

CHAPTER 27
OFFENSES AGAINST PUBLIC PEACE, SAFETY AND MORALS

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27.01 ADVERTISING

- A. It is unlawful to advertise any unlawful business in the City.
- B. It is unlawful to injure or deface any lawful advertisement or notice.
- C. Any person, firm or corporation violating any provision of this section shall be fined not less than \$25 nor more than \$500 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

27.02 BURNING

- A. Prohibited Fires, Burning: Other than those fires permitted in Section 27.02-B herein, the open burning of materials for waste disposal or other purposes, including but not limited to, material such as yard waste, landscape debris, construction materials and debris, garbage, trash, household waste, paper goods, cardboard, wood, food waste, animal waste, furniture, clothing, mattresses, appliances, automobiles, and similar items and or materials is hereby prohibited. (Ord 2011-112,§1; Ord 98-146,§3)

B. Permitted Fires (Ord 2011-112,§1; Ord 98-146,§3)

1. Barbecue grills, for the purpose of preparing food, using fuels designed for that use.
2. Fires within approved enclosed domestic outdoor fireplaces purchased commercially which shall be approved for use by Underwriters Laboratories (UL) of Factory Mutual (ML), which are 10 feet from any property line and the fuel shall consist of seasoned, dry firewood, or fuels designed for that use.
3. Bonfires associated with school events.
4. Fire, police and other government personnel in the performance of their official duties.
5. U.S. or Illinois Environmental Protection Agency permitted activities.
6. Illinois Pollution Control Board permitted activities.
7. Smudge pots using fuel designed for its use.
8. Welding and acetylene torches.
9. Flames for heating tar, sand or other construction material.
10. Highway safety flares.
11. Burning seasoned, dry firewood, wholly within a building in a fireplace or other equipment or facility designed and constructed for such purpose.
12. Recognized wildlife management practices, provided that the Harvard Police Department and the Harvard Fire Protection District are notified 24 hours prior to the prescribed burn.

B. Any law enforcement or fire protection district official shall be permitted to enter any private property when the officer has reasonable cause to believe that a fire is or has been burning in violation of this Section 27.02 (Ord. 98-146,§3, 1998)

C. Penalty: Any person, firm, corporation or association violating any provision of this Section 27.02 shall be fined not less than \$250.00 or more than \$500.00 for each offense plus the City's cost of prosecution, including reasonable attorney fees. A separate offense shall be deemed committed on each day during or on which such violation occurs or continues. (Ord 2008-123,§11; Ord. 98-146,§3,1998)

27.03 COMBUSTIBLE REFUSE

A. It is unlawful to permit or to store any combustible refuse in such a way as to create a fire hazard or to store or throw any refuse of any kind on any street, alley, sidewalk or other public place.

B. Penalty: Any person, firm, corporation or association violating any provision of this Section 27.03 shall be fined not less than \$50 or more than \$100 for each offense plus the City's cost of prosecution, including reasonable attorney's fees. A separate offense shall be deemed committed on each day during or on which such violation occurs or continues. (Ord 2008-123, §12)

27.04 NOISE

(Amended Ord. 2005-154, §6)

A. Findings: The City finds and declares that noise is a significant source of environmental pollution that represents a present and increasing threat to the public peace and to the health, safety and welfare to the residents of the City. The City further finds that standards for permissible noise levels and the prohibition of noise in excess of those levels are in the best interest of the public health, safety and general welfare.

B. Applicability: This Section 27.04 shall not apply to noise governed by:

1. An employee of a unit of government engaged in the employee's official duty;
2. Sporting events;
3. Parades or street events authorized by the City;
4. City licensed carnival or circus;
5. Fireworks displays that have received a City permit;
6. A person operating a bell or other amplification device for a religious activity;
7. Emergency vehicles;
8. Audible warning devices on a vehicle or train required by state law;
9. A person who has been issued a City sound permit.
10. Any aircraft operating in accordance with federal law; and
11. A person operating equipment in conjunction with any emergency that threatens the public health, safety and welfare.

C. Nuisance: It shall be unlawful and is hereby declared a nuisance for any person to make, continue or cause to be made any excessive, unnecessary, unusually loud sound in excess of

permissible noise levels within in residential zone in the City, measured at the property line, or within 300 feet of any residential structure in any zoning district in the City.

