

CHAPTER 8

MISCELLANEOUS OFFENSES AND PROVISIONS

SECTION:

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6-8-1: SALE OF TOBACCO PRODUCTS: It shall be unlawful for any person to sell, give, provide or distribute any tobacco products to any person under the age of eighteen (18) years, or to allow any person under the age of eighteen (18) years to have possession of any tobacco products in violation of this Section.

(A) Definitions:

1. "Tobacco Products" means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigarette papers, cigars, pipe tobacco, snuff, chewing tobacco, or dipping tobacco.
2. "Vending Machine" means any mechanical, electric or electronic, self-service device which, upon insertion of money, tokens or other forms of payment, dispenses tobacco products.

(B) Prohibited Sales and Delivery Signs.

1. It shall be unlawful for any person to sell, offer for sale, give away or deliver tobacco products to any person under the age of eighteen (18) years.
2. Signs informing the public of the age restriction provided for herein shall be posted at, or near, every display of tobacco products, and on, or upon every vending machine, which offers tobacco products for sale. Each such sign shall be plainly visible and shall state:

THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER EIGHTEEN (18) YEARS OF AGE IS PROHIBITED BY LAW.

The text of such signs shall be in red letters on a white background, said letters being at least one inch (1") high.

- (C) **Minimum Age to Sell Tobacco Products.** It shall be unlawful for any business entity, individual, corporation, representative, agent or employee of any business, corporation or business entity to engage, employ or permit any person under sixteen (16) years of age to sell tobacco products in any premises.
- (D) **Purchase by Minors Prohibited.** It shall be unlawful for any person under the age of eighteen (18) years to purchase tobacco products, or to misinterpret their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products.
- (E) **Possession by Minors Prohibited.** It shall be unlawful for any person under the age of eighteen (18) years to possess any tobacco products, provided that the possession by a person under the age of eighteen (18) years under the direct supervision of the parent or guardian of such a person in the privacy of the parent's or guardian's home shall not be prohibited.

PENALTY: Any person who violates any provision of this Ordinance shall be fined in an amount not to exceed five hundred dollars (\$500.00) but not less than twenty-five dollars (\$25.00), plus Court costs and other fees provided by law, for a first violation, and not less than fifty dollars (\$50.00), plus Court costs and other fees as provided by law, for a second violation, unless otherwise specified herein.

- (F) **Proximity to Certain Institutions.** It shall be unlawful for any person to sell, offer for sale, give away or deliver tobacco products within one hundred feet (100') of any school, child care facility, or other building used for education or recreational programs for persons under the age of eighteen (18) years.
- (G) **Certain Free Distributions Prohibited.** It shall be unlawful for any person in the business of selling or otherwise distributing, promoting or advertising tobacco products or any employee or agent of any such person, in the course of such person's business, to distribute, give away, or deliver tobacco products free of charge

to any person on any right-of-way, park, playground, or other property owned by the Village of Arthur, school properties, or public library located within the Village of Arthur, Illinois.

(H) Locking Device on Vending Machines.

1. It shall be unlawful for any person or business to offer tobacco products for sale through a vending machine unless such vending machine is equipped with a locking device, said locking device being and existing for the purpose of incapacitating said vending machine so as to prevent the sale of tobacco products to individuals under the age of eighteen (18) years.
2. The following businesses, or entities, shall be exempt from requiring locking devices on vending machines:
 - (a) any business or entity that prohibits the entry of individuals under the age of eighteen (18) years upon the premises; and,
 - (b) any businesses or entities that are not open to the general public and do not allow individuals under the age of eighteen (18) years in the vicinity of said vending machines.

- (I) Any person who violates any provision of this Ordinance shall be fined in an amount not to exceed five hundred dollars (\$500.00), but not less than one hundred dollars (\$100.00), plus Court costs and other fees provided by law, for a first offense, and not less than two hundred dollars (\$200.00), plus Court costs and other fees as provided by law, for a second offense.

