

CHAPTER 136: OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

Section

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LITTER

§ 136.01 DEFINITIONS.

For the purposes of §§ 136.01 through 136.07 the following words and phrases shall have the following meanings ascribed to them respectively.

LITTER. Any discarded, used, or unconsumed substance or waste. **LITTER** may include, but is not limited to, any garbage, trash, refuse, debris, rubbish, grass clippings, or other lawn or garden waste; newspaper, magazines, glass, metal, plastic or paper containers, or other packaging construction material, abandoned vehicle, as defined in ILCS Ch. 625, Act 5, §§ 1-100 *et seq.*, motor vehicle parts, furniture, oil, carcass of a dead animal, any nauseous or offensive matter of any kind; any object likely

to injure any person or create a traffic hazard; potentially infectious medical waste as defined in ILCS Ch. 415, Act 5, § 3.360; or anything else of an unsightly or unsanitary nature, which has been discarded, abandoned, or otherwise disposed of improperly. (ILCS Ch. 415, Act 105, § 3)

MOTOR VEHICLE. As defined in Chapter 70 of this Code of Ordinances.

§ 136.02 DUMPING OR DEPOSITING OF LITTER PROHIBITED; EXEMPTIONS.

(A) No person shall dump, deposit, drop, throw, discard, leave, cause, or permit the dumping, depositing, dropping, throwing, discarding, or leaving of litter upon any public or private property in this village, or upon or into any river, lake, pond, or other stream or body of water in this village unless:

(1) The property has been designated by the village or any of its agencies for the disposal of litter, and the litter is disposed of on that property in accordance with the applicable rules and regulations of the state Pollution Control Board;

(2) The litter is placed into a receptacle or other container intended by the owner or tenant in lawful possession of that property for the deposit of litter;

(3) The person is the owner or tenant in lawful possession of the property or has first obtained the consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of the owner or tenant and does not create a public health or safety hazard, a public nuisance, or a fire hazard;

(4) The person is acting under the direction of proper public officials during special cleanup days; and/or

(5) The person is lawfully acting in or reacting to an emergency situation where health and safety is threatened, and removes and properly disposes of any litter, including but not limited to potentially infectious medical waste as defined in ILCS Ch. 415, Act 5, § 3.360, when the emergency situation no longer exists.

(B) (1) Any person convicted of a violation of this section is guilty of a Class B misdemeanor. A second conviction for an offense committed after the first conviction is a Class A misdemeanor. A third or subsequent violation, committed after a second conviction is a Class 4 felony to be prosecuted under appropriate state law.

(2) In addition to any fine imposed under this section, the court may order that the person convicted of such a violation remove and properly dispose of the litter, may employ special bailiffs to supervise such removal and disposal, and may tax the costs of such supervision as costs against the person so convicted.

(3) The penalties prescribed in this section are in addition to, and not in lieu of, any penalties, rights, remedies, duties or liabilities otherwise imposed or conferred by law.

(4) An individual convicted of violating this section by disposing of litter upon a public highway may, in addition to any other penalty, be required to maintain litter control for 30 days over a designated portion of that highway, including, at the discretion of the agency having jurisdiction over the section of highway in question, the site where the offense occurred, as provided in Section 50 of the Illinois Adopt-A-Highway Act. (ILCS Ch. 415, Act 105, §§ 4 and 8)

§ 136.03 DUMPING OR DEPOSITING LITTER FROM MOTOR VEHICLE PROHIBITED.

(A) No person shall dump, deposit, drop, throw, discard, or otherwise dispose of litter from any motor vehicle upon any public highway, upon any public or private property or upon or into any river, lake, pond, stream, or body of water in this village except as permitted under § 136.02 (A)(1) through (5). Nor shall any person transport, by any means, garbage or refuse from any dwelling, residence, place of business, farm, or other site to and deposit the material in, around, or on top of trash barrels or other receptacles placed along public highways or at roadside rest areas.

