



Village of Downers Grove - 801 Northlawn - Downers Grove, IL - 60515 - 630.434.3300

Article I. In General

15-1. Brandishing of explosives, firearms, etc.

No person shall brandish, expose, throw or carelessly handle any explosive contrivance or firearms, anywhere in the Village in a manner so as to endanger the life, limb or property of any person. (R.O. 1925, § 179; Ord. No. 2877, § 1.)

15-2. Curfew.

(a) It shall be unlawful for a person less than seventeen (17) years of age (hereinafter "minor") to be present at or upon any public assembly, building, place, street or highway at the following times :

- (1) Between 12:01 a.m. and 6:00 a.m. Saturday;
- (2) Between 12:01 a.m. and 6:00 a.m. Sunday; and
- (3) Between 11:00 p.m. on Sunday to Thursday, inclusive, and 6:00 a.m. on the following day.

(b) It is a defense to a violation of 15.2(a) that the minor engaged in the prohibited conduct while:

- (1) accompanied and supervised by the minor's parent, legal guardian, custodian, sibling, stepbrother or stepsister at least eighteen (18) years of age;
- (2) accompanied and supervised by an adult at least twenty-one (21) years of age approved by the minor's parent, guardian or custodian;
- (3) participating in, going to, or immediately returning from:
 - (i) employment which the laws of this State authorize a person less than seventeen (17) years of age to perform;
 - (ii) an official school recreational activity;
 - (iii) a religious event;
 - (iv) an emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;
 - (v) an activity involving the exercise of the minor's rights protected under the First Amendment to the United States Constitution or Article 1, Sections 3, 4, and 5 of the Constitution of the State of Illinois, such as the free exercise of religion, freedom of speech and the right of assembly;
 - (vi) an activity conducted by a non-profit or governmental entity that provides recreation, education, training or other care under the supervision of one (1) or more persons over seventeen (17) years of age;
- (4) married or had been married or is an emancipated minor under the Emancipation of Mature Minors Act, as amended.

A citation for violation of subparagraph (a) of this section may be issued by a police officer only if he reasonably believes that a violation occurred and none of the defenses enumerated in subparagraph (b) apply.

(c) It shall be unlawful for a parent, legal guardian or other person to knowingly permit or by insufficient control allow a minor in his custody or control to violate subparagraph (a) of this section and none of the defenses enumerated in subparagraph (b) hereof apply. (Ord. No. 2877, § 1.)

15-3. Littering.

No person shall place or cause to be placed upon any street, alley, park or other public property any litter, unless the litter is placed into a receptacle intended for the deposit of litter. As used in this section, "litter" means any discarded, used or unconsumed substance or waste. "Litter" may include, but is not limited to, any placard, handbill, circular, garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging, construction material, abandoned vehicle (as defined in the Illinois Vehicle Code, as amended), motor vehicle parts, furniture, oil, carcass of a dead animal, any nauseous or offensive matter of any kind, any object likely to injure any person or create a traffic hazard, or anything else of an unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly. (Ord. No. 2877, § 1.)

15-4. Malicious mischief.

No person shall knowingly do any act which interferes with another person's lawful use of his own property or of property open to the general public, including but not limited to:

- (a) Throwing stones, nails, glass or other missiles in a place or manner which creates an unreasonable danger of or does cause injury to persons or damage to property of another;
- (b) Shooting any weapon or device for launching projectiles in a place or manner which creates an unreasonable danger of or does cause injury to persons or damage to property of another;
- (c) Depositing a stink bomb or other offensive smelling compound in any building, structure or vehicle;
- (d) Performing an act, such as ringing a doorbell, for the purpose of disturbing the occupant of a building;
- (e) Cruelly treating any animal by the infliction of physical pain, suffering or death, when not necessary for purposes of defense of person or property; or
- (f) Going upon any premises or to any private residence on which is prominently displayed a notice with the words "No Soliciting", or substantially similar language, without appointment, and having personal contact with the resident or occupant for the purpose of engaging in commercial or noncommercial solicitation (as defined in Articles II and III of this Chapter), canvassing or calling upon such premises or residence to communicate issues of general interest. (Ord. No. 2877, § 1; Ord. No. 3297, § 12.)

15-5. Disorderly conduct.

A person commits disorderly conduct when he does any act in such unreasonable manner as to alarm or disturb another and to provoke, make or aid in making, a breach of the peace. Acts which shall be deemed to be disorderly conduct, and are prohibited, include, but are not limited to, the following:

- (a) *Abusive words or gestures.* Uttering profane, obscene or abusive words or performing profane, obscene or abusive gestures directed to and within the view or hearing of another, with the intent to provoke a breach of the peace.
- (b) *Disturbing passersby.* Disturbing passersby on any street, sidewalk or other place open to the public by placing any obstruction upon or across the same, or by throwing missiles of any kind, or by jeering at or deriding in any other manner, with intent to disturb any person in the lawful and orderly use of such street, sidewalk or place open to the public.
- (c) *Disturbing public assemblies.* Disturbing any orderly assembly of any kind.
- (d) *Fighting.* Engaging in or encouraging a fight in any street, park or other place open to the public.
- (e) *Keeping a disorderly place.* Causing or permitting any room, house, shop, building or place of any description (while having the control thereof) to become the gathering place of disorderly persons, or causing or permitting therein any unreasonable noise

which breaches the peace.

(f) *Obstructing entrances.* Obstructing (or remaining about) any sidewalk, entrance to any school, church, club, or other room or building used for public assemblies, or entrance to other places open to the public after being requested by a police officer or any person in charge of such place to move on.

