

**CHAPTER 43**  
**OFFENSES AGAINST PUBLIC PEACE, SAFETY AND MORALS**

- 43.01 Disorderly Conduct
- 43.02 Resisting or Obstructing a Peace Officer
- 43.03 Battery
- 43.04 Assault
- 43.05 Firearms and Air Rifles
- 43.06 Fireworks
- 43.07 Barbed Wire Fences
- 43.08 Noise
- 43.09 Damaging Property
- 43.10 Littering
- 43.11 Trespasses
- 43.12 Combustible Refuse
- 43.13 Parades and Demonstrations
- 43.14 Bathing
- 43.15 Possession, Sale and Use of Tobacco, Smokeless Tobacco, Tobacco Accessories, Smoking Herbs and Alternative Nicotine Products
- 43.16 Curfew
- 43.17 Parental Responsibility
- 43.18 Theft of Service
- 43.19 Bicycles, Tricycles, Skateboards or Similar Motorized and Non-motorized Recreational Devices
- 43.20 Non-Smoking Environment
- 43.21 Remote Control Devices
- 43.22 Truancy

**43.01 DISORDERLY CONDUCT**

No person shall engage in disorderly conduct in the City. A person commits disorderly conduct when he knowingly:

1. Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace.
2. Transmits in any manner to the fire department of any city, town or fire protection district a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists.
3. Transmits in any manner to another a false alarm to the effect that a bomb or other explosive of any nature is concealed in such place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb or explosive is concealed in such place.
4. Transmits in any manner to any peace officer, public officer or public employee a report

to the effect that an offense has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense has been committed.

5. Enters upon the property of another and for a lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it.

#### **43.02 RESISTING OR OBSTRUCTING A PEACE OFFICER**

No person shall resist or obstruct a peace officer in the City. A person who knowingly resists or obstructs the performance by one known to the person to be a peace officer of any authorized act within his official capacity commits the offense of resisting or obstructing a peace officer.

#### **43.03 BATTERY**

No person shall commit a battery in the City. A person commits battery if he intentionally or knowingly, without legal justification and by any means:

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

#### **43.04 ASSAULT**

No person shall commit an assault in the City. A person commits an assault when, without lawful authority, he engages in conduct which places another in reasonable apprehension of receiving a battery.

#### **43.05 WEAPONS** *Amended, 14-3-5*

A. WEAPONS: A person who is not a City Law Enforcement Officer, shall not carry about his person any concealed pistol unless authorized by law, switchblade, knife with a blade in excess of five inches, razor, slingshot, metal knuckles or any other weapon or thing of deadly character.

- B. No person shall sell, give or transfer any such weapon to any minor person.

#### **43.06 FIREWORKS** *Amended, 12-10-2*

No person shall sell, offer for sale, use or explode any fireworks in the City except the City Administrator and the Chief of Police may grant a permit for a public display of fireworks under such conditions as they may impose under the provisions of 425 ILCS 35/0.01 *et seq.*

#### **43.07 BARBED WIRE FENCES**

No person shall maintain any fences containing barbed wire along or near any public sidewalk.

### **43.08 NOISE** *Amended, 08-11-1*

A. **DEFINITIONS:** In addition to the definitions found in Appendix A of this Code, for purposes of this Section 43.08, the following words and phrases, whether capitalized or not, shall have the following meanings:

**Construction:** Any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or of public or private right-of-way, structures, utilities or similar property.

**Demolition:** Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

**Emergency:** Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

**Emergency Work:** Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

**Impulsive Sound:** Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

**Industrial Area:** As defined in the Marengo Zoning Code.

**Motor Carrier Vehicle Engaged in Interstate Commerce:** Any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

**Motor Vehicle:** Any vehicle that is propelled or drawn on land by a motor, such as, but not limited to, passenger car, truck, truck trailer, semitrailer, camper, go-cart, snowmobile, amphibious raft on land, dune buggy or racing vehicle, but not including motorcycles.

**Motorcycle:** An unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.

**Muffler or Sound Dissipative Device:** A device for abating the sound of escaping gases of an internal combustion engine.

**Noise:** Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

**Noise Disturbance:** Any sound which either:

1. Endangers or injures the safety or health of humans or animals, or
2. Annoys or disturbs a reasonable person or normal sensitivities, or
3. Endangers or injures personal or real property.

