

BILL NO. 365

ORDINANCE NO. 365

AN ORDINANCE OF THE VILLIAGE OF UPLANDS PARK, MISSOURI, ENACTING AND AMENDING THE VILLAGE'S CRIMINAL CODE TO INCLUDE NEW SECTIONS FOR THE CRIMES OF LOITERING, DISORDERLY CONDUCT, LOUD NOISE, SHOPLIFTING, DUMPING, THE POSSESSION OF ALCOHOLIC BEVERAGES BY A MINOR, AND THE SUPPLY OF ALCOHOLIC BEVERAGES TO A MINOR OR AN INTOXICATED PERSON, AS WELL AS THE PROSCRIBED PENALTY FOR ORDINANCE VIOLATIONS.

BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE VILLAGE OF UPLANDS PARK, AS FOLLOWS:

SECTION A. It is determined that it is in the best interest of the Village of Uplands Park, Missouri, that it amend its Code of Ordinances by enactment of several new criminal ordinances related to loitering, disorderly conduct, loud noise, shoplifting, graffiti, dumping, the possession of alcoholic beverages by a minor, the supply of alcoholic beverages to a minor or an intoxicated person, as well as an ordinance related to general penalty for ordinance violations.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLIAGE OF UPLANDS PARK, MISSOURI, AS FOLLOWS:

SECTION 1: LOITERING

A. Definitions. As used in this Section, the following definitions shall apply:

LOITERING: Remaining idle in essentially one (1) location and shall include the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to delay; to stand around and shall also include the colloquial expression "hanging around".

PUBLIC PLACE: Any place to which the general public has access and a right to resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.

B. Loitering—Police Order To Disperse—Penalty. It shall be unlawful for any person to loiter, loaf, wander, stand or remain idle either alone and/or in consort with others in a public place in such manner so as to:

1. Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians.

2. Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress and regress, therein, thereon and thereto.

3. When any person causes or commits any of the conditions enumerated in Subsection (B) herein, a Police Officer or any Law Enforcement Officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of the Section.

SECTION 2: DISORDERLY CONDUCT

A. Definitions. As used in this Section, the following definitions shall apply:

INCITE A RIOT: Shall mean, but is not limited to, urging or instigating other persons to riot, but shall not be deemed to mean the mere oral or written:

1. Advocacy of ideas, or
2. Expression of belief, not involving advocacy of any act or acts of violence or assertion of the rightness of, or the right to commit, any such act or acts.

PUBLIC PLACE: Any place to which the general public has access and a right to resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, area or parks.

RIOT: A public disturbance involving:

1. An act or acts of violence by one (1) or more persons part of an assemblage of three (3) or more persons, which act or acts shall constitute a clear and present danger of, or shall result in, damage or injury to the property of any other person or to the person of any other individual; or
2. A threat or threats of the commission of an act or acts of violence by one (1) or more persons part of an assemblage of three (3) or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in, damage or injury to the property of any other person or to the person of any other individual.

B. Disorderly Conduct Prohibited. A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance, or if his/her conduct is likely to cause public danger, alarm, disorder or nuisance, he/she willfully does any of the following acts in a public place:

1. Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of his/her life, injury to his/her limb or health.
2. Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged.
3. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another.
4. Interferes with another's pursuant of a lawful occupation by acts of violence.
5. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered to do so by the Village Police or other lawful authority known to be such.
6. Is in a public place under the influence of an intoxicating liquor or drug in such condition as to be unable to exercise care for his/her own safety or the safety of others.
7. Resists or obstructs the performance of duties by Village Police or any other authorized official of the Village, when known to be such an official.
8. Incites, attempts to incite, or is involved in attempting to incite a riot.
9. Addresses abusive language or threats to any member of the Police Department, any other authorized official of the Village who is engaged in lawful performance of his/her duties, or any other person when such words have a tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment are not prohibited.
10. Damages, befouls or disturbs public property or the property of another so as to create a hazardous, unhealthy or physically offensive condition.
11. Makes or cause to be made any loud, boisterous and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park square or common, whereby the public peace is broken or disturbed, or the traveling public annoyed.
12. Fails to obey a lawful order to disperse by a Police Officer when known to be such an official, where one (1) or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is imminently threatened.
13. Uses abusive or obscene language or makes an obscene gesture.