(g) *Unlawful assembly.* Assembling with three or more persons for purposes of disturbing the public peace.

(h) *Urinating in public.* Urinating or depositing excrement upon streets, alleys, parks, or other places open to public view. (Ord. No. 2877, § 1.)

15-5.1. Noise Regulations.

(a) No person shall make, cause to be made, or permit to be made, any unreasonable noise or sound which disturbs the peace.

(b) No person shall keep within the Village any dog or other animal which makes any unreasonable barking, howling or other noises which disturbs the peace.

(c) No person shall operate, permit to be operated or cause to be operated, on the exterior of any premises, any power tools such as but not limited to gas or electric powered lawnmower, chain saws, power saws, sweepers or yard equipment other than between the hours of 7:00 a.m. and 9:00 p.m. except that on Sundays such operation is prohibited prior to 8:00 a.m. and after 9:00 p.m.

(d) No person shall operate, permit to be operated or cause to be operated, on the exterior of any premises, any heavy construction equipment such as but not limited to tractors, augurs, backhoes, cement mixers or construction vehicles other than between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday. No such equipment shall be operated at any time on Sundays.

(e) No person shall operate, permit to be operated, or cause to be operated, any radio, stereo or sound amplification device in a manner which causes unreasonable noise or vibration and is detectable without the aid of any device or instrument at or beyond the lot line of the lot where such activity takes place.

(f) No person shall operate or permit the operation of any sound amplification system in or on any motor vehicle which can be heard outside the vehicle from seventy-five (75) feet or more.

(g) The provisions of this section shall not apply to any of the following:

(1) Any sound amplification system being operated to request assistance or warn of a hazardous situation.

(2) Any sound amplification systems on authorized emergency vehicles.

(3) Snow blower, other snow removal equipment; or street cleaning devices.

(4) Road, municipal parking lot, railroad or utility construction or maintenance work (including work on State, County and railroad right-of-ways) conducted or authorized by the governmental unit, railroad or utility having jurisdiction. Provided, no such work shall be conducted between the hours of 7:00 p.m. and 7:00 a.m., Monday through Saturday or on Sundays except where a waiver has been granted by the Village as provided herein. Application for such waiver shall be made with the Director of Public Works, or such Director's designee, on forms and with such information as the Director may require. In granting a waiver, the Director may impose such conditions and restrictions as may be necessary to protect the public health, welfare and safety. Provided, a waiver shall only be granted in the following circumstances:

(i) Emergency work; or,

(ii) The construction area is not within 500 feet of any single or multi-family dwelling; or,

(iii) Safety and/or traffic control measures in accordance with Village and Illinois Department of Transportation standards are not feasible during the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. Provided, twenty-four (24) hours advance written notice shall be delivered to all dwelling units within 500 feet of the construction area unless the work is of an emergency nature and notice is impractical. The notice shall be in the form approved by the Village Manager and shall be deemed served when given to any person over the age of 18 residing at such dwelling unit, or, in the event no such person can be located, by leaving a copy of the notice in a conspicuous location at the dwelling unit.

(iv) Village work or activities where the Village Manager determines that extended hours of work are necessary to complete the work in a timely fashion and to protect the public health, welfare and safety.

15-6. Damage to property.

No person shall knowingly destroy, injure, remove or deface any public or private property within the Village without the owner's consent. Said offense shall include, but is not limited to actions by operating vehicles, cutting, tearing, breaking, digging, throwing, shooting, marking, painting or drawing when such actions have the effect of causing damage to property. (Ord. No. 2877, § 1.)

15-6.1. Removal of tire markings.

When a tire, or tires, of a motor vehicle have been marked by an agent of the village for the purpose of determining the length of time said motor vehicle has been parked in a designated parking space, it shall be unlawful for any person to remove said marking. (Ord. No. 3115, § 5.)

15-7. Penalty for certain violations.

(a) The penalty for a violation of Sections 15-2 through 15-6 of this Chapter shall be as follows:

(1) A fine of not less than seventy-five dollars (\$75.00) nor more than seven hundred fifty dollars (\$750.00); or
(2) A period of conditional discharge not to exceed one year. Such discharge shall specifically require as a condition that the defendant not violate any criminal statute or quasi-criminal ordinance of any jurisdiction and that the defendant report to and appear in person before such person or agency as directed by the court. In addition, the discharge may require as a condition that the defendant:

- (i) pay a fine as specified herein;
- (ii) make restitution or reparation in an amount not to exceed actual loss or damage to property and pecuniary loss;
- (iii) work or pursue a course of vocational study;
- (iv) undergo medical or psychiatric treatment or counselling;
- (v) if a minor, to reside with his parent or in a foster home, attend school or attend a nonresidential program for youth.

(b) The parent or legal guardian of an unemancipated minor defendant who resides with such parent or legal guardian shall be liable for any fine or condition of restitution or reparation imposed by the court upon a minor hereunder; provided, that the minor has not paid such fine or made restitution or reparation within the time ordered by the court, and further provided that such parent or legal guardian has been served with a notice to appear in the original cause as provided by law. (Ord. No. 2877, § 1.)

15-8. Drinking on public property and in parking areas of residential developments.

