

TITLE XIII
GENERAL OFFENSES

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

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CHAPTER 130: GENERAL OFFENSES

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Huntley – General Offenses

GENERAL OFFENSES

§ 130.01 RETAIL THEFT

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

Penalty, see § 130.99

§ 130.02 CRIMINAL TRESPASS TO REAL PROPERTY

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

Penalty, see § 130.99

§ 130.03 UNLAWFUL USE OF WEAPONS

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

Penalty, see § 130.99

§ 130.04 CRIMINAL DAMAGE TO PROPERTY

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

Penalty, see § 130.99

§ 130.05 DISORDERLY CONDUCT

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

Penalty, see § 130.99

§ 130.06 POSSESSION OF CANNABIS

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

Penalty, see § 130.99

§ 130.07 SALE OF TOBACCO TO MINORS

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

Penalty, see § 130.99

§ 130.08 ASSAULT, BATTERY, AND FIGHTING

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

§ 130.09 NOISE

I. Sound-Amplifying Devices

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

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

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

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

D. Terms of Permit:

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

E. Noise within Multiple-Family Structures: It shall be unlawful to use or operate a sound-amplifying device so that the device produces loud and raucous sounds within a multiple-family structure from 11:00 p.m. to 10:00 a.m., local time, Sunday through Saturday.

F. Exemptions: The provisions of this article shall not apply to emergency vehicles, warning or anti-theft devices, units of governments or carillons.

II - Reasonable Person Standard

A. Purpose: This article is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of the Village of Huntley through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity.

B. Findings:

1. Loud and raucous noise degrades the environment of the Village of Huntley to a degree that:
 - (a) Is harmful to the health, welfare, and safety of its inhabitants and visitors;
 - (b) Interferes with the comfortable enjoyment of life and property;
 - (c) Interferes with the well being, tranquility, and privacy of the home; and
 - (d) Both causes and aggravates health problems.
2. Both the effective control and the elimination of loud and raucous noise are essential to the health and welfare of the Village's inhabitants and visitors, and to the conduct of the normal pursuits of life, including recreation, work, and communication.
3. The use of sound-amplification equipment creates loud and raucous noise that may, in a particular manner and at a particular time and place, substantially and unreasonably invade the privacy, peace, and freedom of inhabitants of, and visitors to, the Village.
4. Certain short-term easing of noise restrictions is essential to allow the construction and maintenance of structures, infrastructure, and other elements necessary for the physical and commercial vitality of the Village.

C. Scope: This article applies to the control of all sound originating within the jurisdictional limits of the Village of Huntley.

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

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

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

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

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

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

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

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

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

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

- (1) Any unreasonably loud or raucous noise; or
- (2) Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity, within the jurisdictional limits of the Village; or
- (3) Any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighborhood from which said noises emanate, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.

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

- (1) The proximity of the sound to sleeping facilities, whether residential or commercial;

- (2) The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;
- (3) The time of day or night the sound occurs;
- (4) The duration of the sound; and
- (5) Whether the sound is recurrent, intermittent, or constant.

F. Noise Prohibited: The following acts are declared to be per se violations of this article. This enumeration does not constitute an exclusive list:

1. Unreasonable noises: The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous or unusual noise, disturbance, commotion or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park, or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent residences or which will not detrimentally affect the operators of adjacent places of business are exempt from this provision.
2. Vehicle horns, signaling devices, and similar devices: The sounding of any horn, signaling device, or other similar device on any automobile, motorcycle, or other vehicle in the Village for more than 10 consecutive seconds. The sounding of any horn, signaling device, or other similar device as a danger warning is exempt from this prohibition.
3. Non-emergency signaling devices: Sounding or permitting the sounding of any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for more than 10 consecutive seconds in any hourly period. The reasonable sounding of such devices by houses of religious worship, ice cream trucks, seasonal contribution solicitors or by the Village for traffic control purposes are exempt from the operation of this provision.
4. Emergency signaling devices: The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in Subsection D(1) and (2) below.
 - (a) Testing of an emergency signaling device shall occur between 7:00 a.m. and 7:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five minutes.
 - (b) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm shall terminate within 15 minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than

twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this article.

