

## **PUBLIC PEACE, MORALS AND WELFARE**

### Title 9

#### **PUBLIC PEACE, MORALS AND WELFARE**

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Chapter 9.04

**FALSE ALARMS<sup>1</sup>**

Sections:

9.04.010 Prohibited.

9.04.020 Conditions for connection to the city remote activating equipment.

**9.04.010 Prohibited.**

It is unlawful for any person to knowingly start or spread any false alarm in the city. (Prior code § 28.007.)

**9.04.020 Conditions for connection to the city remote activating equipment.**

- A. All individuals, partnerships, corporations and other entities which utilize the remote activating fire/intrusion/holdup alarm equipment in the city police department and Tri-Com Communication Center are subject to the terms and conditions set forth in this section. Failure to abide by the terms and conditions set forth herein shall be grounds for disconnection from the equipment, as the city may from time to time determine.
- B. The equipment of a user shall be maintained in good repair and working order. Any defects in such equipment shall be repaired by the user upon discovery.
- C. No individual, partnership, corporation or other entity shall cause the transmission of a false alarm signal to the city alarm board at the police department or to Tri-Com Communication Center. If the false signal is responded to by the police or fire department, and if it is determined by the chief of police or fire chief, as the case may be, that the false signal was due to negligence or intentional misuse by the user, its agent, employees, persons under the supervision and control of the user, or its invitees, or due to the user's failure to properly maintain or repair its equipment, the user shall pay the sum of twenty-five dollars for each false signal received and responded to by the city. Said payment shall be paid within forty-eight hours to the city clerk after being billed by the finance office of the city. In the event any user fails or refuses to make such payment, the user's equipment may be disconnected from the city and Tri-Com equipment.
- D. Any user who has been disconnected from the city and Tri-Com shall not be reconnected until the user has demonstrated to the chief of police or the fire chief, as the case may be, that adequate safeguards to preclude future false signals have been taken by the user, plus proof of payment of amounts due pursuant to subsection C.
- E. No automatic fire/intrusion/holdup device shall be keyed to any primary trunk line or special trunk line into Tri-Com Communication Center or the police or fire department.
- F. No automatic intrusion/holdup protection device installed in the city shall have a ringer which is audible outside.
- G. Any individual, partnership, corporation or other entity violating this section shall be fined not less than five dollars, nor more than five hundred dollars, and each day an offense continues shall be considered a separate offense.

(Ord. 1980-M-7 § 1.)

## INTRUSION ALARM SYSTEMS

### Chapter 9.05

## INTRUSION ALARM SYSTEMS

#### Sections:

- 9.05.010 Purpose and intent.
- 9.05.020 Definitions.
- 9.05.030 Permit required.
- 9.05.040 Permit application.
- 9.05.050 Alarm activation at a premises where an alarm user permit has not been issued.
- 9.05.060 Updating alarm user application.
- 9.05.070 Transfer of alarm user permit prohibited.
- 9.05.080 Audible alarm system requirements.
- 9.05.090 Automatic dialing telephone alarm requirements.
- 9.05.100 False alarms prohibited.
- 9.05.110 False alarms - Fines - Notifications.
- 9.05.120 Permit revocation.
- 9.05.130 Testing equipment.
- 9.05.140 No liability of city.
- 9.05.150 Severability.
- 9.05.160 Penalty for violation.

#### **9.05.010 Purpose and Intent.**

The ordinance codified in this chapter is adopted for the purpose of regulating and permitting alarm systems to which the police are expected to respond.

#### **9.05.020 Definitions.**

- A. **Alarm Company** - means that business by any person, firm, partnership, corporation, association, organization, company, or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved, or installed in or on any building, structure or facility.
- B. **Alarm Agent** - means any person employed by, working for, representing, or subcontracted by an alarm company.
- C. **Alarm System** - means any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of any actual or attempted burglary or robbery to which the police are expected to respond.
- D. **Alarm User** - means a person(s), firm, partnership, corporation, association, organization, company or other entity in control of a protected premise where an alarm system is located.
- E. **Audible Alarm** - means an alarm system or device that generates an audible sound.
- F. **Automatic Dialing Digital Alarm Communicator System** - means a system in which signals are transmitted from a digital alarm communicator transmitter located at a protected premises through the public switched telephone network to a digital alarm communicator receiver at a central alarm station or the Tri-Com Communication Center.

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- G. **Automatic Dialing Telephone Alarm** - means a device that automatically dials any of the Tri-Com Communications Center emergency telephone lines, without human activation of the device by the alarm user or employee of the alarm user, upon detection of an unauthorized entry or other unauthorized activity at a protected premise.
- H. **Calendar Year** - means a 12-month period beginning January 1 and ending December 31 every year.
- I. **Central Alarm Station** - means a system in which the operation of electrical protection circuits and devices are signaled automatically to, recorded at, or maintained and serviced from a place of business having trained alarm operators in attendance at all times.
- J. **Chief of Police** - means the city of St. Charles Chief of Police or his designee.
- K. **City** - means city of St. Charles.
- L. **False Alarm** - means activation or transmission of any alarm signal caused by human error, mechanical or electronic malfunction, negligence of the alarm user or alarm user's employee, whether or not the exact cause of the alarm activation is determined, or any other activation or transmission of any alarm signal where no actual or attempted burglary or robbery exists. Severe weather, power outages, transmission line malfunctions, acts of God, malicious acts of persons not under the control of the alarm user, or any other cause clearly beyond the control of the alarm user will be considered in determining if an alarm activation was false and whether or not any occurrence, fine, warning or other punitive action will be taken against the alarm user as provided for by this ordinance.
- M. **Mayor** - means the city of St. Charles Mayor or his designee.
- N. **Notice** - means written notice given by personal service upon the addressee, or, given by the United States Postal Office, postage paid, to the addressee's last known mailing address.
- O. **Permittee** - means any person, firm, partnership, corporation, association, organization, company, or other entity issued an alarm permit by the city.
- P. **Person** - means a natural person, or a firm, partnership, corporation, association, organization, company, or other entity.
- Q. **Prerecorded telephone message** - means a prerecorded voice message transmitted or received over a telephone line.
- R. **Protected premises** - means any building, structure, or facility where an alarm system is installed to signal the occurrence of any actual or attempted entry or entry to which the police are expected to respond.

### 9.05.030 Permit Required.

- A. It is unlawful for any person, firm, partnership, corporation or other entity to use, own or lease an alarm system or to be in control of a protected premise wherein an alarm system is operated or maintained without having first obtained a permit as provided in this chapter.
- B. It is unlawful for any person, firm, partnership, corporation or other legal entity to use, own or lease an alarm system or to be in control of a protected premises wherein an alarm system is operated or maintained when a permit therefore has been revoked.
- C. A permit must be obtained for each separately addressed operating location.
- D. No fee shall be charged to obtain an alarm user permit.
- E. All permits issued are valid indefinitely unless revoked.

### 9.05.040 Permit Application.

- A. Each applicant for a permit to maintain an alarm system shall file a written application with the Police Department stating:
  1. The full legal name, address and telephone number of the applicant.

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2. The name, address and telephone number of the proposed protected premises where the alarm is located.
  3. The type of alarm system at the protected premises.
  4. A list of three persons, including their addresses and telephone numbers, who can be contacted and will respond to the protected premises in the event of an emergency or to reset or deactivate the alarm system, or who could contact the alarm user if the alarm user is not at the protected premises.
  5. The name, address, and telephone number of the alarm company that installed the alarm.
  6. The name, address, and telephone number of the alarm company that is responsible for the maintenance and repair of the alarm system, if applicable.
- B. Incomplete applications shall be returned to the applicant:
1. A permit will not be issued until the completed application is received and approval for the permit has been granted by the Chief of Police.
- C. An application for an alarm user permit shall be denied if:
1. The applicant has failed to pay false alarm fees required by this ordinance for a different protected premises under the applicant's ownership or control.
  2. The applicant has failed to comply with any provisions of this ordinance or other ordinances of the city.
- D. The Chief of Police shall be responsible for processing and issuing alarm user permits.

### **9.05.050 Alarm Activation at a Protected Premises Where an Alarm User Permit has not Been Issued.**

Each notice to the Police Department of an activation of a burglary or robbery alarm system at the protected premises protected by an alarm which is not permitted shall be considered a separate violation of this chapter and any alarm user who does not have a valid alarm user permit will be assessed a fine in the amount of \$300.

### **9.05.060 Updating Alarm User Application.**

It is unlawful for any alarm user to fail or refuse to amend its alarm user permit application within 14 days after any of the information required and obtained therein becomes outdated or inaccurate.

### **9.05.070 Transfer of Alarm User Permit Prohibited.**

An alarm user permit cannot be transferred to another premises or to another person.

### **9.05.080 Audible Alarm System Requirements.**

An alarm system that emits an audible signal that may be heard by persons outside the protected premises, structure or facility shall conform to the following requirements:

- A. No audible alarm system shall create a sound similar to that of the city's Civil Defense Warning System.
- B. Audible alarm systems shall automatically discontinue emitting an audible alarm within 10 minutes after it is activated.
- C. With respect to systems in existence prior to March 1, 1996, the owner or operator thereof shall have until May 31, 1996, to effect the necessary modifications to comply with the requirements in this chapter.

### **9.05.090 Automatic Dialing Telephone Alarm Requirements.**

No individual, firm, partnership, corporation, association, organization, company, or other entity shall use or cause or permit to be used or engage in the business of providing any telephone device and telephone attachment that automatically activates 911 lines connected to any Regional Communications (PSAP) Public

## INTRUSION ALARM SYSTEMS

Answering Point telephone, and then reproduce any voice message to report a burglary or robbery. Further, any individual, firm, partnership, corporation, association, organization, company, or other entity who is presently connected or engaged in the business of providing telephone devices or attachments that automatically activate the aforementioned 911 lines shall have until May 31, 1996, to have the alarm lines reprogrammed, removed, or deactivated.

### **9.05.100 False Alarms Prohibited.**

It is unlawful for any person to knowingly activate an alarm system for the purpose of summoning the Police Department except if such person knows or suspects that there is an actual or attempted burglary or robbery on the premises.

### **9.05.110 False Alarms - Fines - Notifications.**

- A. Any alarm user permittee who has more than two false alarms within a calendar year at a single protected location will be assessed fines according to the following fine schedule:
  - Three false alarms: \$25 fine per false alarm
  - Four-five false alarms: \$50 fine per false alarm
  - Six-nine false alarms: \$100 fine per false alarm
  - More than ten false alarms: \$300 fine per false alarm
- B. Any individual, firm, partnership, corporation, association, organization, company or other entity in control of a protected premises where an alarm system is located accused of a violation of this article may settle and compromise the claim or violation by paying to the city, within ten (10) days of the time such alleged violation or offense was committed, the amount set forth in paragraph A above. Payment of such claim or claims shall be made at the police station of the city. In the event such claim or claims are not paid within ten (10) days of the alleged offense, or if the alarm user otherwise contests the validity of the claim, a complaint, notice to appear in court, or a warrant may be issued for the alleged violation.
- C. The Chief of Police shall notify the alarm user, in writing, of each instance wherein the Police Department has recorded a false alarm. The alarm user shall have the opportunity, within 14 days from the date of mailing or personal delivery, to submit a report or meet with the Chief of Police for the purpose of showing cause as to whether circumstances exist to warrant voiding the false alarm recordation. The Chief of Police shall review the alarm user's report and/or meet with the alarm user and issue a written finding to the alarm user as to whether or not the false alarm record will be voided. The finding of the Chief of Police shall be final.

### **9.05.120 Permit Revocation.**

- A. Any alarmed premises which has more than 10 false alarms within a calendar year shall subject the alarm user to permit revocation as provided herein.
- B. If city records show more than 10 false alarms within a calendar year for any alarmed premises:
  - 1. The Chief of Police shall notify the alarm user by certified mail or personal delivery, that their alarm permit shall be revoked 30 days from the date of mailing or personal delivery. The alarm user shall have 14 days from the date of mailing or personal delivery to submit a written report to the Chief of Police describing actions taken or to be taken to identify and eliminate the cause of the false alarms and to request that their alarm user's permit be reinstated.
  - 2. If the alarm user submits a report requesting reinstatement of their alarm user's permit, the Chief of Police shall determine if the action taken or to be taken will substantially reduce the likelihood of false alarms; if he determines that the action will substantially reduce the likelihood of false alarms, he shall notify the alarm user, via certified mail or personal delivery, that the request to reinstate the alarm user's permit has been approved.

