

CHAPTER 12

MINORS

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11-12-1: PARENTAL RESPONSIBILITY:

11-12-1-1: FINDINGS:

The corporate authorities hereby find that incidence of acts of vandalism and similar offenses by juveniles resulting in damage to real and personal property within this Village have increased, thus posing a threat to the value of property within the Village, and also threatening the general health, safety and welfare of the residents of the Village, and also recognize the need to provide the means to eliminate such problems in order to insure the safety of the property and residents of the Village. The corporate authorities further find that increased parental responsibility is essential for the effective control and elimination of such juvenile offenses. Furthermore, the corporate authorities find that it is in the best interests of the Village that such acts be prosecuted by the Village as a local offense; that penalties therefore be imposed which are related to the nature of the act and the type of offender; and that parents or legal guardians of minors found guilty of such acts be held responsible for any monetary penalty or order of restitution or reparation imposed. The diligent pursuit of such interest will tend to increase parental supervision of minors and reduce the incidence of juvenile vandalism and other juvenile crime, thus advancing the welfare of residents of the Village.

11-12-1-2: DEFINITIONS:

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

KNOWINGLY	Having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inquiry or inspection.
LEGAL GUARDIAN	A person appointed guardian, or given custody, of a minor by a Circuit Court of this State, but does not include a person appointed guardian, or given custody of a minor under the Illinois Juvenile Court Act of 1987 [705 ILCS 405/1-1 <u>et seq.</u>].
MINOR	A person who has not yet reached eighteen (18) years of age.
PARENT	A natural or adoptive parent or a court designated guardian.
UNEMANCIPATED MINOR	A person under the age of eighteen (18) years still under the care and custody of at least one of his or her parents or a legal

guardian.

UNSUPERVISED A lack of visual or oral oversight coupled with lack of sufficient proximity to obtain immediate control over the item or minor.

WILLFUL Proceeding from a conscious and voluntary intentional motion of the will.

11-12-1-3: CONTRIBUTING TO THE CRIMINAL DELINQUENCY OF A MINOR:

It shall be unlawful for any person, including a parent or legal guardian, to knowingly or willfully cause, aid or encourage any minor to violate or attempt to violate any federal or state law or municipal ordinance or to knowingly or willfully act in such a manner as to directly tend to cause a minor to violate or attempt to act in such a manner as to directly tend to cause a minor to violate or attempt to violate any federal or state law or municipal ordinance.

11-12-1-4: IMPROPER SUPERVISION OF MINORS:

It shall be unlawful for any parent or legal guardian of an emancipated minor who resides with such parent or legal guardian to fail to make all reasonable, necessary and effective efforts to prevent such minor from violating any provisions of this Code. If, after written notice is given by a member of the Lincolnshire Police Department to any such parent or legal guardian of any such violation by such minor, there is a continued or repeated violation by such minor, such parent or legal guardian shall be guilty of a violation of this section unless such parent or legal guardian shall have first notified the Lincolnshire Police Department in writing of his or her inability to prevent such continued or repeated violation and shall request the Lincolnshire Police Department or the proper public authority to take the necessary legal proceedings toward having such minor declared and dealt with as a delinquent minor.

11-12-1-5: PARENTAL RESPONSIBILITY FOR VIOLATIONS BY MINORS:

It shall be unlawful for any parent or legal guardian of a minor to knowingly suffer, permit or allow such minor to violate any provision of this Code.

11-12-1-6: PARENTAL RESPONSIBILITY FOR UNPAID PENALTIES:

The parent or legal guardian of an un-emancipated minor who resides with

such parent or legal guardian shall be liable for any fine, condition or restriction imposed by a court upon such minor for a violation of any provision of this Code, but only if (i) such minor has not paid the fine or made restitution or reparation within the time ordered by the court and (ii) said parent or legal guardian has been served with summons or notice to appear in the original cause as provided by law.