**Person:** Any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

**Powered Model Vehicle:** Any self-propelled airborne, waterborne or landborne plane, vessel or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

**Public Right-of-Way:** Any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

**Public Space:** Any real properties or structures thereon which are owned or controlled by a governmental entity.

**Real Property Boundary:** An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

**Residential Area:** As defined in the Marengo Zoning Code.

**Weekday:** Any day Monday through Friday which is not a legal holiday.

B. **NOISE SENSITIVE ZONE RECOMMENDATIONS:** The City Council may designate the noise sensitive zone which contains noise sensitive activities. Existing quiet zones shall be considered noise sensitive zones until otherwise designated. Noise sensitive activities include, but are not limited to, operation of a school, public library, church, hospital and nursing home.

C. **NOISE DISTURBANCES PROHIBITED:** No person shall unreasonably make, continue or cause to be made or continued, any noise disturbance. Noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way shall be exempt from this Section 43.08-C.

D. **RADIOS, TELEVISION SETS, MUSICAL INSTRUMENTS AND SIMILAR DEVICES:** No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound:

1. Between the hours of 11 p.m. and 7 a.m. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone, except for activities open to the public and

for which a permit has been issued by the City Council;

2. In such a manner as to create a noise disturbance at 50 feet or 15 meters from such a device, when operated in or on a motor vehicle on a public right-of-way or public space;
3. In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier;
4. This Section 43.08-D shall not apply to noncommercial spoken language covered until Section 43.08-E herein.

E. **LOUDSPEAKER OR PUBLIC ADDRESS SYSTEMS:** No person shall;

1. Use or operate for any noncommercial purpose any loudspeaker, public address system or similar device between the hours of 11 p.m. and 7 a.m. the following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone.
2. Use or operate for any commercial purpose any loudspeaker, public address system or similar device as follows:
  - a. Such that the sound creates a noise disturbance across a real property boundary or within a noise sensitive zone; or
  - b. Between the hours of 11 p.m. and 7 a.m. the following day on a public right-of-way or public space.

F. **STREET SALES:** No person shall offer for sale or sell anything by shouting or outcry within any residential or commercial area except by permit issued by the City Council.

G. **ANIMALS AND BIRDS:** No person shall own, possess or harbor any animal or bird which frequently or for continued duration, howls, barks, meows, squawks or makes other sounds which create a noise disturbance across a residential real property boundary or within a noise sensitive zone.

H. **LOADING AND UNLOADING:** No person shall load, unload, open, close or otherwise handle boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 8 p.m. and 7 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.

I. **CONSTRUCTION:** Except as provided herein and except for emergency work of public service utilities, no person shall operate or permit the operation of any tools or equipment used in construction, drilling or demolition work so as to create a noise disturbance across a

residential real property boundary or within a noise sensitive zone. The proper working hours shall be as follows:

1. Between the hours of 7 a.m. and 8 p.m. on weekdays.
2. Between the hours of 8 a.m. and 8 p.m. on Saturdays, Sundays and holidays.

J. **VEHICLE OR MOTORBOAT REPAIRS AND TESTING:** No person shall repair, rebuilt, modify or test any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.

K. **PLACES OF PUBLIC ENTERTAINMENT:** No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in any place of public entertainment at a sound level greater than 90 dBA as read by the slow response on a sound level meter at any point that is normally occupied by a customer, unless a conspicuous and legible sign is located outside such place, near the public entrance, stating "WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT."

L. **POWERED MODEL VEHICLES:** No person shall operate or permit the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary, in a public space or within a noise sensitive zone between the hours of 10 p.m. and 7 a.m. the following day. The maximum sound levels in a public space during the permitted period of operation shall be measured at a distance of 50 feet or 15 meters from any point on the path of the vehicle.

M. **STATIONARY NON-EMERGENCY SIGNALING DEVICES:** Except for devices used in conjunction with places of religious worship, no person shall sound or permit the sounding of any electronically amplified signal from any stationary bell, chime, siren, whistle or similar device intended primarily for non-emergency purposes, from any place for more than 10 minutes in any hourly period.

N. **EMERGENCY SIGNALING DEVICES:**

1. Except for emergency purposes or for testing, no person shall intentionally sound or permit the sounding outdoors of any fire, burglar or civil defense alarm siren, whistle or similar stationary emergency signaling devices.
2. Testing of a stationary emergency signaling device shall occur at the same time of day each time such test is performed but not before 7 a.m. or after 6 p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed 60 seconds.
3. Testing of a complete emergency signaling system, including the function-

ing of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall not occur before 7 a.m. or after 6 p.m. A time limit shall be applicable to such complete system testing.