5. Radios, televisions, boom boxes, phonographs, stereos, musical instruments and similar devices:
 - (a) The use or operation of a radio, television, boom box, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passersby, or is plainly audible at a distance of 50 feet from any person in a commercial, industrial area, or public space.
 - (b) The use or operation of a radio, television, boom box, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet, and comfort of neighbors in residential or noise-sensitive areas, including multi-family or single-family dwellings.
6. Loudspeakers, amplifiers, public address systems, and similar devices:
 - (a) The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system, or other device for producing or reproducing sound between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, and 11:00 p.m. and 10:00 a.m. on weekends (Friday and Saturday nights) and holidays in the following areas:
 - (1) Within or adjacent to residential or noise-sensitive areas;
 - (2) Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud and raucous.
 - (b) This shall not apply to any public performance, gathering, or parade for which a permit has been obtained from the Village.
7. Yelling, shouting, and similar activities: Yelling, shouting, hooting, whistling, or singing in residential or noise-sensitive areas or in public places, between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities.
8. Animals and birds: Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls or otherwise cares for the animal or bird. Sounds made by animals or birds in animal shelters, kennels, veterinary hospitals, pet shops or pet kennels licensed

under and in compliance with licensing and permitting provisions set forth in this code are exempt from this subsection.

9. Loading or unloading merchandise, materials, equipment: The creation of unreasonably loud, raucous, and excessive noise in connection with the loading or unloading of any vehicle at a place of business or residence.
10. Construction or repair of buildings, excavation of streets and highways: the construction, demolition, alteration or repair of any building or the excavation of streets and highways other than:

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

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

11. Noise-sensitive areas (schools, courts, churches, hospitals, and similar institutions): The creation of any unreasonably loud and raucous noise adjacent to any noise-sensitive area while it is in use, which unreasonably interferes with the workings of the institution or which disturbs the persons in these institutions, provided that conspicuous signs and delineating the boundaries of the noise-sensitive area are displayed in the streets surrounding the noise-sensitive area.
12. Blowers, and similar devices: In residential or noise-sensitive areas, between the hours of dusk and 7:00 a.m., the operation of any noise-creating blower, power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases of fluids, provided that the noise is unreasonably loud and raucous and can be heard across the property line of the property from which it emanates.
13. Commercial establishments adjacent to residential property: Unreasonably loud and raucous noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of the establishment, between the hours of 10:00 p.m. and 7:00 a.m. which is plainly audible at a distance of five feet from any residential property.

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

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

H. Enforcement:

1. The following individuals shall enforce this article: The Police Chief or duly acting members of the Police Department will have primary responsibility for the enforcement of the noise regulations contained herein. Nothing in this article shall prevent the Police Chief from obtaining voluntary compliance by way of warning, notice or education.
2. If a person's conduct would otherwise violate this article and consists of speech or communication; of a gathering with others to hear or observe speech or communication; or of a gathering with others to picket or otherwise express in a nonviolent manner a position on social, economic, political or religious questions; the person must be ordered to, and have the opportunity to, move, disperse, or otherwise remedy the violation prior to arrest or a citation being issued.

I. Penalty:

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

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

§ 130.10 THEFT

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

Penalty, see § 130.99

§ 130.11 THEFT OF LOST OR MISLAID PROPERTY

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

Penalty, see § 130.99

§ 130.12 PARK DISTRICT PROPERTY GOVERNANCE

Purpose: This article is enacted for enforcement assistance in governing the property of the Huntley Park District per a reciprocal agreement between the Huntley Park District and the Village of Huntley. Any person found to have committed a violation of this section shall be subject to any of the penalties set forth in § 130.99(B) of this chapter.