(a) Except as permitted in the liquor control ordinance, no person shall drink any intoxicating liquors (1) in any building owned, operated, or leased by the Village, excluding residential property leased to private persons, (2) upon any street, (3) in any outdoor place open to the public within the Village, and (4) in any parking area of the following residential developments for which the owner or manager of the property has entered into an agreement with the Village for enforcement of this section:

Autumn Grove Apartment Complex, located at 2100 Prentiss Drive, Downers Grove, Illinois; this section shall be enforced in all parking areas of the property.

Arbor Park Condominiums, located near the intersection of Belmont Road and Ogden Avenue, Downers Grove, Illinois; this section shall be enforced in all parking areas of the property.

(b) At its sole cost and expense, the owner or management of the residential developments listed above shall obtain and post appropriate regulatory signs in the designated parking areas in such a manner to provide proper notice of the regulations under this section. The location, size and number of signs required shall be as determined by the police department and included in the agreement between the Village and the owner or management provided each such sign shall not exceed nine square feet.

(c) For purposes of this section, the term "parking area" shall mean all improved parking lots used for the parking of motor vehicles, the driveways and improved areas accessing the lots, and the twenty foot wide area bordering a parking lot which may include, but is not limited to, sidewalks or grassy or landscaped areas. "Parking area" shall not include garages or sheds. (Ord. No. 2877, § 1.)

15-9. Firearms—Discharge.

No person shall fire or discharge any gun, pistol, fowling piece or other firearm, or any air gun, toy pistol on which percussion caps are used, air rifle, air pistol, spring pistol, pneumatic gun, BB gun, paintball gun, pellet gun or any implement that is not a firearm which impels a breakable paintball containing washable marking colors, or a pellet constructed of hard plastic steel, lead or other hard materials with a force that reasonably is expected to cause bodily harm, or other projectile-type weapon device which is calculated or intended to propel or project a bullet, pellet, arrow or similar projectile within the Village. (R.O. 1925, § 175; Ord. No. 2877, § 1.)

15-10. Same—Sale to minors.

No person shall sell, loan or furnish to any minor any gun, pistol, fowling piece or other firearm, air gun or toy pistol on which percussion caps are used. (R.O. 1925 § 176; Ord. No. 2877, § 1.)

NOTE: For state law as to unlawful sale of firearms, see Ill. Comp. Stat., ch. 720, § 5/24-3.

15-11. Fireworks—Permit required to discharge.

It shall be unlawful to discharge, fire or give any exhibition of fireworks or pyrotechnics, as defined by the Fireworks Regulation Act,* within the Village without having first secured a permit therefor from the Village Manager. (Ord. No. 305, § 1; Ord. No. 2433, § 1; Ord. No. 2877, § 1.)

* Ill. Comp. Stat., ch. 425, § 30/2.

15-12. Same—Possession, storage and sale prohibited; exception.

It shall be unlawful to possess, store, sell or offer for sale any fireworks or pyrotechnics in the village, either at wholesale or retail; provided, that the storage of such materials for use in an exhibition for which a permit has been granted, shall not be construed as a violation of this section. (Ord. No. 305, § 1; Ord. No. 2433, § 1; Ord. No. 2877, § 1.)

15-13. Gambling.

(a) No person shall, upon any premises or within any building within the Village occupied or controlled by him, set up, keep, maintain or operate or permit to be set up, kept, maintained or operated any card game or instrument, device or thing for the purpose of gambling or with which money or property, or anything representing money or property or anything of value shall in any manner be lost or won; provided, however, that the game commonly known as "bingo", when conducted in accordance with the provisions of the of the Illinois Bingo License and Tax Act,¹ pull tab and jar games when conducted in accordance with the provisions of the Illinois Pull Tabs and Jar Games Act², charitable games when conducted in accordance with the Illinois Charitable Games Act³, and lotteries when conducted by the State of Illinois in accordance with the Illinois Lottery Law, shall be permitted and shall not be construed as a violation of this section.

(b) No person shall participate in the activities defined as gambling in subsection (a). (R.O. 1925, § 411; Ord. No. 301, § 1; Ord. No. 2121, § 1; Ord. No. 2812, § 3; Ord. No. 2877, § 1.)

NOTE: For state law as to gambling, see Ill. Comp. Stat., ch. 720, §§ 5/28-1 to 5/28-9. As to authority of Village to suppress gambling, see Ill. Rev. Stat., ch. 24, § 11-501. (Repealed)

¹Ill. Comp. Stat., ch. 230, §§ 25/1 et seq.

²Ill. Comp. Stat., ch. 230, §§ 20/1 et seq.

³Ill. Comp. Stat., ch. 230, §§ 30/1 et seq.

⁴Ill. Comp. Stat., ch. 230 §§ 15/01 et seq.

15-14. Houses of ill fame.

No person shall keep or maintain or be an inmate of or in any way contribute to the support of any house of ill fame or assignment.

Any person found in any house of ill fame or assignation shall be considered an inmate within the meaning of this section.

Every house of ill fame or house of assignation where men and women resort for the purpose of prostitution is declared to be a nuisance. (R.O. 1925, §§ 414, 415, 416; Ord. No. 2877, § 1.)

NOTE: For state law as to keeping a place of prostitution, see Ill. Comp. Stat., ch. 720, § 5/11-17. As to authority of village to prevent prostitution, see Ill. Comp. Stat., ch. 65, § 5/11-54.

15-15. Public indecency.

(a) No person of the age of seventeen years or older shall commit an act of public indecency in a public place, where such acts may reasonably be expected to be viewed by others, such acts to include the following:

- (1) An act of sexual intercourse; or
- (2) An act of deviate sexual conduct as defined by Article 11 of the Criminal Code of 1961, as amended*; or
- (3) A lewd exposure of the body done with intent to arouse or satisfy the sexual desire of the person; or
- (4) A lewd fondling or caress of the body of another person of either sex. (R.O. 1925, § 413; Ord. No. 2489, § 5; Ord. No. 2877, § 1.)