O. **NOISE SENSITIVE ZONES:** No person shall create or cause the creation of any sound within any noise sensitive zone so as to disrupt the activities normally conducted within the zone or disturb or annoy the patients of a hospital, nursing home or similar activity, provided that conspicuous signs are displayed indicating the presence of the zone.

P. **DOMESTIC POWER TOOLS:** No person shall operate or permit the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snowblower or similar device used outdoors in residential areas between the hours of 11 p.m. and 7 a.m. the following day so as to create a noise disturbance across a residential real property boundary.

Q. **EMERGENCY EXCEPTIONS:** The provisions of this Section 43.08 shall not apply to 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.

R. **EXCEPTIONS:** Exceptions to this Section 43.08 may be granted by the City Council upon the filing of an application. Said application shall contain information which demonstrates that bringing the source of sound or activity into compliance with this Section 43.10 would constitute an unreasonable hardship on the applicant, the City or on other persons.

S. **MOTOR VEHICLES:** No person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating (GVWT) in excess of 10,000 pounds, or any auxiliary equipment attached to such a vehicle, for a period longer than 15 minutes in any hour while the vehicle is stationary for reasons other than traffic congestion, on a public right-of-way or designated noise sensitive zone, between the hours of 11 p.m. and 7 a.m. the following day.

T. **PENALTY:** Any person, firm or corporation violating any provision of this Section 43.08, or willfully or knowingly violates any of its provisions, shall be fined not less than \$75 nor more than \$500 for each offense, and a separate offense shall be deemed committed on each day during or on which an offense occurs or continues.

#### **43.09 DAMAGING PROPERTY** *Amended, 01-8-3*

A. No person shall damage, disturb, destroy or deface any City property or any public or private property.

B. **GRAFFITI DEFINED:** Graffiti is any permanent display of any name, identification, letter, numeral, figure, emblem, insignia, a picture, outline, character, spectacle, delineation, illustration, symbol or any combination thereof, which without authorization is marked, written, drawn, painted, scratched, inscribed or affixed, and which is a different color from the color of the exterior of those objects or structures described above and to which it is affixed.

C. **PROHIBITED:** It shall be unlawful, and is hereby declared a nuisance to place graffiti, or permit graffiti to remain upon any public or private curb stone, flagstone, brick, sidewalk or any portion of any part of any sidewalk or street, or upon any tree, lamp post, telephone pole, utility box, utility pole, stanchion, postal mail receptacle, sign, hydrant, fence, door, wall, window, garage or enclosure, vehicle, bridge, pier or upon any other public or private structure or building.

D. **GRAFFITI REMOVAL.** It shall be the duty of the Chief of Police to serve or cause to be served, a notice upon the owner and person in possession of any such object or structure upon which graffiti is present and to demand the abatement of the nuisance within five days. All exterior surfaces shall be kept clean and free of graffiti. Surfaces which have been exposed to graffiti shall be cleaned, painted or in some manner covered, so as to effect the complete removal or the graffiti from that surface and return the surface to its prior condition within 5 days of receipt of the violation notice to the owner. The duty of the owner and person in possession shall be joint and several.

E. **PENALTY:** Whoever violates any provision of this Section 43.09 shall be fined not less than \$25 nor more than \$750 for each offense and be responsible for the City's cost of prosecution, including attorney fees. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to the owner of any property damaged or destroyed.

#### **43.10 LITTERING**

No person shall litter any public or private property with paper or other debris or foreign matter. Any stored or transported materials susceptible to blowing or scattering shall be adequately covered or protected to prevent littering.

#### **43.11 TRESPASSES**

A. **PROHIBITED:** It shall be unlawful for any person to commit a trespass within this City upon either public or private property.

B. **SPECIFICALLY ENUMERATED TRESPASSES; SUPPRESSION:** Without constituting and limitation upon the provisions of this Section 43.11, any of the following acts by any person shall be deemed included among those that constitute trespasses in violation of the provisions of this Section 43.11, and appropriate action may be taken hereunder at any time, or from time to time, to prevent or suppress any violation or violations of this Section 43.11, the aforesaid enumerated acts so included, being as follows, to-wit:

1. An entry upon the premises, or any part thereof, of another, including any public property in violation of a notice posted or exhibited at the main entrance to such premises or at any point of approach or entry or in violation of any notice, warning or protect given orally or in writing, by any owner or occupant thereof; or

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

#### **43.12 COMBUSTIBLE REFUSE**

It shall be unlawful to permit or store any combustible refuse in such manner as to create a fire hazard, or to throw or deposit, or cause to be thrown or deposited, any such refuse of any kind on or in any street, highway, or alley or other public place within the corporate limits of the City.