- I. Use of Firearms and Traps: No person shall fire or discharge any firearm of any description upon Park District property, unless authorized by the Park District.
- II. Lighting or Setting Off Fireworks: No fireworks shall be lit or set off upon Park District property except under supervision and authorized by the Park District and the Huntley Fire Protection District.
- III. Damage to Property: No person shall willfully, maliciously, or negligently cut, break, climb on, carry away, conceal, transfer, tamper with, mark or spray paint upon, or in any way injure, damage, or deface any trees, shrub, plant, turf, grass, statue, bust, lamppost, hydrant, regulating device, transformer, meter, wire, wiring, pole, curbstone, coping, flagstone, fence, wall, bridge, balustrade, railing, bench,

- building, or other structure of any kind or property, or take down, alter, mar, move, injure or destroy any sign, trail marker, placard, notice, post, pile; or drive any motor car, vehicle, boat or craft in such a manner as to cause the same to collide with, run against, strike, or cause to strike, injure, or deface or damage any property of the Huntley Park District. No person shall open any fire hydrant of the Park District except a duly authorized fireman or agent of the Park District.
- IV. Business Establishments: Unless duly authorized in writing by the Park District, no person shall maintain or operate any garage, restaurant, confectionery, refreshment parlor, dance hall, hotel, inn, place of amusement for hire, store or stand for the sale of merchandise upon park property.
- V. Offering Articles For Sale: No person shall offer or exchange for sale any article or thing or do any hawking, peddling or soliciting, or buy or offer to buy an article or thing, or take up any collection or solicit or receive contributions of money or anything of value in the Park System, unless authorized by the Park District.
- VI. Advertising: The erection or maintenance of any sign, bill, poster, placard, or card or the distributing of any advertising matter by handbills, or otherwise upon park property, unless authorized by the Park District.
- VII. Flying Devices: No person shall make an ascent in any balloon, airplane, or any other flying device or any descent in any airplane, balloon, or any other flying device or parachute upon Park District property, except in an emergency; or unless authorized by the Park District
- VIII. Vehicles: Cars, snowmobiles, mini-bikes, golf carts, ATV's or anything driven by other than human power are prohibited from being upon Park district property, except in such areas designated by the Park District or unless authorized by the Park District or is case of emergency. Personal assistance devices are exempt. Vehicles are allowed to park in designated parking lots from dusk to dawn while using the parks site. Vehicles are allowed to park in facility parking lots during the operating hours of the facility plus one hour prior and after operating hours. Overnight parking or leaving a vehicle unattended at any time is prohibited unless authorized by the Park District. It is the responsibility of the vehicles owner to convey notice of overnight parking authorization from the Park District to the Huntley Police Department.
- IX. Prohibited Grounds: No person shall go upon any prohibited portion of Park District property where a sign or notice is posted.
- X. Disorderly Conduct: No person shall do any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace.
- XI. Possession or Consumption of Alcoholic Beverages: No person, group or organization shall have in their possession any alcoholic beverages in or upon Park District property for consumption or resale unless authorized by the Park District Board of Commissioners and in accordance with state and local regulations. NO intoxicated person shall enter or remain in or upon Park District property.

- XII. Hindering or Interfering with Park Employees: No person shall interfere with or in any manner hinder any employee or agent of the Park District while engaged in any work or the improvement care or supervision of work upon Park District property.
- XIII. Public Meeting: No person or group of persons shall call or hold any public meeting or give any concert or public entertainment of any kind in the Park District property unless authorized by the Park District
- XIV. Park Hours: All parks shall be closed between dusk to dawn unless authorized by the Park District. Except the operating hours of the REC Center, Deicke Park Building and the Pinecrest Golf Course as outlined by the Park District.
- XV. Protection of Wildlife: No person shall trap, kill or wound or attempt to trap, kill or wound any bird or animal, take any bird egg or molest or rob any nest of any bird or animal or cruelly treat any bird or animal upon Park District property.
- XVI. Leashed Animals: No vicious or dangerous dog shall be permitted on the Park District Property. Animals may be taken into areas of the Park District Property designated by the Park District, provided they are held on a suitable line or strap or in an enclosed area designed for free roaming.
- XVII. Littering: No person shall cause or allow the open dumping of garbage, refuse or solid waste upon park property. No person shall put, throw, dump, or leave refuse or solid waste upon park property, except in proper containers provided for sanitary storage of such materials.
- XVIII. Fires: No fire shall be lit or used on park property except at such places and in such receptacles designated by the Park District for such purposes. No charcoal shall be dumped or placed in any trash or sanitary refuse container of the park District.
- XIX. Speed Restrictions: It shall be unlawful to drive any motor vehicle on any Park property at a speed in excess of the posted speed limit.

