occupant of the property to be liened cannot be located, a copy of the notice of lien shall be posted upon the buildings, lots or grounds affected thereby and be clearly legible and in a conspicuous place and shall be the date received if sent by certified mail. From and after the date of recording such notice of lien with the county recorder, all expenses incurred in connection with or incidental to such abatement and as fixed and determined by such verified statement and account are hereby declared as a lien upon such buildings, grounds and premises and shall be charged and assessed upon and against such buildings, grounds and premises and village may be collected in any manner allowed by law, including, but not limited to, collection procedures under village improvement district assessments. The recorded lien shall bear interest at the legal rate for judgments in the State of Illinois from the date that the lien is recorded until it is paid in full.

(Ord. No. 2003-07, § 3, 2-17-2003)

**Sec. 46-172. Fines; continued violations.**

(a) Violations of any provision within this chapter are punishable by maximum fine of \$750.00 for each occurrence, notwithstanding any other remedy provided in this chapter.

(b) Each day that a violation continues to exist shall be deemed a separate violation.

(Ord. No. 2003-07, § 3, 2-17-2003)

**Sec. 46-173. Village's costs declared lien; collection as taxes.**

(a) Any and all costs incurred by the village in the abatement of a nuisance under the provisions of this chapter, or any fines levied hereunder, shall constitute a lien against the property upon which such nuisance existed, and a notice of lien shall be recorded with the office of the Lake County Recorder of Deeds pursuant to, and in a form and content consistent with the provisions of this chapter.

(b) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified of the amount of such lien by first class mail at the address

shown on the records. Such remedy on behalf of the village shall not be exclusive, and all other remedies at law or in equity shall be concurrently available to the village for enforcement of such lien or recovery of the expenses incurred.

**Sec. 46-174. Possession and use of tobacco products by individuals under the age of 18.**

(a) *Purpose.* The enactment of this section directly pertains to and is in furtherance of the health, welfare and safety of the residents of the village, particularly those residents and guests under the age of 18.

(b) *Definitions.* The following words, terms and phrases when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Tobacco products* means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

*Vending machine* means any mechanical, device, electric or electronic self-service device which, upon insertion of money, token or any other form of payment, dispenses tobacco products.

(c) *Prohibited sales; delivery.* It shall be unlawful for any person, including any retailer, to sell, offer for sale, give away, or deliver tobacco products to any person under the age of 18 years.

(d) *Signs.* Signs informing the public of the age restrictions provided for in this section shall be posted adjacent to or on any display, machine or other like conveyance which offers tobacco products for sale. Each such sign shall be plainly visible and shall state: "The sale to or possession of tobacco products by persons under 18 years of age is prohibited by village law." The text of such signs shall be in red letters on a white background, such letters to be at least one inch high.

(e) *Vending machines; locking device.* It shall be unlawful for any retailer to sell or offer for sale, give away, deliver, or to keep with the intention of selling, giving away or delivering tobacco products by use of a vending machine, unless such

vending machine is equipped with a manual, electric, or electronic locking device controlled by the licensee so as to prevent its operation by persons under the age of 18 years.

(1) *Purchase by minors prohibited.* It shall be unlawful for any person under the age of 18 years to purchase tobacco products, or to misrepresent his identity or age, or to use any false or altered identification for the purchase of purchasing tobacco products.

(2) *Possession by minors.* It shall be unlawful for any minor (under the age of 18 years) to possess any tobacco product within the corporate limits of the village, provided however, that the possession of any tobacco product by any minor under the direct supervision of a parent or guardian of any such minor in the privacy of such parent's or guardian's home shall not be unlawful.

(3) *Penalties.*

a. Any person violating any provisions of subsections (c), (d) and (e) of this section shall be fined not less than \$50.00 and not more than as provided in section 1-11 of this Code for each offense, and every day on which a violation occurs or continues shall be considered a separate and distinct offense.

b. Any person violating sections (f) and (g) of this section shall be fined not less than \$50.00 and not more than as provided in section 1-11 of this Code for each subsequent offense. Fines may be waived if the defendant provides a copy of enrollment in a recognized tobacco treatment program.

(Ord. No. 96-133, § 1(12.08), 11-18-1996; Ord. No. 2003-07, § 1, 2-17-2003)

**Editor's note**—Ord. No. 2003-07, § 1, adopted Feb. 17, 2003, renumbered § 46-158 as § 46-173. In order to keep the numbering system consistent § 46-173 was changed to 46-174, at the discretion of the editor.