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3. If the alarm user's permit is reinstated and the Police Department responds to a subsequent false alarm activation in the same calendar year at the protected premises, the Chief of Police shall proceed with the permit revocation process again as described in this Section 9.05.120. The alarm user shall also be assessed a fine in the amount of \$300 for each subsequent false alarm through the remainder of the calendar year.
  4. If the Chief of Police determines that the action taken or to be taken will not substantially reduce the likelihood of false alarms, the request for reinstatement shall be denied. The Chief of Police shall give notice by certified mail or personal delivery to the user that the permit will be revoked without further notice.
  5. An alarm user whose permit has been revoked by the Chief of Police may, within 14 days of receipt of notice of revocation, appeal this decision by filing a written request for a review meeting with the Mayor.
  6. If a review meeting with the Mayor is requested, written notice of the time and place of the review meeting will be served on the alarm user by the Mayor by certified mail or personal delivery within 14 days of the request by the alarm user.
  7. The Chief of Police and the alarm user shall have the right to present written and oral evidence, subject to the right of cross examination by both parties.
  8. If the Mayor determines that the user has not taken action which substantially reduces the likelihood of false alarms, the Mayor shall issue written findings to that effect and an order denying reinstatement of the alarm user's permit.
  9. If the Mayor determines that the alarm user has taken action which substantially reduces the likelihood of false alarms, the Mayor shall issue written findings to that effect and an order approving reinstatement of the alarm user's permit.
  10. If the alarm user's permit is reinstated, pursuant to the preceding paragraph 9 and the Police Department responds to a subsequent false alarm activation in the same calendar year at the protected premises, the Chief of Police shall proceed with the permit revocation process as described in this Section 9.05.120. The alarm user shall also be assessed a fine in the amount of \$300 for each subsequent false alarm activation through the remainder of the calendar year.
- C. Any alarm user permittee who fails to pay fines or charges provided for under this Chapter within 30 days from the date of the invoice requesting payment of same, shall have the subject alarm user's permit revoked. Any such alarm user permit shall not be reinstated until all the unpaid fines and fees are paid in full.

### **9.05.130 Testing Equipment.**

No person shall conduct or cause to be conducted, any test or demonstration of any alarm system or signalling device that is directly connected to the Tri-Com Communications Center without first obtaining permission from Tri-Com. Permission to test shall not be required when the alarm system or signalling device is connected to an intermediary receiver and is not relayed to the Tri-Com Communications Center.

### **9.05.140 No Liability of City.**

The city assumes no liability for any defects in the operation of any alarm system or signal line system for any failure or neglect of any person associated with the installation or maintenance of any alarm system, for any failure or neglect of any alarm user, for the transmission or receipt of alarm signals, or any failure or neglect to respond upon receipt of an alarm from any source. In the event that the city finds it necessary to revoke an alarm user's permit or to otherwise provide for the disconnection of any alarm system, the city shall have no liability for such action. No special duty other than that owed to the general public shall be created by virtue of this ordinance or by virtue of the issuance of an alarm system permit, the direct connection of an

## **INTRUSION ALARM SYSTEMS**

alarm system to the Tri-Com Communication Center, or as a result of the transmission to or receipt of alarm signals by the Tri-Com Communications Center.

### **9.05.150 Severability.**

If any provision, clause, sentence, paragraph, section or part of this chapter or application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair, or invalidate the remainder of this chapter in the application of such provision to other persons or circumstances but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstance involved. It is hereby declared to be the legislative intent of the City Council that this chapter would have been adopted had such unconstitutional or invalid provisions, clause, sentence, paragraph, section, or part thereof not been included.

### **9.05.160 Penalty for Violation.**

Any person, firm, or corporation violating any provisions of this chapter in addition to the fees and specific fines established in this Chapter 9.05, may be fined as provided in Chapter 1.08 or as otherwise provided in this code. Each day during which a violation in this chapter continues or is permitted to exist shall be considered a separate and distinct offense.

## ASSAULT AND BATTERY

### Chapter 9.08

#### ASSAULT AND BATTERY<sup>2</sup>

Sections:

- 9.08.010 Assault prohibited.
- 9.08.020 Battery prohibited.
- 9.08.030 Reckless conduct prohibited.

**9.08.010 Assault prohibited.**

It is unlawful for a person to commit an assault. A person commits an assault when, without lawful authority, he engages in conduct which places another in reasonable apprehension of receiving battery. (Ord. 1969-M-3 § 4 (part): prior code § 28.034.)

**9.08.020 Battery prohibited.**

It is unlawful for a person to commit battery. A person commits battery if he intentionally or knowingly without legal jurisdiction and by any means:

- A. Causes bodily harm to an individual; or
  - B. Makes physical contact of an insulting or provoking nature with an individual.
- (Ord. 1969-M-3 § 2: prior code § 28.006.)

**9.08.030 Reckless conduct prohibited.**

It is unlawful to commit reckless conduct. A person who causes bodily harm to, or endangers the bodily safety of, an individual by any means, commits reckless conduct if he performs in a reckless manner, the acts which cause the harm or endanger the safety, whether they otherwise are lawful or unlawful. (Ord. 1994-M-57 § 1; Ord. 1969-M-3 § 4 (part): prior code § 28.035.)

## **FIGHTING**

### Chapter 9.09

## **FIGHTING**

#### Sections:

#### 9.09.10 Fighting Prohibited

##### **9.09.010 Fighting Prohibited**

No person shall physically fight with another person without legal justification. Any person violating this Section shall be punished by a fine of not less than five hundred dollars (\$500.00) nor more than seven hundred fifty dollars (\$750.00) for each offense.

(Ord. 2012-M-48 § 1; Ord. 2011-M-14 § 1.)

Chapter 9.12

**GAMBLING<sup>3</sup>**

Sections:

9.12.010 Prohibited.

**9.12.010 Prohibited.**

- A. It is unlawful to gamble or attend any gambling resort or to make any bet, lottery or gambling hazard, or to buy or sell any chances or tickets in any gambling game, arrangement or device.
- B. It is unlawful to possess any gambling device or paraphernalia with the intent to use the same for an unlawful purpose, and any such device or paraphernalia kept with such intent may be confiscated by any member of the police department.
- C. It is unlawful to maintain or patronize any establishment maintained for a gambling house or resort.
- D. It is unlawful to advertise any gambling house or resort in any street, alley or other public place within the city.

(Prior code § 28.001.)

## **FRAUDULENT SCHEMES**

### Chapter 9.14

## **FRAUDULENT SCHEMES**

#### Sections:

#### 9.14.010 Fraudulent Schemes

#### **9.14.010 Fraudulent Schemes**

- A. It is unlawful for any person to engage in any fraudulent scheme, device or trick to obtain money or other valuable thing from others, or for any person to aid or assist such scheme, device or trick.
- B. Any person, firm or corporation violating the provisions of this Chapter shall, upon conviction, be fined fifty (\$50) dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. 2008-M-76 § 2.)

## PROFANITY – INDECENT CONDUCT

### Chapter 9.16

#### PROFANITY - INDECENT CONDUCT<sup>4</sup>

Sections:

- |          |  |
|----------|--|
| 9.16.010 | Bathing or swimming in public place.     |
| 9.16.020 | Public urination, defecation prohibited. |

**9.16.010 Bathing or swimming in public place.**

It is unlawful for any person to swim or bathe at any public place or in a place open to public view unless such person is adequately garbed in a bathing suit or other suitable garment to protect his person from exposure.

(Ord. 1978-M-45 § 1: prior code § 28.017.)

**9.16.020 Public urination, defecation prohibited.**

It shall be unlawful for any person to urinate or defecate:

- A. in or on a public street, alley, sidewalk, yard, park, building, structure, plaza, public or utility right-of-way, or other public place other than a restroom; or
- B. in public view.

Any person violating this Section shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00) for each offense.

(Ord. 2012-M-48 § 2; Ord. 2009-M-70 § 1.)

**DISORDERLY CONDUCT**

Chapter 9.20

**DISORDERLY CONDUCT<sup>5</sup>**

Sections:

- 9.20.010 Disorderly conduct - Designated - Prohibited.
- 9.20.020 Intoxication in public place prohibited.
- 9.20.030 Disturbing lawful assemblages prohibited.
- 9.20.040 Unlawful assemblages.

**9.20.010 Disorderly conduct - Designated - Prohibited.**

It is unlawful for a person to commit disorderly conduct. A person commits disorderly conduct when he knowingly:

- A. Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace; or
- B. With intent to annoy another, makes a telephone call, whether or not conversation thereby ensues; or
- C. Enters upon the property of another for a lewd or unlawful purpose; deliberately looks into a dwelling on the property through any window or other opening.

(Ord. 1969-M-3 § 1: prior code § 28.002.)

**9.20.020 Intoxication in public place prohibited.**

It is unlawful for any person to be in an intoxicated condition on or in any street, alley or other public place in the City. Any person violating this Section shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00) for each offense.

(Ord. 2012-M-48 § 3; Ord. 2008-M-47 § 1; Prior code § 28.003.)

**9.20.030 Disturbing lawful assemblages prohibited.**

It is unlawful for any person to disturb any lawful assemblage or gathering in this city.

(Prior code § 28.009.)

**9.20.040 Unlawful assemblages.**

It is unlawful to collect, gather, or be a member of any disorderly crowd, or any crowd gathering together for any unlawful purpose.

(Prior code § 28.014.)

Chapter 9.21

**LOITERING**

Sections:

9.21.010 Loitering.

**9.21.010 Loitering.**

- A. For the purposes of this Chapter, the terms “loiter” or “loitering” shall mean remaining idle in one location or substantially the same location, and includes the concepts of spending time, loafing, walking about aimlessly and the colloquial expression of “hanging around”.
- B. It is unlawful for a person to Loiter in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a law enforcement officer, refuses to identify themselves, or manifestly endeavors to conceal themselves or any object. Unless flight by the person or other circumstance makes it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this Chapter, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting said person to identify themselves and explain their presence and conduct. No person shall be convicted of an offense under this Chapter if the law enforcement officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if believed by the law enforcement officer at the time, would have dispelled the alarm.
- C. Specific instances. It is unlawful for a person to Loiter in a public place in such a manner as to:
  - 1. Create or cause to be created a danger of breach of the peace;
  - 2. To obstruct, or threaten the obstruction of other persons or vehicles, which shall include, but not be limited to, sitting or lounging upon sidewalks, parking lots or other public ways;
  - 3. Molest or interfere with any person lawfully in a public place, including, but not limited to, making unsolicited statements of an offensive, insulting or inflammatory nature, which are calculated to, or tend to incite an immediate breach of the peace by any person to whom, or in whose hearing, they are made.
- D. Notwithstanding the foregoing, no person shall be guilty of Loitering unless such person refuses or fails to leave the location or moves to another public location and continues to Loiter there.
- E. Any person, firm or corporation violating the provisions of this Chapter shall, upon conviction, be fined fifty (\$50) dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. 2008-M-76 § 2.)

## UNLAWFUL VISITATION INTERFERENCE

### Chapter 9.22

#### UNLAWFUL VISITATION INTERFERENCE

##### Sections:

##### 9.22.010 Unlawful Visitation Interference

##### **9.22.010 Unlawful Visitation Interference.**

- A. As used in this section, the terms “child,” “detain,” and “lawful custodian” shall have the meanings ascribed to them in 720 ILCS 5/10-5.5.
- B. Every person who, in violation of the visitation provisions of a court order relating to child custody, detains or conceals a child with the intent to deprive another person of his or her rights to visitation shall be guilty of unlawful visitation interference.
- C. A person committing unlawful visitation interference is guilty of a petty offense.
- D. Any law enforcement officer who has probable cause to believe that a person has committed or is committing an act in violation of this ordinance shall issue to that person a notice to appear.
- E. The notice shall
  - 1. Be in writing;
  - 2. State the name of the person and his address, if known;
  - 3. Set forth the nature of the offense;
  - 4. Be signed by the officer issuing the notice; and
  - 5. Request the person to appear before a court at a certain time and place.
- F. Upon failure of the person to appear, a summons or warrant of arrest may be issued.
- G. It is an affirmative defense that:
  - 1. A person or lawful custodian committed the act to protect the child from imminent physical harm, provided that the defendant’s belief that there was physical harm imminent was reasonable and that the defendant’s conduct in withholding visitation rights was a reasonable response to the harm believed imminent;
  - 2. The act was committed with the mutual consent of all parties having a right to custody and visitation of the child; or
  - 3. The act was otherwise authorized by law.
- H. A person convicted of unlawful visitation interference shall not be subject to a civil contempt citation for the same conduct for violating visitation provisions of a court order issued under the Illinois Marriage and Dissolution of Marriage Act.

(Ord. 2005-M-4 § 1.)