NOTE: For state law as to public indecency, see Ill. Comp. Stat., ch. 720, § 5/11-9.

* Ill. Comp. Stat., ch. 720, § 5/11-9.

15-16. Obscenity.

(a) No person shall commit obscenity in the Village. 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 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 or her body for gain; or
- (5) Creates, buys, procures or possesses obscene matter or material with intent to disseminate it in violation of this section, or of the penal laws or regulations of any other jurisdiction; or
- (6) Advertises or otherwise promotes the sale of material represented or held out by him or her to be obscene, whether or not it is obscene.

(b) A thing is obscene if, when considered as a whole by the average person applying contemporary community standards: (i) its predominant appeal is to prurient interest, that is, a shameful or morbid interest in nudity, sex or excretion, and it goes substantially beyond customary limits of candor in description or representation of such matters; and (ii) it depicts in a patently offensive way beyond the customary limits of candor, Specified Sexual Activities as defined in Section 8-2001 of this Code; and (iii) the work or exhibition as a whole is utterly without redeeming social importance.

(c) In determining whether an object, act or exhibition is obscene, a court or other authority should consider, in addition to other logically relevant factors:

- (1) Circumstances of production, presentation, sale, dissemination, distribution or publicity which indicate that material is being commercially exploited for the sake of its prurient appeal.
- (2) The character of the audience for which the material was designed or to which it was directed.
- (3) 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.
- (4) The artistic, literary, scientific, educational or other merits of the material, or absence thereof.
- (5) The degree, if any, of public acceptance of the material in the State.
- (6) Appeal to prurient interest, or absence thereof, in advertising or other promotion of the material.
- (7) Purpose of the author, creator, publisher or disseminator. (Ord. No. 2489, § 5; Ord. No. 2877, § 1.)

15-17. Limitations of harmful films with respect to juvenile audiences.

It shall be unlawful for any person to knowingly show or cause to be shown a film harmful to juveniles on a motion picture screen, for which showing or displaying an admission fee is charged, to a juvenile not accompanied by a parent or guardian. (Ord. No. 2167, § 6; Ord. No. 2691, § 3; Ord. No. 2877, § 1.)

15-18. Same—Definitions.

For purposes of Section 15-17 the following terms shall have the meanings ascribed as follows:

- (a) A film includes films, movies, previews, trailers and advertisements.
- (b) A juvenile is a person under the age of seventeen years.
- (c) A film is harmful to juveniles if, to the average person applying contemporary standards:
 - (1) Its predominant appeal is to the prurient interests judged with reference to average juveniles of the same general age as the juvenile to whom the film is shown, the prurient interest being a shameful or morbid interest in nudity, sex or excretion;
 - (2) It goes substantially beyond the customary limits of candor in description of nudity, sex or excretion; and
 - (3) Its redeeming social importance is substantially less than its prurient appeal.

Types of conduct that would come under the definition herein have been specified by the Illinois Supreme Court in its construction of similar state obscenity statutes, and are incorporated herein by reference.

- (d) A person knowingly shows a harmful film to a juvenile, if he has knowledge of the harmful content of the film and knowledge that the person to whom the film is shown is under seventeen years of age, or if he fails to exercise reasonable care in ascertaining whether the content of the film is harmful or the age of the juvenile to whom the film is shown. (Ord. No. 2167, § 6; Ord. No. 2691, §§ 3, 4; Ord. No. 2877, § 1.)

15-19. Same-Presumptions.

For purposes of proof of a violation of Section 15-17 it shall be presumed that:

- (a) A film is harmful to juveniles if that film explicitly depicts nudity, sex or excretion and is rated "X" or "R" or "NC17" by the Motion Picture Association of America.
- (b) A person knowingly shows a harmful film if he has knowledge that the film explicitly depicts nudity, sex or excretion and is rated "X" or "R" or "NC17" by the MPAA.
- (c) A person knowingly shows a film to a juvenile if he fails to require and inspect documentary evidence of age for that juvenile or if a juvenile employee is working on the premises at the time of showing.
- (d) The redeeming social importance of the film shown to a juvenile is substantially less than its prurient appeal, where circumstances of production, presentation or publicity indicate that the film is being commercially exploited for the sake of its prurient appeal. (Ord. No. 2167, § 6; Ord. No. 2691, §§ 3, 4; Ord. No. 2877, § 1; Ord. No. 3346, §§ 6, 7.)

15-20. Limitation on sale or display of certain materials with respect to minors.

(a) It shall be unlawful for any person to sell, barter, give, exchange, rent, lease or otherwise deliver to any minor any of the following materials as defined in Section 15-21:

- (1) Smoking materials;
- (2) Drug paraphernalia;
- (3) Books, magazines, periodicals, films and other reading or viewing materials which are harmful to minors.

(b) It shall be unlawful for any person to sell, barter, give, exchange, rent, lease or otherwise deliver to any minor tobacco products as defined in Section 15-21.

(c) It shall be unlawful for any person to publicly display or cause to be displayed any of the materials enumerated in subparagraphs (a)(2) and (3) of this section in any business establishment within the Village of Downers Grove which permits or allows any minor to enter into and upon its place of business.