11-12-2: VANDALISM AND MALICIOUS DAMAGE:

11-12-2-1: DEFINITIONS:

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

**INSTITUTIONAL
VANDALISM**

Institutional Vandalism means the knowing infliction, without consent, of damage to (i) any church, synagogue or other building, structure or place used for religious worship or other religious purpose; (ii) any cemetery, mortuary or other facility used for the purpose of burial or memorializing the dead; (iii) any school, educational facility or community center; (iv) any grounds adjacent to, and owned or rented by, any such institution, facility, building, structure or place; or (v) any personal property contained in any such institution, facility, building, structure or place, by reason of the actual or perceived race, color, creed, religion or national origin of another individual or group of individuals.

KNOWINGLY

Having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inquiry or inspection.

PERSON

Any individual, firm, partnership, association, corporation, company or organization of any kind.

PROPERTY

Any real estate including improvements thereon, and tangible personal property.

RECKLESSLY

Acting in a manner or under circumstances such as evince disregard of, or indifference to, consequences involving danger to the property, life or safety of others.

11-12-2-2: PROHIBITIONS:

Within the corporate limits of the Village, no person shall knowingly or recklessly damage any property of another person without his consent.

- A. **Parental Responsibility for Failure to Supervise:** It shall be unlawful for any parent or legal guardian of an un-emancipated minor residing with such parent or legal guardian to knowingly permit such minor to willfully or maliciously damage or destroy any property or to injure any person or animal.
- B. **Parental Responsibility for Damages:** The parent or legal guardian of an un-emancipated minor who resides with such parent or legal guardian shall be liable to the full extent permitted by law, for actual damages for (i) such minor's acts of institutional vandalism occurring within the village and (ii) the willful or malicious acts of such minor which occur within the village and which cause injury to a person, animal or property.
- C. **Presumption of Knowledge:** For purposes of this section 11-12-2-2, the parent or legal guardian of an un-emancipated minor residing with such parent or legal guardian shall be presumed, in the absence of evidence to the contrary, to have knowingly permitted such minor to have committed a violation of this section 11-12-2-2 if:
 - 1. Such minor shall either be adjudicated to be in violation of any ordinance, law or statute prohibiting willful or malicious acts causing damage or injury to a person, animal or property or shall have incurred nonjudicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law or statute prohibiting willful or malicious acts causing damage or injury to a person, animal or property; and
 - 2. The parent or legal guardian shall have received a written notice thereof; either by certified or registered mail, return receipt requested, or by personal service, with a certification of personal service returned, from the Lincolnshire Police Department following such adjudication or non-judicial sanction; and
 - 3. Within one year following receipt of the notice set forth in paragraph (c)(2) above, such minor is either adjudicated to have violated within the corporate limits of the village any ordinance, law or statute prohibiting willful or malicious acts causing damage or injury to a person, animal or property or shall have incurred nonjudicial sanctions from another official agency resulting from an admission of guilt of a violation within the corporate limits of the village of any ordinance, law or statute prohibiting willful or malicious acts causing damage or injury to a person, animal or

property.

11-12-3: CURFEW:

A. Curfew Established: It is unlawful for a person less than seventeen (17) years of age to be present at or upon any public assembly, building, place, street or highway at the following times:

Between 12:01 A.M. and 6:00 A.M. Saturday.

Between 12:01 A.M. and 6:00 A.M. Sunday.

Between 11:00 P.M. on Sunday to Thursday, inclusive, and 6:00 A.M. on the following day.

B. Exceptions:

1. When the juvenile is accompanied and supervised by a parent or legal guardian;
2. When the juvenile is accompanied by another responsible companion at least eighteen (18) years of age, approved by a parent or legal guardian;
3. When the juvenile is engaged in a business or occupation which the laws of this State authorize a person less than seventeen (17) years of age to perform;
4. When the juvenile is participating in, going to or coming from a religious event;
5. Or when the juvenile is participating in, going to or coming from an activity involving the exercise of the juvenile's rights protected under the First Amendment of the United State's Constitution, or Article I, Sections 4 and 5 of the Constitution of the State of Illinois, or both, such as freedom of speech and right of assembly.

Before an officer may detain an individual for violation of the curfew ordinance, the officer must reasonably determine if an offense has occurred under the curfew ordinance, and if an assertion of First Amendment rights is offered by the juvenile, the officer must take reasonable steps to investigate the validity of the juvenile's claim.