§ 130.13 FISHING REGULATIONS

Purpose: It has been determined that the implementation of the regulations set forth in this section are in the best interest and general welfare of residents of the Village and, in particular, the residents of the subdivisions in which certain ponds located in subdivisions are built within the corporate boundaries of the Village of Huntley. Any person found to have committed a violation of this section shall be subject to any of the penalties set forth in § 130.99 (C) of this chapter.

- A. All fishing in any pond owned by the Village of Huntley shall be catch-and-release only and no person shall be allowed to permanently remove any fish from any such pond. Any fish caught in any pond owned by the Village of Huntley shall be returned to the pond immediately after being un-hooked. The party catching and releasing any such fish shall at all times act in a manner reasonably designed to minimize and prevent physical injury to such fish.

- B. No fish caught in any pond owned by the Village of Huntley may be kept in any bucket, keep net, cage or any other type of device that is designed to keep fish alive in a captive manner. The obligation set forth in section A to catch and release any fish caught in any Village owned pond means that the fish must be released without any artificial or manmade constraints. This Section (B) does not apply to minnows that are brought to the pond for purposes of bait.
- C. It shall be unlawful to utilize in any manner fish caught in the pond for live bait. This prohibition extends to blue gills, bass, cat fish and any other type of fish caught in the pond, including minnows.
- D. Nothing in this section is in any way intended to supersede any regulatory provisions adopted by any other governmental agency with authority over fish or aquatic life including, but not limited to, the provisions of the Illinois Fish and Aquatic Life Code. It is the intention of the Village of Huntley that such regulations be used in harmony with the provisions of this section.

OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

§ 130.20 CURFEW

(A) Prohibition. It is unlawful for a person less than 17 years of age to be present at or upon any public assembly, building, place, street, or highway at the following times unless accompanied and supervised by a parent, legal guardian, or other responsible companion at least 18 years of age approved by a parent or legal guardian or unless engaged in a business or occupation which the laws of this state authorize a person less than 17 years of age to perform:

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

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

§ 130.21 PUBLIC POSSESSION OF TOBACCO BY MINORS

(A) It shall be unlawful for any person under 18 years of age to purchase, accept, possess, or consume any cigar, cigarette, smokeless tobacco, alternative nicotine product or tobacco in any of its forms.

(B) It shall be unlawful for any person to sell, buy for, distribute samples of or furnish any cigar, cigarette, smokeless tobacco, alternative nicotine product or tobacco in any of its forms, to any person under 18 years of age.

§ 130.22 CONSTRUCTION STARTING TIMES

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

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

§ 130.23 FIREWORKS

(A) Definition

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

“FIREWORKS” shall mean any explosive composition or any substance or combination of substances or article prepared for the purpose of producing a visible or audible effect of a temporary exhibitional nature by explosion, combustion, deflagration or detonation, and shall include blank cartridges, toy or replicated cannons, in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, bottle rockets, roman candles, bombs or other fireworks of like construction and any fireworks containing any explosive compound, or any tablets or other device containing any explosive substance, or containing combustible substances producing visual effects: provided, however, that the term “fireworks” shall not include snake or glow worm pellets, smoke devices, trick noisemakers known as “party poppers”, “booby traps”, “snappers” trick matches, cigarette loads and “auto burglar alarms”; sparklers, toy canes, toy pistols, toy guns, or other devices in which paper or plastic caps containing 25 hundredths grains or less of explosive compound are used.