#### **43.13 PARADES AND DEMONSTRATIONS**

A. No person shall participate in or promote any parade or demonstration on any street or other public property unless a permit has been issued by the City Council.

B. Application for such permit shall provide such information as the Chief of Police shall require for proper protection of the public.

C. No such parade or demonstration shall be held during the night time, or in any such manner as to obstruct the orderly use by the public of any street or public place.

D. The City Council may issue such permit subject to such reasonable restrictions as it shall deem necessary to safeguard the residents of the City and to protect private and public property.

#### **43.14 BATHING**

It shall be unlawful for any person to bathe at any public place, or in any place open to public view, unless such person is adequately or decently clothed or garbed in a bathing suit; and it shall be unlawful for any person to robe or disrobe at any public place or in any place open to public view, or to change clothing, or to change into or out of a bathing suit at any public place or in any place open to public view, or in an automobile or other motor vehicle on or in any street, highway, alley or other public place within the corporate limits of the City.

#### **43.15 POSSESSION, SALE AND USE OF TOBACCO, SMOKELESS TOBACCO, TOBACCO ACCESSORIES, SMOKING HERBS AND ALTERNATIVE**

## NICOTINE PRODUCTS *Amended, 15-2-1, 10-8-2*

A. DEFINITIONS: In addition to those terms defined in Appendix A of this Code, terms used in this Section 43.15 are defined as follows:

**Alternative Nicotine Product:** a product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means. Said products include, but are not limited to, Electronic Cigarettes, Vapor Pens and other similar devices.

**Bidi cigarette:** a product that contains tobacco that is wrapped in temburni or tendu leaf or that is wrapped in any other material identified by rules of the Illinois Department of Public Health that is similar in appearance or characteristics to the temburni or tendu leaf.

**Electronic Cigarette or E-Cigarette:** an electronic device usually composed of a mouthpiece, a heating element or atomizer, a battery, and electronic circuits that provides a gas derived from liquid nicotine, vaping liquids and/or other substances which is inhaled by a user simulating smoking. The term includes such devices, regardless of the details of the product appearance or marketed name, generally manufactured to resemble cigarette, cigars, pipes, or other smoking devices.

**Smoking herbs:** all substances of plant origin and their derivatives, including but not limited to broom, calea, California poppy, damiana, hops, ginseng, lobelia, jimson weed and other members of the Datura genus, passion flower and wild lettuce, which are processed or sold primarily for use as smoking materials.

**Smokeless tobacco:** any finely cut, ground, powdered or leaf tobacco that is intended to be placed in the oral cavity; any tobacco product that is suitable for dipping or chewing.

**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 made illegal under any statute or of substances whose sale, gift, barter or exchange is unlawful.

**Tobacco products:** cigars, cigarettes, smokeless tobacco or tobacco.

**Vaping Liquids:** any liquid product composed either in whole or part of nicotine, propylene glycol and/or other similar substances and manufactured for use with an e-cigarette, a vapor pen or any other device that converts the liquid into gas for inhaling.

B. PURCHASE AND USE OF BIDI CIGARETTES, SMOKING HERBS, TOBACCO ACCESSORIES AND TOBACCO PRODUCTS:

1. No person under 18 years of age shall purchase any tobacco product in any of its forms. No person shall sell, purchase for, distribute samples of or furnish any tobacco product in any of its forms to any person under 18

years of age. Tobacco products may be sold through a vending machine only when such tobacco products are not sold along with non-tobacco products in the vending machine and only in the following locations:

- (a) Factories, businesses, offices, private clubs and other places not open to the general public.
- (b) Places to which persons under 18 years of age are not permitted access.
- (c) Places where alcoholic beverages are sold and consumed on the premises.
- (d) Places where the vending machine is under the direct supervision (which means that the owner or employee has an unimpeded line of sight to the vending machine) of the owner of the establishment or an employee over 18 years of age. The sale of tobacco products from a vending machine under direct supervision of the owner or an employee of the establishment is considered a sale of tobacco products by that person.
- (e) Places where the vending machine can only be operated by the owner or an employee over age 18 either directly or through a remote control device if the device is inaccessible to all customers.