C. Parental Responsibility: It is unlawful for a parent, legal guardian or other person to knowingly permit a person in his or her custody to violate any of the

provisions of subsection A hereof.

11-12-4: SCHOOL CURFEW FOR MINORS:

- A. Imposed: It shall be unlawful for any person under the age of eighteen (18) years who is enrolled in any public, private or parochial primary (k-8 grade) or secondary (9-12th grade) school to be present at or upon, or to loiter, wander, stroll or play in or upon, any street, alley, sidewalk, parkway, park, playground or other public place, or in or on any public building, place of amusement or entertainment or any vacant lot in this village, other than school, during any hours when school is in session during the regular school term, unless he or she is:
1. Traveling to or from school by the most direct route; or
 2. Engaged in school related activities with the written approval of school authorities or as otherwise authorized by written school policy; or
 3. Engaged in personal business, including without limitation employment, medical care and religious activities, with prior written consent from a parent, legal guardian or other adult having lawful custody or supervision of such person to school authorities; or
 4. Accompanied and supervised by a parent, legal guardian or other adult having lawful custody or supervision of such person.
- B. Investigatory Detention: Any police officer may stop and detain a person whom the police officer reasonably suspects to be violating this section for purpose of verifying the detained person's identity, age, school enrollment and authority to be absent from school. The police officer shall immediately inform the detained person of the reason for the detention and that he or she will be released upon verification of authorization to be absent from school. If the detained person refuses to provide the police officer with the necessary information, or if authorization to be absent from school cannot be verified within fifteen (15) minutes of the detention, the detained person shall, if practicable, be taken to school authorities or a parent or legal guardian or other adult having lawful custody or supervision of such person.
- C. First and Subsequent Violations: Any person who violates this section shall be warned by any police officer forthwith to comply with such provisions and such officer shall also, without delay, report such violation to his or her superior officer, who shall cause a written notice to be served upon the parent, legal guardian or other adult having lawful custody or supervision of such person,

setting forth the manner in which this section has been violated. In case any person under the age of seventeen (17) years, after such warning, shall again violate any of the provisions of this section, he or she shall be taken into custody as a juvenile delinquent and dealt with as provided for under the Juvenile Court Act of 1987 [705 ILCS 405/1-1 et seq.]

11-12-5: ALCOHOLIC LIQUOR

11-12-5-1: DEFINITIONS:

ALCOHOLIC LIQUOR

Any spirits, wine, beer, ale or other liquid containing more than one-half of one percent (.5%) of alcohol by volume, which is fit for beverage purposes.

IDENTIFICATION CARD

A written, printed or photostatic document issued by a public officer of a federal, state, county or municipal government, or subdivision or agency thereof, in the performance of his or her official duties and evidencing the age and identity of a person, including without limitation a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act, or an identification card issued to a member of the Armed Forces.

LEGAL GUARDIAN

A person appointed guardian, or given custody, of a minor by a Circuit Court of this State, but does not include a person appointed guardian, or given custody of a minor under the Illinois Juvenile Court Act of 1987 [705 ILCS 405/1-1 et seq.].

MINOR

A person who has not yet reached eighteen (18) years of age.

PARENT

A natural or adoptive parent or a court designated guardian.

VEHICLE OR PREMISES

Any privately-owned and operated motor vehicle, conveyance or vessel; any house or apartment; any hotel, motel or bed and breakfast room or any similar premises to which the general public is not normally admitted.