(d) It shall be unlawful for any person to permit any employee under the age of eighteen years of age or for any such employee under the age of eighteen years to register the sale or rental, to any person whatsoever, by mechanical or electronic means, of any materials listed in paragraph (a) hereof. (R.O. 1925 § 434; Ord. No. 2455, § 1; Ord. No. 2877, § 1; Ord. No. 2885, § 1; Ord. No. 3292, § 1.)

15-20.1. Limitation on the rental of hotel/motel rooms with respect to minors.

(a) It shall be unlawful for any hotel/motel to rent, lease or sign a contract for the use of a public sleeping unit, hotel or motel room or suite to any individual under the age of twenty-one.

15-21. Same—Definitions.

The following words and phrases shall have the meanings respectively ascribed to them by this section:

(a) Smoking materials are articles or equipment commonly used in the consumption or ingestion of tobacco, cannabis or any smokable herb and shall include, but not be limited to, the following articles: marijuana pipes, hashish pipes, water pipes, chamber pipes, electric pipes, air driven pipes, bongos, ice pipes and cigarette papers.

(b) *Cannabis* is marijuana, hashish and other substances included in the definition of cannabis as set forth in the "Illinois Cannabis Control Act" (720 ILCS 550/1, et seq.)

(c) A *controlled substance* is any drug or substance included in the definition of a controlled substance as set forth in the "Illinois Controlled Substance Act" (720 ILCS 570/100, et seq.).

(d) *Drug paraphernalia* is all equipment, products, and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body cannabis or a controlled substance in violation of any village, state or federal law. It includes but is not limited to:

- (1) Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is cannabis or a controlled substance or from which cannabis or a controlled substance can be derived;
- (2) Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing cannabis or controlled substances;
- (3) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is cannabis or a controlled substance;
- (4) Testing equipment used, intended for use or designed for use in identifying, or in analyzing the strength, effectiveness or purity of cannabis or controlled substances;
- (5) Scales and balances used, intended for use, or designed for use in weighing or measuring cannabis or controlled substances;
- (6) Dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances;
- (7) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining cannabis;
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances or combining cannabis with any controlled substance;
- (9) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of cannabis or controlled substances;
- (10) Containers and other objects used, intended for use or designed for use in storing or concealing cannabis or controlled substances;
- (11) Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body;
- (12) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing cannabis or cocaine into the human body such as:

- (a) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
- (b) Water pipes;
- (c) Carburetion tubes and devices;
- (d) Smoking and carburetion masks;
- (e) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- (f) Miniature cocaine spoons and cocaine vials;
- (g) Chamber pipes;
- (h) Carburetor pipes;
- (i) Electric pipes;
- (j) Air-driven pipes;
- (k) Chillums;
- (l) Bonges;
- (m) Ice pipes or chillers.

In determining whether an object is "drug paraphernalia", a court or other authority should consider, in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) Prior convictions, if any, of an owner, or anyone in control of the object, under any village, state or federal law relating to cannabis or controlled substances;
- (3) The proximity of the object, in time and space, to a direct violation of any village, state or federal law relating to cannabis or controlled substances;
- (4) The proximity of the object to cannabis or a controlled substance;
- (5) The existence of any residue of cannabis or controlled substances on the object;
- (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of any village, state or federal law relating to cannabis or controlled substances; the innocence of an owner or of anyone in control of the object as to a direct violation of any such laws shall not prevent a finding that the object is intended for use, or designed for use as "drug paraphernalia";
- (7) Instructions, oral or written, provided with the object concerning its use;
- (8) Descriptive materials accompanying the object which explain or depict its use;
- (9) National or local advertising concerning its use;
- (10) The manner in which the object is displayed for sale;
- (11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- (13) The existence and scope of legitimate uses for the object in the community;
- (14) Expert testimony concerning its use

(e) *A cocaine spoon* is a spoon with a bowl so small that the primary use for which it is reasonably adapted or designed is to hold or administer cocaine, and which is so small as to be unsuited for the typical, lawful use of a spoon. A cocaine spoon may or may not be merchandised on a chain and may or may not be labeled as a "cocaine" spoon or "coke" spoon.

(f) *A minor* is any male or female person who has not yet attained eighteen years of age.

(g) The term *publicly displayed* when used with reference to drug paraphernalia, or books, magazines, periodicals, films and other reading or viewing materials which are harmful to minors shall mean display where such materials are openly available for viewing in store windows, on open racks designed for such display or on counters.

(h) *A film* is any motion picture or video tape for sale or rent or for viewing on premises by use of motion picture devices or other coin-operated means.

(i) The term *harmful to minors* when applied to any book, magazine, periodical, film or other reading or viewing material shall mean that any such material, if read or viewed by the average person applying contemporary standards in the community, would be found to have the following characteristics:

- (1) Its predominant appeal is to prurient interests judged with reference to average minors of the same general age as the minor to whom the material is sold or in whose presence the material is displayed, the prurient interest being a shameful or morbid interest in nudity, sex or excretion;
- (2) It goes substantially beyond the customary limits of candor in description of nudity, sex or excretion; and
- (3) It is utterly without redeeming social value.

It is the intent of this definition to include materials depicting any type of conduct which has been from time to time held by the Illinois Supreme Court in its construction of state obscenity statutes to be harmful to minors.

It shall be presumed that a film is harmful to minors if that film is rated "X" or "NC17" by the Motion Picture Association of America and explicitly depicts nudity, sex or excretion.