- 2. **PENALTY:** Any person violating any provision of this Section 43.15-B is guilty of a petty offense and for the first offense shall be fined \$200, \$400 for the second offense in a 12-month period, and \$600 for the third or any subsequent offense in a 12-month period and be responsible for the City's cost of prosecution, including reasonable attorney fees.

**C. POSSESSION OF TOBACCO PRODUCTS:**

- 1. No person under 18 years of age shall possess any cigar, cigarette, smokeless tobacco or tobacco in any of its forms.
- 2. **PENALTY:** If a minor violates this Section 43.15-C the minor shall be guilty of a petty offense and may be fined \$25 or sentenced to 15 hours of community service for the first offense. If a second violation occurs within a 12-month period after the first offense, the fine shall be \$50 and 25 hours of community service. For a third or subsequent violation that occurs within a 12-month period after the first offense, the fine shall be \$100 and 30 hours of community service. If there is a second or subsequent violation not within a 12-month time period after the first violation, a fine of \$25 or 15 hours of community service shall be assessed. For any violation the violator shall be responsible for the City's cost of prosecution, includ-

ing reasonable attorney fees.

D. TOBACCO ACCESSORIES AND SMOKING HERBS:

1. **SALE TO MINORS PROHIBITED:** No person shall knowingly sell, barter, exchange, deliver or give away or cause or permit or procure to be sold, bartered, exchanged, delivered or given away tobacco accessories or smoking herbs to any person under 18 years of age.
2. **SALE OF BIDI CIGARETTES:** No person shall knowingly sell, barter, exchange, deliver or give away a bidi cigarette to another person, nor shall a person cause or permit or procure a bidi cigarette to be sold, bartered, exchanged, delivered or given away to another person.
3. **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 except from premises or an establishment where other tobacco products are sold.
4. **SALE OF CIGARETTE PAPER FROM VENDING MACHINES:** 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 by use of a vending or coin-operated machine or device. For purposes of this Section 43.15-D4, 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 130/1 *et seq.*) or the Cigarette Use Tax Act (35 ILCS 135/1 *et seq.*).
5. **USE OF IDENTIFICATION CARDS:** No person in the furtherance or facilitation of obtaining smoking accessories and smoking herbs shall display or use a false or forged identification card or transfer, alter or deface an identification card.
6. **WARNING TO MINORS:** Any person, firm, partnership, company or corporation operating a place of business where tobacco accessories and smoking herbs are sold or offered for sale shall post in a conspicuous place upon the premises a sign which there shall be imprinted the following statement: **SALE OF TOBACCO ACCESSORIES AND SMOKING HERBS TO PERSONS UNDER 18 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.
7. **PENALTY:**

- (a) Except for Section 43-15-D2, any person who knowingly violates or shall knowingly cause the violation of any provision of this Section 43.15-E shall be guilty of a Class C misdemeanor and shall be fined pursuant to 730 ILCS 5/5-4.5-65(e). The violator shall be responsible for the City's cost of prosecution, including reasonable attorney fees.
- (b) Any person who knowingly violates or shall knowingly cause the violation of Section 43.15-D2 shall be guilty of a petty offense for which the offender shall be fined as follows: for the first offense, not less than \$100 or more than \$500, for a second offense within a 2-year period of the first offense, not less than \$250 or more than \$600, and for a third or subsequent offense within a 2-year period of the first offense, not less than \$500 or more than \$1,000. In addition, the violator shall be responsible for the City's cost of prosecution, including reasonable attorney fees.

**E. PURCHASE, SALE AND POSSESSION OF ALTERNATIVE NICOTINE PRODUCTS**

- 1. **PURCHASE BY MINORS:** No person under 18 years of age shall purchase any alternative nicotine product or vaping liquids, in any of their forms.
- 2. **SALE/DELIVERY TO MINORS:** No person shall sell, purchase for, distribute samples of or furnish any alternative nicotine product or vaping liquids in any of its forms to any person under 18 years of age.
- 3. **SALE/DELIVERY BY MINORS:** No person under 18 years of age shall sell, deliver, barter, give or exchange alternative nicotine products or vaping liquids.
- 4. **POSSESSION BY MINORS:** No person under 18 years of age shall possess any alternative nicotine products or vaping liquids.
- 5. **VENDING MACHINE SALES:** Any sales of alternative nicotine products or vaping liquids by way of vending machine shall comply with the provisions of Chapter 43, Section 15(B)(1).
- 6. **USE OF IDENTIFICATION CARDS:** No person in the furtherance or facilitation of obtaining an alternative nicotine product or vaping liquids shall display or use a false or forged identification card or transfer, alter or deface an identification card.

