

ORDINANCE No. 198

An Ordinance Pertaining to Retail Fraud, and Malicious Destruction of Property

THE VILLAGE OF OTISVILLE ORDAINS:

SECTION 1. DEFINITIONS

- (a) The term "public place" as used in this Ordinance, shall mean any street, alley, park, parking lot, public building, any place of business or assembly open to or frequented by the public, and any other place which is open to the public view, or to which the public has access.
- (b) The term "property" shall include but not be limited to the following: money, goods, or chattels, bank note or bill, bond, promissory note, due bill, bill of exchange or other bill, draft, order or certificate, book of accounts, for or concerning money or goods due or to become due, or to be delivered, or any deed or writing containing a conveyance of land, or any other valuable contract in force, or any receipt, release or defeasance, or any writ, process or public record.

SECTION 2. PROHIBITED ACTIVITIES

No person shall engage in any act or practice, or abet such person to do such act or to engage in such practice hereinafter enumerated:

A. Aiding and abetting.

Whenever any act is prohibited by this Ordinance, such prohibition shall extend to and include the causing, securing, aiding or abetting of another person to do such act.

B. Breaking and entering coin box.

It shall be unlawful for any person within the village to maliciously and willfully, with or without the aid and use of any key, instruments, device or explosive, blow or attempt to blow, to force or attempt to force an entrance into any coin box, depository box, newspaper coin box, or other receptacle established and maintained for the convenience of the public, which said person does not own or is not an agent of the owner, or for any person not making payment for article of merchandise or service, wherein is contained any money or thing of value, to extract or obtain, or attempt to extract or obtain, such

money or thing of value so deposited or contained therein, shall be guilty of a misdemeanor.

C. Larceny; retail fraud.

(a) Larceny under \$200.00. A person who shall take any property not his own or to which he has no legal right or claim from another person, or building or vehicle having a value of \$200.00 or less shall be guilty of the misdemeanor offense of larceny.

(b) Receiving and concealing. A person who shall receive or possess any property of another having a value of \$200.00 or less knowing the same to be stolen shall be guilty of a misdemeanor.

(c) Retail fraud. A person who does any of the following in a store or in its immediate vicinity is guilty of a retail fraud:

(1) While a store is open to the public, alters, transfers, removes and replaces, conceals, or otherwise misrepresents the price at which property is offered for sale, with the intent not to pay for the property or to pay less than the price at which the property is offered for sale, if the resulting difference in price is less than \$200.00.

(2) While a store is open to the public, steals property of the store that is offered for sale at a price of less than \$200.00.

(3) With intent to defraud, obtains or attempts to obtain money or property from the store as a refund or exchange for property that was not paid for and belongs to the store, if the amount of money, or the value of the property, obtained or attempted to be obtained is less than \$200.00.

D. Checks without sufficient funds.

Any person who, with intent to defraud, shall make or draw or utter or deliver any check, draft or order for the payment of money, to apply on account or otherwise, upon any bank or other depository, knowing at the time of such making, drawing, uttering or delivering, that the maker, or drawer, has not sufficient funds in or credit with such bank or other depository, for the payment of such check, draft, or order, in full, upon its presentation, or any person who, with the intent to defraud, shall make, draw, utter or deliver any check, draft or order for the payment of money to apply on account or otherwise, upon any bank or other depository and who shall not have sufficient funds for the payment for same when presentation for payment is made to the drawee, except where such lack of funds is due to garnishment, attachment, levy, or other lawful cause and such fact was not known to the person who made, drew, uttered or delivered the instrument at the time of so doing, shall, if the amount payable in the check is less than \$100.00, be guilty of a misdemeanor.

F. Malicious mischief; destruction of property.

No person shall willfully destroy, take, damage, alter, or in any manner deface any property of another or that which is not his own, or remove same from the building or place where it may be kept, placed or stored, without proper authority, or mark or post hand bills on, or in any manner mark the walls of any public building, fence, tree, or pole within the village or destroy, take, disconnect, tamper with, or meddle with any village water meter or any other property belonging to the village.

SECTION 3. PENALTIES

Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be punished by a fine not exceeding One Hundred (\$100.00) Dollars plus the cost of prosecution, or imprisonment in the Genesee County jail for a period not exceeding ninety (90) days, or both. Cost shall include all expenses, direct and indirect, to which the Village has been put in connection with the misdemeanor violation.

SECTION 4. SEVERABILITY

This Ordinance is deemed to be severable and if any part shall be declared invalid by any court, such judgment or decree shall affect only that part directly involved in the controversy.

SECTION 5. EFFECTIVE DATE

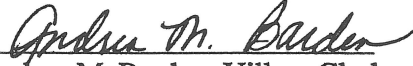
This Ordinance shall take effect ten (10) days after publication as set forth below.

SECTION 6. POSTING OF ORDINANCE

This Ordinance was approved by a vote of the Village of Otisville Council; a quorum being present on the 20th day of October, 2008 and ordered published in five (5) public places within the Village of Otisville.

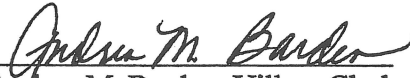


Tom Bess Jr., Village President



Andrea M. Barden, Village Clerk

I, Andrea M. Barden, do hereby certify that the foregoing Ordinance No. 198 was duly adopted at a regular meeting of the Otisville Village Council held on the 20th day of October, 2008, and posted in five (5) public places in the village.



Andrea M. Barden, Village Clerk