6-8-2: DISORDERLY CONDUCT: No person shall engage in disorderly conduct in the Village. Any of the following acts constitute disorderly conduct:

- (A) Making, aiding or assisting in making any improper noise, riot, disturbance, breach of the peace or diversion tending to a breach of the peace.
- (B) Engaging in or aiding or abetting any fight, quarrel or other disturbance.

- (C) Disturbing any religious service, public or private meeting or assembly of persons.
- (D) Collecting in crowds for unlawful purposes, or for any purpose to the annoyance or disturbance of other persons.
- (E) Being intoxicated, as defined by Illinois Compiled Statutes, in public places, or on any place to the annoyance and disturbance of other persons.
- (F) Resisting or obstructing the performance of one known to be a police officer or any authorized act within the police officer's official capacity; or assisting any person to escape from jail or custody of police.
- (G) Failing to obey a lawful order of dispersal by a person known to be a peace officer, where three (3) or more persons are committing acts of disorderly conduct in the immediate vicinity, which acts are likely to cause substantial harm or serious inconvenience, annoyance or alarm.
- (H) Lodging in or loitering in outhouses, sheds, barns, stables, or unoccupied buildings.
- (I) Engaging in obscene or indecent activities or entertainment.
- (J) Using any obscene, profane, threatening or inciting language in any public place.
- (K) Throwing stones or missiles in public places or at any person or property, or brandishing or threatening to use any missile, or dangerous weapon or object.
- (L) Damaging or defacing trees, bushes, gardens, fences, windows, signs, buildings, or vehicles, or engaging in any acts of vandalism.

6-8-3: NOISE: No person shall disturb peace and quiet of any other person by creating excessive noise on his or any property. Excessive noise shall include, but not by way of limitation, any of the following:

- (A) Loud playing of phonographs, radios, television sets, or music machines, or musical instruments.

- (B) Barking or howling dogs or cats.
- (C) Vehicles without mufflers, or the unnecessary use of horns on vehicles.

6-8-4: CURFEW:

- (A) It is unlawful for a person less than seventeen (17) years of age to be present at or upon any public assembly, building, place, street or highway at the following times unless accompanied and supervised by a parent, legal guardian or other responsible companion at least twenty-one (21) 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 seventeen (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 6:00 A.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 subparagraph (A) of this Section.
- (C) A person convicted of a violation of any provision of this Section shall be guilty of a petty offense and shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) for a first offense, and not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for a second offense.

6-8-5: PENALTY: Any person who violates any provision of this Ordinance shall be fined in an amount not to exceed five hundred dollars (\$500.00), but not less than one hundred dollars (\$100.00), plus Court costs and other fees provided by law, for a first violation, and not less than two hundred dollars (\$200.00), plus Court costs and other fees as provided by law, for a second violation, unless otherwise specified herein.

6-8-6: MUNICIPAL BOND FEES: A fee of twenty dollars (\$20.00) is hereby imposed by the Village of Arthur for bail processing against any person arrested for violating a bailable municipal ordinance or a State or federal law.

6-8-7: MOTOR VEHICLES USED IN COMMISSION OF CERTAIN OFFENSES

(A) Violations; exceptions

- (1) The owner of record of any motor vehicle shall be liable to the Village for an administrative penalty in the amount of \$250.00 (two hundred fifty dollars), plus any applicable towing and storage fees payable to a towing agent, whenever any such motor vehicle is used in the commission of any of the following offenses:
 - a. The knowing possession of more than ten (10) grams of cannabis as provided in Section 4 of the Cannabis Control Act (720 ILCS 550/4) or the knowing possession of a controlled substance in violation of Section 402 of the Illinois Controlled Substances Act (720 ILCS 570/402).
 - b. Driving under the influence of alcohol, drugs and/or intoxicating compounds in violation of Section 11-501 of the Illinois Vehicle Code (625 ILCS 5/11-501).
 - c. Driving at a time when the driver's license, permit or privilege to operate a motor vehicle is suspended or revoked in violation of Section 6-303 of the Illinois Vehicle Code (625 ILCS 5/6-303).
 - d. Fleeing or attempting to elude a police officer in violation of Section 11-204 of the Illinois Vehicle Code (625 ILCS 5/11-204).
 - e. The commission of an offense involving a weapon in violation of Article 24 of the Criminal Code of 1961 (720 ILCS 5/24-1 et. seq.).