(B) (1) Any person convicted of a violation of this section is guilty of a Class B misdemeanor. A second conviction for an offense committed after the first conviction is a Class A misdemeanor. A third or subsequent violation, committed after a second conviction is a Class 4 felony to be prosecuted under appropriate state law.

(2) In addition to any fine imposed under this section, the court may order that the person convicted of such a violation remove and properly dispose of the litter, may employ special bailiffs to supervise such removal and disposal, and may tax the costs of such supervision as costs against the person so convicted.

(3) The penalties prescribed in this section are in addition to, and not in lieu of, any penalties, rights, remedies, duties or liabilities otherwise imposed or conferred by law.

(4) An individual convicted of violating this section by disposing of litter upon a public highway may, in addition to any other penalty, be required to maintain litter control for 30 days over a designated portion of that highway, including, at the discretion of the agency having jurisdiction over the section of highway in question, the site where the offense occurred, as provided in Section 50 of the Illinois Adopt-A-Highway Act. (ILCS Ch. 415, Act 105, §§ 5 and 8)

§ 136.04 ACCUMULATION OF LITTER PROHIBITED.

(A) No person shall allow litter to accumulate upon real property, of which the person charged is the owner or tenant in control, in such a manner as to constitute a public nuisance or in such a manner that the litter may be blown or otherwise carried by the natural elements on to the real property of another person.

(B) (1) Any person convicted of a violation of this section is guilty of a Class B misdemeanor. A second conviction for an offense committed after the first conviction is a Class A misdemeanor. A third or subsequent violation, committed after a second conviction is a Class 4 felony to be prosecuted under appropriate state law.

(2) In addition to any fine imposed under this section, the court may order that the person convicted of such a violation remove and properly dispose of the litter, may employ special bailiffs to supervise such removal and disposal, and may tax the costs of such supervision as costs against the person so convicted.

(3) The penalties prescribed in this section are in addition to, and not in lieu of, any penalties, rights, remedies, duties or liabilities otherwise imposed or conferred by law.

(4) An individual convicted of violating this section by disposing of litter upon a public highway may, in addition to any other penalty, be required to maintain litter control for 30 days over a designated portion of that highway, including, at the discretion of the agency having jurisdiction over the section of highway in question, the site where the offense occurred, as provided in Section 50 of the Illinois Adopt-A-Highway Act. (ILCS Ch. 415, Act 105, §§ 6 and 8)

§ 136.05 PRESUMPTION OF VIOLATION BY OPERATOR THROWING LITTER FROM MOTOR VEHICLE.

Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle not carrying passengers for hire, the presumption is created that the operator of that motor vehicle has violated § 136.03, but that presumption may be rebutted. (ILCS Ch. 415, Act 105, § 9)

§ 136.06 RECEPTACLES REQUIRED IN PUBLIC AREAS.

(A) In order to assist the public in complying with this chapter, the owner or person in control of any property which is held out to the public as a place for assemblage, the transaction of business, recreation, or as a public way shall cause to be placed and maintained receptacles for the deposit of litter of sufficient volume and in sufficient numbers to meet the needs of the numbers of people customarily coming on or using the property.

(B) For purposes of this section, ***PROPERTY HELD OUT TO THE PUBLIC FOR THE TRANSACTION OF BUSINESS*** includes, but is not limited to commercially operated parks, campgrounds, drive-in restaurants, automobile service stations, business parking lots, car washes, shopping centers, marinas, boat launching areas, industrial parking lots, boat moorage and fueling stations, piers, beaches and bathing areas, airports, roadside rest stops, drive-in movies, and shopping malls; and ***PROPERTY HELD OUT TO THE PUBLIC FOR ASSEMBLAGE, RECREATION, OR***

AS A PUBLIC WAY includes, but is not limited to any property that is publicly owned or operated for any of the purposes stated in the definition in this division for *PROPERTY HELD OUT TO THE PUBLIC FOR THE TRANSACTION OF BUSINESS* but excludes state highway rights-of-way and rest areas located thereon.