Chapter 9.24

**NOISE<sup>6</sup>**

Sections:

- 9.24.010 Purpose, Intent and Declaration.
- 9.24.020 Noise-Generating Activities defined.
- 9.24.030 Property Classifications established.
- 9.24.040 Application of Noise Standards.
- 9.24.050 Applicability to Streets.
- 9.24.060 Regulation for Mixed-Use Property.
- 9.24.070 Regulation for Residential Property.
- 9.24.080 Regulation for Non-Residential Property.
- 9.24.090 Regulation for Non-Residential Property Adjacent to Residential Property
- 9.24.100 Exemptions.
- 9.24.110 Noise regulated by other provisions of this Code.
- 9.24.120 Noise-Generating Activity Prohibited – Penalty.
- 9.24.130 Presumption of Accountability.
- 9.24.140 Legal Remedies Not Impaired.

**9.24.010 Purpose, Intent and Declaration.**

The purpose of this Chapter 9.24 is to limit Noise-Generating Activities, which when conducted at specific times of the day, may annoy, disturb, injure, or endanger the comfort, repose, health, peace or safety of others within the City. Noise-Generating Activity conducted in violation of the provisions of this Chapter 9.24 is hereby declared a public nuisance.

(Ord. 2008-M-77 § 1; Prior code § 28.032.)

**9.24.020 Noise-Generating Activities defined.**

The following activities are hereby declared “Noise-Generating Activities” and are subject to the provisions as set forth in this Chapter 9.24:

<b>Noise-Generating Activity</b>	<b>Descriptions</b>
Refuse Collection	The collection of any type of refuse, garbage, recyclable materials, landscape waste, hazardous waste, construction debris, or any other waste or debris.
Construction Activity	All types of construction activity, whether or not a building permit is required, and any related deliveries of construction personnel, materials, tools or equipment.
Outdoor Maintenance Activity	Activities conducted outside or within a partially enclosed space, such as an open garage, that generate noise, including but not limited to: maintenance and repair of buildings, structures, lots, yards, landscaping, and vehicles or other mechanical equipment.
Truck Idling	The continuous running of engines or cooling units of a truck or semi-trailer while the vehicle is stationary.
Commercial	The loading or unloading of products, materials, supplies or any other item

Deliveries	from a truck or semi-trailer.
Amplified Sounds	Any stationary or portable electronic sound reproduction system utilizing loudspeakers including but not limited to: amplified live or recorded music; public address systems; systems used to communicate with customers in vehicles; horns and signal devices; sound produced by any machine or other device for the amplification of the human voice, music or any other sound.

(Ord. 2008-M-77 § 1; Prior code § 28.024.)

**9.24.030 Property Classifications established.**

The designations set forth below shall classify all properties within the corporate limits of the City into a Property Classification for purposes of establishing regulation of Noise-Generating Activities:

Property Classifications	Descriptions
Mixed-Use	Property contained in the following areas: -CBD-1 Central Business Zoning District as designated on the Official Zoning Map contained in Title 17 “Zoning”, as amended.
Residential	A property containing a residential dwelling unit, except for Mixed-Use Property, regardless of zoning classification.
Non-Residential	All property not designated as a Residential Property or Mixed-Use Property
Non-Residential adjacent to Residential	Any Non-Residential Property located a distance of 300 ft. or less from a Residential Property, measured as the shortest distance from the property line of the Residential Property to the property line of the Non-Residential Property; except for Non-Residential Property which is entirely separated from a Residential Property by the following arterial streets: <input type="checkbox"/> Main Street <input type="checkbox"/> Randall Road <input type="checkbox"/> Kirk Road

(Ord. 2008-M-77 § 1; Prior code § 27.701.)

**9.24.040 Application of Noise Standards.**

For purposes of this Chapter 9.24, a noise shall be determined to be “clearly audible” when noise generated by a Noise-Generating Activity can be heard and readily differentiated from any ambient noise in the vicinity, including noise generated by vehicle traffic. A noise that is “clearly audible” may be constant, recurrent, or intermittent.

Locations used to determine if a noise is “clearly audible”:

- A. Property line: Noise shall be measured outside along the perimeter of the property, including within the public right-of-way adjacent to the property line.
- B. Perimeter of the dwelling unit: Noise shall be measured inside or outside the building at a location adjacent to the unit, including common use hallways within the building.

(Ord. 2008-M-77 § 1; Prior code § 27.703.)

**9.24.050 Applicability to Streets.**

Provisions regulating Noise-Generating Activities on a property shall extend into all streets, including private streets and public rights-of-way, adjacent to said property. Where properties with different Property

**NOISE**

Classifications are adjacent to the same street, the provisions shall apply to only half of the street directly adjacent to the property. (Ord. 2008-M-77 § 1; Prior code § 27.702.)

**9.24.060 Regulation for Mixed-Use Property.**

The restrictions set forth below shall apply to Mixed-Use Property as designated under Section 9.24.030, and any streets adjacent thereto:

<b>Noise-Generating Activity</b>	<b>Time Activity Prohibited or Subject to a Noise Standard</b>	<b>Noise Standard</b>
Refuse Collection	Prohibited from 10:00 p.m. to 6:30 a.m.	-
Construction Activity	Prohibited from 10:00 p.m. to 7:00 a.m.	-
Outdoor Maintenance Activity	Prohibited from 10:00 p.m. to 7:00 a.m.	-
Commercial Deliveries	Subject to Noise Standard from 10:00 p.m. to 7:00 a.m.	Prohibited in streets. Shall not be clearly audible at the property line.
Amplified Sounds	Outdoors sources: Prohibited from 10:30 p.m. to 10:00 a.m.  Indoor sources: Subjects to Noise Standard from 10:30 p.m. to 10:00 a.m.	Shall not be clearly audible at the property line.  For residential dwelling units: Shall not be clearly audible at the perimeter of the dwelling unit.

(Ord. 2008-M-77 § 1; Prior code § 27.704.)

**9.24.070 Regulation for Residential Property.**

The restrictions set forth below shall apply to Residential Property as designated under Section 9.24.030, and any streets adjacent thereto:

<b>Noise-Generating Activity</b>	<b>Time Activity Prohibited or Subject to a Noise Standard</b>	<b>Noise Standard</b>
Refuse Collection	Prohibited from 7:00 p.m. to 7:00 a.m.	-
Construction Activity	Prohibited from 7:00 p.m. to 7:00 a.m.	-
Outdoor Maintenance Activity	Prohibited from 10:00 p.m. to 7:00 a.m.	-
Amplified Sounds	Outdoor sources: Prohibited from 10:00 p.m. to 10:00 a.m.  Indoor sources: Subject to noise standard from 10:00 p.m. to 10:00 a.m.	Single-Family Dwelling: Shall not be clearly audible at the property line.  Multiple-Family Dwelling: Shall not be clearly audible at the perimeter of the dwelling unit.

(Ord. 2008-M-77 § 1; Prior code § 27.705.)

**9.24.080 Regulation for Non-Residential Property.**

Noise-Generating Activities shall not be restricted on Non-Residential Property, except for Non-Residential Property Adjacent to Residential Property as set forth in Section 9.24.090. (Ord. 2008-M-77 § 1; Prior code § 27.706.)

**9.24.090 Regulation for Non-Residential Property Adjacent to Residential Property**

The restrictions set forth in this section shall apply to Non-Residential Property adjacent to Residential Property, as defined in Section 9.24.030, and any streets adjacent thereto:

Noise-Generating Activity	Time Activity Prohibited or Subject to a Noise Standard	Noise Standard
Refuse Collection	Prohibited from 10:00 p.m. to 6:00 a.m.	-
Construction Activity	Prohibited from 10:00 p.m. to 6:00 a.m.	-
Outdoor Maintenance Activity	Subject to noise standard from 10:00 p.m. to 6:00 a.m.	Prohibited in streets.  Shall not be clearly audible at the perimeter of the property, measured at a location along the property line that is adjacent to a Residential Lot.
Commercial Deliveries	Subject to noise standard from 10:00 p.m. to 6:00 a.m.	
Truck Idling	Subject to noise standard from 10:00 p.m. to 6:00 a.m.	
Amplified Sounds	Outdoor sources: Prohibited from 10:00 p.m. to 7:00 a.m.  Indoor sources: Subject to noise standard from 10:00 p.m. to 7:00 a.m.	

(Ord. 2008-M-77 § 1.)

**9.24.100 Exemptions.**

The activities set forth below shall be exempt from the provisions of this Chapter 9.24:

1. Activities conducted by any governmental entity.
2. Emergency building, infrastructure, or utility repairs in response to natural disasters, accidents, equipment or structural failures, or other public safety concerns.
3. Emergency noises, including: the operation of any emergency vehicle or apparatus and related radios, sirens, horns, and bells; cries for assistance, warning calls, or sirens used to alert persons of an emergency, danger, or crime; security and fire alarms.
4. Snow removal.
5. Noise generated by the use of a property which is specifically regulated by the provisions of Title 17, Chapter 17.20, as amended, when a specific standard regulating noise levels or hours of operation is contained therein, including but not limited to Temporary Outdoor Entertainment and Outdoor Dining, as defined in Title 17.
6. Any noise generated by locomotive engines and train cars.
7. Parades, fireworks, cultural events/activities, special events and other activities authorized by the City Council.

(Ord. 2008-M-77 § 1.)

**9.24.110 Noise regulated by other provisions of this Code.**

Regulation of noise contained elsewhere in this code shall be separate from the provisions of this Chapter 9.24, including but not limited to provisions contained in Title 6, "Animals"; Title 10, "Vehicles and

Traffic”; and Title 17, “Zoning”. In case of conflict with this Chapter, the most restrictive regulation shall control.  
(Ord. 2008-M-77 § 1.)

**9.24.120 Noise-Generating Activity Prohibited – Penalty.**

It shall be unlawful for any person to make or to continue, cause or to knowingly allow a Noise-Generating Activity, as defined in Section 9.24.020, in violation of this Chapter.

Notwithstanding any other provision of this code, any person violating any provisions of this Chapter 9.24 shall be subject to a fine not less than those established in the schedule set forth below and not more than seven hundred fifty dollars (\$750):

<u>Description of Violation</u>	<u>Minimum Fine Amount</u>
First violation in any 365 day period	\$50.00
Second violation in any 365 day period	\$200.00
Third violation in any 365 day period	\$300.00
Fourth violation in any 365 day period	\$400.00
Fifth and subsequent violations in any 365 day period	\$500.00

For purposes of this Chapter 9.24, and in determining the appropriate amount due hereunder:

- A. Each day a violation occurs or continues shall be deemed a separate violation.
- B. All violations of any provision of this Chapter 9.24 that are committed by the same person, or any firm controlled by such person, shall be deemed a separate violation, regardless of whether or not the violations occur at the same location.

(Ord. 2008-M-77 § 1.)

**9.24.130 Presumption of Accountability.**

The occupant or the agent of the occupant of the property, who shall knowingly permit another person to create a noise or conduct an activity in violation of this Chapter, shall be deemed responsible for the noise or activity to the same extent as the person creating the noise or conducting the activity and shall be subject to the same penalty.

Any person in charge of operating, ordering, directing or allowing the operation or maintenance of the motor vehicle, device, or machine creating a Noise-Generating Activity as prohibited in this Chapter, shall be deemed guilty of violating this chapter.

(Ord. 2008-M-77 § 1.)

**9.24.140 Legal Remedies Not Impaired.**

Nothing in this Chapter shall be construed to impair, in any way, any cause of action or other legal or equitable remedy therefore of any person or the public for injury or damage arising from the emission or release into the atmosphere or ground from any source whatever of noise or earthshaking vibration in such place or manner or at such levels, so as to constitute a common law nuisance.

(Ord. 2008-M-77 § 1.)

Chapter 9.28

**BEGGING<sup>7</sup>**

Sections:

- 9.28.010 Begging.
- 9.28.030 Deleted in its entirety.
- 9.28.040 Deleted in its entirety.

**9.28.010 Begging.**

- A. It is unlawful for any person to wander about and beg, or to go about from door to door of private homes, commercial or business establishments, or place themselves in or upon any public way or public place to beg or receive alms for themselves, whether or not in exchange for any unsolicited work.
- B. Any person, firm or corporation violating the provisions of this Chapter shall, upon conviction, be fined fifty (\$50) dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. 2008-M-76 § 1; Ord. 1997-M-30 § 1; Ord. 1982-M-17 § 1; Ord. 1978-M-47 § 1: prior code § 28.027.)

**9.28.030 Deleted in its entirety.**

(Ord. 2008-M-76 § 1; Ord. 1975-M-26: prior code § 28.041.)

**9.28.040 Deleted in its entirety.**

(Ord. 2008-M-76 § 1; Ord. 1982-M-17 § 2.)

Chapter 9.32

**ADVERTISEMENTS<sup>8</sup>**

Sections:

9.32.010 Unauthorized posting prohibited.

**9.32.010 Unauthorized posting prohibited.**

It is unlawful to post any bills or advertisements on any public property without the authority of the mayor and city council; and it is unlawful to post any bill or advertisement on any property without the written consent of the owner thereof. (Ord. 1978-M-46 § 1: prior code § 28.018.)