11-12-5-2: PROHIBITIONS REGARDING MINORS:

- A. Acts Prohibited: Subject to the exceptions set forth in subsection (b) below:
1. It shall be unlawful for any person to sell, give, deliver, dispense or furnish alcoholic liquor to any person under the age of twenty-one (21) years.
 2. It shall be unlawful for any person, after purchasing or otherwise obtaining alcoholic liquor, to sell, give, deliver, dispense or furnish such alcoholic liquor to any person under the age of twenty-one (21) years.
 3. It shall be unlawful for any person under the age of twenty-one (21) years to purchase, obtain, receive, accept, have in his or her possession or control, sell, give, deliver, mix, dispense, serve, furnish or consume alcoholic liquor.
 4. It shall be unlawful for any person under the age of twenty-one (21) years to misrepresent his or her age to circumvent the provisions of this chapter, including without limitation presenting or offering to any person any identification card that is false, fraudulent, forged or not actually his or her own.
 5. It shall be unlawful for any person under the age of twenty-one (21) years to possess or use any identification card that is false, fraudulent, forged or the identification card of another or to obtain an identification card by means of false information.
 6. It shall be unlawful for any person to sell, give, deliver or furnish to any person under the age of twenty-one (21) years any identification card that is false, fraudulent, forged, or of another person.
 7. It shall be unlawful for any person to forge, alter or deface any identification card.
 8. It shall be unlawful for any retail liquor dealer's licensee, or any officer, associate, member, representative, agent or employee of such licensee, to suffer, permit or allow any person under the age of twenty-one (21) years to be or remain on such licensee's licensed premises, or in any room or compartment adjoining or adjacent to such licensed premises.
 9. It shall be unlawful for any owner of, or other person having control over, any vehicle or premises to knowingly initiate, suffer, permit or allow one (1) or more occupants, invitees, visitors, guests, trespassers or other

persons under the age of twenty-one (21) years to assemble or be assembled in such vehicle or premises in possession of any alcoholic liquor in violation of this section.

10. It shall be unlawful for any person to rent, or pay for, any hotel, motel or bed and breakfast room or facility from the proprietor or agent thereof for the purpose of, or with knowledge that, such room or facility shall be used for consumption of alcoholic liquor by any person under the age of twenty-one (21) years.
11. It shall be unlawful for any parent or legal guardian of a minor to knowingly suffer, permit or allow such minor to violate any provision of this chapter.

B. Exceptions:

1. The possession, mixing, dispensing and serving, or consumption of alcoholic liquor by a person under the age of twenty-one (21) years in the performance of a bona fide religious service or ceremony is not prohibited by this Code.
2. The possession, mixing, dispensing and serving, or consumption of alcoholic liquor by a person under the age of twenty-one (21) years under the direct supervision and approval of a parent or legal guardian in the privacy of such parent's or legal guardian's residence is not prohibited by this Code; provided, however, that his exception shall not be extended to any other occupant, invitee, visitor or guest that is under the age of twenty-one (21) years.
3. The possession and serving of alcoholic liquor by a person under the age of twenty-one (21) years as an employee of any licensee under this Code in such licensee's licensed premises is not prohibited by this Code; provided, however, that this exception shall not extend to those persons under the age of nineteen (19) years nor shall this exception extend to the mixing or dispensing of alcoholic liquor, or to bartending, by any person under the age of twenty-one (21) years.
4. The possession and delivery of any alcoholic liquor in its original package and not for consumption on the premises where sold by a person under the age of twenty-one (21) years as an employee of any licensee under this chapter or pursuant to the order of his or her parent or legal guardian is not prohibited by this Code.
5. The location or assembly of any person under the age of twenty-one (21)

years in any retail premises licensed under this chapter or in any room or compartment adjoining or adjacent to any such licensed premises is not prohibited by this Code if such person is accompanied by his or her parent or legal guardian; or if such licensed premises derives its principal business from the sale or service of commodities other than alcoholic liquor; or if such person under the age of twenty-one (21) years is an employee of any licensee under this chapter in such licensee's licensed premises whose duties do not include the mixing or dispensing of alcoholic liquor or bartending and, if under the age of nineteen (19) years, whose duties do not include the handling or serving of alcoholic liquors.

6. The action or omission to act of any person at the express lawful, or apparently lawful, direction of a law enforcement officer in the performance of his or her official duties is not prohibited by this Code.