7. **WARNING TO MINORS:** Any person, firm, partnership, company or corporation operating a place of business where alternative nicotine products and vaping liquids are sold or offered for sale shall post in a conspicuous place upon the premises a sign which there shall be imprinted the following statement: **SALE OF ALTERNATIVE NICOTINE PRODUCTS AND VAPING LIQUIDS TO PERSONS UNDER 18 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.
8. **PENALTY:**
  - a. If a minor violates Sections 43.15(E)(1) or (4), the minor shall be guilty of a petty offense and may be fined \$25 or sentenced to 15 hours of community service for the first offense. If a second violation occurs within a 12-month period after the first offense, the fine shall be \$50 and 25 hours of community service. For a third or subsequent violation that occurs within a 12-month period after the first offense, the fine shall be \$100 and 30 hours of community service. If there is a second or subsequent violation not within a 12-month time period after the first violation, a fine of \$25 or 15 hours of community service shall be assessed. For any violation the violator shall be responsible for the City's cost of prosecution, including reasonable attorneys' fees.
  - b. Any person who violates Sections 43.15(E)(2),(3), (6) or (7) shall be guilty of a petty offense for which the offender shall be fined as follows: for the first offense, not less than \$100 or more than \$500, for a second offense within a 2-year period of the first offense, not less than \$250 or more than \$600, and for a third or subsequent offense within a 2-year period of the first offense, not less than \$500 or more than \$750. In addition, the violator shall be responsible for the City's cost of prosecution, including reasonable attorney's fees.

#### **43.16 CURFEW** *Amended, 04-4-2*

A. **DEFINITIONS:** In addition to those terms defined in Appendix A of this Code, the following definitions are applicable to this Section 43.16:

**Emergency:** An unforeseen combination of circumstances for the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.

**Establishment:** Any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

**Guardian:** A person who, under court order, is the guardian of the person of a minor; or a public or private agency with whom a minor has been placed by a court.

**Minor:** A person less than 17 years of age.

**Operator:** Any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

**Parent:** A person who is (1) a natural parent, adoptive parent or step-parent or another person; or (2) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

**Public place:** Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

**Remain:** To linger or stay; or fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

**Serious bodily injury:** Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

B. CURFEW: Except as provided in Section 43.16-C herein, it is unlawful for any person less than 17 years of age to be on any public road, street, alley, park or other lands used for public purposes or in any public place of business or amusement in the City between the hours of 12:01 a.m. Saturday and 6 a.m. Saturday, and between 12:01 a.m. Sunday and 6 a.m. Sunday and between the hours of 11 p.m. and 6 a.m. on any other day of the week.

C. EXCEPTIONS: The following shall constitute valid exceptions to the operation of the curfew:

1. At any time when accompanied by his or her parent, guardian or other adult person responsible for or having the legal care, custody and control of the individual, or an authorized adult;
2. If participating in, going to or returning from, without any detour or stop:
  - (a) an emergency as defined herein;
  - (b) lawful employment;
  - (c) attending an official school, religious or other social or recreational activity supervised by adults and sponsored by a unit of govern-

ment, civic organization or other similar entity that takes responsibility for the attendees;

- (d) an activity involving the exercise of First Amendment rights protected by the United States Constitution (or those similar rights protected by the State of Illinois Constitution), such as free exercise of religion, freedom of speech and the right of assembly.

- 3. Is married or had been married or is an emancipated minor under the Emancipation of Mature Minors Act, as amended (750 ILCS 30/1 *et seq.*).

D. ESTABLISHMENTS: The owner, operator or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours or fails to promptly notify the Police Department that a minor is present on the premises of the establishment during curfew hours and refuses to leave.

E. ENFORCEMENT: Before taking any enforcement action under this Section 43.16, a police officer shall ask the suspected offender's age and reason for being in the public place or on the premises. The police officer shall not issue a citation or make an arrest under this Section 43.16 unless the police officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception in Section 43.16-C applies.

F. PENALTY: Any person, firm or corporation violating this Section 43.16 shall be fined in not more than \$500 for each offense and be responsible for the City's cost of prosecution. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to any property damaged or destroyed or person injured.