(j) *Tobacco products* are any substances containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff or smokeless tobaccos including chewing tobacco and dipping tobacco. (Ord. No. 2455, § 1; Ord. No. 2877, § 1; Ord. No. 2885, 2; Ord. No. 3292, § 2; Ord. No. 3346, § 8.)

15-22. Same—Demand for identification; warning signs.

(a) Any person contemplating the sale or furnishing of any materials described in Section 15-20 of this Code who believes or has reason to believe that a sale or delivery of such materials is prohibited because of the age of the prospective recipient, shall before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his official duties.

Mere exhibiting of a rental club card for film rental or similar document shall not constitute evidence of age sufficient to grant permission to rent films harmful to minors.

(b) Every person engaged in the business of selling any materials described in Section 15-20 of this Code shall display at all times in a prominent place in his place of business either or both of the following printed cards, as applicable, which shall be issued by the village clerk and which shall read substantially as follows:

SALE TO MINORS OF TOBACCO PRODUCTS, SMOKING MATERIALS OR DRUG PARAPHERNALIA IS PROHIBITED. YOU MUST BE 18 AND HAVE PROOF OF AGE.

SALE TO MINORS OF BOOKS, MAGAZINES, PAMPHLETS, FILMS OR OTHER READING OR VISUAL MATERIALS HARMFUL TO MINORS IS PROHIBITED. YOU MUST BE 18 AND HAVE PROOF OF AGE.*

** as defined by applicable law.*

(c) Every person engaged in the business of selling tobacco products as described in Section 15-20 of this Code through the use of vending machines or self-service dispensing devices, shall cause to be affixed, in a prominent place, on each such vending machine or device, a sticker, which shall be issued by the village clerk and which shall read substantially as follows:

SALE TO MINORS OF TOBACCO PRODUCTS IS PROHIBITED. YOU MUST BE 18 AND HAVE PROOF OF AGE.

(d) Failure to display the printed card or cards required under paragraph (b) of this section, or to affix the sticker(s) required under paragraph (c) shall constitute a separate offense for each day such violation continues. (Ord. No. 2455, § 1; Ord. No. 2877, § 1; Ord. No. 2885, § 3; Ord. No. 3292, § 3.)

15-23. Truancy.

(a) Definitions. For the purpose of this section, the following terms, words and their definitions shall have the meaning given herein.

1. "Legal guardian" means any natural parent, foster parent, person appointed guardian or given custody of a minor by a circuit court of this state, or a person appointed guardian or given custody of a minor under the Illinois Juvenile Court Act, but shall not include any person appointed guardian only to the estate of a minor, or a guardian ad litem.

2. "Parents" shall include the father and/or the mother of a minor child, whether by birth or adoption, or shall be deemed to be the parent having legal custody of the minor in the event the parents are divorced or separated. The term "parent" as used in this section shall also be deemed to mean "legal guardian."

3. "Minor," "minor child" or "ward" shall mean any person five (5) years of age, but not yet eighteen (18) years of age.

(b) Truancy Prohibited. It shall be unlawful for any minor enrolled in a public, private or parochial school within the corporate limits

of the Village of Downers Grove to absent himself or herself from attendance during all or part of a school day during a time when school is in session without permission of his or her parent or legal guardian. Emergency, unforeseen absences due to illness, observation of a religious holiday, death in the immediate family, family emergency or other causes beyond the control of the minor so absents himself or herself from school without permission of his or her parent or legal guardian shall not constitute truancy if permission for such absence has in substance been obtained from the parent or legal guardian and such permission is confirmed in writing to the proper school authorities within twenty-four (24) hours after such absence.

(c) Parental Responsibility. It shall be unlawful for a parent or legal guardian to allow or permit his or her minor child or ward to violate subsection (b) of this section.

(d) Contributing to Truancy. It shall be unlawful for any person eighteen (18) years of age or older to perform any act of commission or omission when such act encourages or contributes to the truancy of a minor.

(e) Defenses to Truancy. Those defenses and/or exceptions as set forth in the Illinois School Code (105 ILCS 5/1 et seq.) for compulsory attendance or enrollment in school shall apply as defenses to this section.

(f) Penalties.

(1) Any person that violates any of the provisions of this section shall be subject to the penalties set forth in Section 1.16 of the Downers Grove Municipal Code.

(2) In addition to or in lieu of the fine amounts set forth in sections 1.16 and 1.15, a period of community service not to exceed one hundred sixty (160) hours may be imposed upon a minor who violates any provision of this section.

(3) Each and every day a minor is truant shall be deemed a separate violation.

(g) Parental Liability. The parent or legal guardian of an unemancipated minor defendant who resides with such parent or legal guardian shall be liable for any fine or condition of restitution or reparation imposed by the court upon a minor hereunder; provided, that the minor has not paid such fine or made restitution or reparation within the time ordered by the court, and further, provided that such parent or legal guardian has been served with a notice to appear in the original cause as provided by law.

15-23.1. Possession of Tobacco Products by Minors Prohibited.

It shall be unlawful for any person under the age of eighteen years to possess any tobacco products; provided that the possession by a person under the age of eighteen years under the direct supervision of the parent or guardian of such person in the privacy of the parent's or guardian's home shall not be prohibited. The definition of "tobacco products" for purposes of this section shall be as defined in Section 15-21(j).

15-24. Tag day—Permit required.