(C) If no litter receptacles are placed on property described in this section, the owner or person in control of the property shall be fined \$100 for violating this section. If the owner or person in control of the property has placed litter receptacles on his/her property but the number or size of the receptacles has proved inadequate to meet the needs of the numbers of people coming on or using his/her property as indicated by the condition and appearance of that property, and the owner or person in control has failed to provide sufficient or adequate receptacles within ten days after being made aware of that fact by written notice from the police, he/she shall be fined \$25 for each receptacle not so provided and maintained.

(ILCS Ch. 415, Act 105, § 10)

§ 136.07 POWER OF COURT TO ORDER REMOVAL OF LITTER.

(A) Any person convicted of a violation of §§ 136.02, 136.03, and 136.04 is guilty of a Class B misdemeanor. A second conviction for an offense committed after the first conviction is a Class A misdemeanor. A third or subsequent violation, committed after a second conviction is a Class 4 felony to be prosecuted under appropriate state law.

(B) In addition to any fine imposed under this section, the court may order that the person convicted of such a violation remove and properly dispose of the litter, may employ special bailiffs to supervise such removal and disposal, and may tax the costs of such supervision as costs against the person so convicted.

(C) The penalties prescribed in this section are in addition to, and not in lieu of, any penalties, rights, remedies, duties or liabilities otherwise imposed or conferred by law.

(D) An individual convicted of violating §§ 136.02, 136.03, and 136.04 by disposing of litter upon a public highway may, in addition to any other penalty, be required to maintain litter control for 30 days over a designated portion of that highway, including, at the discretion of the agency having jurisdiction over the section of highway in question, the site where the offense occurred, as provided in Section 50 of the Illinois Adopt-A-Highway Act.

(ILCS Ch. 415, Act 105, § 8)

POSSESSION OF DRUGS AND DRUG PARAPHERNALIA**§ 136.20 PARAPHERNALIA USED WITH CANNABIS.**

(A) It shall be unlawful for any person to sell or deliver, or possess with intent to sell or deliver, or possess with intent to sell or deliver, any equipment of any kind which is used, or intended for use, as a container of cannabis or as an instrument for the use of cannabis as defined in this section.

(B) For the purpose of this section:

CANNABIS. 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 the plant, and any compound, manufacturer, salt, derivative, mixture, or preparation of the 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 the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

INSTRUMENT FOR THE USE OF CANNABIS. Any equipment or property which is substantially and instrumentally connected with the use of cannabis.

(C) The provisions of this section shall not apply to:

(1) Any person who has been authorized by the Department of Mental Health and Developmental Disabilities, with the approval of the Department of Law Enforcement, to possess and deliver substances containing cannabis;

(2) Persons registered under federal law to conduct research with cannabis.

(D) Any person violating the provisions of this section shall be fined not less than \$50 nor more than \$750 for each offense.

('79 Code, § 133.09) (Ord. 1025, passed 10-1-79)

§ 136.21 PROHIBITING THE SALE AND POSSESSION OF ITEMS DESIGNED OR MARKETED FOR USE WITH ILLEGAL CANNABIS OR DRUGS.

(A) *Jurisdiction.* Pursuant to the police powers vested in the village by the Illinois Constitution, this section shall be in effect within the village to prohibit the sale and possession of items intended for use or designed for use with illegal cannabis or drugs.

(B) *Definitions.* The term ***DRUG PARAPHERNALIA*** means all equipment, products, and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Cannabis Control Act and ILCS Ch. 720, Act 550, §§ 1 *et seq.* It includes but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances.

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances.

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana.

(8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances.

(9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

(11) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

(b) Water pipes.

(c) Carburetion tubes and devices.

(d) Smoking and carburetion masks.

(e) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.

(f) Miniature cocaine spoons and cocaine vials.

- (g) Chamber pipes.
- (h) Carburetor pipes.
- (i) Electric pipes.
- (j) Air-driven pipes.
- (k) Chillums.
- (l) Bongs.
- (m) Ice pipes or chillers.

