

CHAPTER 131: OFFENSES AGAINST PUBLIC PEACE

Section

Disorderly Conduct

131.01 Disorderly conduct defined, prohibited

Discharge of Weapons

131.15 Prohibition against weapon discharge; exceptions

Littering

131.30 Littering prohibited

131.31 Littering from vehicle prohibited

Consumption of Alcohol

131.45 Purpose

131.46 Definitions

131.47 Prohibited conduct

Sex Offender Registration

131.60 Title and intent

131.61 Definitions

131.62 Registration requirements

131.63 Update of registration information required

131.64 Sex offender registry

131.65 Location restrictions

131.66 Background and address checks

131.67 Village limitation of liability

131.99 Penalty

DISORDERLY CONDUCT

§ 131.01 DISORDERLY CONDUCT DEFINED, PROHIBITED.

A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof:

(A) He or she engages in fighting or in violent, tumultuous or threatening behavior;

(B) He or she makes unreasonable noise;

(C) In a public place, he or she uses abusive or obscene language, or makes an obscene gesture;

(D) Without lawful authority, he or she disturbs any lawful assembly or meeting of persons;

(E) He or she obstructs vehicular or pedestrian traffic;

(F) He or she congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or

(G) He or she creates a hazardous or physically offensive condition by any act which serves no legitimate purpose.

(Ord. 4-2005, passed 9-26-2005) Penalty, see § 131.99

DISCHARGE OF WEAPONS

§ 131.15 PROHIBITION AGAINST WEAPON DISCHARGE; EXCEPTIONS.

In accordance with the police power granted to it for the promotion of the health, comfort, safety and welfare of the society and in particular the residents of the village, it shall be unlawful for any person to discharge any weapon, including but not limited to, a gas or air gun, spring propelled gun, cross-bow, long bow, compound bow, wrist rocket or sling shot, within the corporate limits of the village, except when in discharge of an official duty or police function or in self-defense.

(Ord. 4-2005, passed 9-26-2005) Penalty, see § 131.99

LITTERING

§ 131.30 LITTERING PROHIBITED.

No person shall litter, sweep, throw or cast, or direct, suffer or permit any servant, agent or employee, or any other person under his or her control, to litter, sweep, throw or cast any ashes, garbage, papers, rubbish, refuse or litter of any kind whatsoever, in or upon any street, public place, vacant lot or area.

(Ord. 2-2006, passed 3-27-2006) Penalty, see § 131.99

§ 131.31 LITTERING FROM VEHICLE PROHIBITED.

No person operating, or in charge of or riding in any vehicle, shall cast, throw, drop, spill or scatter or permit to be cast, thrown, dropped, spilled or scattered therefrom any dirt, sand, gravel, building materials, garbage, bottles, metal containers, rubbish, trash of any description, refuse, litter or any other matter dangerous to animals, persons or to the health and safety of any person, in or upon any street sidewalk, public place, private or public property.

(Ord. 2-2006, passed 3-27-2006) Penalty, see § 131.99

CONSUMPTION OF ALCOHOL

§ 131.45 PURPOSE.

The use of alcoholic beverages within public places and areas in the village must be adequately controlled and regulated so as to prevent public disorder, littering and other acts that affect the health, safety and welfare of the residents of the village.

(Ord. 2-2006, passed 3-27-2006)

§ 131.46 DEFINITIONS.

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

ALCOHOLIC BEVERAGES. Includes beer, wine, liquor and all other alcoholic beverages as defined in N.Y. Alco. Bev. Cont Law § 3.

CONTAINER. Any bottle, can, glass, cup or similar article containing any alcoholic beverages. For the purpose of the local law, a **CONTAINER** shall be deemed open if the bottler's, brewer's or distiller's original seal has been broken.