## INJURY TO PROPERTY

### Chapter 9.36

#### INJURY TO PROPERTY<sup>9</sup>

Sections:

9.36.010 Prohibited acts designated.

9.36.020 Defacing lawful advertisement or notice prohibited.

**9.36.010 Prohibited acts designated.**

It is unlawful to damage property. A person commits damage to property who:

- A. Knowingly damages property of another without his consent; or
- B. Recklessly by means of fire or explosive damages property of another; or
- C. Knowingly starts a fire on the land of another without his consent; or
- D. Knowingly injures a domestic animal of another without his consent; or
- E. Knowingly deposits on the land or in the building of another, without his consent, any stink bomb or any offensive smelling compound and thereby intends to interfere with the use by another of the land or building.

(Ord. 1969-M-3 § 4: prior code § 28.036.)

**9.36.020 Defacing lawful advertisement or notice prohibited.**

It is unlawful to advertise any unlawful business or article in the city and it is unlawful to injure or deface any lawful advertisement or notice. (Prior code § 28.013.)

Chapter 9.40

**THEFT<sup>10</sup>**

Sections:

9.40.010 Prohibited acts designated.

**9.40.010 Prohibited acts designated.**

It is unlawful for any person to commit theft. A person commits theft when he knowingly:

- A. Obtains or exerts unauthorized control over property of the owner; or
- B. Obtains by deception control over property of the owner; or
- C. Obtains control over stolen property knowing the property to have been stolen by another or under such circumstances as would reasonably induce him to believe that the property was stolen, and:
  - 1. Intends to deprive the owner permanently of the use or benefit of the property; or
  - 2. Knowingly uses, conceals or abandons the property in such a manner as to deprive the owner permanently of such use or benefit; or
  - 3. Uses, conceals, or abandons the property, knowing such use, concealment, or abandonment probably will deprive the owner permanently of such use or benefit.

(Ord. 1969-M-3 § 2: prior code § 28.008.)

## FORTUNETELLING AND SIMILAR PRACTICES

### Chapter 9.42

#### FORTUNETELLING AND SIMILAR PRACTICES

Sections:

9.42.010 Fortunetelling and similar practices prohibited.

9.42.020 Advertising of fortunetelling or similar practices prohibited.

9.42.030 Religion exempt.

**9.42.010 Fortunetelling and similar practices prohibited.**

No person shall perform or practice within the city as a fortuneteller, clairvoyant, spirit medium, necromancer, seer, astrologist, palmist, prophet or in any other pretended art of telling past, present or future events of another's life or affairs, to obtain money or property by fraudulent devices or practices. (Ord. 1991-M-36 1.)

**9.42.020 Advertising of fortunetelling or similar practices prohibited.**

No person shall maintain, display, post or advertise or cause to be maintained, displayed, posted or advertised, any sign, card, bill or announcement indicating the pursuit or practice of any such practices defined in Section 9.42.010 above, as a means to obtain money or property of another by fraudulent devices or practices. (Ord. 1991-M-36 1.)

**9.42.030 Religion exempt.**

Nothing in this Chapter 9.42 shall be construed to regulate or control the religious liberty of any person. (Ord. 1991-M-36 1.)

## Chapter 9.44

**TRESPASS<sup>11</sup>**

## Sections:

- 9.44.010 Trespass to vehicle prohibited.
- 9.44.020 Trespass to land prohibited.
- 9.44.030 Trespass to Residence.
- 9.44.040 Trespass to Public Property.

**9.44.010 Trespass to vehicle prohibited.**

It is unlawful to commit trespass to a vehicle. A person who knowingly and without authority enters any vehicle, aircraft, or watercraft, or any part thereof, of another without his consent commits trespass to a vehicle. (Ord. 1969-M-3 § 4: prior code § 28.037.)

**9.44.020 Trespass to land prohibited.**

It is unlawful to commit trespass to real property.

- A. A person who enters upon the land or a building, other than a residence, or any part thereof of another, after receiving, prior to such entry, notice from the owner or occupant that such entry is forbidden, or remains upon the land or in a building, other than a residence, of another after receiving notice from the owner or occupant to depart, commits a trespass to real property.
- B. A person has received notice from the owner or occupant within the meaning of Subsection (A) if he has been notified personally, either orally or in writing including a valid court order as defined by Subsection (7) of Section 112A-3 of the Illinois Code of Criminal Procedure of 1963 (725 ILCS 5/112/A-3) granting remedy (2) of Subsection (b) of Section 112A-14 of that Code (725 ILCS 5/112/A-14), or if a printed or written notice forbidding such entry has been conspicuously posted or exhibited at the main entrance to such land or the forbidden part thereof.
- C. This Section does not apply to any person, whether a migrant worker or otherwise, living on the land with permission of the owner or of his agent having apparent authority to hire workers on such land and assign them living quarters or a place of accommodations for living thereon, nor to anyone living on such land at the request of, or by occupancy, leasing or other agreement or arrangement with the owner or his agent, nor to anyone invited by such migrant worker or other person so living on such land to visit him at the place he is so living upon the land.
- D. A person shall be exempt from prosecution under this Section if he beautifies unoccupied and abandoned residential and industrial properties located within any municipality. For the purpose of this subsection, "unoccupied and abandoned residential and industrial property" means any real estate (1) in which the taxes have not been paid for a period of at least 2 years; and (2) which has been left unoccupied and abandoned for a period of at least one year; and "beautifies" means to landscape, clean up litter, or to repair dilapidated conditions on or to board up windows and doors.
- E. No person shall be liable in any civil action for money damages to the owner or unoccupied and abandoned residential and industrial property which that person beautifies pursuant to Subsection (D) of this Section.

(Ord. 1994-M-81 § 1; Ord. 1969-M-3 § 4: prior code § 28.038.)

**9.44.030 Trespass to Residence.**

It is unlawful to commit trespass to a residence. A person commits trespass to a residence when, without authority, that person knowingly enters or remains within a residence, including a house trailer. For purposes of this section, in the case of a multi-unit residential building or complex, "residence" shall only

## TRESPASS

include the portion of the building or complex which is the actual dwelling place of any person and shall not include such places as common recreational areas or lobbies. (Ord. 1996-M-64 § 1.)

### **9.44.040 Trespass to Public Property.**

- A. Findings. The corporate authorities of the city of St. Charles are advised that certain storm water retention areas within the city are natural wetland areas or are designed to resemble natural wetland areas and as such require protection from trespassers in order to preserve the natural character and functioning of the retention areas. The corporate authorities are further advised that prohibiting trespassing in such areas will protect the public from injury and infectious disease.
- B. Trespass to Public Property Prohibited. It shall be unlawful for any person to commit a trespass to the public area(s) described as Outlot "B" in Woods of Fox Glen Unit Two, in the city of St. Charles, Kane County, Illinois. All designated area(s) shall be clearly marked with permanent, fixed signs advising the public that the area is subject to regulation under the city of St. Charles No Trespassing Ordinance.
- C. Violation - Penalty. Any person, firm or corporation violating any provision of this Section shall be fined not more than five hundred dollars for each offense, and a separate offense be deemed committed on each day on which a violation occurs or continues.

(Ord. 1996-M-75 § 1.)

Chapter 9.45

NUISANCE ABATEMENT

Sections:

9.45.010	Abatement of Chronic Nuisance Properties
9.45.020	Definitions
9.45.030	Remedy
9.45.040	Abatement of Nuisance
9.45.050	Procedure
9.45.060	Commencement of Action, Burden of Proof
9.45.070	Emergency Closing Procedure
9.45.080	Severability

**9.45.010 Abatement of Chronic Nuisance Properties**

- A. Any certain property within the City of St. Charles that becomes a chronic nuisance property is in violation of this chapter and is subject to its remedies.
  - B. Any person in charge who permits property under his or her ownership or control to be a public nuisance property shall be in violation of this chapter and subject to its remedies.
- (Ord. 2007-M-10 § 1.)

**9.45.020 Definitions**

- A. **CHRONIC NUISANCE PROPERTY.** Property upon which two or more of the behaviors listed below have occurred during any 180-day period, as a result of any two (2) separate factual events that have been independently investigated by any law enforcement agency.
    - 1. Disorderly Conduct as defined in 720 ILCS 5/26-1.
    - 2. Unlawful Use of Weapons as defined in 720 ILCS 5/24-1, et seq.
    - 3. Mob Action as defined in 720 ILCS 5/25.1.
    - 4. Discharge of a Firearm as defined in 720 ILCS 5/24-1.2 and 1.5.
    - 5. Gambling as defined in 720 ILCS 5/28-1.
    - 6. Possession, Manufacture or Delivery of Controlled Substances as defined in 720 ILCS 570/40, et seq.
    - 7. Assault or Battery or Any Related Offense as defined in 720 ILCS 5/12-1, et seq.
    - 8. Sexual Abuse or Related Offenses as defined in 720 ILCS 5/12-15, et seq.
    - 9. Public Indecency as defined in 720 ILCS 5/11-9, et seq.
    - 10. Prostitution as defined in 720 ILCS 5/11-14, et seq.
    - 11. Criminal Damage to Property as defined in 720 ILCS 5/21-1, et seq.
    - 12. Possession, Cultivation, Manufacture or Delivery of Cannabis as defined in 720 ILCS 550/1, et seq.
    - 13. Illegal consumption or Possession of Alcohol as defined in 235 ILCS 5/1, et seq.
    - 14. Violation of any City of St. Charles ordinance or State of Illinois statute controlling or regulating the sale or use of alcoholic beverages.
    - 15. Violation of City of St. Charles property maintenance code section 305, or any successor code section, relative to rubbish and garbage.
    - 16. Violation of chapter 8.28 of this code relative to plants and weeds.
- (Ord. 2012-M-9 § 1.)

## NUISANCE ABATEMENT

- B. CONTROL: the ability to regulate, restrain, dominate, counteract or govern conduct that occurs on that property.
- C. OWNER: any person, agent, firm or corporation having any legal or equitable interest in the property. Owner includes but is not limited to: (1) a mortgagee in possession in who is vested (a) all or part of the legal title to the property or (b) all or part of the beneficial ownership and the right to the present use and enjoyment of the premises; or (2) an occupant who can control what occurs on the property.
- D. PERMIT: to suffer, allow, consent to, acquiesce by failure to prevent, or expressly ascent or agree to the doing of an act.
- E. PERSON: any natural person, association, partnership or corporation capable of owning or using property in the City of St. Charles.
- F. PERSON IN CHARGE: any person in actual or constructive possession of a property including but not limited to an owner, occupant of property under his or her domain, ownership, or control.
- G. PROPERTY: any real property, including land in that which is affixed, incidental or pertinent to land, including but not limited to any premises, room, house, building, or structure or any separate part or portion thereof whether permitted or not.

(Ord. 2007-M-10 § 1.)

### **9.45.030 Remedy**

- A. In the event a court determines property to be a chronic nuisance property, the court may order that the property be closed and secured against all use and occupancy for a period of not less than thirty (30) days, but not more than one hundred and eighty (180) days, or the court may employ any other remedy deemed by it to be appropriate to abate the nuisance.
- B. In addition to the remedy provided in paragraph A above, the court may impose upon the owner of the property a civil penalty in the amount of up to One Hundred Dollars (\$100) per day, payable to the City of St. Charles, for each day the owner had actual knowledge that the property was a public nuisance property and permitted the property to remain public nuisance property.
- C. In determining what remedy or remedies shall be allowed, court may consider evidence of other conduct that has occurred on the property, including but not limited to:
  - 1. The disturbance of neighbors.
  - 2. The recurrence of loud and obnoxious noises.
  - 3. Repeated consumption of alcohol in public.
  - 4. The repeated sale or possession of controlled substances on the premises.

(Ord. 2007-M-10 § 1.)

### **9.45.040 Abatement of Nuisance**

The City of St. Charles or the State's Attorney of Kane County may commence an action to abate public nuisance as described above. Upon being satisfied by affidavits or other sworn evidence that an alleged public nuisance exists, the court may without notice or bond, enter a temporary restraining order or a preliminary injunction to enjoin any defendant from maintaining such nuisance and may enter an order restraining any defendant from removing or interfering with all property used in connection with the public nuisance.

(Ord. 2007-M-10 § 1.)