- f. Driving at a time when the driver does not have a valid driver's license/permit in violation of Section 6-101 of the Illinois Vehicle Code (625 ILCS 5/6-101).

Any motor vehicle used in the commission of any such violation shall be subject to seizure and impoundment as provided in this article.

- (2) For purposes of this section, a motor vehicle is not considered to have been used in a violation that would render such vehicle eligible for seizure and impoundment if:
 - a. The motor vehicle used in the violation was stolen at the time and the theft was reported to the appropriate police authorities within 24 hours after the theft was discovered or reasonably should have been discovered.
 - b. The motor vehicle was operating as a common carrier and the violation occurred without the knowledge of the person in control of the motor vehicle; or
 - c. The alleged owner of record provides adequate proof that the motor vehicle had been sold to another person prior to the violation.

B. Seizure and Impoundment

Whenever a police officer has probable cause to believe that a motor vehicle is subject to seizure and impoundment pursuant to Section A of this article, such police officer shall provide for the towing of such motor vehicle to a facility designated by the Village. Before or at the time the motor vehicle is towed, the police officer shall notify the owner of record or the person in control of the motor vehicle at the time of the alleged violation, whichever is present if there is such a person, of the fact of the seizure and impoundment and of the right of the owner of record to request a vehicle impoundment hearing under this article.

C. Notice

Within 72 hours after a motor vehicle is seized and impounded pursuant to Section B of this article, the police department shall notify by certified mail the owner of record and any lien holder of record of the fact of the seizure and impoundment and the right

to request a motor vehicle impoundment hearing under this article. However, no such notice need be sent to the owner of record if the owner of record is personally served with the notice at the time the motor vehicle is seized and impounded and the owner of record acknowledges receipt of such notice in writing. A copy of such notice shall be forwarded to the Chief of Police. The notice shall state the penalties that may be imposed if no hearing is requested, including that a motor vehicle not released by payment of the administrative penalty and applicable towing and storage fees may be sold or disposed of by the Village in accordance with applicable law.

(D) Hearing

The owner of record seeking a vehicle impoundment hearing shall file a written request for such a hearing with the police department of the Village no later than 15 (fifteen) days after notice was mailed or otherwise given to the owner of record under Section B or Section C. The hearing date shall be no more than 10 (ten) calendar days after a request for a vehicle impoundment hearing has been filed. If, after the vehicle impoundment hearing, the hearing officer determines by a preponderance of the evidence that the motor vehicle was used in the violation, the hearing officer shall enter an order finding the owner of record liable to the Village for the amount of the administrative penalty prescribed, plus applicable towing and storage fees payable to the towing agent.

If, after a hearing, the hearing officer does not determine by preponderance of the evidence that the motor vehicle was used in such a violation, the hearing officer shall enter an order finding for the owner of record and for the return of the motor vehicle and any previously paid administrative penalty and applicable towing and storage fees; provided that if the motor vehicle was seized and impounded pursuant to state or federal drug asset forfeiture laws, the motor vehicle shall not be returned unless and until the Village receives notice from the appropriate state, or where applicable, federal officials, that forfeiture proceedings will not be instituted; or forfeiture proceedings have concluded and there is a settlement or a court order providing that the motor vehicle shall be returned to the owner of record.

If the owner of record requests a vehicle impoundment hearing but fails to appear at such a hearing or fails to request a vehicle impoundment hearing in a timely manner, the owner of record shall be deemed to have waived his right to such a hearing and the hearing officer shall enter a default order in favor of the Village for the amount of the administrative penalty prescribed plus applicable tow and storage fees payable to the towing agent. However, if the owner of record pays such administrative penalty and the applicable towing and storage fees and the motor vehicle is returned to the owner of record, no default order need be entered if the owner of record is informed of his right to a hearing and signs a written waiver, in which case an order of liability shall be deemed to have been made when the Village receives the written waiver.