(B) Public Displays

- a. Pyrotechnic displays and consumer firework displays shall be permitted in the Village of Huntley subject to the provisions of this chapter by persons properly licensed to display fireworks by the State of Illinois.
- b. All pyrotechnic displays and consumer firework displays performed in the Village of Huntley shall be performed in compliance with the rules and regulations adopted by the Office of the State Fire Marshal and in accordance with the Pyrotechnic Distributor and Operating Licensing Act (225 ILCS 227) and the Fireworks Use Act (425 ILCS 35) including, but not limited to, the acquisition of a permit as required under one or both of said statutes.
- c. To the extent that the Huntley Fire Protection District adopts rules and regulations regarding pyrotechnic displays or consumer firework displays that are more stringent than the rules and regulations set forth in the statutes

referenced in Section b) of this section, the rules and regulations of the Huntley Fire Protection District, as incorporated by reference herein, shall prevail unless otherwise indicated by the Village of Huntley.

(C) Sale or Exploding of Fireworks Prohibited

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

(D) Penalties

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

§ 130.24 HAZARDOUS MATERIALS RESPONSE

(A) Definitions

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

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

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

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

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

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

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

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

RELEASE shall mean any spilling, leaking, pumping, pouring, emitting, escaping, emptying, discharging, injecting, leaching, dumping or disposing of a hazardous material into or on any land, air, water, well, stream, sewer or pipe so that such hazardous material or any constituent thereof may enter the environment.

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

REMOVAL shall mean the cleanup or removal of released hazardous materials from the environment, such actions as may be necessary or appropriate to monitor, assess, and evaluate the release or threat of release of hazardous materials, the disposal of removed material, or the taking of such action as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare or the environment. The term includes,

but is not limited to, security fencing, provision of alternative water supplies, and temporary evacuation of threatened individuals.

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

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

(B) Prohibited Acts

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

(C) Determination of Emergency Action

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

(D) Liability for Costs

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

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

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

(E) Release in Accordance with Law

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

(F) Public Duty Immunity

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

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

(G) Contractual Indemnification; Subrogation

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

(H) Costs and Penalties

Any person who is liable for the release or threatened release of a hazardous material who fails without sufficient cause to pay for or provide removal or remedial action upon or in accordance with a notice and request of the response authority, or in accordance with any order of any court having jurisdiction of the matter, shall be liable to the Village for all costs incurred by the Village as a result of such failure to provide or take such removal and remedial action, together with the cost of any removal or remedial action taken by the Village in accordance with this Chapter. In addition, any such person shall be guilty of a violation of this Chapter and shall be fined not less than

five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) for each offense. A separate offense shall be deemed committed for each day on which a violation occurs or continues.

(I) Notification of Reimbursement

1. Within ninety (90) days after providing emergency action, the Village shall notify the responsible party or parties of the Village's claim for reimbursement and shall furnish an itemized listing of the costs incurred. Furnishing such itemized list shall be deemed a request for reimbursement.
2. If the responsible party or parties, as the case may be, do not reimburse the Village within thirty (30) days after receipt of such claim for reimbursement, then the Village is authorized to file suit in the Circuit Court of McHenry County or in any other county where any responsible party resides to collect the amount due.
3. The Village is authorized to file suit on its own behalf and in the behalf of any other governmental agencies or private entities who were requested to provide emergency action.
4. Amounts due from the responsible party or parties shall bear interest at the rate of ten percent (10%) per annum from the date of the emergency action until paid.
5. In addition to all other amounts to which it is entitled, the Village shall also be entitled to recover reasonable attorney fees and all costs incurred in enforcing its rights under this Chapter

(J) Other Remedies

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

§ 130.25 POSSESSION OF DRUG PARAPHERNALIA

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

Penalty, see § 130.99

OFFENSES AGAINST PUBLIC MORALS

§ 130.30 OBSCENITY

(A) Definition

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

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

(1) The work, taken as a whole appeals to the prurient interest, that is, a shameful or morbid interest in nudity, sex, or excretion and it goes beyond customary limits of candor in description or representation of such matters;

(2) The work contains patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated or contains patently offensive representations or descriptions of masturbation, excretory functions, or lewd exhibitions of the genitals;

(3) The work, taken as a whole, lacks serious literary, artistic, political, or scientific value; and

(4) A thing is obscene even though the obscenity is latent, as in the case of undeveloped photographs.