PUBLIC PLACE. A place to which the public or a substantial group of persons has access, including but not limited to highways, streets, shopping plazas, parking lots, transportation facilities, schools, places of amusement, parks, playgrounds, parking areas, hallways, lobbies and any other places open or used by the general public. **PERMITTED PUBLIC PLACES** shall be those public places wherein the use and consumption of alcoholic beverages is authorized pursuant to a permit or license issued pursuant to the Alcoholic Beverage Control Law. The issuance of the permit deems the permit holder responsible for the use of alcoholic beverages and releases the village from any liability.

(Ord. 2-2006, passed 3-27-2006)

§ 131.47 PROHIBITED CONDUCT.

(A) No person shall carry, transport or have in his or her possession in any public place, other than permitted public places, any open, resealed or partly empty container containing an alcoholic beverage of any kind or description.

(B) No person shall consume any alcoholic beverage in a public place other than a permitted public place as defined in this local law.

(Ord. 2-2006, passed 3-27-2006) Penalty, see § 131.99

SEX OFFENDER REGISTRATION

§ 131.60 TITLE AND INTENT.

(A) *Title.* The title of this subchapter shall be the “Sexual Offenders Registration Act.”

(B) *Legislative findings and intent.*

(1) The Village Board finds that one of the highest priorities of local government is the protection of the health and safety of its citizens. This is especially true for children and other vulnerable members of society. The Village Board further finds that convicted sex offenders pose a significant continuing risk to society. Moreover, as the tragic murder of Jessica Lunsford in Florida in spring 2005 and other such events have shown, recidivism among convicted sexual offenders is a continuing problem.

(2) Recently, residents of the village have been advised that there are residing in village a number of convicted sex offenders. At least some of these sex offenders have registered as required by N.Y. Correct. Law Art. 6-C, commonly known as “Megan’s Law.” Some of these individuals have been categorized by the State Department of Corrections as Level II sex offenders who have been determined to be of moderate risk of committing another sex crime. Some of these individuals have been categorized as Level III sex offenders who have been determined to be of a high risk to commit another sexual crime. However, the Village Board finds that some sex offenders fail to register or fail to update their registration information when they move from one location to another.

(3) The Village Board finds that the protection of the victims and potential victims of sexual offenders in the village is a matter of unique local concern not fully and adequately addressed by state law. The Village Board finds that the disclosures required and the limitations contained herein will protect the citizens of the village and will provide to employers who contract with the village information that will assist these employers in protecting children who may come into proximity with a sex offender in the scope of employment.

(4) The Village Board finds that the village has not assessed and cannot assess the risk of recidivism of any particular sex offender or class of sex offenders and has made no determination of dangerousness of any particular sex offender or class of sex offenders. Rather, the Board finds that this subchapter is remedial in nature and designed to fill certain gaps in state law as well as to provide protections for residents of the village who receive certain services from the village. The Board further finds this subchapter to be the most narrowly tailored means of fulfilling its compelling interest in the safety of its citizens. Finally, the Board does not intend for any person to use the information required by this subchapter to harm or injure any registrant under the law.

(Ord. 8-2006, passed 10-23-2006)

§ 131.61 DEFINITIONS.

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

ADULT. Any person 18 years of age or older.

CHILD or CHILDREN. Persons under 18 years of age. The singular and plural shall include one another. If the applicable statute defining a crime against a **CHILD** refers to a child younger than 18, the younger age shall control.

DAY CARE CENTER. In or on or within any building, structure, athletic playing field, playground or land contained within the real property line of a program or facility caring for children by a licensed childcare provider. This shall include family and group childcare homes.

DEPARTMENT OF CORRECTIONS. The New York State Department of Corrections.

EMPLOYER. Any individual, partnership, association, corporation, business trust, legal representative or organized group of persons paying wages or any form of compensation to any person for services that directly or indirectly benefit the individual, partnership, association, corporation, business trust, legal representative or organized group of persons.

EXTENDED-STAY ESTABLISHMENT. Any hotel, motel, rooming house, inn, rooming unit, bed-and-breakfast, residence inn, country inn, motor court, RV park or motor lodge that lets or provides any space for occupancy by any person. Any place of business that provides services or utilities to motor homes, recreational vehicles, trucks with campers or any other motor vehicle in which an individual does nor may sleep overnight is an **EXTENDED-STAY ESTABLISHMENT** under this subchapter.

FPO. The Franklinville Police Department.

HOMELESS ADULT. Any adult who has been in the village for more than 24 hours or intends to be in village for more than 24 hours without a residence or place of lodging.

HOMELESS SHELTER. Any structure that provides temporary housing to a homeless adult.

INTERNET. An interactive computer service or system or an information service, system or access software provider that provides or enables computer access by multiple users to a computer server and includes, but is not limited to, an information service, system or access software provider that provides access to a network system commonly known as the **INTERNET**, or any comparable system or service and also includes, but is not limited to, a World Wide Web page, news group, message board, mailing list, or chat area on any interactive computer service or system or other on-line service. The **FPO WEBSITE** shall mean any Internet site made available by the FPD to the public, including any link to the website of the village.

OUTSIDE NEW YORK. Anywhere outside the geographical borders of the State of New York or any federal enclave, Indian trust lands or reservations located inside the geographical borders of New York.

PARK. An area of land set aside for public use, enjoyment, recreation; owned, managed and maintained by the municipality.

PLAY GROUNDS. An outdoor area set aside for recreation and play, especially by children, and often containing recreational equipment such as slides and swing.

REGISTRANT. Any person required to register under this subchapter.

REGISTRATION YEAR. One year from the date of first registration under this subchapter.

RESIDENT. Any person who lives in the village in any apartment or home, has a usual place of abode in the village, is domiciled in the village or temporarily present in the village and staying at a homeless shelter or an extended-stay establishment.

RESPONSIBLE ADULT. An adult who is not a sex offender.

SCHOOL. A licensed or accredited public, charter, private or religious school that offers instruction to students in kindergarten through any grade up to grade 12.

SCHOOL GROUNDS. In or on or within any building, structure, athletic playing field, playground or land contained within the real property boundary line of a public or private elementary, parochial, intermediate, junior high, vocational or high school.

SEX OFFENDER. Has the same meaning as the term is defined in N.Y. Correct. Law § 168-a, Subdivision 1.

SEX OFFENDER VIOLATION. A violation of any law defined as a sex offense in N.Y. Correct. Law § 168-a, Subdivision 2.

SEX OFFENSE. Has the same meaning as that term is defined in N.Y. Correct. Law § 168-a, Subdivision 2.

(Ord. 8-2006, passed 10-23-2006)

§ 131.62 REGISTRATION REQUIREMENTS.

(A) (1) Sex offenders who reside in the village and who are required to register with the Department of Corrections pursuant to N.Y. Correct. Law Art. 6-C must register with FPD.

(2) A sex offender must register with FPD within ten days after being released from incarceration, or ten days from the date of sentencing if not incarcerated, for a sex offender violation. A registrant under this section must provide FPD with the following information:

(a) His or her legal name, any other names or aliases he or she has used or is using and any new names he or she has applied for in the last year;

(b) His or her date of birth;

(c) His or her Social Security number;

(d) His or her current address, the address of any other residences he or she owns or the address of any other real property he or she owns or leases and the address of any other locations or places of lodging where the sex offender intends to stay or does in fact stay for more than three consecutive days at any time or an aggregate of ten or more days in a registration year. Homeless shelters and extended-stay establishments must be included in the disclosure required pursuant to this division (d). Pursuant to this division (A) above, the registrant must provide a description and location of any and all rented or owned spaces to which the registrant claims a right to privacy or a right to exclude others, including, but not limited to storage buildings;

(e) His or her place of employment and the name and telephone number of a contact person who knows his or her location at any and all times during employment hours or other times he or she performs work in the scope of his or her employment duties;

(f) His or her driver's license number and the license plate number, vehicle identification number and description by make and model of all vehicles registered to him or her, owned by him or her, driven by him or her during employment or otherwise available to him or her with regularity by consent from another; and

(g) A list of any and all sex offense violations of which he or she has been convicted or to which he or she has entered a plea of guilty.

(3) As an alternative to the registration information to be gathered in division (A)(2) above, the FPD may rely on the information as is gathered and provided by the state to the village pursuant to N.Y. Correct. Law Art. 6-C.

(B) Within five days from the effective date of this subchapter, a sex offender employed by an employer located in the village shall notify FPD that he is a registered sex offender. At the time a sex offender applies for or receives an offer of employment by an employer where the sex offender will be working substantially within the village, the sex offender shall notify the employer that he or she is a registered sex offender. All sex offenders shall provide the employer or prospective

employer with the current conditions of probation in writing including, if applicable, any conditions of probation that require the sex offender to stay away from vulnerable populations or conditions the sex offender's contact with vulnerable populations.

(Ord. 8-2006, passed 10-23-2006)

§ 131.63 UPDATE OF REGISTRATION INFORMATION REQUIRED.

(A) Any sex offender who provides inaccurate information to the FPD commits a separate violation of this subchapter.

(B) In the event of any change in registration information or addition of new information that would have been required in the initial or subsequent registration other than a change of address or employment governed by division (C) or (D) below, the registrant must notify FPD and provide new valid information within three days of the time the new information becomes known or should be known by the registrant.

(C) A sex offender who is required to register under this subchapter and elects to change the address of any place of lodging including but not limited to, a residence, extended-stay establishment or homeless shelter, must notify FPD of the prospective change before the change occurs.

(D) A sex offender who is required to register under this subchapter and changes his or her place of employment must notify FPD ten days before the voluntary change occurs or five days after the change is forced or compelled. Sex offenders must provide the name and telephone number of a new contact person within ten days of the time new work begins.

(E) When a sex offender registers under this subchapter, FPD may take and retain his or her photograph and a set of fingerprints. Additionally, FPD may record and retain the person's shoe size, a DNA sample, dental imprints and a description of tattoos, scars and other identifying features that would assist in identifying the sex offender, as determined by the FPD. As an alternative, the FPD may rely for DNA and other identifying information on data bases provided by the state.

(F) Following the initial registration, registrants, except homeless adults, are required to annually renew the registration before December 31 of each subsequent calendar year for 20 years. Homeless adults residing from time to time in homeless shelters must verify registration data in writing every 90 days as long as they are in village on a form provided by FPD. Sex offenders who have been convicted of two or more sex offenses must register for life.

(G) If any person receives a deferred sentence from any court for a sex offense that would otherwise trigger registration under this subchapter, that person must register as if convicted unless he or she obtains an order from a court of competent jurisdiction which, after an evidentiary hearing on the issue, rules that registration is not required on the grounds that registration would grossly prejudice his or her rights. If the charges are dismissed against the person at the completion of the deferred sentence, the person does not have to renew registration in subsequent registration years.

(H) Any sex offender currently incarcerated in a correctional institution and temporarily at large and free to move about in the village is required to register under this subchapter ten days before each release date. This division (H) includes but is not limited to persons on probation, parole, furlough, work release, weekend sentences or any similar program that results in or causes the person to be outside the confines of the institution for any reason.

(Ord. 8-2006, passed 10-23-2006)

§ 131.64 SEX OFFENDER REGISTRY.

(A) FPD may maintain a local registry of sex offenders registered under this subchapter. The village may maintain a database of sex offenders distinct from any registry of sex offenders maintained by the state. Registration under any registration program maintained by the state does not exempt a sex offender from registration under this subchapter.

(B) The village will make available and disseminate sex offender registration information as authorized by state law on the FPD's own website on the Internet for any sex offender classified as a Level II or Level III sex offender by the State Department of Corrections. Inclusion of a sex offender in FPD's data base and website is based solely on the fact of a prior conviction and not based on any assessment of the current degree of dangerousness posed by any particular sex offender.

(C) The website will conspicuously include the following statement: "The village's decision to post sex offenders on this website is based on the fact that the sex offender was convicted of a sex offense in the past. The village has not assessed the specific risk posed by any particular individual sex offender or class of sex offenders and has made no determination regarding the current dangerousness or degree of dangerousness of any individual sex offender or class of sex offenders. The main purpose of providing this data on the Internet is to make the information more easily available and accessible, not to warn about any specific individual."

(Ord. 8-2006, passed 10-23-2006)

§ 131.65 LOCATION RESTRICTIONS.

After the effective date of this subchapter, sex offenders shall not newly occupy any real property, acquire any real property by lease or otherwise or establish a place of lodging within one-fourth of a mile of a school, day-care center, playground, park or school grounds.

(Ord. 8-2006, passed 10-23-2006)

§ 131.66 BACKGROUND AND ADDRESS CHECKS.

(A) *Village contractors.* All persons or entities that enter into contracts with the village and employ any person that may be alone with a child within the scope of the performance of the contract shall conduct a background search of any and all such employees and compare the background search to any applicable registration information available on the FPD's website and the sex offender hotline maintained by the state. Any failure by the contractor to comply is a material breach of the contract and entitles the village to terminate the contract. This division includes but is not limited to 501(C)(3) entities and charitable entities. Any person or entity to which this division applies shall notify FPD immediately if that person or entity has or obtains any information about any registrant that does not conform with the information the registrant provided to the village pursuant to this subchapter.

(B) *Address certification checks.* FPD may conduct address verification checks to substantiate that registrants are living where they claim to live. The check shall verify that the claimed address exists and that the registrant in fact lives at the claimed address. If FPD is unable to verify the address, the registrant may be contacted by mail or otherwise and ordered to submit a sworn affidavit to FPD that the registrant in fact lives at the claimed address. FPD may contact and interview any person living or located near the claimed address. The provisions of this division are in addition to any other lawful investigation FPD may undertake.

(Ord. 8-2006, passed 10-23-2006)

§ 131.67 VILLAGE LIMITATION OF LIABILITY.

Nothing in this subchapter creates or shall create a cause of action against the village not already authorized under existing law. Without limitation, the village is not liable to any person harmed who claims that notice under this subchapter may have prevented the harm.

(Ord. 8-2006, passed 10-23-2006)

§ 131.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) A person who violates § 131.01 shall be fined not less than \$100 nor more than \$250.

(C) Any person committing an offense of unlawful discharge of a weapon within the corporate limits of the village in violation of § 131.15, upon conviction thereof, shall be punishable by a fine not less than \$100 nor more than \$250.

(D) A violation of §§ 131.30 or 131.31 shall constitute disorderly conduct, and a person violating this local law shall be and hereby is declared a disorderly person subject to penalties as stated in § 10.99.

(E) Violations of §§ 131.45, 131.46 or 131.47 shall constitute a violation as defined in N.Y. Penal Law Art. 10, § 10.00(3). The penalty for violation of this local law shall be subject to penalties as stated in § 10.99.

(F) Each violation of §§ 131.60 through 131.67 by a sexual offender shall be punishable by a fine of \$250 and/or 15 days in jail. Each day that a registrant should have registered or supplemented his or her registration but failed to do so shall constitute a separate offense. It is the intent of this Board that violations of §§ 131.60 through 131.67 should not be treated by the courts as lesser included offenses that merge into a violation of N.Y. Correct. Law Art. 6-C. The village shall also be entitled to injunctive relief to enforce the provisions of this subchapter.

(Ord. 4-2005, passed 9-26-2005; Ord. 2-2006, passed 3-27-2006; Ord. 8-2006, passed 10-23-2006)