C: Presumption of Knowledge:

1. Presence in Vehicle or Premises: Whenever a person is present within any vehicle or premises of which such person is the owner, lessee, permittee, bailee, legal possessor or occupier thereof at the time that a violation of the provisions of this section is occurring and has not informed the police thereof, it shall be prima facia evidence that such person had knowledge of such violation.
2. Failure to Control Access: An owner, lessee, permittee, bailee, legal possessor or occupant of any vehicle or premises shall be deemed to have permitted such vehicle or premises to be used in violation of this section if he or she knowingly authorizes such use or enables such use to occur by failing to control access to such vehicle or premises or to the alcoholic liquor maintained therein.
3. Parental Residence: Every parent or legal guardian of any minor whose residence is used by any occupant, invitee, visitor, guest or other person under the age of twenty-one (21) years in a manner that constitutes a violation of this section shall be presumed to have permitted the conduct that constitutes the violation unless the contrary is established by a preponderance of the evidence.

- D. Reliance on Identification Card: Proof that any person demanded, was shown and reasonably relied upon an identification card evidencing the identity of a person and that such person is of lawful age in any transaction prohibited by this section is an affirmative defense in any criminal prosecution therefore, in any prosecution for a violation of this section, or in any proceedings for the suspension or revocation of any license, or the imposition of any fine or penalty

based thereon; provided, however, that it shall not be an affirmative defense if such person accepted the identification card knowing it to be false, fraudulent, forged or the identification card of another person.

11-12-6: POSSESSION OF TELECOMMUNICATION DEVICES OR DEVICE ON STATE-SUPPORTED SCHOOL PROPERTY:

11-12-6-1: DEFINITIONS:

**TELECOMMUNICATION
DEVICE**

A device which is portable or which may be installed in a motor vehicle, boat or other means of transportation, and which is capable of receiving or transmitting speech, data, signals or other information, including but not limited to paging devices, cellular and mobile telephones, radio transmitters, transmitters and receivers, but not including radios designed to receive only standard AM and FM broadcasts.

11-12-6-2: PROHIBITIONS:

- A. No student shall use or have in his or her possession any Telecommunication Devices or Device while in any school building or on the real property of any elementary or secondary school during regular school hours or at any other time, unless the use or possession of such Telecommunication Devices or Device by such student has first been expressly authorized by the school principal or school board.
- B. This Section shall not apply to any person who is not a student of the particular elementary or secondary school and who is on school property as an invitee of the school unless, the Telecommunication Devices or Device is used in the commission of an offense prohibited by the Illinois Controlled Substances Act [720 ILCS 570 et. seq.] or the Cannabis Control Act [720 ILCS 550 et seq.], nor shall this Section apply to Telecommunications Devices permanently mounted or installed in a motor vehicle which is being used by a student as long as the device is turned off and not used while on school property and such device remains in the vehicle.
- C. **SEIZURE AND REMOVAL:** The Lincolnshire Police Department shall seize, take, remove or cause to be removed at the expense of the owner, any Telecommunication Devices or Device used in any manner in violation of this

Chapter.

11-12-6-3: UNLAWFUL TRANSFER OF TELECOMMUNICATION DEVICES OR DEVICE TO A MINOR:

- A. A person commits unlawful transfer of Telecommunication Devices or Device to a minor when he gives, sells or otherwise transfers possession of Telecommunication Devices or Device to a person under (18) years of age with the intent that the Telecommunication Devices or Device be used to commit any offense under this Act, the Illinois Controlled Substances Act [720 ILCS 570 et. seq.] or the Cannabis Control Act [720 ILCS 550 et seq.].
- B. Unlawful transfer of Telecommunication Devices or Device to a minor is a Class A Misdemeanor.

11-12-7: SALE OR POSSESSION OF TOBACCO BY MINORS PROHIBITED:

11-12-7-1: DEFINITION: SMOKELESS TOBACCO:

Any finely cut, ground, powered, or leaf tobacco products that are intended to be placed in the oral cavity and suitable for chewing or dipping.