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

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

(1) Sells, delivers, or provides, or offers or agrees to sell, deliver, or provide any obscene writing, picture, record, or other representation or embodiment of the obscene; or

(2) Presents or directs an obscene play, dance, or other performance or participates directly in that portion thereof which makes it obscene; or

(3) Publishes, exhibits, or otherwise makes available anything obscene; or

(4) Performs an obscene act or otherwise presents an obscene exhibition of his body for gain; or

(5) Creates, buys, or procures or possesses obscene matter or material with intent to disseminate it in violation of this section; or

(6) Advertises or otherwise promotes the sale of material represented or held out by him to be obscene, whether or not it is obscene.

(C) Interpretation of evidence.

(1) Obscenity shall be judged with reference to ordinary adults, except that it shall be judged with reference to children or other especially susceptible audiences if it appears from the character of the material or circumstances of its dissemination to be specially designed for or directed to such an audience.

(2) Where circumstances or production, presentation, sale, dissemination, distribution, or publicity indicate that material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter is utterly without redeeming social importance.

(3) In any prosecution for an offense under this section evidence shall be admissible to show:

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

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

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

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

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

(G) Tie-in sales of obscene publications to distributors. Any person, firm, or corporation, or any agent, officer, or employee thereof engaged in the business of distributing books, magazines, periodicals, comic books, or other publications to a retail dealer, who shall refuse to furnish to any retail dealer such quantity of books, magazines, periodicals, comic books, or other publications as the retail dealer normally sells because the retail dealer refuses to sell, or offer for sale, any books, magazines, periodicals, comic books, or other publications which are obscene, lewd, lascivious, filthy, or indecent is guilty of the offense which is punishable by a fine in accordance with § 130.99(A). Each publication sold or delivered in violation of this act shall constitute a separate petty offense.

§ 130.99 PENALTY

(A) A person convicted of a violation of any provision of this chapter shall be fined not less than \$50 nor more than \$500 for each and every offense.

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

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

(D) Late Fee: If a fine is not paid within 10 days of the ticket being issued, the minimum penalty is double the amount of the original fine.

CHAPTER 131: LITTERING; DISTRIBUTION OF HANDBILLS

Section

- 131.01 Definitions
- 131.02 Distribution of handbills
- 131.03 Bill posting
- 131.04 Depositing waste or litter
- 131.05 Owner to maintain premises free of litter
- 131.06 Litter on vacant lots
- 131.07 Removal of litter; notice and procedures

- 131.99 Penalty

§ 131.01 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HANDBILL. Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original, or copies of any matter or literature.

LITTER. “Garbage,” “refuse,” and “rubbish” and all other waste materials which, if thrown or deposited as prohibited in this subchapter, tends to create a danger to public health, safety, and welfare.

§ 131.02 DISTRIBUTION OF HANDBILLS

Distributing handbills on public or private property is considered a nuisance.

(A) No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street, public place in the Village, provided it is not unlawful for any person to hand out or distribute, without charge, any handbill on a street, sidewalk, or public place.

(B) No person shall throw or deposit any handbill in or upon any vehicle.

(C) No person shall throw or deposit any handbill in or upon any private premises which are known to such person to be temporarily or continuously uninhabited or vacant.

(D) (1) No person shall throw, deposit, or distribute any handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises, or by affixing the handbill to a doorknob or other part of the building, so it will not be blown around.

(2) The provisions of this section shall not apply to the distribution of mail by the United States postal service, nor to newspapers, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property.

Penalty, see § 131.99

§ 131.03 BILL POSTING

(A) In streets:

(1) No person shall attach, place, paint, write, stamp, or paste any sign, advertisement, or other matter upon any lamp post, electric light, or telephone pole, shade tree, or fire hydrant.

(2) Public officers posting any notice required or permitted by law shall be excepted from the provisions of this section.