### **43.17 PARENTAL RESPONSIBILITY**

A. It shall be unlawful for any parent or legal guardian of any unemancipated minor who resides with such parent or legal guardian to fail to pay for actual damages for the willful or malicious acts of such minor which cause injury to a person or to property.

B. A parent or legal guardian of an unemancipated minor who resides with such parent or legal guardian shall be liable for actual damages caused by said minor and shall be presumed to have failed to exercise proper parental responsibility and said minor shall be deemed to have acted with the knowledge and permission of the parent or guardian in violation of this Section 43.17 whenever:

- 1. Said minor shall be adjudged to be in violation of any ordinance, law or statute prohibiting wilful and malicious acts which cause injury to a person or property.
- 2. Said parent or legal guardian shall have served upon them a notice in writing that said minor has received a non-judicial sanction from the City Police Department or other governmental agency as a result of an admission

of guilt by said minor of a violation of an ordinance, law or statute prohibiting will full and malicious acts which caused injury to a person or property and subsequent to receipt of said notice said minor is adjudicated to be in violation of an ordinance, law or statute or receives a non-judicial sanction from any governmental agency as a result of an admission of guilt by said minor in violation of an ordinance, law or statute.

C. Recovery of damages shall be pursuant and limited to an amount provided by 740 ILCS 115/5, as amended.

D. This Section 43.17 shall not affect the recovery of damages in any other cause of action where the liability of the parent or legal guardian is predicated on a common law basis.

E. Any person violating any provision of this Section 43.17 shall, upon conviction, be fined not less than \$25 nor more than \$500 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

#### **43.18 THEFT OF SERVICE**

A. **UNAUTHORIZED CONNECTION PROHIBITED:** No person shall make any unauthorized connection, physically, electrically, acoustically, inductively or otherwise, with any part of the cable television system existing in the City for the purpose of enabling himself or others to receive television signals, radio signals, pictures, programs, sounds or any other information or intelligence transmitted over said cable television system without payment to the owner of the cable television system.

No person shall, without the consent of the owner of the cable television system, willfully tamper with, remove or injure any cable, wires, or other equipment used for the distribution programs, sounds, or any other information or intelligence transmitted over said cable television system.

B. **PENALTY:** Any person violating any provision of this Section 43.18 shall, upon conviction, be fined not less than \$25 nor more than \$500 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

#### **43.19 BICYCLES, TRICYCLES, SKATEBOARDS or SIMILAR MOTORIZED and NON-MOTORIZED RECREATIONAL DEVICES** *Amended, 04-5-2*

A. **DEFINITIONS:** In addition to the terms defined in Appendix A of this Code, the following words, when used in this Section 43.19, shall have the following meanings:

**Central Business District:** The B-1 Central Business District as identified in the Marengo Zoning Code.

**City property:** Any sidewalk, street right-of-way, City park, City parking lot/area or any other public property owned by the City.

**Motorized wheelchair:** As defined in 625 ILCS 5/1-148.3, as amended.

**Personal use vehicle and personal use device:** Vehicles, devices or means of transportation or recreation which include, but are not limited to, the following: skateboard, bicycle, tricycle, roller blade, roller skate, or other similar device, whether non-motorized or motorized (electric, gasoline engine or other form of external power), mini-bike, pedalcycle, recreational device or vehicle, snowmobile, go-kart, moped, all-terrain vehicles (ATV), golf cart or other such motorized or non-motorized devices or vehicles or modes of transportation.

B. **USE OF PERSONAL USE VEHICLES AND DEVICES:** Except as provided in Section 43.19-C herein, it shall be unlawful and is hereby declared a nuisance for any person to operate, ride on, be pushed on or traverse on a personal use vehicle or personal use device on any City property or on any private property without the permission of the property owner.

C. **EXEMPTIONS:**

1. Motorized wheelchairs shall be permitted to operate on any City property so long as operated in a safe and orderly manner.
2. Non-motorized bicycles, tricycles, skateboards and other non-motorized recreational devices or vehicles may be operated on sidewalks in residential zoning districts provided the operators remain in single file, yield the right-of-way to pedestrians, and, when approaching a pedestrian, reduce the speed of the device to a speed which is no greater than necessary to continue the safe operation of the device, and without impairing the right-of-way of the pedestrian or without causing alarm or danger and/or damage to the pedestrian and/or property.
3. Non-motorized tricycles, operated by children accompanied by an adult, shall be permitted in Calvin Spencer Park.
4. Special events that are conducted with a written permit issued by the Chief of Police.
5. Any personal use vehicle or device licensed and registered pursuant to the Illinois Vehicle Code shall be permitted on any City street or parking lot/area.
6. Any employee of any unit of government may operate any personal use vehicle or device owned by a unit of government in the course of his or her duties on any City property.