### **9.45.050 Procedure**

When the Chief of Police of the City of St. Charles receives two or more police reports documenting the occurrence of nuisance activity on or within a property, the Chief of Police shall independently review such reports to determine whether they describe criminal acts. Upon such findings, the Chief may:

## NUISANCE ABATEMENT

- A. Notify the person in charge in writing that the property has been determined to be a chronic nuisance property. The notice shall contain the following information.
  1. The street address or a legal description sufficient for identification of the property.
  2. A statement that the Chief of Police has information that the property may be a chronic nuisance property, with a concise description of the nuisance activities that may exist, or that have occurred. The Chief of Police shall offer the person in charge an opportunity to propose a course of action that the Chief of Police agrees will abate the nuisance activities giving rise to the violation.
  3. Demand that the person in charge respond to the Chief of Police within ten (10) days to discuss the nuisance activities.
- B. After complying with the notification procedures described herein when the Chief of Police receives a police report documenting the occurrence of a third nuisance activity at or within a property and determines that the property has become a chronic nuisance property, the chief of Police shall:
  1. Notify the person in charge in writing that the property has been determined to be a chronic nuisance property. The notice shall contain the following information:
    - a. The street address or legal description sufficient for identification of the property.
    - b. A statement that the Chief of Police has determined the property to be chronic nuisance property with a concise description of the nuisance activities leading to his/her findings.
    - c. Demand that the person in charge respond within ten (10) days to the Chief of Police and propose a course of action that the Chief of Police agrees will abate the nuisance activities giving rise to the violation.
  2. Service shall be made either personally or by first class mail, postage prepaid, return receipt requested, addressed to the person in charge at the address of the property believed to be a chronic nuisance property, or such other place which is likely to give the person in charge notice of the determination by the Chief of Police.
  3. A copy of the notice shall be served on the owner at such address as shown on the tax records of the county in which the property is located, and/or the occupant, at the address of the property, if these persons are different than the person in charge and shall be made either personally or by first class mail, postage prepaid.
  4. A copy of the notice shall also be posted at the property after then (10) days has elapsed from the service or mailing of the notice to the person in charge, and the person in charge has not contacted the Chief of Police.
  5. The failure of any person to receive notice that the property maybe a chronic nuisance property shall not invalidate or otherwise affect the proceedings under this chapter.
  6. If after the notification, but prior to the commencement of legal proceedings by the City pursuant to this chapter, a person in charge stipulates with the Chief of Police that the person in charge will pursue a course of action the parties agree will abate the nuisance activities giving rise to the violation, the Chief of Police may agree to postpone legal proceedings for a period of not less than ten (10) nor more than thirty (30) days, except in the case of a nuisance activity where a search warrant was executed at the property. If the agreed course of action does not result in the abatement of the nuisance activity or if no agreement concerning abatement is reached within thirty (30) days, the Chief of Police shall commence a legal proceeding to abate the nuisance.
  7. Concurrent with the notification procedures set forth herein, the Chief of Police shall maintain copies of the notice, as well as any other documentation, which supports legal proceedings.

## NUISANCE ABATEMENT

- C. When a person in charge makes a response to the Chief of Police as required above, any conduct or statements made in connection with the furnishing of that response shall not constitute an admission that any nuisance activities have or are occurring. This subsection does not require the exclusion of any evidence that is otherwise admissible or offered for any other purpose.
- D. The Chief of Police shall have the authority to delegate procedural responsibilities to enforce this ordinance to another member of the Police Department, while maintaining oversight of the process. (Ord. 2007-M-10 § 1.)

### **9.45.060 Commencement of Action, Burden of Proof**

- A. In an action seeking closure of a chronic nuisance property, the City shall have the initial burden of showing the preponderance of the evidence that the property is a chronic nuisance property.
- B. It is a defense to an action seeking the closure of chronic nuisance property that the owner of the property at the time in question could not, in the exercise of reasonable care or diligence, determine that the property had become a public nuisance property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the finding that the property is a chronic nuisance property.
- C. In establishing the amount of any civil penalty requested, the court may consider any of the following factors if they need to be found appropriate, and shall cite those found applicable:
  - 1. The actions or lack of action taken by the person in charge to mitigate or correct the problem at the property.
  - 2. Whether the problem at the property was repeated or continuous.
  - 3. The magnitude or gravity of the problem.
  - 4. The cooperation of the person in charge with the City.
  - 5. The cost of the City investigating and correcting or attempting to correct the condition.(Ord. 2007-M-10 § 1.)

### **9.45.070 Emergency Closing Procedure**

- A. In the event that it is determined that the property is an immediate threat to the public safety and welfare, the City may apply to the court for such interim relief as is deemed by the Chief of Police to be appropriate. In such an event, the notification provision set forth in Section 9.45.040 above need not be complied with; however, the City shall make a diligent effort to notify the person in charge prior to a court hearing.
- B. In the event the court finds that the property constitutes a chronic nuisance property as defined in this section, the court may order the remedy set out above. In addition, in the event that it also finds the person in charge had knowledge of activities or conditions of the property constituting or violating this chapter and permitted the activities to occur, the court may assess a civil fine as provided above.
- C. The court may authorize the City of St. Charles to physically secure the property against use or occupancy in the event that the owner fails to do so within the time specified by the court. In the event that the City is authorized to secure the property, all costs reasonably incurred by the City to affect a closure shall be made and assessed as a lien against the property. If used herein, "costs" mean these costs actually incurred by the City for the physical securing of the property, as well as tenant relocation costs.
- D. The City of St. Charles Department of Public Works affecting the closure shall prepare a statement of cost and the City of St. Charles shall thereafter submit said statement to the court of its review. If no objection of the statement is made within the period described by the court, a lien in said amount may be recorded against said property.
- E. Any person who is assessed the cost of closure and/or civil penalty by the court shall be personally liable for the payment thereof by the City.

## NUISANCE ABATEMENT

- F. A tenant is entitled to their reasonable relocation costs, as those are determined by the court if without actual notice, the tenant moved in the property, after either:
1. The owner or tenant received notice as described herein of the Police Chief's determination as described above.
  2. Unknown owner or other agent received notice of an action brought pursuant to this Section.
  3. Any person who is assessed with costs of closure and/or civil penalty by the court shall be personally liable for the payment thereof to the City.
- (Ord. 2007-M-10 § 1.)

### **9.45.080 Severability**

If any provision of this ordinance or its application, or any person or circumstances is held to be invalid for any reason, the remainder of said application of its provisions to the other persons or circumstances shall not be in any way affected.

(Ord. 2007-M-10 § 1)

## MISCELLANEOUS OFFENSES REGARDING PROPERTY

### Chapter 9.48

#### MISCELLANEOUS OFFENSES REGARDING PROPERTY

Sections:

- 9.48.010 Combustible refuse.
- 9.48.020 Missiles.
- 9.48.030 Open burning of refuse prohibited.
- 9.48.040 Scaffolds or ladders.
- 9.48.050 Articles on windows or other places abutting public streets.
- 9.48.060 Obstructing stairways or exits.
- 9.48.070 Fuel tanks.
- 9.48.080 Unused or abandoned refrigerators.

**9.48.010 Combustible refuse.**

It is unlawful to permit or store any combustible refuse in such a way as to create a fire hazard, or to store or throw any refuse of any kind on any alley, street or other public place in the city. (Prior code § 28.011.)

**9.48.020 Missiles.**

It is unlawful to cast, throw or propel any missile on any street, alley or public place; and it is unlawful to throw or deposit any glass, nails, tacks or other similar articles, on any street, sidewalk or alley in the city. (Prior code § 28.012.)

**9.48.030 Open burning of refuse prohibited.**

It shall be unlawful for any person to cause, suffer, allow or permit open burning of rubbish, refuse of any kind, grass, leaves, wood, garbage, metal salvage or any other matter in open fires; provided, however, an owner of residential property may burn or permit to be burned such substances as are reasonably necessary for the purpose of cooking food for the consumption by his or her family or guests; and provided, however, that other open burning may be permitted with a special permit issued by the Fire Chief or his designee, pursuant to Chapter 15.28 of the St. Charles Municipal Code, provided such burning shall not violate any Illinois or Federal statute, rules, or regulations, including those of the Illinois Environmental Protection Agency and the United States Environmental Protection Agency. Any and all such open burning may be prohibited by the Fire Chief, his designee or the City Health Officer when atmospheric conditions or local circumstances make such fire hazardous. (Ord. 1987-M-93 § 1; Ord. 1985-M-60 § 1; Ord. 1980-M-8 § 1.)

**9.48.040 Scaffolds or ladders.**

Any scaffolds or ladders placed in such a position that they overhang or can fall onto any public street, alley or other public place in the city, shall be firmly and properly constructed and safeguarded; and it is unlawful to place or leave any tool or article on any such place in such a manner that the same can fall into any such street, sidewalk, alley or other public place from a greater height than four feet. (Prior code § 28.022.)

**9.48.050 Articles on windows or other places abutting public streets.**

It is unlawful to place any movable article on any window ledge, or other place abutting on a public street, alley or other place at a height above four feet from the ground, in such a manner that the same can be or is in danger of falling onto such sidewalk, street, alley or other public place. (Prior code § 28.023.)

## MISCELLANEOUS OFFENSES REGARDING PROPERTY

### **9.48.060 Obstructing stairways or exits.**

It is unlawful to obstruct or permit the obstruction of any stairway, aisle, corridor or exit in any office building, factory, hotel, school, church, assembly hall, lodge or other public hall, or any building used by two or more tenants or families in such a manner that it interferes with the free use of such stairway, aisle, corridor or exit. (Prior code § 28.025.)

### **9.48.070 Fuel tanks.**

It is unlawful to install or maintain any fuel oil, gas or liquid gas tanks unless such tank and all equipment connected therewith is installed and maintained in accordance with the regulations of the state fire marshal or any other state agency having jurisdiction thereof. (Prior code § 28.028.)

### **9.48.080 Unused or abandoned refrigerators.**

It is unlawful to permit any unused or abandoned refrigerator, icebox or deep freeze or other freezers to remain in any place accessible to any child, without first removing the doors or breaking the hinges of the door or doors of any such icebox, refrigerator or freezer. (Prior code § 28.033.)

# SYNTHETIC ALTERNATIVE DRUGS

## CHAPTER 9.49

### SYNTHETIC ALTERNATIVE DRUGS

#### Sections:

9.49.010	Definitions
9.49.020	Sale or Delivery
9.49.030	Possession
9.49.040	Use
9.49.050	Violation – Penalty

#### **9.49.010 Definitions.**

For purposes of this Chapter, the following definitions shall apply unless the context clearly indicates or requires different meaning:

- A. “Product containing a synthetic alternative drug” means any product containing a synthetic cannabinoid, stimulant or psychedelic/hallucinogen, as those terms are defined herein such as, but not limited to, the examples of brand names or identifiers listed on Exhibit “A” attached hereto and incorporated herein.
- B. “Synthetic cannabinoid” means any laboratory-created compound that functions similar to the active ingredient in marijuana, tetrahydrocannabinol (THC), including, but not limited to, any quantity of a natural or synthetic material, compound, mixture, preparation, substance and their analog (including isomers, esters, ethers, salts, and salts of isomers) containing a cannabinoid receptor agonist, including but not limited to:
- JWH-007 (1-pentyl-2-methyl-3-(1-naphthoyl)indole)
  - JWH-015 ((2-Methyl-1-propyl-1H-indol-3-yl)-1-naphthalenylmethanone)
  - JWH-018 (1-pentyl-3-(1-naphthoyl)indole)
  - JWH-019 (1-hexyl-3-(naphthalen-1-oyl)indole)
  - JWH-073 (naphthalene-1-yl-(1-butylyndol-3-yl)methanone)
  - JWH-081 (4-methoxynaphthalen-1-yl-(1-pentylyndol-3-yl)methanone)
  - JWH-098 (4-methoxynaphthalen-1-yl-(1-pentyl-2-methylindol-3-yl)methanone)
  - JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole)
  - JWH-164 (7-methoxynaphthalen-1-yl-(1-pentylyndol-3-yl)methanone)
  - JWH-200 (1-(2-morpholin-4-ylethyl)indol-3-yl)-naphthalen-1-ylmethanone)
  - JWH-203 (2-(2-chlorophenyl)-1-(1-pentylyndol-3-yl)ethanone)
  - JWH-210 (4-ethylnaphthalen-1-yl-(1-pentylyndol-3-yl)methanone)
  - JWH-250 (1-pentyl-3-(2-methoxyphenylacetyl)indole)
  - JWH-251 (1-pentyl-3-(2-methylphenylacetyl)indole)
  - JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole)
  - HU-210 ((6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol)
  - HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol)
  - HU-308 ([[(1R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl] methanol)