C. Exemptions. Subsections (A) and (B) shall not be construed to suppress the right to lawful assembly, picketing, public speaking, or other lawful means of expressing public opinion not in contravention of other laws. (CC 1987 §§75.210—75.220)

SECTION 3: LOUD NOISE PROHIBITED

A. It shall be unlawful to play any radio, music player such as a "boom box", tape cassette, disc player, television, audio system or musical instrument in a manner or at a volume that disturbs the peace of any other person; except, however, that nothing herein shall be construed to prohibit an otherwise lawful public concert or public performance.

B. For the purpose of prosecution under this Section, it shall be presumed that the playing of any radio, music player such as a "boom box", tape cassette, disc player, television, audio system or musical instrument is disturbing to the peace of another person if played at a volume which is plainly audible to persons more than fifty (50) feet away from the source of the noise.

SECTION 4: SHOPLIFTING—DETENTION OF SUSPECT BY MERCHANT—LIABILITY PRESUMPTION

A. Definitions. As used in this Section, the following definitions shall apply:

MERCANTILE ESTABLISHMENT: Any mercantile place of business in, at or from which goods, wares and merchandise are sold, offered for sale or delivered from and sold at retail or wholesale.

MERCHANDISE: All goods, wares and merchandise offered for sale or displayed by a merchant.

MERCHANT: Any corporation, partnership, association or person who is engaged in the business of selling goods, wares and merchandise in a mercantile establishment.

WRONGFUL TAKING: Includes stealing of merchandise or money and any other wrongful appropriation of merchandise or money.

B. Any merchant, his/her agent or employee, who has reasonable grounds or probable cause to believe that a person has committed or is committing a wrongful taking of merchandise or money from a mercantile establishment, may detain such person in a reasonable manner and for a reasonable length of time for the purpose of investigating whether there has been a wrongful taking of such merchandise or money. Any such reasonable detention shall not constitute an unlawful arrest or detention, nor shall it render the merchant, his/her agent or employee, criminally or civilly liable to the person so detained.

C. Any person willfully concealing unpurchased merchandise of any mercantile establishment, either on the premises or outside the premises of such establishment, shall

be presumed to have so concealed such merchandise with the intention of committing a wrongful taking of such merchandise within the meaning of Subsection (A), and the finding of such unpurchased merchandise concealed upon the person or among the belongings of such person shall be evidence of reasonable grounds and probable cause for the detention in a reasonable manner and for a reasonable length of time, of such person by a merchant, his/her agent or employee, in order that recovery of such merchandise may be effected, and any such reasonable detention shall not be deemed to be unlawful, nor render such merchant, his/her agent or employee criminally or civilly liable.

SECTION 5: GRAFFITI

An owner or occupier of property within the Village shall remove, whether by painting over or other means, any graffiti which appears on his/her property. Failure to remove the graffiti shall be a violation of this Section.

SECTION 6: PROHIBITED DUMPING ON VILLAGE PROPERTY

A. No person, firm or corporation shall dump, deposit, place or leave any substance or materials of any kind on any property owned or maintained by the Village of Uplands Park, Missouri.

B. Although not required to make this Section effective, the Village shall cause to be erected signs stating "No Dumping, Penalty up to \$500.00."

SECTION 7: POSSESSION OR PURCHASE OF ALCOHOLIC BEVERAGES BY A PERSON UNDER 21 YEARS OF AGE

A. Any person under the age of twenty-one (21) years, who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor as defined in section 311.020 RSMo or non-intoxicating beer as defined in section 312.010 RSMo, or who is visibly intoxicated as defined in section 577.001 RSMo, or has a detectable blood alcohol content of more than two-hundredths of one percent (0.02%) or more by weight of alcohol in such person's blood is guilty of a violation of this ordinance.