D. General Prohibitions:

1. Any stationary sound or noise of any 10-minute measuring period which exceeds the following limits is prohibited:

<u>Use District</u>	<u>Noise Level</u>
Residential	60 decibels
Business	65 decibels
Office (O)	65 decibels
Manufacturing	75 decibels

2. Sound Devices:

- a. The operation of any sound amplification equipment that creates sounds registering 50 decibels between 9 p.m. and 6 a.m. the following day on Mondays, Tuesdays, Wednesdays, Thursdays, Fridays and Sundays; and between the hours of 9 p.m. and 10 a.m. the following day on Saturdays.
- b. Without a City sound permit issued by the Chief of Police, or designee, it shall be unlawful, and is hereby declared a nuisance, for any person to use or operate a sound amplifying device so that the device produces loud sounds at a distance greater than 50 feet from said device.
- c. Noise emanating from motor vehicles, other than from their normal operation, including but not limited to the noise from radios, shall not be audible more than 50 feet from the vehicle from which the noise emanates.
- d. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street of public or private place, except as a danger warning.
- e. The keeping or have in possession, or harbor, any dog, bird or other animal which, by frequent or habitual howling, yelping, barking or otherwise, causes loud noises and produces a seriously annoying disturbance to any person.
- f. Construction or repairing of buildings and structures between the hours of 9 p.m. and 6 a.m. the following day on Sundays, Mondays, Tuesdays, Wednesdays, Thursdays and Fridays and between the hours of 9 p.m. and 10 a.m. the following day on Saturdays.

- g. The use of heavy construction equipment between the hours of 9 p.m. and 6 a.m. the following day on Sundays, Mondays, Tuesdays, Wednesdays, Thursdays and Fridays and between the hours of 9 p.m. and 10 a.m. the following day on Saturdays.
 - I. Heavy construction equipment shall include, but is not limited to, dump trucks, tractors, loaders, dozers, scrapers, graders, backhoes, compactors, drawlers and clam buckets.
 - II. This Section 27.04-D2g shall not be applicable to the operation of heavy construction equipment on local streets and rights-of-way for transportation purposes and in conjunction with any emergency that threatens public health, safety and welfare.
 - III. Any person, firm or corporation found guilty of violating any provision of this Section 27.04-D2g shall be fined not less than \$200 nor more than \$1,000 for each offense plus reasonable attorney fees incurred by the City. A separate offense shall be deemed committed on each day during or on which such violation occurs or continues.
- h. The operation of any mechanical, electrical or gasoline motor driven tool between the hours of 9 p.m. and 6 a.m. the following day on Sundays, Mondays, Tuesdays, Wednesdays and Thursdays, between the hours of 9 p.m. and 7 a.m. the following day on Fridays and between the hours of 9 p.m. and 8 a.m. the following day on Saturdays.

E. City Sound Permit: In order to operate a sound amplifying device that exceeds the limits set forth in Section 27.04-D1, a City sound permit shall be required. Such permit is subject to the following conditions:

- 1. The permit shall only be in effect from 10 a.m. to 11 p.m. for the calendar day it is issued;
- 2. The sound amplification device shall not produce loud sounds at a distance greater than 100 feet from the location of the device.
- 3. The permit shall not allow loud sounds within 50 feet of a school or church during the hours they are in session or within 50 feet of a hospital or nursing home.
- 4. It shall be unlawful to use or operate a sound amplifying device so that the device produces loud and raucous sounds within a multiple family dwelling.

F. Assessment Without Sound Level Meter: Any police officer or City officer who hears a noise or sound that is plainly audible in violation of this Section 27.04 shall assess the noise or sound according to the following standards:

1. The primary means of detection shall be by means of the officer's normal hearing faculties, so long as the officer's hearing is not enhanced by any mechanical device.
2. The officer must have a direct line of sight and hearing to the real property of the source of the sound or noise so that the official can readily identify the source of the sound or noise and the disturbance involved.
3. The officer need not determine the particular words or phrases being said or produced or the name of any song or artist producing the noise or sound. The detection of a rhythmic bass reverberating type of noise or sound is sufficient to constitute a plainly audible noise or sound.

G. Penalty: Except for Section 27.04-D2g, any person, firm or corporation found guilty of violating any provision of this Section 27.04 shall be fined not less than \$100 nor more than \$500 for each offense plus reasonable attorney fees incurred by the City. A separate offense shall be deemed committed on each day during or on which such violation occurs or continues.

27.05 FALSE ALARMS

A. Alarm Systems: The owner of, or person in possession or control of, (or who has the responsibility for), any premises on which an alarm system or device is installed, shall prevent the excessive unnecessary use of said system or device and shall be subject to a fine of \$50 for each and every false alarm in excess of three false alarms per premises per quarter year. Upon the failure of said person to pay said fine, charges may be brought under this section against said person, in addition to any other appropriate charges that might be brought under any applicable law against the individual actually transmitting the alarm. The penalty for failure to pay said fine shall be double the amount of the fine, each prohibited false alarm being considered a separate offense.

B. Direct Dialing Devices Prohibited: It shall be unlawful for any person in control of an automatic direct-dialing device to permit, allow or cause that device to be inter-connected to a primary trunk line. Any person in violation of this subsection shall be fined not less than \$50 nor more than \$500 for each offense. Each day that an automatic direct-dialing device remains inter-connected to a primary trunk line shall be considered a separate offense.

27.06 FIREWORKS

The possession, use and sale of fireworks in the City shall be pursuant to 425 ILCS 35/0.01 *et seq.*, Pyrotechnic Use Act, and Title 41, Fire Protection, Chapter I, Office of the State Fire Marshall, Part 235, Pyrotechnic and Consumer Display Permitting Rules, of the Illinois Administrative Code. (Ord 2011-126, §4)

27.07 GAMBLING

A. Unlawful Acts: Except as specifically authorized under state law and those video gaming devices registered pursuant to Section 25.06-B of this Code it shall be unlawful to: (Ord. 2014-102, §3)

1. Gamble or attend any gambling resort or to make any bet, lottery or gambling hazard, or to buy or sell any chances or tickets in any gambling game, arrangement or device.
2. Possess any gambling device or paraphernalia with the intent to use the same for an unlawful purpose; and any such device or paraphernalia shall be confiscated by any member of the Harvard Police Department.
3. Maintain or patronize any establishment maintained for gambling house or resort anywhere in the City or within three miles there-of.
4. Advertise any gambling house or resort in any street, alley or other public place within the City.

B. Penalty: Any person, firm, corporation or association violating any provision of this Section 27.07 shall be fined not less than \$250.00 nor more than \$500.00 for each offense plus the City's cost of prosecution including reasonable attorney's fees. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 2008-123, §14)

27.08 IMPERSONATING AN OFFICER, CITY EMPLOYEE

A. It is unlawful for any person to impersonate, without lawful authority, any City officer or employee.

B. Penalty: Any person, firm or corporation violating any provision of this section shall be fined not more than \$500 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

27.09 INDECENT CONDUCT

A. It is unlawful for any person to perform any of the following acts of indecency in the public:

1. An act of sexual intercourse;
2. An act of deviate sexual conduct;
3. A lewd exposure of the body done with intent to arouse or satisfy the sexual desire of a person; and

4. A lewd fondling or caress of the body of another person of either sex.

B. Penalty: Any person, firm, corporation or association violating any provision of this Section 27.09 shall be fined not less than \$250.00 nor more than \$500.00 for each offense plus the City's cost of prosecution including reasonable attorney's fees. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 2008-123,§15)

27.10 INDECENT PUBLICATIONS

A. It is unlawful to sell, deliver or provide or offer or agree to sell, deliver or provide any obscene writing, picture, record or other representations or embodiment of the obscene, or publish, exhibit or otherwise make available anything obscene, or advertise or otherwise promote the sale of material represented or held out to be obscene, whether or not it is obscene.

B. A thing is obscene if, considered as a whole, its predominant appeal is to the prurient interest, that is, a shameful or morbid interest in nudity, sex or excretion, and if it goes substantially beyond customary limits of candor in description or representation of such matters. A thing is obscene even though the obscenity is latent, as in the case of undeveloped photographs.

C. Penalty: Any person, firm or corporation violating any provision of this section shall be fined not less than \$25 nor more than \$500 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

27.11 INJURY TO PUBLIC PROPERTY

A. It is unlawful for anyone to injure, deface or interfere with any property belonging to the City without proper authority from the Mayor and City Council.

B. Penalty: Any person, firm or corporation violating any provision of this section shall be fined not less than \$25 nor more than \$500 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

27.12 INTOXICATION

A. It is unlawful for any person to be in an intoxicated condition in or on any street, alley, sidewalk or other public place in the City.

B. Penalty: Any person, firm or corporation violating any provision of this section shall be fined not less than \$25 nor more than \$500 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

27.13 WEAPONS

(Ord. 2005-131,§4)

A. Carrying Concealed Weapons: Unless authorized by law, no person shall carry under his clothing, or conceal about his person, or display in a threatening manner, any dangerous or deadly weapon including, but not limited to any gun, sling shot, knuckles made of metal, or any knife open by button pressure or spring loaded.

B. Possession of Dangerous or Deadly Weapons: No person shall have in their possession, outside of their home, any gun not stored in a case, including guns using explosive cartridges or bullets, air-guns, “B-B” guns, gas-operated guns, or toys or weapons commonly known as a peashooters, slingshots, or any paintball guns, or any bows made for the purpose of throwing or projecting objects of any kind.

C. Display and Sale of Specified Weapons: No person engaged in business in the City shall display or place on exhibition in any show window or other window facing upon any street, any pistol, revolver or other firearm, with a barrel less than 12 inches in length, or any brass or metal knuckles, or any club loaded with lead or other weight, or any blackjack or billy club.

D. Missiles: It is unlawful to cast, throw or propel any missile (such as an object, e.g., stone, bullet or rocket, that can be thrown or projected) on or over any street, alley or public place.

27.13 POSTING BILLS

A. It is unlawful to post any bill or advertisement on any public property without the authority of the Mayor and City Council. It is unlawful to post any bill or advertisement without the written consent of the owner of the property.

B. Penalty: Any person, firm, corporation or association violating any provision of this Section 27.14 shall be fined not less than \$50.00 nor more than \$100.00 for each offense plus the City’s cost of prosecution including reasonable attorney’s fees. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 2008-123,§16)

27.15 NO SMOKING

A. Definitions: In addition to those terms defined in Appendix A of this Code, for the purposes of this Section, the following terms have the meanings ascribed to them in this Section unless different meanings are plainly indicated by the context:

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

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

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

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

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

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

Gaming facility: An establishment utilized primarily for the purposes of gaming and where gaming equipment or supplies are operated for the purposes of accruing business revenue.

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

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

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

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

Proprietor: Any individual or his designated agent who, by virtue of his office, position, authority or duties, has legal or administrative responsibility for the use or operation of property.

Public place: Any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the State of Illinois,

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

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

Retail tobacco store: A retail establishment that derives more than 80 percent of its gross revenue from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. Retail tobacco store does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food or restaurant license.

Smoke or smoking: The carrying, smoking, burning, inhaling or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs or any other lighted smoking equipment.

B. Smoking in Public Places Prohibited: No person shall smoke in a public place or any place of employment or within 15 feet of any entrance to a public place or place of employment. No person may smoke in any vehicle owned, leased, or operated by the State, City or other political subdivision of the State. Smoking is prohibited in indoor public places and places of employment unless exempted by Section 27.15-E.

C. Smoking Prohibited in Student Dormitories: Notwithstanding any other provision of this Section, smoking is prohibited in any portion of the living quarters, including, but not limited to, sleeping rooms, dining areas, restrooms, laundry areas, lobbies and hallways, of a building used in whole or in part as a student dormitory that is owned and operated or otherwise utilized by a public or private institution of higher education.

D. Posting of Signs; Removal of Ashtrays; Designation of Other Non-Smoking Areas:

1. “No Smoking” signs or the international “No Smoking” symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in each

public place and place of employment where smoking is prohibited by this Section by the owner, operator, manager, or other person in control of that place.

2. Each public place and place of employment where smoking is prohibited by this Section shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
3. All ashtrays shall be removed from any area where smoking is prohibited by this Section by the owner, operator, manager, or other person having control of the area.
4. Notwithstanding any other provision of this Section, any employer, owner, occupant lessee, operator, manager, or other person in control of any public place or place of employment may designate a non-enclosed area of a public place or place of employment, including outdoor areas, as an area where smoking is also prohibited provided that such employer, owner, lessee or occupant shall conspicuously post signs prohibiting smoking in the manner described in this Section.