**Secs. 46-175-46-180. Reserved.**

## ARTICLE VII. WEAPONS

### Sec. 46-181. Unlawful use of weapons.

No person shall knowingly:

- (1) Sell, manufacture, purchase, possess or carry any bludgeon, blackjack, slung-shot, sand-club, sand-bag, metal knuckles, throwing star, or any knife, commonly referred to as a switchblade knife, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or a ballistic knife, which is a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material or compressed gas;
- (2) Carry or possess with intent to use the following unlawfully against another, a dagger, dirk, billy, dangerous knife, razor, stiletto, broken bottle or other piece of glass, stun gun or taser or any other dangerous or deadly weapon or instrument of like character;
- (3) Carry on or about his person or in any vehicle, a tear gas gun, projector or bomb or any object containing noxious liquid gas or substance, other than an object containing a nonlethal noxious liquid gas or substance designed solely for personal defense carried by a person 18 years of age or older;
- (4) Set a spring gun;
- (5) Carry or possess any firearm, stun gun or taser or other deadly weapon in any place which is licensed to sell intoxicating beverages, or at any public gathering held pursuant to a license issued by any governmental body or any public gathering at which an admission is charged, excluding a place where a showing, demonstration or lecture involving the exhibition of unloaded firearms is conducted;
- (6) Sell, manufacture or purchase any explosive bullet. For purposes of subsection (1) of this section, "explosive bullet" means the projectile portion of an ammunition cartridge which contains or carries an

explosive charge which will explode upon contact with the flesh of a human or an animal. The term "cartridge" means a tubular metal case having a projectile affixed at the front thereof and a cap or primer at the rear end thereof, with the propellant contained in such tube between the projectile and the cap.

(Code 1977, §§ 43.07, 43.08)

**State law reference**—Similar provisions, 720 ILCS 5/24-1.

### Sec. 46-182. Firearms.

(a) *Discharging prohibited.* No person shall discharge any firearm or airgun or do any hunting in the village. This section shall not apply to peace officers in the line of duty, or any person acting in self-defense.

(b) *Child access prevention.* It is declared unlawful for any person to store or leave, within premises under his control, a firearm if the person knows or has reason to believe that a minor under the age of 18 years who does not have a firearm owners identification card is likely to gain access to the firearm without the lawful permission of the minor's parent, guardian, or person having charge of the minor, unless the firearm is:

- (1) Secured by a device or mechanism, other than the firearm safety, designed to render a firearm temporarily inoperable;
- (2) Placed in a securely locked box or container; or
- (3) Placed in some other location that a reasonable person would believe to be secure from a minor under the age of 18 years.

(c) *Exceptions.* Subsection (b) of this section does not apply:

- (1) If the minor under 18 years of age gains access to a firearm and uses it in a lawful act of self-defense or defense of another; or
- (2) To any firearm obtained by a minor under the age of 18 years because of an unlawful entry of the premises by the minor or another person.

(d) *Transfer and sale.* All firearms sold or transferred within the village after September 1, 1999, must have a trigger lock installed in its locked position to prevent the trigger from engaging.

(e) *Public awareness.* All Federal Firearms Licensees (FFL) within the village limits must conspicuously place a notice that draws public attention to the ordinance from which this section is derived and its provisions after September 1, 1999.

(f) *Definitions.* For the purposes of this section, the term "firearm" has the same meaning as the Illinois Firearm Owners Identification Card Act. The term "trigger lock" is defined as any operable device which must be unlocked or disengaged in order to shoot a firearm.

(g) *Penalty.* Any person convicted of violating the provisions of this section shall be punished by a fine of not less than \$100.00 nor more than \$1,000.00 per offense.  
(Code 1977, § 43.09; Ord. No. 99-75, § 1, 6-21-1999)

**Secs. 46-183—46-210. Reserved.**

**ARTICLE VIII. NOISE**

**Sec. 46-211. Creating excessive noise prohibited.**

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:

- (1) Loud playing of phonographs, radios, television sets, or music machines, or musical instruments.
- (2) Barking or howling dogs or cats.
- (3) Vehicles without mufflers, or the unnecessary use of horns on vehicles.

(Code 1977, § 43.13)

**Sec. 46-212. Construction hours and activities.**

It shall be unlawful for any person to engage in the excavation, construction, demolition, alteration or repair of any building, street, walk, sewer, utility line, or to engage in any other construction activities related or incidental thereto, other than between the hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday and 9:00 a.m. and 5:00 p.m. on Sundays. It shall also be unlawful to make, continue or cause any construction noise associated with construction activities during prohibited hours, including without limitation: noise attributed to workers arriving on the job (i.e. shouting, loud talking); vehicular noise; the playing of radios or other music; assembling, moving or stacking of construction materials; deliveries; or other site-related construction noise. If unusual circumstances exist that would cause extreme hardship, the village administrator or designee may issue a temporary written exception to the construction hours set forth herein provided: there has been a written request submitted therefor; and reasonable conditions can be imposed to minimize any adverse effects to neighboring or nearby property owners. Further, the foregoing shall not apply to village departments and employees attempting to preserve the public health, safety and welfare, including the preservation of public or private property and/or infrastructure.  
(Ord. No. 2007-43, § I, 6-4-2007)

**Secs. 46-213—46-240. Reserved.**

**ARTICLE IX. MINORS**

**DIVISION 1. GENERALLY**

**Sec. 46-241. Truancy.**

(a) *Prohibited.* It shall be unlawful for any person under the age of 18, enrolled in a public, private or parochial school, to absent himself from attendance at school without parental permission. Any person who shall so absent himself shall be guilty of the offense of truancy and be subject to the penalties set forth in this Code. Emergency or unforeseen absences due to illness or other causes beyond the control of the person so absent-

ing himself from school without parental permission shall not constitute truancy if permission for such absence has substantially been obtained from the parent and such permission is submitted in writing to the proper school authorities within 24 hours after such absence.