## SYNTHETIC ALTERNATIVE DRUGS

- HU-331 ((3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione)
  - CP 55,940 (2-[(1R, 2R,5R)-5-hydroxy-2-(3-hydroxypropyl) cyclohexyl]- 5-(2-methyloctan-2-yl)phenol)
  - CP 47,497 (2-[(1R,3S)-3-hydroxycyclohexyl]- 5- (2-methyloctan-2-yl)phenol) and its homologues
  - WIN 55,212-2((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de)-1,4-benzoxazin-6-yl]-1-nepthalenylmethanone)
  - RCS-4 ((4-methoxyphenyl)(1-pentyl-1H-indol-3-yl)menthanone)
  - RCS-8(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-methoxyphenyl)ethanone)
- C. “Synthetic stimulant” means any compound that mimics the effects of any federally controlled Schedule I substance such as cathinone, methcathinone, MDMA and M D E A, including, but not limited to, any quantity of a natural or synthetic material, compound, mixture, preparation, substance and their analog (including salts, isomers, and salts of isomers) containing substances which have a stimulant effect on the central nervous system, including, but not limited to:
- 3-Fluoromethcathinone
  - 4-Fluoromethcathinone (other name: flephedrone)
  - 3,4-Methylenedioxy-methcathinone (other name: methylone, MDMC)
  - 3,4-Methylenedioxy-pyrovalerone (other name: MDPV)
  - 4-Methylmethcathinone (other names: mephedrone, 4-MMC)
  - 4-Methoxymethcathinone (other names: methedrone, bk-PMMA, PMMC)
  - 4-Ethylmethcathinone (other name: 4-EMC)
  - Ethcathinone
  - Beta-keto-N-methylbenzodioxolylpropylamine (other names: butylone, bk-MBDB)
  - Naphthylpyrovalerone (other names: naphyrone, NRG-1)
  - N,N-dimethylcathinone (other name: metamfepramone)
  - Alpha-pyrrolidinopropiophenone (other name: alpha-PPP)
  - 4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP)
  - 3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP)
  - Alpha-pyrrolidinovalerophenone (other name: alpha-PVP)
  - 6,7-dihydro-5H-indeno(5,6-d)-1,3-dioxal-6-amine) (other name MDAI)
  - Any compound that is structurally derived from 2-amino-1-phenyl-1 propanone by modification or substitution in any of the following ways:
    - in the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl, or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents;
    - at the 3-position with an alkyl substituent;
    - at the nitrogen atom with alkyl, dialkylbenzyl, or methoxybenzyl groups;
    - or by inclusion of the nitrogen atom in a cyclic structure.
- D. “Synthetic psychedelic/hallucinogen” means any compound that mimics the effects of any federally controlled Schedule I substance, including but not limited to, any quantity of a natural or synthetic material, compound, mixture, preparation, substance and their analog (including salts, isomers, esters, ethers and salts of isomers) containing substances which have a psychedelic/hallucinogenic effect on the central nervous system and/or brain including, but not limited to:
- 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);
  - 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D);
  - 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C);
  - 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);
  - 2-(4-(Ethylthio)-2,5-dimethoxyphenyl)ethanamine (2C-T-2);
  - 2-(4-(Isopropylthio)-2,5-dimethoxyphenyl)ethanamine (2C-T-4);
  - 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);
  - 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N);
  - 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P).

## SYNTHETIC ALTERNATIVE DRUGS

### **9.49.020 Sale or Delivery.**

It shall be unlawful for any person to sell, offer for sale or deliver any product containing a synthetic cannabinoid, stimulant or psychedelic/hallucinogen.

### **9.49.030 Possession.**

It shall be unlawful for any person to knowingly possess a product containing a synthetic cannabinoid, stimulant or psychedelic/hallucinogen.

### **9.49.040 Use.**

It shall be unlawful for any person to be under the influence of a synthetic cannabinoid, stimulant or psychedelic/hallucinogen.

### **9.49.050 Violation – Penalty.**

Any person, firm, corporation or other legal entity violating any provision of this chapter shall, upon conviction, be fined not less than One Hundred Dollars (\$100.00) nor more than Seven Hundred and Fifty Dollars (\$750.00) for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. 2011-M-52 § 1.)

## **PUBLIC SALE OF DRUG PARAPHERNALIA**

### **Chapter 9.50**

#### **PUBLIC SALE OF DRUG PARAPHERNALIA**

Sections:

9.50.010 Drug paraphernalia - Defined.

9.50.020 Sale to minors - Unlawful.

9.50.030 Violation - Penalty.

#### **9.50.010 Drug paraphernalia - Defined.**

"Drug paraphernalia," articles or equipment commonly used in the consumption or ingestion of controlled substances or cannabis include, but are not limited to, the following enumerated articles: cocaine spoons, pot pipes, water pipes, hypodermic needles, syringes, roach clips and literature devoted wholly or substantially to describing or illustrating explicitly the consumption or ingestion of a controlled substance or cannabis which tends to promote the use of a controlled substance or cannabis. (Ord. 1979-M-17 § 1(a).)

#### **9.50.020 Sale to minors - Unlawful.**

It is unlawful for any person to sell or offer to sell any paraphernalia, articles or equipment, as defined in Section 9.50.010 to any person under the age of eighteen, except where such articles or equipment are prescribed for strictly medical purposes and are used as such. (Ord. 1979-M-17 § 1(b).)

#### **9.50.030 Violation - Penalty.**

Any person, firm or corporation violating any provision of this chapter shall be fined not less than five dollars nor more than five hundred dollars for each offense, and a separate offense shall be deemed committed on each day on which a violation occurs or continues. (Ord. 1979-M-17 § 2.)

Chapter 9.51

**POSSESSION OF CANNABIS**

Sections:

- 9.51.010 Findings.
- 9.51.020 Cannabis Defined.
- 9.51.030 Possession Unlawful.
- 9.51.040 Violation - Penalty.

**9.51.010 Findings.**

The corporate authorities of the city of St. Charles are advised that there is a widespread illegal use of Cannabis within the city, and further finds that the adoption of a local ordinance governing said possession and illegal use of Cannabis will be helpful for the effective control and elimination of this drug.

**9.51.020 Cannabis Defined.**

Cannabis includes marijuana, hashish and other substances which are identified as including any parts of the plant Cannabis Sativa, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, and any compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.

**9.51.030 Possession Unlawful.**

It is unlawful for any person to knowingly possess any quantity of any substance containing Cannabis, except that the effect of this Chapter shall be limited for purposes of municipal prosecution to persons knowingly possessing less than thirty (30) grams of any substance containing Cannabis.

**9.51.040 Violation - Penalty.**

Any person, firm or corporation violating any provision of this Chapter shall be fined not more than five hundred dollars for each offense, and a separate offense shall be deemed committed on each day on which a violation occurs or continues.

Chapter 9.52

**CURFEW<sup>12</sup>**

Sections:

- 9.52.010 Children on streets at night - Supervision by parent or guardian - Curfew.
- 9.52.020 Permitting child to violate curfew prohibited.
- 9.52.025 Parental Authority.
- 9.52.030 Police to detain children violating curfew.
- 9.52.040 Detaining delinquent children.
- 9.52.050 Violation - Penalty.

**9.52.010 Curfew**

It is unlawful for a person less than 17 years of age to be present at or upon any building, place, street or highway at the following described times unless accompanied and supervised by a parent, legal guardian or other responsible companion of at least 18 years of age who is approved by a parent or legal guardian:

- A. Between 12:01 a.m. and 6:00 a.m. on Saturdays;
- B. Between 12:01 a.m. and 6:00 a.m. Sundays; and
- C. Between 11:00 p.m. on Sunday through Thursday, inclusive, and 6:00 a.m. on the following day.

The following activities are exempted from the provisions of this ordinance:

If the person less than 17 years of age is (a) engaged in employment or occupation upon which the laws of the State of Illinois authorize a person less than 17 years of age to perform; (b) at an official civic, school-related or religious activity; (c) engaged in organized political protest or political activity; (d) any other core First Amendment activity.

(Ord. 2004-M-51 § 1; Ord. 1995-M-1 § 1; Ord. 1968-19 § 1 (part): prior code § 27.101.)

**9.52.020 Permitting child to violate curfew prohibited.**

It is unlawful for a parent, legal guardian or other person to knowingly permit a person in his custody or control to violate Section 9.52.010. (Ord. 1968-19 § 1 (part): prior code § 27.102.)

**9.52.025 Parental Authority.**

The parent or legal guardian of an unemancipated minor (a person under the age of eighteen) residing with such parent or legal guardian shall be presumed, in the absence of evidence to the contrary, to have failed to exercise proper parental responsibility and said minor shall be deemed to have committed a violation of the curfew described in Section 9.52.010 above, with the knowledge and permission of the parent or guardian in violation of this section upon the occurrence of the events described in Subparagraphs A., B., and C. below:

- A. An unemancipated minor residing with said parent or legal guardian shall either be adjudicated to be in violation of any ordinance, law or statute prohibiting willful and malicious acts causing injury to a person or property, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law or statute prohibiting willful and malicious acts causing injury to a person or property; and
- B. Said parent or legal guardian shall have received a written notice thereof, either by certified or registered mail, return receipt requested, or by personal service, with a certificate of personal service returned, from the Police Department of the city following said adjudication or non-judicial sanctions; and
- C. If at any time within one (1) year following receipt of the notice set forth in B. above, said minor is either adjudicated to be in violation of any ordinance, law, or statute as described in A. above, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law or statute as described in A. above.

(Ord. 1995-M-1 § 1.)

**9.52.030 Police to detain children violating curfew.**

Every member of the police force while on duty is authorized to detain any such child violating the provisions of this chapter until the parent or guardian of the child takes him or her into custody, but such officer shall immediately upon taking custody of such child communicate with the parent or guardian. (Prior code § 27.103.)

**9.52.040 Detaining delinquent children.**

If it appears that any child taken into custody for a violation of Section 9.52.010 is growing up in mendicancy or vagrancy, or is incorrigible for the lack of proper parental care or has no home, proper proceedings shall be taken to have such child placed in the care of a state institution as is provided by statute. (Prior code § 27.104.)

**9.52.050 Violation - Penalty.**

Any person, firm or corporation violating any provisions of this chapter 9.52 shall, upon conviction, be fined fifty dollars (\$50.00) for the first offense, one hundred dollars (\$100.00) for the second offense and five hundred dollars (\$500.00) for each subsequent offense. In the alternative, any person violating any provision of this chapter 9.52 shall, upon conviction, complete twelve (12) hours of community service for the first offense, twenty-four (24) hours of community service for the second offense, and one hundred twenty (120) hours of community service for each subsequent offense. All community service shall be completed within one (1) year from the date of conviction.

(Ord. 2008-M-48 § 1; Prior code § 27.105.)

Chapter 9.53

**DRUG PARAPHERNALIA**

Sections:

9.53.010	Findings
9.53.020	Definitions
9.53.030	Prohibition
9.53.040	Application
9.53.050	Violation - Penalty

**9.53.010 Findings.**

The corporate authorities of the city of St. Charles are advised that there is a widespread illegal use of drugs and drug paraphernalia within the city, and further finds that the adoption of a local ordinance governing said drug paraphernalia will be helpful for the effective control and elimination of drugs and drug paraphernalia. (Ord. 1997-M-83 § 1.)

**9.53.020 Definitions.**

Unless the context otherwise requires, the following terms as used in this Chapter have the meanings ascribed to them.

- A. "Controlled substance" means any drug or controlled substance as defined under any law of the state of Illinois or of the United States of America.
- B. "Instrument" means a device used, designed for use, or intended for use in ingesting, smoking, administering or preparing cannabis, cocaine, phencyclidine, opium or any derivative thereof, or any other controlled substance, including but not limited to, the following:
  - 1. Metal, wooden, acrylic, glass, stone, plastic or ceramic marijuana (Cannabis sativa) or hashish pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
  - 2. Water pipes designed for use or intended for use with marijuana (Cannabis sativa), hashish, hashish oil or cocaine;
  - 3. Carburation tubes and devices;
  - 4. Smoking and carburation masks;
  - 5. Roach clips;
  - 6. Separation gins designed for use or intended for use in cleaning marijuana;
  - 7. Cocaine spoons and vials;
  - 8. Chamber pipes;
  - 9. Carburetor pipes;
  - 10. Electric pipes;
  - 11. Air-driven pipes;
  - 12. Chillums;
  - 13. Bongs;
  - 14. Ice pipes or chillers; and
  - 15. One hitters and dugout storage containers.

(Ord. 1997-M-83 § 1.)

**9.53.030 Prohibition.**

It is unlawful for any person to have, possess, sell, offer to sell, dispense or give away any instrument adapted for the use of smoking, inhaling or ingesting any controlled substance. (Ord. 1997-M-83 § 1.)

## DRUG PARAPHERNALIA

### **9.53.040 Application.**

The provisions of this Chapter shall not apply to:

- A. Any person who has been authorized by the Department of Mental Health and Developmental Disabilities, with the approval of the Illinois State Police, to possess and deliver substances containing cannabis;
- B. Persons registered under federal law to conduct research with cannabis.

(Ord. 1997-M-83 § 1.)