E. Exemptions: Notwithstanding any other provisions of this Section, smoking is allowed in the following areas:

1. Private residences or dwelling places, except when used as a child care, adult day care, or other healthcare facility or any other home-based business open to the public.
2. Retail tobacco stores in operation prior to January 1, 2008. The retail tobacco store shall annually file with the Illinois Department of Public Health by January 31st an affidavit stating the percentage of its gross income during the prior calendar year that was derived from the sale of loose tobacco, plants or herbs and cigars, cigarettes, pipes or other smoking devices for smoking tobacco and related smoking accessories. Any retail tobacco store that begins operation after the effective date of January 1, 2008, may only qualify for an exemption if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited.
3. Private and semi-private rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed or to remain in a room where smoking is permitted and the smoke shall not infiltrate other areas of the nursing home.
4. Hotel and motel sleeping rooms that are rented to guests and are designated as smoking rooms, provided that all smoking rooms on the same floor must be contiguous and smoke from these rooms must

not infiltrate into nonsmoking rooms or other areas where smoking is prohibited. Not more than 25 percent of the rooms rented to guests in a hotel or motel may be designated as rooms where smoking is allowed. The status of rooms as smoking or nonsmoking may not be changed, except to permanently add additional nonsmoking rooms.

F. Enforcement: The Illinois Department of Public Health, State-certified local public health departments and local law enforcement agencies shall enforce the provisions of this Section and may assess fines pursuant to Section 27.17-G. Any person may register a complaint with the Illinois Department of Public Health, a State-certified local public health department or a local law enforcement agency for a violation of this Section.

G. Violations:

1. A person, corporation, partnership, association or other entity, who violates this Section, shall be fined no less than \$100 and not more than \$250 plus the City's cost of prosecution, including reasonable attorney fees. Each day that a violation continues shall be considered a separate offense.
2. A person who owns, operates, or otherwise controls a public place or place of employment that violates this Section shall be fined (i) not less than \$250 for the first violation, (ii) not less than \$500 for the second violation within one year after the first violation, and (iii) not less than \$750 for each additional violation within one year after the first violation.

H. Injunctions: The Illinois Department of Public Health, a State-certified local public health department, local law enforcement agency or any individual personally affected by repeated violations may institute, in the circuit court, an action to enjoin violations of this Section.

27.16 TOBACCO AND ALTERNATIVE NICOTINE PRODUCT REGULATIONS
(Amended Ord. 2013-135)

- A. For purposes of this Section 27.16, terms used herein are defined in Appendix A of this Code.
- B. The possession, use or consumption of Tobacco Products or Alternative Nicotine Products by Minors upon any Public Area or Public School within the City limits of the City of Harvard is hereby prohibited.
- C. No person shall buy for, distribute samples of, or furnish Tobacco Products or Alternative Nicotine Products to any Minor.
- D. No person, including Licensees set forth in Chapter 21 of this Code, or any Agent of such Licensee, shall (1) distribute, give away or deliver Tobacco Products or Alternative Nicotine Products free of charge to any person at any Public School or Public Area within the City limits of the City of Harvard, or (2) sell or distribute to any person individual cigarettes, or samples of cigarettes, except in its original packaging, and no package shall contain less than twenty (20) cigarettes.

- E. Except as permitted in Section 21.12 of this Code for vending machines, Tobacco Products shall only be sold in a direct, face-face exchange. Alternative Nicotine Products shall only be sold in a direct, face-to-face exchange, with no exceptions.
- F. The following appointed officials of any Public School shall have authority to sign all complaints and charge all violations of this Section 27.16 that take place upon school property: Principal, Assistant Principal and Dean of Students.
- G. Penalty:
 - 1. Any violations of the provisions of this Section 27.16 shall be punishable by a minimum fine of \$50.00 and a maximum fine of \$750.00, plus attorney's fees incurred by the City in prosecuting the violation. In the event a person violates this Section 27.16 a second or subsequent time, the minimum fine shall be \$100.00.
 - 2. These fines are in addition to administrative provisions for suspension, revocation or forfeiture of a license issued pursuant to Chapter 21 of this Code; and payment of such fine shall not constitute an admission of guilt or innocence for purposes of such administrative proceedings for suspension, revocation or forfeiture.

