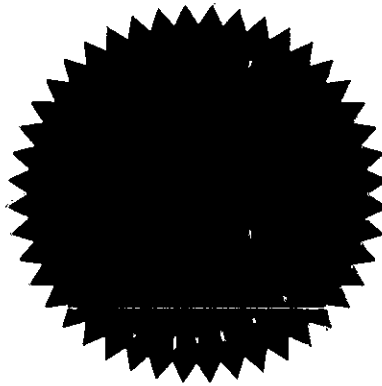



ORDINANCE 5782

PAMPHLET

AN ORDINANCE AMENDING TITLE XIII, CHAPTER 134,
IN REGARD TO DRUG PARAPHERNALIA



PUBLISHED IN PAMPHLET FORM THIS 2nd DAY OF December, 2005
BY ORDER OF THE CORPORATE AUTHORITIES OF THE VILLAGE OF LOMBARD,
DUPAGE COUNTY, ILLINOIS.


Brigitte O'Brien
Village Clerk

**AN ORDINANCE AMENDING TITLE XIII, CHAPTER 134,
OF THE VILLAGE OF LOMBARD VILLAGE CODE IN REGARD TO
DRUG PARAPHERNALIA**

BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: That a new Section 134.05, entitled “Drug Paraphernalia Control,” is inserted into Chapter 134 of Title XIII, to be and read as follows:

Section 134.05: DRUG PARAPHERNALIA CONTROL

A. DEFINITIONS.

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

- (1) CANNABIS. This term shall have the meaning ascribed to it in Section 134.01(A) as if that definition were incorporated herein.
- (2) CONTROLLED SUBSTANCE. This term shall have the meaning ascribed to it in Section 102 of the Illinois Controlled Substances Act, 720 ILCS 570/102, as if that definition were incorporated herein.
- (3) DELIVER or DELIVERY. The actual, constructive or attempted transfer of possession, with or without consideration, whether or not there is an agency relationship.
- (4) DRUG PARAPHERNALIA. All equipment, products and materials of any kind, other than methamphetamine manufacturing materials, as defined in Section 10 of the Illinois Methamphetamine Control and Community Protection Act, 720 ILCS 646/10, which are peculiar to and marketed 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 cannabis or a controlled substance in violation of the laws of the State of Illinois or the village code. It includes, but is not limited to:
 - i. Kits peculiar to and marketed for use in manufacturing, compounding, converting, producing, processing or preparing cannabis or a controlled substance;

- ii. Isomerization devices peculiar to and marketed for use in increasing the potency of any species of plant which is cannabis or a controlled substance;
- iii. Testing equipment peculiar to and marketed for private home use in identifying or in analyzing the strength, effectiveness or purity of cannabis or controlled substances;
- iv. Diluents and adulterants peculiar to and marketed for cutting cannabis or a controlled substance by private persons;
- v. Objects peculiar to and marketed for use in ingesting, inhaling or otherwise introducing cannabis, cocaine, hashish or hashish oil into the human body, including, where applicable, the following items:
 - 1. Water pipes;
 - 2. Carburetion tubes and devices;
 - 3. Smoking and carburetion masks;
 - 4. Miniature cocaine spoons and cocaine vials;
 - 5. Carburetor pipes;
 - 6. Electric pipes;
 - 7. Air-driven pipes;
 - 8. Chillums;
 - 9. Bongs;
 - 10. Ice pipes or chillers; or
 - 11. Glass cocaine or crack pipes;
- vi. Any item whose purpose, as announced or described by the seller, is for use in violation of this Section.

B. SALE OR DELIVERY.

It is unlawful for any person, business, corporation, place, business, premises, company or other legal entity to keep for sale, offer for sale, sell or deliver for any commercial consideration any item of drug paraphernalia.

C. POSSESSION OF DRUG PARAPHERNALIA.

It is unlawful for any person to knowingly possess an item of drug paraphernalia with the intent to use it in ingesting, inhaling or otherwise introducing cannabis or a controlled substance into the human body or in preparing cannabis or a controlled substance for that use. In determining intent under this subsection (C), the trier of fact may take into consideration the proximity of the cannabis or controlled substances to drug paraphernalia or the presence of cannabis or a controlled substance on the drug paraphernalia.

D. EXEMPTIONS.

This chapter shall not apply to:

- a. Items marketed for use in the preparation, compounding, packaging, labeling or other use of cannabis or a controlled substance as an incident to lawful research, teaching or chemical analysis and not for sale;
- b. Items marketed for, or historically and customarily used in connection with, the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting or inhaling of tobacco or any other lawful substance. Items exempt under this subsection include, but are not limited to, garden hoes, rakes, sickles, baggies, tobacco pipes and cigarette-rolling papers.
- c. Items defined in subsection (A)(4), which are used for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purpose prohibited by this section. In determining whether or not a particular item is exempt under this subsection, the trier of fact should consider, in addition to all other logically relevant factors, the following:
 - i. The general, usual, customary, and historical use to which the item involved has been put;
 - ii. Expert evidence concerning the ordinary or customary use of the item and the effect of any peculiarity in the design or engineering of the device upon its functioning;
 - iii. Any written instructions accompanying the delivery of the item concerning the purposes or uses to which the item can or may be put;
 - iv. Any oral instructions provided by the seller of the item at the time and place of sale or commercial delivery;
 - v. Any national or local advertising concerning the design, purpose or use of the item involved, and the entire context in which such advertising occurs;
 - vi. The manner, place and circumstances in which the item was displayed for sale, as well as any item or items displayed for sale or otherwise exhibited upon the premises where the sale was made;
 - vii. 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;

viii. The existence and scope of legitimate uses for the object in the community.

SECTION 2: That Section 134.99, entitled "Penalty," of Chapter 134 of Title XIII, is hereby deleted and replaced with the following:

134.99: PENALTY.

Any person violating any provision of this Chapter shall be fined not more than \$750.00 for each offense. In addition to, or in lieu of such fine, the presiding judge may in each case exercise his discretion to further issue and order such other corrective measures of the defendant as may be reasonable, equitable and appropriate, including court supervision, and/or drug abuse, psychiatric or social service counseling.

SECTION 3: That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Passed on first reading this ___ day of _____, 2005.

First reading waived by action of the Board of Trustees this 1st day of December, 2005.

Passed on second reading this 1st day of DEcember, 2005, pursuant to a roll call vote as follows:

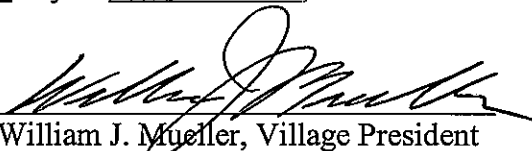
AYES: Trustees Gron, Tross, O'Brien, Seby and Soderstrom

NAYS: None

ABSENT: Trustee Florey

APPROVED by me this 1st day of December, 2005.

ATTEST:


William J. Mueller, Village President


Brigitte O'Brien, Village Clerk

Published by me in pamphlet form this 2nd day of December, 2005.


Brigitte O'Brien, Village Clerk

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