11-12-7-2: PROHIBITIONS:

- A. No minor under eighteen (18) years of age shall buy or possess any cigar, cigarette, pipe, smokeless tobacco or tobacco in any of its forms, any product containing nicotine, or an electronic smoking device (as defined in section 4-4-2 of this Code) within the corporate limits of the village.
- B. No person shall sell, buy for, distribute samples of or furnish any cigar, cigarette, pipe, smokeless tobacco or tobacco in any of its forms, any product containing nicotine, or an electronic smoking device (as defined in Section 4-4-2 of this Code), to any minor under eighteen (18) years of age within the corporate limits of the village.
- C. The foregoing prohibition shall not apply when a person under eighteen (18) years of age is directed to use, under the supervision of a doctor, any product approved by the United States Food and Drug Administration as a nontobacco product used for medicinal purposes and is being marketed and sold solely for

that approved purpose.

(Amd. Ord. 16-3404-131, eff. 07/01/16)

11-12-8: SALE OR POSSESSION OF TOBACCO ACCESSORIES AND SMOKING HERBS BY MINORS PROHIBITED:

11-12-8-1: DEFINITIONS:

TOBACCO ACCESSORIES

Cigarette papers, pipes, holders of smoking materials of all types, cigarette rolling machines, and other items, designed primarily for the smoking or ingestion of tobacco products or of substances whose sale, gift, barter, or exchange is made unlawful by the Illinois Compiled Statutes (720 ILCS 685 et seq.).

SMOKING HERBS

All substances of plant origin and their derivatives, including but not limited to Broom, Calea, California Poppy, Damiana, Hops, Ginseng, Lobelia, Jimpson Weed and other members of the Datura Gensus, Passion Flower and Wild Lettuce, which are processed or sold primarily for the use as smoking materials.

"Cigarette Paper" shall not include any paper that is incorporated into a product to which a tax stamp must be affixed under the Cigarette Tax Act [35 ILCS 130 et seq.] or the Cigarette Use Tax Act [35 ILCS 135 et seq.].

11-12-8-2: PROHIBITIONS:

- A. Sale to Minors/Possession by Minors: No person shall knowingly sell, barter, exchange, deliver or give away or cause or permit or procure to be sold, barter, exchanged, delivered or given away any product containing nicotine, an electronic smoking device (as defined in Section 4-4-2 of this Code), tobacco accessories or smoking herbs to any person under eighteen (18) years of age. No person under eighteen (18) years of age shall possess any product containing nicotine, an electronic smoking device (as defined in Section 4-4-2 of this Code), tobacco accessories or smoking herbs within the corporate limits of the Village.
- B. Sale of Cigarette Paper: No person shall knowingly offer, sell, barter, exchange, deliver or give away cigarette paper or cause, permit, or procure

cigarette paper to be sold, offered, bartered, exchanged, delivered, or given away to any person under eighteen (18) years of age.

- C. Sales From Vending Machine: No person shall knowingly offer, sell, barter, exchange, deliver or give away cigarette paper or any product capable of being used by an electronic smoking device (as defined in Section 4-4-2 of the Code) or cause, permit, or procure cigarette paper or any product capable of being used by an electronic smoking device (as defined in Section 4-4-2 of the Code) to be sold, offered, bartered, exchanged, delivered, or given away by use of a vending or coin-operated machine or device to any person under eighteen (18) years of age.
- D. Use of Identification Card: No person under the age of eighteen (18) years of age in furtherance or facilitation of obtaining a product containing nicotine, an electronic smoking device (as defined in Section 4-4-2 of this Code), smoking accessories and smoking herbs shall display or use a false or forged identification card or transfer, alter or deface an identification card.
- E. Warning to Minors: Any person, firm, partnership, company or corporation operating a place of business where a product containing nicotine, an electronic smoking device (as defined in Section 4-4-2 of this Code), tobacco accessories and smoking herbs are sold or offered for sale shall post in a conspicuous place upon the premises a sign upon which there shall be imprinted the following statement: "SALE OF ELECTRONIC SMOKING DEVICES, TOBACCO ACCESSORIES AND SMOKING HERBS TO PERSONS UNDER EIGHTEEN YEARS OF AGE OR THE MISREPRESENTATION OF AGE TO PROCURE SUCH A SALE IS PROHIBITED BY LAW". The sign shall be printed on a white card in red letters at least one-half inch in height.

(Amd. Ord. 16-3404-131, eff. 07/01/16)