(B) In private places: No person shall attach, place, paint, write, stamp, or paste any sign, advertisement, or other matter upon any house, wall, fence, gate, post, or tree without first having obtained the written permission of the owner, or occupants of the premises and having complied with all provisions of this chapter pertaining thereto.

Penalty, see §131.99

§ 131.04 DEPOSITING WASTE OR LITTER

(A) Public places: It is unlawful for any person or persons to place or cause to be left any human waste products, or to put or throw or leave any litter which is unsightly or which may cause any unpleasant smell or sight or constitute a hindrance to public use of the premises, or to stool or urinate or expectorate in a public place, except in a receptacle provided expressly for the purpose of retaining such waste matter or litter.

(B) Private property: No person shall throw or deposit litter on any occupied private property within the Village, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property.

Penalty, see § 131.99

§ 131.05 OWNER TO MAINTAIN PREMISES FREE OF LITTER

(A) The owner or person in control of any private property shall at all times maintain the premises free of litter. Provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection. The term “person in control” shall include owner, tenant, lessee, agent, servant, or employee, except that any lien imposed by the Village under the provisions of this chapter shall be against the property owner.

(B) Any person, firm, or corporation who shall violate this section is responsible for a municipal ordinance infraction, subject to payment of a fine as provided in § 131.99 of this chapter, plus costs and other sanctions, for each infraction. The Building Inspector, Building Official, Code Enforcement Officer, sworn police officer, or community service officer are hereby designated as the authorized Village officials to issue ordinance citations for violations of this section.

Penalty, see § 131.99

§ 131.06 LITTER ON VACANT LOTS

No person shall throw or deposit litter upon any open or vacant property within the Village whether owned by such person or not.

Penalty, see § 131.99

§ 131.07 REMOVAL OF LITTER; NOTICE AND PROCEDURES

The Village Manager or his designee is hereby authorized and empowered to notify the owner of any open or vacant property within the Village, or the agent of such owner, to properly dispose of litter located on such owner’s property, which is dangerous to public health, safety, and welfare. If any person, firm, corporation, or association fails to pick up any litter as required by this chapter, the Director of Public Works shall arrange to have the same picked up by Village crews or by private enterprise. Applicable bidding procedures shall be used for any arrangement for the use of private enterprise to pick up such litter. The entire expense of picking up such litter, together with an additional charge of 20 % for administrative expenses, shall be charged to the person, firm, corporation, or association that did the littering. If such sum is not promptly paid, steps shall be taken, with the advice of the Village attorney’s office, to collect same. This charge shall be in addition to any fine or other penalty for violation of this chapter.

Penalty, see § 131.99

§ 131.99 PENALTY

In addition to the charges provided in § 131.07 of this chapter, any person, firm, or corporation violating any provision of this chapter shall, upon conviction thereof, be subject to a fine of not less than \$25 and not more than \$500 for each offense.

CHAPTER 132: REGULATING SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT

Section

132.01	Definitions
132.02	Prohibition
132.03	Posting of Signs
132.04	Exemptions
132.05	Enforcement
132.06	Violations
132.07	Injunctions
132.08	Discrimination
132.09	Severability
132.10	Home Rule and Other Local Regulation
132.11	Ventilation Intakes

§ 132.01 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BAR means 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% 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.

DEPARTMENT means the Department of Public Health.

EMPLOYEE means 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 means 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 means 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 means 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 means gaming equipment/supplies as defined in the Illinois Gaming Board Rules of the Illinois Administrative Code.

GAMING FACILITY means 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 means 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 means 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, as set forth in § 132.11 of this chapter, 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 and 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 means a not-for-profit association that:

(1) Has been in active and continuous existence for at least 3 years prior to the effective date of the amendatory Act of the 95th General Assembly, whether incorporated or not,

(2) Is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times,

(3) Is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and

(4) 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 means 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.

PUBLIC PLACE means that portion of 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 distance, as set forth in § 132.11 of this chapter, 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, 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, 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% 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 means (i) 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 (ii) 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 means a retail establishment that derives more than 80% 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** means the carrying, smoking, burning, inhaling, or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs, or any other lighted smoking equipment.