(13) In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- (a) Statements by an owner or by anyone in control of the object concerning its use.
- (b) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.
- (c) The proximity of the object, in time and space, to a direct violation of this subchapter.
- (d) The proximity of the object to controlled substances.
- (e) The existence of any residue of controlled substances on the object.
- (f) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he/she knows, or should reasonably know, intend to use the object to facilitate a violation of this subchapter. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this subchapter shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.
- (g) Instructions, oral or written, provided with the object concerning its use.
- (h) Descriptive materials accompanying the object which explain or depict its use.
- (i) National and local advertising concerning its use.
- (j) The manner in which the object is displayed for sale.

(k) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

(l) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.

(m) The existence and scope of legitimate uses for the object in the community.

(n) Expert testimony concerning its use.

(C) *Possession of drug paraphernalia.* It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this subchapter. Any person who violates this section may be fined up to \$750.

(D) *Manufacture or delivery of drug paraphernalia.* It is unlawful for any person to deliver, possess with intent to deliver, or manufacture, with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this subchapter. Any person who violates this section, upon conviction, may be imprisoned for not more than three months or fined \$750, or both.

(E) *Delivery of drug paraphernalia to a minor.* Any person 18 years of age or over who violates division (D) of this section by delivering drug paraphernalia to a person under 18 years of age who is at least three years his/her junior, upon conviction, may be imprisoned for not more than six months or fined \$750, or both.

(F) *Advertisement of drug paraphernalia.* It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this section, upon conviction, may be imprisoned for not more than 30 days or fined \$750, or both.

(G) *Civil forfeiture.* All drug paraphernalia manufactured, delivered, possessed, intended for use, or designed for use defined in division (B) of this section shall be seized without a warrant by a peace officer and the paraphernalia shall be subject to forfeiture.

(H) *Severability.* If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or other applications of the

section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

('79 Code, § 133.10) (Ord. 1150, passed 7-19-82)

§ 136.22 POSSESSION OF CANNABIS PROHIBITED.

(A) Definition.

CANNABIS. 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 the plants; and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, 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 the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(B) It shall be unlawful for any person knowingly to possess 30 grams or less of any substance containing cannabis.

(C) The provisions of this section shall not apply to:

(1) Any person who has been authorized by the Department of Mental Health and Developmental Disabilities with the approval of the Department of Law Enforcement to possess and deliver substances containing cannabis;

(2) Persons registered under federal law to conduct research with cannabis.

(D) Any person violating the provisions of this section shall be fined not less than \$50 nor more than \$750 for each offense.

(E) The court may impose a sentence of supervision upon any person if, having regard to the nature and circumstances of the offense and the history, character, and condition of the person, the court is of the opinion that a formal conviction under this section is inappropriate.

(1) When a person is placed on supervision, the court shall enter an order for supervision specifying the period of the supervision, and shall defer further proceedings in the case until the conclusion of the period.

(2) The period of supervision shall be reasonable under all the circumstances of the case, but may not be longer than one year.

(3) The court may, in addition to the other considerations, require the person to:

(a) Make a report to, appear in person before, or participate with the court or such persons or social agency as directed by the court in the order of supervision;

(b) Work or pursue a course of study or vocational training;

(c) Undergo medical or psychiatric treatment; or treatment for drug addiction or alcoholism;

(d) In the case of a minor, reside with his/her parents or in a foster home;

(e) In the case of a minor, attend school;

(f) In the case of a minor, attend a nonresidential program for youth.

(4) The court shall defer entering any judgment on the charges until a conclusion of the supervision.

(5) At the conclusion of the period of supervision, if the court determines that the person has successfully complied with all the conditions of supervision, the court shall discharge the person and enter a judgment dismissing the charges.

(6) Discharge and dismissal upon a successful conclusion of a disposition of supervision shall be deemed without adjudication of guilt and shall not be termed a conviction for purposes of disqualification or disability imposed by law upon conviction of a crime. That person may have his/her record of arrest expunged as may be provided by law.

('79 Code, § 133.11) (Ord. 1242, passed 1-7-85)