### **9.53.050 Violation - Penalty.**

Any persons, firm or corporation violating any provision of this Chapter shall be fined not more than five hundred dollars for each offense, and a separate offense shall be deemed committed on each day on which a violation occurs or continues. (Ord. 1997-M-83 § 1.)

## Chapter 9.54

## TRUANCY

## Sections:

- 9.54.010 Findings.
- 9.54.020 Truancy Prohibited.
- 9.54.030 Parental Allowance of Truancy or Excessive Absenteeism Prohibited.
- 9.54.040 Violation - Penalty. (Deleted in its entirety.)

**9.54.010 Findings.**

That the corporate authorities of the city of St. Charles are advised that there is a widespread truancy problem within the city of St. Charles, and further finds that the adoption of a local ordinance prohibiting truancy will be helpful in the effective control and elimination of this problem. (Ord. 1996-M-63 § 1.)

**9.54.020 Truancy Prohibited.**

- A. Truancy: It shall be unlawful for any person under the age of eighteen (18) years enrolled in a public, private or parochial school within the corporate limits of the City to absent himself or herself from attendance at school without valid cause. Any person who should so absent himself or herself shall be guilty of the offense of truancy.
- B. Excessive Absenteeism: It shall be unlawful for any person under the age of eighteen (18) years enrolled in a public, private, or parochial school within the corporate limits of the City to absent himself or herself from attendance at school for five or more student attendance days during any one semester, unless such absenteeism is for valid cause and has been approved by his or her School District.
- C. Emergency Conditions: Emergency or unforeseen absence due to illness or other causes beyond the control of the person so absenting himself or herself shall not constitute truancy or excessive absenteeism if a valid cause has been obtained from the parent or person in loco parentis and such valid cause is submitted in writing to the proper school authorities within twenty-four (24) hours after such absence.
- D. Valid Cause: A valid cause for absence is an illness that would temporarily impair or interfere with a student's learning ability, observance of a religious holiday, death in the immediate family, family emergency, or such other circumstances which cause reasonable concern to the parent, guardian, or custodian for the safety or health of the student. Valid cause shall not include babysitting, employment activities (unless specifically sanctioned by the student's School District), or any other reason that does not temporarily impair or interfere with a student's learning ability.
- E. Penalty: Any person found guilty of truancy or excessive absenteeism shall be fined fifty dollars (\$50.00) for the first offense during any one (1) school year, one hundred dollars (\$100.00) for the second offense during any one (1) school year and five hundred dollars (\$500.00) for each subsequent offense during any one (1) school year. In the alternative, any person found guilty of violating any provision of this chapter 9.54 shall, upon conviction, complete twelve (12) hours of community service for the first offense any one (1) school year, twenty-four (24) hours of community service for the second offense in any one (1) school year, and one hundred twenty (120) hours for each subsequent offense in any one (1) school year. All community service shall be completed within one (1) year from the date of conviction.

(Ord. 2008-M-49 § 1; Ord. 1999-M-54 § 1; Ord. 1996-M-63 § 1.)

**9.54.030 Parental Allowance of Truancy or Excessive Absenteeism Prohibited.**

- A. It shall be unlawful for a parent or a person in loco parentis to knowingly permit any person under the age of eighteen (18) years to commit an act of truancy or acts of excessive absenteeism as defined in Section 9.54.020.
  - B. A parent or person in loco parentis shall be considered to have knowingly permitted a minor under Section 9.54.020 to commit an act of truancy as defined in said Section when the parent or person in loco parentis knows that said minor absents himself or herself from attendance at school without valid cause and the parent in loco parentis fails to act to insure that the minor attends the school in which he or she is enrolled.
  - C. A parent or person in loco parentis shall be considered to have knowingly permitted a minor under Section 9.54.020 to commit the offense of excessive absenteeism as defined above when the parent or person in loco parentis provides a written or oral excuse for the minor's non-attendance which is false or does not amount to valid cause.
  - D. A parent or person in loco parentis found guilty under this Section for the first time in any one school year shall be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars. A parent or person in loco parentis found guilty under this Section for the second time in any one school year shall be fined not less than Three Hundred (\$300.00) Dollars nor more than Five Hundred (\$500.00) Dollars. A parent or person in loco parentis found guilty under this Section for the third time in any one school year shall be fined not less than Five Hundred (\$500.00) Dollars. A parent or person in loco parentis found guilty under this Section more than three times in any one school year shall be fined not less than Five Hundred (\$500.00) Dollars for each subsequent conviction.
- (Ord. 1999-M-54 § 2; Ord. 1996-M-63 § 1.)

**9.54.040 Violation - Penalty.**

Deleted in its entirety. (Ord. 1999-M-54 § 3; Ord. 1996-M-63 § 1.)

SOCIAL HOSTING

Sections:

- 9.55.010 Definitions
- 9.55.020 Offenses
- 9.55.030 Fines; Penalties

**9.55.010 Definitions**

For purposes of this Chapter, the following terms shall have the meanings hereinafter set forth.

- A. Alcohol: Ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
- B. Alcoholic Beverage: Alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, beer, and which contains one-half of one percent or more alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combines with other substances.
- C. Conveyance: Any vehicle, trailer, watercraft or container operated for the transportation of persons or property.
- D. Event or Gathering: Any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
- E. Host: To aid, conduct, allow, entertain, organize, supervise, control, or permit an event or gathering.
- F. Illicit Drugs: Any drug, substance, or compound prohibited by law, including drugs prescribed by a physician that are in the possession of or used by someone other than the person to whom the drug was prescribed.
- G. Parent: Any person having legal custody of a juvenile:
  - 1. As a natural, adoptive parent, or step-parent.
  - 2. As a legal guardian; or
  - 3. As a person to whom legal custody has been given by order of the court.
- H. Person: Any individual, firm, association, partnership, corporation, trust or any other legal entity.
- I. 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, apartments houses, office buildings, transport facilities, parks, businesses or parking lots.
- J. Reasonable Steps: Controlling access to alcoholic beverages at the event or gathering; controlling the quantity of alcoholic beverages present at the event or gathering; verifying the age of persons attending the event or gathering by inspecting drivers licenses or other government-issued identification cards to ensure that minors do not consume alcoholic beverages while at the event or gathering; and supervising the activities of minors at the event or gathering, and/or calling for police assistance in the event people under 21 are in possession of alcohol at the event or gathering.
- K. Religious Ceremony: The possession, consumption and dispensing of alcohol or an alcoholic beverage for the purpose of conducting any bona fide rite or religious ceremony.
- L. Residence or Premises: Any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, property, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.
- M. Underage Person: Any individual less than 21 years of age.

**9.55.020 Offenses**

- A.1. It is unlawful for any person to host, permit, allow, or fail to take reasonable steps to prevent an event or gathering at any residence or premises, or on any other property whether private or public, or in any conveyance, over which that person has control or a reasonable opportunity for control where illicit drugs or alcoholic beverages are present when that person knows or reasonably should know that an underage person will or does consume or possess any illicit drugs or alcoholic beverage. The fact that a person has taken all reasonable steps may be considered as an affirmative defense as to whether such person “reasonably should know” that an underage person will or does consume or possess any illicit drugs or alcoholic beverages.
- A.2. It also is unlawful for any person to fail to take reasonable steps to prevent possession or consumption of illicit drugs or alcoholic beverages by an underage person at any such event or gathering. A person who hosts an event or gathering does not have to be present at the event or gathering to be in violation of this subsection A.
- B.1. A person is responsible for violating Subsection A of this Section if that person intentionally aids, advises, hires, counsels, conspires with, or solicits another person to commit a violation of Subsection A.
- B.2. A person is responsible for violating Subsection A of this Section if that person knows or should have known about the committing of a prohibited act and failed to take reasonable steps to prevent the prohibited act.
- C.1. A person who hosts an event or gathering shall not be in violation of this Chapter if he or she undertakes one of the following steps before any other person makes a complaint about the event or gathering:
  - a. seeks assistance from the St. Charles Police Department or other law enforcement agency to remove any person who refuses to abide by the host’s performance of the duties imposed by this Chapter, or
  - b. terminates the event or gathering because the host has been unable to prevent underage persons from consuming illicit drugs or alcoholic beverages despite having taken all reasonable steps to do so.
- D. This Chapter does not apply to conduct involving the use of alcoholic beverages that occurs at a religious ceremony or that is exclusively between an underage person and his or her parent, as permitted by Illinois State Law.

**9.55.030 Fines; Penalties.**

Any person who violates or assists in the violation of any provision of this Chapter shall be deemed to have committed a petty offense and shall be subject to a fine of not more than \$750.00 for each such violation. Each day on which, or during which, a violation occurs shall constitute a separate offense.

- 1. The first violation of this Chapter shall be punishable by a fine of no less than \$250.00 nor more than \$500.00.
- 2. A second violation of this Chapter by the same person within a 12-month period shall be punishable by a fine of no less than \$500.00 no more than \$750.00.
- 3. A third or subsequent violation of this Chapter by the same person within a 12-month period shall be punishable by a fine of \$750.00.

(Ord. 2011-M-16 § 2.)

Chapter 9.56

**CAMPING**

Sections:

9.56.010 Camping – Prohibited on City property – signs.

**9.56.010 Camping – Prohibited on City property – signs.**

- A. It is unlawful for any person or persons to camp at any time on City property unless authorized by the Chief of Police. For the purposes of this Chapter, the term “camping” includes building a fire, partaking of any meal or the maintenance of a rendezvous or meeting place and further includes the use of any vehicle having a compact temporary living unit which sits in the bed of a pickup truck or use of any part of a vehicle or apparatus for shelter or resting.
- B. The Director of Public works is authorized to erect signs prohibiting camping in accordance with this provision.
- C. Any person, firm or corporation violating the provisions of this Chapter shall, upon conviction, be fined fifty (\$50) dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.  
(Ord. 2008-M-76 § 2.)

## Chapter 9.60

**WEAPONS<sup>13</sup>**

## Sections:

9.60.010	Prohibited uses
9.60.020	Discharge of firearms
9.60.030	Hunting

**9.60.010 Prohibited uses**

- It is unlawful to, and a person commits the offense of unlawful use of weapons when he knowingly:
- A. Sells, manufactures, purchases, possesses or carries any bludgeon, blackjack, slingshot, sandclub, sandbag, metal knuckles, or any knife, commonly referred to as a switchblade knife, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife; or
  - B. Carries or possesses with intent to use the same unlawfully against another, a dagger, dirk, billy, dangerous knife, razor, stiletto, broken bottle or other piece of glass, or any other dangerous or deadly weapon or instrument of like character; or
  - C. Carries concealed in any vehicle or concealed on or about his person except when on his land or in his own abode or fixed place of business any pistol, revolver or other firearm; or
  - D. Carries on or about his person or in any vehicle, a tear gas gun projector or bomb or any object containing noxious liquid gas or substance; or
  - E. Sets a spring gun; or
  - F. Possesses any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or
  - G. Sells, manufactures, purchases, possesses or carries any weapon from which more than eight shots or bullets may be discharged by a single function of the firing device, any shotgun with a barrel less than eighteen inches in length, or any bomb, bombshell, grenade, bottle or other container or explosive substance, such as but not limited to black powder bombs and Molotov cocktails; or
  - H. Carries or possesses any firearm or other deadly weapon in any place which is licensed to sell intoxicating beverages, or at any public gathering held pursuant to license issued by any governmental body or any public gathering at which an admission is charged, excluding a place where a showing, demonstration or lecture involving the exhibition of unloaded firearms is conducted.

The above prohibited acts do not apply to or affect any person who is engaging in conduct otherwise exempt therefrom pursuant to the Criminal Code of 1961, as amended from time to time or to any person who possesses a license to carry a concealed firearm pursuant to the Firearm Concealed Carry Act (43 ILCS 66/1 *et seq.*) or as provided by Federal law, as amended from time to time. (Ord. 2013-M-51 § 1; Ord. 2011-M-3 § 1; Ord. 1969-M-3 § (part): prior code § 28.039)

**9.60.020 Discharge of firearms**

It is unlawful to discharge any firearms or airgun in the city; provided, that this section shall not be construed to prohibit any officer of the law from discharging a firearm in the performance of his duty, nor to prohibit any citizen from discharging a firearm when lawfully defending his person or property, nor when discharged pursuant to a written permit authorized by the city council and issued by the mayor. Such permit shall limit the time and place for the firing and shall be issued only if for memorial services for the dead, burials, or such other circumstances where the city council shall find the public health and safety not be damaged; provided, however, only one permit not limited as to time or place shall be

required of a nationally recognized Veteran's organization open to veterans of the armed services of the United States of America for memorial services for the dead and for burials. The city council shall have the right to specify conditions attached to such permit.  
(Ord. 1995-M-14 § 1; Ord. 1982-M-37 § 1: prior code § 28.016.)

**9.60.030        Hunting**

It is unlawful for any person to engage in killing any animal other than prescribed by law in the City.  
(Prior code § 28.010.)