(b) *Obligation of parents.* It is hereby made unlawful for any parent, guardian or other person having the legal care and custody of any person under 18 years of age, to allow or permit any such child, ward or other person under such age enrolled in a public, private or parochial school, to absent himself from attendance at school without parental permission.

(c) *Penalties.* Any person violating any of the provisions of this section shall be punished as provided in section 1-11 for each offense, and every day on which a violation occurs or continues shall be considered a separate and distinct offense. In case any parent, guardian or person in control or charge of a child who has received notice as provided in this section shall knowingly permit such child again to violate the provisions of this section, such parent, guardian, custodian or person in control or charge of such child shall be punished as provided in section 1-11 for each offense; and a separate offense shall be deemed committed on each date during or on which a violation occurs or continues.

(Code 1977, § 43.23)

**Secs. 46-242—46-260. Reserved.**

**DIVISION 2. CURFEW**

**Sec. 46-261. Imposed generally.**

(a) It shall be unlawful for any person under the age of 18 years to be on any public road, street, alley or park, or other land used for public purposes, or in any public place of business or amusement in the village between the hours of 12:00 midnight Friday and 6:00 a.m. Saturday, or between 12:00 midnight Saturday and 6:00 a.m. Sunday, or between the hours of 11:00 p.m. and 6:00 a.m. on any other day of the week, unless the person:

- (1) Is accompanied by his or her parent or guardian; or

- (2) Is in a motor vehicle engaged in interstate travel; or
- (3) Is engaged in some occupation or business, in which the person may lawfully engage, or traveling to or from such occupation or business without any detour or stop; or
- (4) Is involved in an emergency requiring immediate action to prevent serious bodily injury or loss of life; or
- (5) Is on the sidewalk or public right-of-way abutting the person's residence; or
- (6) Is attending, traveling to or returning from an official school or church function, without a detour or stop; or
- (7) Is exercising rights protected by the First Amendment to the United States Constitution, including but not limited to the free exercise of religion, freedom of speech, and right of peaceable assembly; or
- (8) Is currently married or is an emancipated minor under the Emancipation of Mature Minors Act.

(b) Prior to taking any enforcement action under this section, a police officer shall ask for the apparent offender's age and reason for being in the public place. The officer shall not issue a citation, make an arrest or take other enforcement action under this section unless the officer reasonably believes, based on the totality of the circumstances, that an offense has been or is being committed, and that none of the above-enumerated exceptions are present.

(c) Curfew hours for the day preceding a legal holiday shall be the same as for Fridays and Saturdays.

(d) Penalties for violation of this section shall be as provided in the general penalty section of this Code, or any other penalty authorized by law. (Ord. No. 1977, § 43.21(a); Ord. No. 2004-21, §§ II, III, 4-12-2004)

**Sec. 46-262. Parental responsibility.**

It shall be unlawful for any parent, guardian, or other adult person having the legal care and

custody of any person under the age of 18 years to allow or permit such person to go or to be in or upon any public road, street, alley or park, or other lands used for public purposes, or in any public place of business or amusement in the village within the times prohibited in this division, unless accompanied as provided in this division, or unless there exists a reasonable necessity therefor.

(Code 1977, § 43.21(b))

**Sec. 46-263. Reserved.**

**Editor's note**—Section II of Ordinance No. 2004-101, adopted December 20, 2004, repealed § 46-263 in its entirety. Former § 46-263 pertained to issuance of warning, parental notification and derived from § 43.21(c) of the 1977 Code.

**Sec. 46-264. Repeat offenses; court appearance.**

In case any child under the age of 18 years, after receiving a warning as provided in section 46-263, shall again violate any of the provisions of this section, the violator and the parent or guardian thereof will be requested to appear before the county court judge for disposition. If the parent or guardian and violator do not appear upon such request, the county court judge will then order the sheriff or the village police to bring in such persons.

(Code 1977, § 43.21(d))

**Sec. 46-265. Penalty for parents or guardians permitting violations.**

In case any parent, guardian, or person having legal custody of a child, who has received notice of a violation as provided in this division, shall knowingly permit such child again to violate the provisions of this division, the parent, guardian, or custodian shall be subject to punishment as provided in section 1-11.

(Code 1977, § 43.21(e))