27.17 TRANSPORTING ALCOHOLIC LIQUOR IN MOTOR VEHICLES

- A. It is unlawful for any person to transport, carry, possess or have any alcoholic liquor in, or upon or about the passenger area of any motor vehicle, except in the original package and with the seal unbroken.
- B. Penalty: Any person, firm or corporation violating any provision of this section shall be fined not more than \$500 for each offense. A separate offense shall be deemed committed on each day during or on which such violation occurs or continues.

27.18 TRESPASSES

- A. Trespassing Prohibited: It shall be unlawful for any person to commit a trespass within this City upon either public or private property. It shall also be unlawful for any person to commit a trespass on City owned property outside the City's corporate boundaries.
- B. Specifically Enumerated Trespasses; Suppression: Without constituting any limitation upon the provisions of this subsection, any of the following acts by a person shall be deemed included among those that constitute trespasses in violation of the provisions of this subsection and constitute grounds to prevent or suppress any violation or violations of this subsection.
 - 1. An entry upon the premises, or any part thereof, of another, including any public property inside or outside the City limits in violation of a notice posted or exhibited at the main entrance to such premises or at any point of approach or entry or in violation of any notice, warning or protest given orally or in writing, by any owner, agent of owner or occupant thereof; or

2. The pursuit of a course of conduct or action incidental to the making of any entry upon the land of another in violation of a notice posted or exhibited at the main entrance to such premises or at any point of approach or entry, or in violation of any notice, warning or protest given orally or in writing by any owner, agent of owner or occupant thereof; or
3. A failure or refusal to depart from the premises of another after being requested, either orally or in writing, to leave by any owner, agent of owner or occupant thereof; or
4. An entry into or upon any vehicle or aircraft made without the consent of the person having the right to the possession or control thereof, or a failure or refusal to leave any such vehicle or aircraft after being requested to leave by the person having such right.

C. Penalty: Any person, firm or corporation violating any provision of this section shall, upon conviction thereof, be fined not less than \$100 nor more than \$500 for each offense plus reasonable attorney fees incurred by the City. A separate offense shall be deemed committed on each day during or on which such violation continues to exist.

27.19 WHISTLES

A. It is unlawful to blow or cause to be sounded any steam whistle or any stationary engine or steam engine in the City except as a signal for starting or stopping work or in emergencies to avoid or to prevent injury to persons or property.

B. Penalty: Any person, firm or corporation violating any provision of this section shall be fined not less than \$25 nor more than \$500 for each offense. A separate offense shall be deemed committed on each day during or on which such violation occurs or continues.

27.20 DEFACATION OR URINATION IN PUBLIC

A. It shall be unlawful to defecate or urinate in or on any public sidewalk, street, alley, park, right-of-way or any other publicly owned property or in view of another person. (Ord 2008-139,§3)

B. Penalty: Any person, firm, corporation or association violating any provision of this Section 27.20 shall be fined not less than \$100.00 nor more than \$200.00 for each offense plus the City's cost of prosecution including reasonable attorney's fees. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 2008-123,§17; Ord. 94-106,§1,1994)

27.21 TRUANCY

(Amended Ord.99-112,1999;Ord. 98-116,§1,1998)

A. For purposes of this Section 27.21, the term "truant" is any person between the ages of 7 and 16 who is subject to compulsory school attendance and who is absent, without valid cause, from school attendance during a regular school day or any portion thereof or during a required

summer school program established pursuant to 105 ILCS 5/10-22.33B; and (2) any person who is 16, 17 or 18 years of age and enrolled in a public school and who is absent, without valid cause, from school attendance during a regular school day or any portion thereof or during a required summer school program.

The following children are not considered truant:

1. Any child attending a private or parochial school where children are taught the branches of education taught to children of corresponding age and grade in the public schools, and where the instruction of the child in the branches of education is in the English language;
2. Any child who is physically or mentally unable to attend school, such disability being certified to the School District 50 truancy officer or McHenry County Regional Office of Education truancy officer, by a licensed physician or by a Christian Science practitioner residing in Illinois and listed with the Christian Science Journal; or who is excused for temporary absence for cause by the principal or teacher of the school which the child attends; the exemptions in this subsection 27.21-A-2 do not apply to any female who is pregnant or the mother of one or more children, except where a female is unable to attend school due to a complication arising from her pregnancy and the existence of such complication is certified to the School District truancy officer or McHenry County Regional Office of Education truancy officer by a competent physician;
3. Any child necessarily and lawfully employed according to the provisions of the law regulating child labor may be excused from attendance at school by the School District 50 Superintendent of Schools or by the Regional Superintendent of Schools, on certification of the facts by and the recommendation of the School District 50 Board of Education. If a part-time continuation school is run in School District 50, children so excused shall attend the continuation school at least eight hours each week.
4. Any child over 12 and under 14 years of age while in attendance at confirmation classes;
5. Any child absent from school on a particular day or days or at a particular time of day for the reason that he is unable to attend classes or to participate in any examination, study or work requirements on a particular day or days or at a particular time of day, because the tenets of his religion forbid secular activity on a particular day or days or at a particular time of day.
6. Emergency or unforeseen absences due to illness or other causes beyond the control of the person so absenting himself or herself from school without parental or legal guardian permission shall not constitute truancy if permission for such absence has been obtained from the parent or legal guardian and such permission is submitted to the proper school authorities within 24 hours of such absence.

B. Truancy Prohibited: Upon a complaint signed by an authorized School District 50 official, it shall be unlawful for any person to be truant. Any person who is truant shall be guilty of the offense of truancy and be subject to the penalties hereinafter set forth in this Section 27.21.

C. Permitting Minor to be Truant Prohibited: It is unlawful for a parent, legal guardian or other person to knowingly permit a person in his or her custody or control to violate this Section 27.21.

D. Penalty: Upon a complaint being signed by an authorized School District 50 official, any person, firm or corporation violating any provision of this Section 27.21 shall be fined not less than \$50 nor more than \$500 for each offense. A separate offense shall be deemed committed on each day during or on which such violation occurs or continues.

27.22 DRUG PARAPHERNALIA; DEFINITIONS

A. The following words and phrases when used in this Section shall, for the purposes of this Section have the meaning respectively ascribed to them in this Section except where the context clearly indicates a different meaning:

1. Cocaine Spoon: A spoon with a bowl so small that the primary use for which is reasonably adapted or designed is to hold or administer cocaine, and which is so small as to be unsuited for the typical, lawful uses of a spoon. A cocaine spoon may or may not be merchandised on a chain and may or may not be labeled as a “cocaine spoon” or “coke spoon.”
2. Controlled Substance: Any drug, substance, or immediate precursor enumerated in the schedules of Article II of 720 ILCS 570/101 *et seq.*, as amended (commonly known as the Illinois Controlled Substances Act).
3. Cannabis: As defined in 720 ILCS 550/3(a), as amended.
4. Marijuana or Hashish Pipe: A pipe characterized by a bowl which is so small that the primary use for which it is reasonable adapted or designed is the smoking of marijuana or hashish, rather than the smoking of lawful smoking tobacco, and which may or may not be equipped with a screen.
5. Drug paraphernalia: All equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance as defined in 720 ILCS 600/2(d) and 720 ILCS 570/202, 204, 206, 208, 210 and 212, as amended. It includes, but is not limited to:
 - a. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant

which is a controlled substance or cannabis or from which a controlled substance or cannabis can be derived;

- b. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substance or cannabis;
- c. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance or cannabis;
- d. Testing equipment used, intended for use or signed for use in identifying, or in analyzing the strength effectiveness or purity of controlled substances or cannabis;
- e. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances or cannabis;
- f. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances or cannabis;
- g. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;
- h. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances or cannabis;
- i. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances or cannabis;
- j. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances or cannabis;
- k. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish oil into the human body, such as:
 - i. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
 - ii. Water pipes;
 - iii. Carburization tubes and devices;

- iv. Smoking and carburization masks;
- v. 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;
- vi. Chamber pipes;
- vii. Carburetor pipes;
- viii. Electric pipes;
- ix. Air-driven pipes;
- x. Chillums;
- xi. Bongs; and
- xii. 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:

- i. Statements by an owner or by anyone in control of the object concerning its use;
- ii. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substances;
- iii. The proximity of the object, in time and space, to a direct violation of this Section;
- iv. The proximity of the object to controlled substances;
- v. The existence of any residue of controlled substances on the object;
- vi. 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 this Section; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this Section, shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

- vii. Instructions, oral or written, provided with the object concerning its use;
- viii. Descriptive materials accompanying the object which explain or depict its use;
- ix. National and local advertising concerning its use;
- x. The manner in which the object is displayed for sale;
- xi. 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;
- xii. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- xiii. The existence and scope of legitimate uses for the object in the community; and
- xiv. Expert testimony concerning its “use.”

6. Person: An individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association.

B. It shall be unlawful for any person to possess, sell, offer for sale, display, furnish, supply or give away any cocaine spoon, marijuana pipe, hashish pipe or any drug paraphernalia.

C. The prohibition contained in this Section shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropractors and podiatrists, veterinarians, pharmacists or embalmers in the normal lawful course of their respective businesses or professions, nor to common carriers or warehouses or their employees engaged in the lawful transportation of such paraphernalia, nor to public officers or employees while engaged in the performance of their official duties, nor to persons suffering from diabetes, asthma or any other medical condition requiring self injection.

D. Penalty: Whoever violates any provision of this Section shall be fined not less than \$100 for each offense and be responsible for the City’s cost of prosecution including attorney fees incurred by the City’s. Each day that a violation continues shall be considered a separate offense. Each day any violation or any provision of this Section shall continue shall constitute a separate violation.

27.23 UNLAWFUL POSSESSION OF CANNABIS

A. Definition: For purposes of this Section, cannabis is defined in 720 ILCS 550/3(a), as amended. 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 or cake, or sterilized seed of such plant which is incapable of germination.

B. A person commits unlawful possession of cannabis if he or she, while in the City, has in his or her possession any substance containing cannabis and shall be subject to the provisions in 720 ILCS 550/4 as amended. (Ord. 2011-135,§2)

C. Whoever violates any provision of this Section shall be fined not less than \$100 or more than \$750.

27.24 RETAIL THEFT UNDER \$150

(added Ord. 2013-117)

A. A person 18 years of age or older commits retail theft when the value of the property does not exceed \$150 and he or she knowingly:

1. Takes possession of, carries away, transfers or causes to be carried away or transferred any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of retaining such merchandise or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the full retail value of such merchandise; or
2. Alters, transfers or removes any label, price tag, marking, indicia of value or any other markings which aid in determining value affixed to any merchandise display, held, stored or offered for sale in a retail mercantile establishment and attempts to purchase such merchandise 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; or
6. Represents to a merchant that he, she, or another is the lawful owner of property, knowing that such representation is false, and conveys or attempts to convey that property to a merchant who is the owner of the property in exchange for money, merchandise credit or other property of the merchant; or
7. Uses or possesses any theft detection shielding device or theft detection device remover with the intention of using such device to deprive the merchant permanently of the possession, use or benefit of any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment without paying the full retail value of such merchandise; or
8. Obtains or exerts unauthorized control over property of the owner and thereby intends to deprive the owner permanently of the use or benefit of the property when a lessee of the personal property of another fails to return it to the owner, or if the lessee fails to pay the full retail value of such property to the lessor in satisfaction of any contractual provision requiring such, within 10 days after written demand from the owner for its return. A notice in writing, given after the expiration of the leasing agreement, by registered mail, to the lessee at the address given by the lessee and shown on the leasing agreement shall constitute proper demand.

B. Theft by Emergency Exit: A person commits theft by emergency exit when he or she commits a retail theft as defined in Sections A.1 through A.8 and to facilitate the theft he or she leaves the retail mercantile establishment by use of a designated emergency exit.

C. Permissive Inference: If any person:

1. Conceals upon his or her person or among his or her 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 that merchandise in that retail mercantile establishment, then the trier of fact may infer that the person 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.

To “conceal” merchandise means that, although there may be some notice of its presence, that merchandise is not visible through ordinary observation.

D. For the purposes of this Section, “theft detection shielding device” means any laminated or coated bag or device designed and intended to shield merchandise from detection by

an electronic or magnetic theft alarm sensor.

E. Violation, Penalty:

1. Violation of any portion of this Section, when the full retail value of the property does not exceed \$150, is a petty offense.
2. Any person, firm or corporation violating any provision of this Section shall, upon conviction thereof, be fined not less than \$100 or more than \$500 for each offense plus reasonable attorney fees incurred by the City.