D. **PENALTIES:** Any person, firm or corporation violating any provision of this Section 43.19 shall be fined not less than \$25, nor more than \$500, for each offense. A separate offense shall be deemed committed on each day during which the violation occurs or continues.

### **43.20 NON-SMOKING ENVIRONMENT**

The City does hereby concur in the policy as set forth by the Illinois General Assembly in the Illinois Clean Indoor Air Act that tobacco smoke is annoying, harmful and dangerous to human beings and a hazard to public health. Pursuant to the requirements of the Illinois Clean Indoor Air Act, no person shall smoke on premises owned and controlled by the City nor in a public place which is any enclosed indoor area used by the public or serving as a place of work.

### **43.21 REMOTE CONTROL DEVICES**

No remote control device shall be operated on any City sidewalk, street, parking lot or park.

### **43.22 TRUANCY** *06-5-1*

A. For purposes of this Section 43.22, the term “truant” is (1) any person between the ages of 7 and 16 who is subject to compulsory school attendance and who is absent, without valid cause, from school attendance during a regular school day or any portion thereof or during a required summer school program established pursuant to 105 ILCS 5/10-22.33B; and (2) any person who is 16, 17 or 18 years of age and enrolled in a public school and who is absent, without valid cause, from school attendance during a regular school day or any portion thereof or during a required summer school program.

The following children are not considered truant:

1. Any child attending a private or parochial school where children are taught the branches of education taught to children or corresponding age and grade in the public schools, and where the instruction of the child in the branches of education is in the English language;
2. Any child who is not enrolled in a public school and is instructed by a legal guardian in a manner equal or superior to that obtainable in the public schools;
3. Any child who is physically or mentally unable to attend school, such disability being certified to either Marengo Community High School District 154 or Marengo-Union Elementary School District 165 (hereinafter “school district”) truancy officer or McHenry County Regional Office of Education truancy officer, by a licensed physician or by a Christian Science practitioner residing in Illinois and listed with the Christian Science Journal; or who is excused for temporary absence for cause by the principal or teacher of the school which the child attends; the exemptions in this Section 43.22-A2 do not apply to any female who is pregnant or the mother of one or more children, except where a female is unable to attend school due to a complication arising from her pregnancy and the existence of such complication is certified to the school district truancy officer or

McHenry County Regional Office of Education truancy officer by a competent physician;

4. Any child necessarily and lawfully employed according to the provisions of the law regulating child labor may be excused from attendance at school by the school district Superintendent of Schools or by the Regional Superintendent of Schools, on certification of the facts by and the recommendation of either the school district Board of Education. If a part-time continuation school is run in either school district, children so excused shall attend the continuation school at least 8 hours each week;
5. Any child over 12 and under 14 years of age while in attendance at confirmation classes;
6. Any child absent from school on a particular day or days or at a particular time of day for the reason that he is unable to attend classes or to participate in any examination, study or work requirements on a particular day or days or at a particular time of day, because the tenets of his religion forbid secular activity on a particular day or days or at a particular time of day; and
7. Emergency or unforeseen absences due to illness or other causes beyond the control of the person so absenting himself or herself from school without parental or legal guardian permission shall not constitute truancy if permission for such absence has been obtained from the parent or legal guardian and such permission is submitted to the proper school authorities within 24 hours of such absence.

B. **TRUANCY PROHIBITED:** Upon a complaint signed by an authorized school district official, it shall be unlawful for any person to be truant. Any person who is truant shall be guilty of the offense of truancy and be subject to the penalties hereinafter set forth in this Section 43.22.

C. **PERMITTING MINOR TO BE TRUANT PROHIBITED:** It is unlawful for a parent, legal guardian or other person to knowingly permit a person in his or her custody or control to violate this Section 43.22.

D. **PENALTY:** Upon a complaint being signed by an authorized school district official, any person, firm or corporation violating any provision of this Section 43.22 shall be fined not less than \$50 nor more than \$500 for each offense. A separate offense shall be deemed committed on each day during or on which such violation occurs or continues.