**9.60.040        Prohibited Locations.**

Unless otherwise provided for by law, it is unlawful for any person to have in his possession, or on or about his person, concealed or otherwise, any firearm, including, without limitation, a handgun, rifle, shotgun, paintball gun, or any other device capable of discharging a projectile by air upon any public supported land except at those areas designated for use as a firing range. Nothing herein shall be construed to prevent sworn peace officers from carrying such weapons as may be authorized and necessary in the discharge of their duties, nor shall it apply to any person summoned by such officer to assist in making arrests or preserving the peace while such person is so engaged or assisting.  
(Ord. 2007-M-34 § 1.)

The above prohibited acts do not apply to or affect any person who is engaging in conduct otherwise exempt therefrom pursuant to the Criminal Code of 1961, as amended from time to time or to any person who possesses a license to carry a concealed firearm pursuant to the Firearm Concealed Carry Act (43 ILCS 66/1 *et seq.*) or as provided by Federal law, as amended from time to time.  
(Ord. 2013-M-51 § 1.)

Chapter 9.64

**PENALTIES**

Sections:

9.64.010 Penalties.

**9.64.010 Penalties.**

Any person, firm or corporation violating any provision of this title shall be fined not less than twenty-five (\$25.00) dollars nor more than seven hundred fifty (\$750.00) dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Further, any person, firm or corporation violating any provision of this Title may also be required to perform some reasonable public service work, such as, but not limited to, the pickup up of litter in public parks or along public highways or the maintenance of public facilities.

(Ord. 2005-M-21 § 1; Ord. 1991-M-36 § 2; Ord. 1969-M-3 § 4; prior code § 28.042.)

## ADMINISTRATIVE ADJUDICATION

### Chapter 9.65

#### ADMINISTRATIVE ADJUDICATION

##### Sections:

- 9.65.010 Administrative Adjudication of Municipal Code Violations
- 9.65.020 Administrative Adjudication Procedures Not Exclusive
- 9.65.030 Code Hearing Units; Powers of Hearing Officers
- 9.65.050 Rules of Evidence Shall Not Govern
- 9.65.060 Judicial Review
- 9.65.070 Enforcement of Judgment
- 9.65.080 Impact on Existing Administrative Adjudication Systems
- 9.65.090 Severability

#### **9.65.010 Administrative Adjudication of Municipal Code Violations**

- A. The City of St. Charles hereby provides for a system of administrative adjudication of municipal code violations to the extent permitted by the Illinois Constitution and as expressly authorized by the Illinois Municipal Code, 65 ILCS 5/1-2.1-1 et seq., as amended. As used in this ordinance, a “system of administrative adjudication” shall include the adjudication of any violation of the City of St. Charles municipal ordinances, except for:
1. proceedings not within the statutory or the home rule authority of municipalities; and
  2. any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles; and
  3. any reportable offense under Section 6-204 of the Illinois Vehicle Code.
- B. The “system of administrative adjudication” shall also include offenses under the Criminal Code which may, at the discretion of the Chief of Police or his sworn officers, be filed as a Municipal Code violation, with the following exceptions:
1. graffiti;
  2. illegal consumption or possession of alcohol;
  3. illegal sale of alcohol;
  4. public indecency; and
  5. prostitution or soliciting for prostitution.

#### **9.65.020 Administrative Adjudication Procedures Not Exclusive**

- A. The adoption by the City of a system of administrative adjudication does not preclude the City from using other methods to enforce municipal ordinances, including but not limited to, relief in the Circuit Court for the Sixteenth Judicial Circuit, Kane County, Illinois, the Eighteenth Judicial Circuit, DuPage County, Illinois, or any other court of competent jurisdiction.
- B. The adoption by the City of a system of administrative adjudication does not preclude the City from using other methods to enforce the laws of the State of Illinois.

## ADMINISTRATIVE ADJUDICATION

### 9.65.030 Code Hearing Units; Powers of Hearing Officers

- A. There is hereby established a Code Hearing Unit in the City of St. Charles municipal government. The Code Hearing Unit shall have jurisdiction to adjudicate any violation of the City of St. Charles Municipal Ordinances (hereinafter referred to from time to time as “Code Violations”) except for the following:
1. proceedings not within the statutory or the home rule authority of municipalities; and
  2. any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles; and
  3. any reportable offense under Section 6-204 of the Illinois Vehicle Code.
- B. Hearing Officers shall preside over all administrative adjudication hearings. The powers and duties of Hearing Officers shall include the following:
1. hearing testimony and accepting evidence that is relevant to the existence of the code violation;
  2. issuing subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon the request of the parties or their representatives;
  3. preserving and authenticating the record of the hearing and all exhibits and evidence introduced at the hearing;
  4. issuing a determination, based on the evidence presented at the hearing, of whether a code violation exists. The determination shall be in writing and shall include a written finding of fact, decision, and order including the fine, penalty, or action with which the defendant must comply;
  5. imposing penalties as set forth below, and assessing costs upon finding a party liable for the charged violation, except, however, that in no event shall the Hearing Officer have authority to (i) impose a penalty of incarceration, or (ii) impose a fine in excess of \$50,000, or at the option of the municipality, such other amount not to exceed the maximum amount established by the Mandatory Arbitration System as prescribed by the Rules of the Illinois Supreme Court from time to time for the judicial circuit in which the municipality is located. The maximum monetary fine under this item (5), shall be exclusive of costs of enforcement or costs imposed to secure compliance with the municipality’s ordinances and shall not be applicable to cases to enforce the collection of any tax imposed and collected by the City; and
  6. the amount of penalty imposed shall be as set forth in this Paragraph. Said penalties shall not, in any way, modify the amount or type of penalty applicable to any code violation filed in the Circuit Court. Regardless of whether a party requests a hearing pursuant to this Chapter, the penalty for citations issued in accordance herewith shall be as follows:
    - a. Section 13.16.205, Water Conservation, \$50;
    - b. Section 8.24.070, Deposits on Streets, \$50;
    - c. Section 12.04.185, Snow Removal, \$50;
    - d. Section 9.32.010, Unauthorized Posting, \$50;
    - e. Section 9.24.010 et seq., Noise Prohibitions, \$75;
    - f. Section 8.20.010, Prohibition of Fireworks, \$75;
    - g. Section 5.16.060(A), Prohibited Sale of Tobacco to Minors, \$75;
    - h. Section 10.06.010, Automated Traffic Law Enforcement System violation, as set forth in Section 10.06.010; and,
    - i. all other code violations within the jurisdiction of this system of administrative adjudication, \$100.

## ADMINISTRATIVE ADJUDICATION

- C. Prior to conducting administrative adjudication proceedings, administrative Hearing Officers shall have successfully completed a formal training program which includes the following:
1. instruction on the rules of procedure of the administrative hearings which they will conduct;
  2. orientation to each subject area of the code violations that they will adjudicate;
  3. observation of administrative hearings; and
  4. participation in hypothetical cases, including ruling on evidence and issuing final orders.

In addition, every administrative Hearing Officer must be an attorney licensed to practice law in the State of Illinois for at least three (3) years.

- D. A proceeding before a code hearing unit shall be instituted upon the filing of a written pleading by an authorized official of the municipality.

### **9.65.050 Rules of Evidence Shall Not Govern**

The formal and technical rules of evidence shall not apply in an adjudicatory hearing permitted under this Division. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

### **9.65.060 Judicial Review**

Any final decision by a Code Hearing Unit shall constitute a final determination for purposes of judicial review, and shall be subject to the Illinois Administrative Review Law (735 ILCS 5/3-101 et seq.).

### **9.65.070 Enforcement of Judgment**

- A. Any fine, other sanction, or costs imposed, or part of any fine, other sanction, or costs imposed, remaining unpaid after the exhaustion of or the failure to exhaust judicial review procedures under the Illinois Administrative Review Law are a debt due and owing the City and may be collected in accordance with applicable law.
- B. After expiration of the period in which judicial review under the Illinois Administrative Review Law may be sought for a final determination of a code violation, unless stayed by a court of competent jurisdiction, the findings, decision, and order of the Hearing Officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.
- C. In any case in which a defendant has failed to comply with a judgment ordering a defendant to correct a code violation or imposing any fine or other sanction as a result of a code violation, any expenses incurred by a municipality to enforce the judgment, including, but not limited to, attorney's fees, court costs, and costs related to property demolition or foreclosure, after they are fixed by a court of competent jurisdiction or a Hearing Officer, shall be a debt due and owing the municipality and may be collected in accordance with applicable law. Prior to any expenses being fixed by a Hearing Officer pursuant to this subsection (c), the municipality shall provide notice to the defendant that states that the defendant shall appear at a hearing before the administrative Hearing Officer to determine whether the defendant has failed to comply with the judgment. The notice shall set the date for such a hearing, which shall not be less than seven (7) days from the date that notice is served. If notice is served by mail, the seven (7) day period shall begin to run on the date that the notice was deposited in the mail.
- D. Upon being recorded in the manner required by Article XII of the Code of Civil Procedure (735 ILCS 5/12-101 et seq.) or by the Uniform Commercial Code (810 ILCS 5/1-101 et seq.) a lien shall be imposed on the real estate or personal estate, or both, of the defendant in the amount of any debt due

## ADMINISTRATIVE ADJUDICATION

and owing the City under this Ordinance. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction.

- E. A Hearing Officer may set aside any judgment entered by default and set a new hearing date, upon a petition filed within 21 days after the issuance of the order of default, if the Hearing Officer determines that the petitioner's failure to appear at the hearing was for good cause or at any time if the petitioner establishes that the municipality did not provide proper service of process. If any judgment is set aside pursuant to this subsection (e), the Hearing Officer shall have authority to enter an order extinguishing any lien which has been recorded for any debt due and owing the municipality as a result of the vacated default judgment.

### **9.65.080 Impact on Existing Administrative Adjudication Systems**

This ordinance shall not affect the validity of systems of administrative adjudication that were authorized by State law, including home rule authority, and in existence prior to the effective date of this ordinance.

### **9.65.090 Severability**

Should a court of competent jurisdiction determine that one or more sections or subsections of this ordinance is, or are invalid, the remaining sections or subsections hereof shall remain in full force and effect.

(Ord. 2007-M-53 § 2.)

**TITLE 9 FOOTNOTES**

1. For statutory provisions on false reports, see 720 ILCS 5/26-1. (Ord. 1996-M-53 § 19.)
2. For statutory provisions on assault and battery, see 720 ILCS 5/12-1 and 12-3; for provisions authorizing cities to control fighting, see 65 ILCS 5/11-5-3. (Ord. 1996-M-53 § 19.)
3. For statutory provisions authorizing cities to control lotteries, gambling and gambling houses, see 65 ILCS 5/11-5-1. (Ord. 1996-M-53 § 19.)
4. For statutory provisions on public indecency, see 720 ILCS 5/11-9. (Ord. 1996-M-53 § 19.)
5. For statutory provisions on disorderly conduct, see 720 ILCS 5/26-1; for provisions authorizing municipal control of disorderly conduct, see 65 ILCS 5/11-5-3; for provisions on unlawful assemblages, see 65 ILCS 5/11-5-2. (Ord. 1996-M-53 § 19.)
6. For statutory provisions authorizing municipalities to control noise and other disturbances, see 65 ILCS 5/11-5-2. (Ord. 1996-M-53 § 19.)
7. For statutory provisions authorizing municipal prevention of vagrancy and begging, see 65 ILCS 5/11-5-4. (Ord. 1996-M-53 § 19.)
8. For statutory provisions on misleading advertisements, see 720 ILCS 295/1 et seq. (Ord. 1996-M-53 § 19.)
9. For statutory provisions authorizing municipal prevention of injury to municipal property, see 65 ILCS 5/11-80-10; for provisions on criminal damage to property, see 720 ILCS 5/21-1. (Ord. 1996-M-53 § 19.)
10. For statutory provisions authorizing municipal prohibition of all fraudulent practices and services for obtaining money or property, see 65 ILCS 5/11-5-1; for provisions on theft, see 720 ILCS 5/16-1. (Ord. 1996-M-53 § 19.)
11. For statutory provisions on criminal trespass to land, see 720 ILCS 5/21-3. (Ord. 1996-M-53 § 19.)
12. For statutory provisions authorizing municipal curfews, see 65 ILCS 5/11-1-5. (Ord. 1996-M-53 § 19.)
13. For statutory provisions authorizing municipal restrictions on the requisition, possession and transfer of firearms, see 430 ILCS 65/13.1; for provisions prohibiting generally possession of a loaded firearm within the city's limits, see 720 ILCS 5/24-3.1; for provisions on carrying a concealed weapon, see 720 ILCS 5/24-1 and 24-2. (Ord. 1996-M-53 § 19.)