STATE AGENCY has the meaning formerly ascribed to it in subsection (a) of Section 3 of the Illinois Purchasing Act (now repealed).

UNIT OF LOCAL GOVERNMENT has the meaning ascribed to it in Section 1 of Article VII of the Illinois Constitution of 1970.

§ 132.02 PROHIBITION

(A) Smoking in public places, places of employment, and governmental vehicles prohibited. No person shall smoke in a public place or in 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 or a political subdivision of the State. Smoking is prohibited in indoor public places and workplaces unless specifically exempted by § 132.04 of this chapter.

(B) Smoking prohibited in student dormitories. Notwithstanding any other provision of this chapter, 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.

§ 132.03 POSTING OF SIGNS

- (A) Posting of signs; removal of ashtrays.
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 chapter 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 chapter 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 chapter by the owner, operator, manager, or other person having control of the area.

(B) Designation of other nonsmoking areas. Notwithstanding any other provision of this chapter, 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 subsections (a) and (b) of §132.03 of this chapter.

§ 132.04 EXEMPTIONS

Notwithstanding any other provision, smoking is allowed in the following areas:

1. Private residences or dwelling places, except when used as a child care, adult day care, or healthcare facility or any other home-based business open to the public.
2. Retail tobacco stores as defined in § 132.01 of this chapter in operation prior to the effective date of the amendatory Act of the 95th General Assembly. The retail tobacco store shall annually file with the Department 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 the amendatory Act 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% 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.

§ 132.05 ENFORCEMENT

Enforcement; complaints.

1. The Department, State-certified local public health departments, and local law enforcement agencies shall enforce the provisions of this chapter and may assess fines pursuant to § 132.06 of this chapter.
2. Any person may register a complaint with the Department, a State-certified local public health department, or a local law enforcement agency for a violation of this chapter. The Department shall establish a telephone number that a person may call to register a complaint under this subsection (2).

§ 132.06 VIOLATIONS

(A) A person, corporation, partnership, association or other entity who violates § 132.02 of this chapter shall be fined pursuant to this chapter. Each day that a violation occurs is a separate violation.

(B) A person who smokes in an area where smoking is prohibited under § 132.02 of this chapter shall be fined in an amount that is not less than \$100 and not more than \$250. A person who owns, operates, or otherwise controls a public place or place of employment that violates § 132.02 of this chapter 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 \$2,500 for each additional violation within one year after the first violation.

(C) A fine imposed under this chapter shall be allocated as follows:

1. The fine shall be distributed to the enforcing agency.

§ 132.07 INJUNCTIONS

The Department, a State-certified location public health department, local law enforcement agency, or any individual personally affected by repeated violations may institute, in a circuit court, an action to enjoin violations of this chapter.

§ 132.08 DISCRIMINATION PROHIBITED

No individual may be discriminated against in any manner because of the exercise of any rights afforded by this chapter.

§ 132.09 SEVERABILITY

If any provision, clause or paragraph of this chapter shall be held invalid by a court of competent jurisdiction, such validity shall not affect the other provisions of this chapter.

§ 132.10 HOME RULE AND OTHER LOCAL REGULATION

(A) Any home rule unit of local government, any non-home rule municipality, or any non-home rule county within the unincorporated territory of the county may regulate smoking in public places, but that regulation must be no less restrictive than this chapter. This subsection (A) is a limitation on the concurrent exercise of home rule power under subsection (i) of Section 6 of Article VII of the Illinois Constitution.

(B) In addition to any regulation authorized under subsection (a) or authorized under home rule powers, any home rule unit of local government, any non-home rule municipality, or any non-home rule county within the unincorporated territory of the county may regulate smoking in any enclosed indoor area used by the public or serving as a place of work if the area does not fall within the definition of a "public place" under this Act.

§ 132.11 VENTILATION INTAKES

Entrances, exits, windows and ventilation intakes. Smoking is prohibited within a minimum distance of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited under this chapter so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means.