No person shall solicit funds for civic, benevolent or charitable purposes outright or through the sale of tags, poppies, doughnuts or other articles in the manner commonly known as a "tag day", upon the sidewalk or in public places of the village unless the organization he represents has obtained a permit therefor from the Village Manager or his designee, which permit shall be issued, subject to the following rules and regulations:

(a) Before a permit shall be issued, the applicant shall first make application setting forth the following facts:

- (1) The name and address of the sponsor of the "tag day".
- (2) The dates and hours of the proposed solicitation.
- (3) The location(s) of the proposed solicitation.
- (4) The maximum number of solicitors expected to be active at any one time.

(b) In the issuance of any permit the Village Manager or his designee shall have the power to limit the number of solicitors or taggers to be active at any one time. The Village Manager or his designee shall have the power to require some means of identification for each solicitor or tagger, and, in case of dispute, may designate or allot the stations from which such tagging or soliciting may be made. (Ord. No. 2877, § 1.)

15-25. Possession of cannabis prohibited.

(a) For purposes of this ordinance, the following definitions apply:

Cannabis. Includes marijuana, hashish and other substances which are identified as including any parts of the plant *Cannabis sativa*, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, cake or the sterilized seed of such plant which is incapable of germination.

Drug Paraphernalia. Includes all equipment, products and materials of any kind which are peculiar to, or marketed for use, or are used, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body, cannabis in violation of the Cannabis Control Act or any controlled substance. It includes but is not limited to:

- i. Kits peculiar to an marketed for use, or used in manufacturing, compounding, converting, producing, processing or preparing cannabis;
- ii. Isomerization devices peculiar to, or marketed for use, or used in increasing the potency of any species of plant which is cannabis;
- iii. Testing equipment peculiar to, or marketed for private home use in, or used for, identifying or analyzing the strength, effectiveness or purity of cannabis;
- iv. Diluents and adulterants peculiar to, or marketed for use in, or used for, cutting cannabis or any controlled substance by private persons;
- v. Objects peculiar to, marketed for use in, or used for ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, hashish oil, or any controlled substance into the human body including, where applicable, the following terms: water pipes, carburetion tubes and devices; smoking and carburetion masks; carburetor pipes; electric pipes; air-driven pipes; chillums; bonges; ice pipes or chillers.
- vi. Any item whose purpose, as announced or described by the seller, is for use in violation of this Section.

(b) It shall be unlawful for any person to grow, possess, sell, give away, barter, deliver, exchange, distribute, administer, or in any way possess any cannabis or any drug paraphernalia.

(c) Exemptions:

(1) Items marketed for the use in the preparation, compounding, packaging, labeling or other use of cannabis as an incident to lawful research, teaching, or chemical analysis and not for sale.

(2) Items marketed for, or historically and customarily used in connection with the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance.

(3) Items exempt under this section include, but are not limited to, garden hoes, rakes, sickles, baggies, tobacco pipes and cigarette-rolling papers.

(4) Items that are marketed for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purpose prohibited by this Section.

i. Considerations: In determining whether or not a particular item is exempt under this Section, all other logically relevant factors should be considered, including the following:

- a. The general, usual, customary, and historical use to which the item involved has been put;
- b. Expert evidence concerning the ordinary or customary use of the item and the effect of any peculiarity in the design or engineering of the item upon its functioning;
- c. Any written instructions accompanying the delivery of the item concerning the purposes or uses to which the item can or may be put;
- d. Any oral instructions provided by the seller of the item at the time and place of sale or commercial delivery;
- e. Any national or local advertising, concerning the design, purpose or use of the item involved, and the entire context in which such advertising occurs;
- f. The manner, place and circumstances in which the item was displayed for sale, as well as any item or items displayed for sale or otherwise exhibited upon the premises where the sale was made;
- g. Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- h. The existence and scope of legitimate uses for the object in the community.

(d) A person who possesses drug paraphernalia shall be fined not less than two hundred fifty dollars (\$250.00) nor more than seven hundred fifty dollars (\$750.00).

(e) A person who possesses less than thirty (30) grams of cannabis shall be fined not less than seventy five dollars (\$75.00) nor more than seven hundred fifty dollars (\$750.00)

(f) The provisions of this Section relating to the possession of cannabis shall be applicable to the possession of any quantity of cannabis less than thirty (30) grams. (Ord. No. 2389, § 1; Ord. No. 2877, § 1.)

15-26. Community antenna television system—Unlawful acts enumerated.

No person shall commit or cause or permit to be committed any of the following acts:

(a) The erection, maintenance or operation of a community antenna television system as defined in the Illinois Compiled Statutes, Chapter 65, Section 5/11-42-11, in the Village without the enactment by the Village Council of a franchise ordinance granting the same.

(b) The unauthorized connection, whether physically, electronically, acoustically, inductively or otherwise with any part of the facilities of any entity granted a Village community antenna television system franchise for the purpose of taking or receiving television or radio signals, pictures, programs or sounds, or two way services and data transmission, or for the purpose of enabling others to receive such signals, pictures, programs or sounds.

(c) The wilful tampering with, removal of, or injury to any cables, wires or equipment used for distribution of television or radio signals, pictures, programs or sounds without the consent of the entity granted the community antenna television system franchise by the Village.

Any action or conduct by any person in violation of the provisions of this Section, including without limit, erection or maintenance of any equipment or commencement or continuation of any work in violation hereof, shall be unlawful and shall be prohibited in the Village. Each and every day or portion thereof during which any violation of this Section is committed, continued or permitted, shall be deemed a separate offense and upon conviction shall be punished as provided in Section 1-15. (Ord. No. 2456, § 1; Ord. No. 2877, § 1.)

15-27. Theft.