B. For the purposes of determining violations of any provision of this ordinance or prosecution under this ordinance involving an alleged illegal sale or transfer of intoxicating liquor or non-intoxicating beer to a person under twenty-one years of age, a manufacturer-sealed container describing that there is intoxicating liquor or non-intoxicating beer therein need not be opened or the contents therein tested to verify that there is intoxicating liquor or non-intoxicating beer in such container. The alleged violator may allege there was not intoxicating liquor or non-intoxicating beer in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor or non-intoxicating beer therein contains intoxicating liquor or non-intoxicating beer.

SECTION 8: SUPPLYING ALCOHOLIC BEVERAGES TO A PERSON UNDER 21 YEARS OF AGE OR TO ANY INTOXICATED PERSON

A. Any person or establishment who has been granted a liquor license by the Village of Uplands Park or an employee of such person or establishment, who shall sell, vend, give away or otherwise supply any intoxicating liquor as defined in section 311.020 RSMo or non-intoxicating beer as defined in section 312.010 RSMo, in any quantity whatsoever to any person under the age of twenty-one (21) years, or to any person intoxicated or appearing to be in a state of intoxication as defined in section 577.001 RSMo, or to a habitual drunkard, and any person whomsoever except his or her parent or legal guardian who shall procure for, sell, give away or otherwise supply intoxicating liquor or non-intoxicating beer to any person under the age of twenty-one years, or to any intoxicated person or any person appearing to be in a state of intoxication, or to a habitual drunkard, shall be deemed guilty of a violation of this ordinance, except this ordinance shall not apply to the supplying of intoxicating liquor or non-intoxicating beer to a person under the age of twenty-one years for medical purposes only, or to the administering of such intoxicating liquor or non-intoxicating beer to any person by a duly licensed physician. No person shall be denied a license or renewal of a license issued under this ordinance solely due to a conviction for unlawful sale or supply to a minor when serving in the capacity as an employee of a licensed establishment.

B. Any owner, occupant, or other person or legal entity with a lawful right to the use and enjoyment of any property, except for a parent or legal guardian, who knowingly allows any person under the age of twenty-one years to consume intoxicating liquor or non-intoxicating beer on such property, or knowingly fails to stop any person under the age of twenty-one years from consuming intoxicating liquor or non-intoxicating beer on such property shall be deemed guilty of a violation of this ordinance.

C. It shall be a defense to prosecution under this ordinance if:

1. The defendant is a licensed retailer, club, drinking establishment, or caterer or holds a temporary permit or an employee thereof;

2. The defendant sold the intoxicating liquor or non-intoxicating beer to the minor with reasonable cause to believe the minor was twenty-one or more years of age; and

3. To purchase the intoxicating liquor or non-intoxicating beer, the person exhibited to the defendant a driver's license, Missouri non-driver's identification card, or other official or apparently official document, containing a photograph of the minor and purporting to establish that such minor was twenty-one years of age and of the legal age for consumption of intoxicating liquor or non-intoxicating beer.

SECTION 9: GENERAL PENALTY

A. Whenever in this Code or any other ordinance of the Village, or in any rule, regulation, notice or order promulgated by any officer or agency of the Village under authority duly vested in him/her or it, any act is prohibited or is declared to be unlawful or an offense or misdemeanor or ordinance violation or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor or ordinance violation, and no specific penalty is provided for the violation thereof, upon conviction of a violation of any such provision of this Code or of any such ordinance, rule, regulation, notice or order, the violator shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment in the Village or County Jail not exceeding ninety (90) days, or by both such fine and imprisonment; provided, that in any case wherein the penalty for an offense is fixed by a Statute of the State, the statutory penalty, and no other, shall be imposed for such offense, except that imprisonments may be in the Village Prison or workhouse instead of the County Jail.

SECTION B. This ordinance shall be in full force and effect from and after the date of its' passage and approval.

READ the first time the 12 day of December, 2005

READ THE SECOND TIME AND PASSED by the Board of Trustees of the Village of Uplands Park, this 12 day of December, 2005.

ATTEST:

Chauette Shaham

Village Clerk

Chairperson of the Board of Trustees

APPROVED BY THE CHAIRPERSON, this 12 day of December, 2005.

ATTEST:

