

CHAPTER 65

PUBLIC SAFETY

ARTICLE I

FIREARMS

§65.1 **Discharge of firearms, air guns or spring guns**

No person shall discharge any firearm, air gun, spring gun, sling shot or other instrument or weapon within the Village except in self-defense or in the discharge of official duty or during a memorial service or veteran's funeral or at an indoor rifle range operated under the supervision, guidance and instruction of a duly commissioned officer of one (1) of the armed forces, including the national guard and reserve forces, or a duly qualified adult citizen of the United States who has been granted a certificate as an instructor of small arms practice issued by one (1) of the armed forces of the United States, the adjutant general of the state or by the National Rifle Association of America.

ARTICLE II

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§65.21 **Fire hydrants**

No person shall wilfully or maliciously destroy or injure, mar or mark any hydrant or other property connected with the water works belonging to the Village of Avon; and no person, except a fireman for the use of the Fire Department shall open or tamper with any hydrant, valve or stopcock connected with the water works of the said Village without having first obtained the written consent of the Superintendent of Public Works.

§65.22 **False alarms forbidden**

No person shall wilfully give or cause to be given any false alarm of fire within said Village.

§65.23 **Conduct at fires**

No person shall wilfully obstruct the operation of the Fire Department of said Village; or shall wilfully neglect or refuse to obey or attempt to prevent or obstruct the execution of any lawful order of the officers of the Fire Department.

§65.24 MUNICIPAL CODE

§65.24 **Tampering with fire equipment prohibited**

No person shall wilfully or maliciously break, mar, injure or tamper with any engine, truck, hose cart, hose or other equipment of the Fire Department.

§65.25 **Tampering with alarm equipment forbidden**

No person shall wilfully or maliciously destroy, deface, mark, mar or tamper with or cause to be destroyed, defaced, marked, marred or tampered with, any fire alarm box or annunciator or lock or key thereof, or wire or wires connected therewith, or any other part of said fire alarm system in the Village of Avon, or otherwise

maliciously or wilfully injure such system.

ARTICLE III

CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC

PLACES

§65.31 **Legislative intent and purpose**

A. The Board of Trustees finds that the unrestricted consumption of alcoholic beverages in certain public places often leads to disorders and related problems as well as the littering of such public places and is disturbing to the public and threatens peace and good order.

B. The purpose of this article is to prohibit the consumption of alcoholic beverages in certain public places in order to prevent disorderly behavior and the littering of public places; and to protect the public health, safety and welfare and to promote the public good.

§65.32 **Consumption of alcoholic beverages in certain public places**

A. Prohibited.

No person shall with the Village of Avon possess, drink or otherwise consume liquor, wine, beer or other alcoholic beverages while such person is in or upon any public sidewalk, street, highway, parking lot, public park, the Village Building or such other public place as defined by §240.00 of the Penal Law of the State of New York, without prior written consent of the Board of Trustees. [¶A amended by Local Law #8 of 1986, 10/7/86]

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B. Possession of open containers.

No person shall carry or have in his or her possession, within the Village of Avon, any open bottle or open container containing liquor, wine, beer or other alcoholic beverage with the intent of the possessor or another to consume same in any of the public places described in Subdivision A of this section.

C. Presumptions.

1. The possession of an open bottle or open container unwrapped or with the top exposed in a public place as herein defined shall be presumptive evidence that such open bottle or open container is intended to be consumed in a public place.

2. An open bottle or open container in any vehicle while in or on any public sidewalk, street, highway, parking lot, public park or other public place as defined by §240.00 of the Penal Law of the State of New York shall be presumptive evidence that the same is in the possession of all the occupants thereof.

§65.33 **Exceptions**

A. The provisions of §65.32 shall apply to all public parks except Avon Driving Park and Five Arch Bridge Park in the Village between the hours of 9:00 a.m. to 10:00 p.m. unless extended by permit issued by Avon Park Commission.

B. The provisions of §65.32 shall not apply to any activity sponsored by an organization having proper license to dispense alcoholic beverages upon public property in the Village, said license having been issued by the Alcoholic Beverage Control Board of Livingston County or such organization having obtained permission from the Avon Park Commissioner for the granting of this exception. No fee shall be charged for the granting of this permission. This exception shall apply only to the public property in the Village upon which the alcoholic beverages are dispensed.

§65.34 **Discarding containers**

No person shall break, leave, discard or deposit in any manner any glass, bottle, glassware, crockery, can or container of any kind, make or description in any public street, sidewalk, park, parking area or public place of any nature within the limits of the Village.

§65.35 MUNICIPAL CODE

§65.35 **Open containers in vehicles**

Any open, resealed, reopened or partially empty bottle, can or container of any kind or description containing an alcoholic beverage of any kind or description, as defined by Section 3 of the Alcoholic Beverage Control Law, found in or on any vehicle within the limits of the Village shall be presumptive evidence that the same is in the possession of the owner and/or driver and of the occupants of said vehicle and in violation of this chapter. [Article III was amended by Local Law #2 of 1983, 8/16/83]

ARTICLE IV

PEACE AND GOOD ORDER

§65.41 **Disorderly conduct forbidden**

No person shall engage in any disorderly, noisy, riotous or tumultuous conduct within the Village of Avon disturbing the peace and quiet of the Village of any lawful meeting or assembly therein.

§65.42 **Crowds restricted**

No crowd of persons shall collect or congregate upon any street, alley or sidewalk in said Village or in doorways or stairways and adjacent thereto or loiter about such places so as to unreasonably interfere with the use of such places by other persons.

§65.43 **Profane language forbidden**

No persons shall use any profane, vulgar or obscene language or indulge in any vulgar or obscene conduct, in any street or public place in this Village.

§65.44 **Keeping of gambling place prohibited**

No person shall have or keep a house or building, room or place in this Village in or at which any playing cards, dice or any instrument, device or things or which by his consent or knowledge shall be kept or used for gambling purposes or for the purpose of playing for money or for valuable things, by chance.

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ARTICLE V

RAILROADS

§65.51 **Obstructing highway crossings**

A. Any officer or employee who shall intentionally obstruct and any owner, officer or employee of a railroad corporation who shall intentionally cause to be obstructed any highway crossing with any locomotive, train or car for a longer period than five (5) consecutive minutes shall be guilty of a violation.

B. Notwithstanding the foregoing provisions, no owner, officer or employee of a railroad corporation shall be subject to any civil, criminal or other penalty where such person has no control over the situation causing the obstruction or where the locomotive, train or car cannot be moved without endangering the safety of the passengers, the public or freight.

ARTICLE VI

INJURY OF PROPERTY

§65.61 **Injury of property**

No person shall willfully or maliciously break, mark, remove, deface or otherwise injure any building, sidewalk or crosswalk, fence, awning sign, signboard, tree, shrubbery or ornamental thing in the Village of Avon; or tear down or mutilate any notice or handbill lawfully posted.

ARTICLE VII

FIREWORKS PERMITS

§65.71 **Designation of Mayor as "Permit Authority"**

Pursuant to Subdivision 1 of §405.00 of the Penal Law of the State of New York, the Mayor is hereby designated the "Permit Authority" to grant and issue permits for the public display of fireworks in accordance with the provisions of §405.00 of the Penal Law.

§65.100

MUNICIPAL CODE

ARTICLE VIII

PENALTY

§65.100 **Penalty**

Each violation of any provision of this chapter shall constitute a violation pursuant to the Penal Law. However, in no case shall the fine imposed exceed Two Hundred Fifty Dollars (\$250.00). Each day that a violation

shall continue to exist shall be deemed to be a separate violation.

Cross-references:

Animals. Chapter 54
 nuisances. §54.22
Fire prevention. Chapter 55
Streets and public places. Chapter 44
 use and care. §44.1 et seq.
Traffic and vehicles. Chapter 60
Trees, injuring. §44.31

References:

Disorderly conduct. Penal L §240.20
Disturbing public assemblage. Penal L §240.20, §240.21
False report. Penal L §240.50
Firearms (see weapons, infra.)
Firefighting operations, obstructing. Penal L §195.15
 driving over fire hose. V & T L §1218
 following fire apparatus. V & T L §1217
 parking within 15 feet of fire hydrant. V & T L §1202(3)[b]
 rules of the road, emergency vehicles. V & T L §1104
Fireworks, sale or possession. Penal L §270.00
Gambling. Penal L §225.00 - §225.40 (See People v. Wilkerson, 73 Misc2d 895 which held that a municipality may not prohibit gambling for amusement or recreation; that Penal Law prohibits professional or commercial gambling and State has preempted the field.)
Open container. (See People v. Lee, 58 NY2d 491 which held that an open container ordinance prohibiting mere possession of an open container and not coupled with intent to consume an alcoholic beverage in a public place was unconstitutional.
Property, reckless endangerment of. Penal L §145.25
Prostitution offenses. Penal L §230.00 et seq.
Weapons, discharging in public places. Penal L §265.35
 minors, possession by. Penal L §265.05