(E) Hearing Officer; proceedings

1. The Village President or his designee shall serve as the hearing officer for the vehicle impoundment hearings under this article.
2. All interested persons shall be given a reasonable opportunity to be heard at any vehicle impoundment hearing. The formal rules of evidence will not apply at any such hearing.
3. Any sworn or affirmed report, including a report prepared in compliance with Section 11-501.1 of the Illinois Vehicle Code (625 ILCS 5/11-501.1) that is prepared in the performance of a law enforcement officer's duties and sufficiently describes the circumstances leading to the impoundment, shall be admissible evidence of the owner of record's liability under Section A, and shall support a finding of the owner of record's liability under Section A, unless rebutted by clear and convincing evidence.

(F) Disposition of Impounded Vehicle

An administrative penalty imposed pursuant to this article shall constitute a debt due and owing the Village which may be enforced in any manner provided by law. Except as otherwise provided in this article, a motor vehicle impounded pursuant to this article shall remain impounded until:

1. The administrative penalty is paid in full to the Village and all applicable towing and storage fees are paid to the towing agent, in which case the owner of record shall be given possession of the motor vehicle;
2. A cash bond in the amount of \$250.00 (two hundred fifty dollars) is posted with the Village Deputy Clerk and all applicable towing and storage fees are paid to the towing agent, at which time the motor vehicle shall be released to the owner of record; or
3. The motor vehicle is sold or otherwise disposed of to satisfy a judgment or enforce a lien as provided by law.

Notwithstanding any other provisions of this section, whenever a person with a lien of record against a motor vehicle impoundment under this section has commenced foreclosure proceedings, possession of the motor vehicle shall be given to that person if he pays the applicable towing and storage fees and agrees in writing to refund to the Village, the net proceeds of any foreclosure sale, less any amounts necessary to pay all lien holders of record, up to the total amount of administrative penalties imposed under this article. Notwithstanding any other provisions of this section, no vehicle that was seized and impounded pursuant to state or federal drug asset forfeiture laws shall be returned to the owner of record unless and until the Village has received notice from the appropriate state, or where applicable, federal officials that forfeiture proceedings will not be instituted; or forfeiture proceedings have concluded and there is a settlement or a court order providing that the vehicle shall be returned to the owner of record.

(G) Posting of bond

If a cash bond as required by this article is posted with the Village Deputy Clerk, the impounded motor vehicle shall be released to the owner of record upon payment of any applicable towing and storage fees to the towing agent. If an administrative penalty is imposed for any violation under Section A, the cash bond will be forfeited to the Village; however, in the event a violation under Section A is not proven by a preponderance of the evidence, the cash bond will be returned to the person posting the bond. All bond money to be forfeited to the Village pursuant to this section shall be held by the Village Deputy Clerk un 30 (thirty) days after an administrative penalty is imposed by the hearing officer under this article, or, if there is a judicial review, until a final judgment is rendered by a court of competent jurisdiction.

(H) Failure to pay penalty

If the administrative penalty and applicable towing and storage fees are not paid with 30 (thirty) days after an administrative penalty is imposed under this article against an owner of record who defaults by failing to appear at the vehicle impoundment hearing, the motor vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles. In all other cases, if the administrative penalty and applicable towing and storage fees are not paid with 30 (thirty) days after the expiration of time at which administrative review of the hearing officer's determination may be sought, or within 30 (thirty) days after an action seeking administrative review has been resolved in favor of the Village, whichever is applicable, the motor vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles; provided that, if the motor vehicle was seized and impounded pursuant to state or federal drug asset forfeiture laws and proceedings have been instituted under state or federal drug asset forfeiture laws, the motor vehicle may not be disposed of by the Village except as consistent with those proceedings.