(a) Theft prohibited. No person shall commit theft. A person commits theft when he knowingly:

- (1) Obtains or exerts unauthorized control over property of the owner; or
- (2) Obtains, by deception, control over property of the owner; or
- (3) Obtains, by threat, control over property of the owner; or
- (4) Obtains control of stolen property knowing the property to have been stolen by another under such circumstances as would reasonably induce him to believe that the property was stolen; and

(a) Intends to deprive the owner permanently of the use or benefit of the property; or

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

(c) Uses, conceals or abandons the property knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit. (Ord. No. 3076, § 1.)

15-28. Retail theft.

(a) Definitions. For the purposes of this section, the words and phrases defined herein shall have the meaning ascribed to them in this section unless a contrary meaning is clear from the context.

(1) *Conceal merchandise* means that, although there may be some notice of its presence, that merchandise is not visible through ordinary observation.

(2) *Full retail value* means the merchant's stated or advertised price of the merchandise.

(3) *Merchandise* means any item of tangible personal property.

(4) *Merchant* means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of such owner or operator.

(5) *Premises of a retail mercantile establishment* includes, but is not limited to, the retail mercantile establishment; any common use areas in shopping centers and all parking areas set aside by a merchant or on behalf of a merchant for the parking of vehicles for the convenience of the patrons of such retail mercantile establishment.

(6) *Retail mercantile establishment* means any place where merchandise is displayed, held, stored, or offered for sale to the public.

(7) *Shopping cart* means those push carts of the type or types which are commonly provided by grocery stores, drug stores or other retail mercantile establishments for the use of the public in transporting commodities in stores and markets and, incidentally, from the store to a place outside the store.

(8) *Under-ring* means to cause the cash register or other sales recording device to reflect less than the full retail value of the merchandise.

(b) Retail theft prohibited. No person shall commit retail theft. A Person commits the offense of retail theft when he knowingly:

(1) Takes possession of, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of retaining such merchandise or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the full retail value of such merchandise; or

(2) Alters, transfers, or removes any label, price tag, marking, indicia of value or any other markings which aid in determining value affixed to any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment and attempts to purchase such merchandise personally or in consort with another at less than the full retail value with the intention of depriving the merchant of the full retail value of such merchandise; or

(3) Transfers any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment from the container in or on which such merchandise is displayed to any other container with the intention of depriving the merchant of the full retail value of such merchandise; or

(4) Under-rings with the intention of depriving the merchant of the full retail value of the merchandise; or

(5) Removes a shopping cart from the premises of a retail mercantile establishment without the consent of the merchant given at the time of such removal with the intention of depriving the merchant permanently of the possession, use, or benefit of such cart.

(c) Presumptions. If any person:

(1) Conceals upon his person or among his belongings, unpurchased merchandise displayed, held, stored or offered for sale in a retail mercantile establishment; and

(2) Removes that merchandise beyond the last known station for receiving payments for the merchandise in that retail mercantile establishment, such person shall be presumed to have possessed, carried away or transferred such merchandise with the intention of retaining it or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the full retail value of such merchandise. (Ord. No. 3076, § 2.)

15-28.1. Trespass to real property.

(a) It shall be unlawful for any person to enter the land, any part thereof or building (other than a residence) of another, after receiving notice from the owner or occupant of the land or building that such entry is forbidden.

(b) It shall be unlawful for any person to remain upon the land, any part thereof or building (other than the residence) of another, after receiving notice from the owner or occupant to depart.

(c) A person shall be deemed to have received notice from the owner or occupant within the meaning of paragraphs (a) and (b), if such person has been notified personally, either orally or in writing, or if a printed or written notice forbidding entry has been conspicuously posted or exhibited at the main entrance of the land or forbidden part thereof. (Ord. No. 3179, § 1.)

15-28.2. Attachment to street light poles of any device or material prohibited.

No person shall attach any device or material to any street light pole located within the DB Downtown Business District or the DT Downtown Transition District of the Village as defined in the Comprehensive Zoning Ordinance of the Village of Downers Grove, passed and approved April 19, 1965, as amended. Such device or material shall include, but not be limited to, boxes, vending machines and any other type of dispensers for newspapers and other publications, bicycles, garbage receptacles, benches, signs and advertisements. This restriction shall not apply to the American flag, seasonal decorations, banners related to Village sponsored events, or signs regulating parking or traffic, when attachment of such items is authorized by the Village Council. (Ord. No. 3239, § 1; Ord. No. 3409, § 1.)

15-28.3. Possession of Telecommunications Devices on Public School Property Prohibited.

No student enrolled in a public school shall use or have in his or her possession any telecommunications device while in any school building, or on any school property except designated parking areas, at any time unless the use or possession of the device by such student has been expressly authorized by the school principal or his or her designee. A "telecommunications device" for purposes of this section means a device which is capable of receiving or transmitting speech, data, signals or other information, including but not limited to paging devices, cellular and mobile telephones, and radio transceivers, transmitters and receivers, but not including radios designed to receive only standard AM and FM broadcasts. The provisions of this paragraph shall not prohibit the lawful possession or use of telecommunication devices on designated parking areas of the school property.

15-28.4. Teasing, Striking or Tampering with Police Animals Prohibited.

It shall be unlawful for any person to willfully and maliciously taunt, torment, tease, beat, strike or administer or subject any desensitizing drugs, chemicals or substances to any animal used by a law enforcement officer in the performance of his functions or duties, or when placed in confinement off duty; or to interfere or meddle with any such animal used by a law enforcement department or agency or any handler thereof in the performance of the functions or duties of the department or agency.