

“CHAPTER 9
POSSESSION AND USE OF CANNABIS
AND POSSESSION OF DRUG PARAPHERNALIA”

2-9-1: POSSESSION AND USE OF CANNABIS PROHIBITED:

- A. Definitions: The definitions set forth in Section 2-8-2 of this Title shall apply to this Chapter, and the following definitions as used in this Chapter shall also be applicable, unless the context otherwise requires:
- (1) “Cannabis” includes marijuana, hashish and other substances which are identified as including any parts of the plant Cannabis Sativa, whether growing or not, the seed thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such 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 such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.
 - (2) “Casual delivery” means the delivery of not more than ten (10) grams of any substance containing cannabis without consideration.
 - (3) “Person” means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other entity.
- B. This Chapter shall only apply to the possession, use and/or casual delivery of such substance not exceeding ten (10) grams.
- C. It is unlawful for any person to knowingly use or possess cannabis or to make or attempt to make a casual delivery of cannabis.
- D. It is unlawful for any person to knowingly suffer, permit, or allow the violation of the provisions of this Chapter in any motor vehicle, conveyance, vessel, house, apartment, room, shed, yard, premises, or other area of which such person is the owner, lessee, permittee, bailee, legal possessor or occupier thereof.
- E. It is unlawful for any parent or guardian to permit his or her residence to be used by the parent’s child or an invitee of the parent’s child or the guardian’s ward in a manner that constitutes a violation of this Chapter. A parent or guardian is deemed to have permitted his or her residence to be used in violation of this Chapter if he or she

knowingly authorizes, enables, or permits such use to occur by failing to control access to the residence.

- F. Whenever a person is present within any motor vehicle, conveyance, vessel, house, apartment, room, shed, yard, premises, or other area of which such person is the owner, lessee, permittee, bailee, legal possessor or occupier at the time that a violation of the provisions of this Chapter occurs therein, said presence shall be prima facie evidence that such person had knowledge of such violation.
- G. It is unlawful for any person to remain in any motor vehicle, conveyance, vessel, house, apartment, room, shed, yard, premises, or other area when said person knows, or reasonably should know, that one (1) or more other persons located in such motor vehicle, conveyance, vessel, house, apartment, room, shed, yard, premises, or other area are in possession of any cannabis or controlled substance prohibited by Illinois statute.

2-9-2: POSSESSION OF DRUG PARAPHERNALIA PROHIBITED:

- A. Section Name: This Section shall be known as and may be cited as the Village of Holiday Hills “Drug Paraphernalia Control Ordinance”.
- B. Definitions: As used in this Section, unless the context otherwise requires, the following words and terms shall have the meanings ascribed to them in this Section as follows:
- (1) CANNABIS: Shall have the meaning ascribed to it in Section 3 of the Illinois Cannabis Control Act (720 ILCS 550), as amended from time to time, as if that definition were incorporated herein.
 - (2) CONTROLLED SUBSTANCE: Shall have the meaning ascribed to it in the Illinois Controlled Substances Act (720 ILCS 570), as amended from time to time, as if that definition were incorporated herein.
 - (3) DELIVER or DELIVERY: Shall mean the actual, constructive or attempted transfer of possession, with or without consideration, whether or not there is an agency relationship.
 - (4) DRUG PARAPHERNALIA: Shall mean all equipment, products and materials of any kind, other than methamphetamine manufacturing materials as defined in Section 10 of the Methamphetamine Control and Community Protection Act, which are intended to be used unlawfully 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 Illinois Cannabis Control Act (720 ILCS 550), as amended from time to time, the Illinois Controlled Substances Act (720 ILCS 570), as amended from time to time, or the Methamphetamine Control and Community Protection Act (720 ILCS 646), as amended from time to time. It includes, but is not limited to:
 - (a) Kits intended to be used unlawfully in manufacturing, compounding, converting, producing, processing or preparing cannabis or a controlled substance;
 - (b) Isomerization devices intended to be used unlawfully in increasing the potency of any species of plant which is cannabis or a controlled substance;
 - (c) Testing equipment intended to be used unlawfully in a private home for identifying or in analyzing the strength, effectiveness, or purity of cannabis or controlled substances;

- (d) Diluents and adulterants intended to be used unlawfully for cutting cannabis or a controlled substance by private persons;
- (e) Objects intended to be used unlawfully in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body including, where applicable, the following items:
 - (i) water pipes;
 - (ii) carburetion tubes and devices;
 - (iii) smoking and carburetion masks;
 - (iv) miniature cocaine spoons and cocaine vials;
 - (v) carburetor pipes;
 - (vi) electric pipes;
 - (vii) air-driven pipes;
 - (viii) chillums;
 - (ix) bongs;
 - (x) ice pipes or chillers;
- (f) Any item whose purpose, as announced or described by the seller or provider, is for use in violation of this Section.
- (g) Any other item defined as “drug paraphernalia” by the Drug Paraphernalia Control Act (720 ILCS 600), as it may be amended from time to time.

C. Sale, Offering for Sale, and Delivery Prohibited:

- (1) Any person who keeps for sale, offers for sale, sells, or delivers for any commercial consideration any item of drug paraphernalia commits a violation of this Section, for which a fine of \$750.00 for each such item shall be imposed.
- (2) Any store, place, or premises from which or in which any item of drug paraphernalia is kept for sale, offered for sale, sold, or delivered for any commercial consideration is declared to be a public nuisance.

D. Possession of Drug Paraphernalia:

- (1) A person who knowingly possesses 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, is guilty of a violation of this Section. This subsection does not apply to a person who is legally authorized to possess hypodermic syringes or needles under the Hypodermic Syringes and Needles Act.
- (2) In determining intent under Subsection (1) above, 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.

- E. Exemptions: This Section shall not apply to any items or persons exempt from the Drug Paraphernalia Control Act (720 ILCS 600), as amended from time to time.
- F. Forfeiture: All drug paraphernalia is subject to forfeiture as provided in the Illinois Drug Paraphernalia Control Act (720 ILCS 600), as amended from time to time.
- G. Intent: This Section is intended to be used solely for the suppression of the commercial traffic in or possession of items that, within the context of the sale or offering for sale, or possession, are for the illegal and unlawful use of cannabis or controlled substances. To this end, all reasonable and common-sense inferences shall be drawn in favor of the legitimacy of any transaction or item.

2-9-3: PENALTIES: Except as otherwise specified in this Chapter, any person found guilty of a violation of any of the provisions of this Chapter shall be punishable by a fine of not less than Three Hundred Dollars (\$300.00), nor more than Seven Hundred Fifty Dollars (\$750.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.”

SECTION 3: If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance, or any part thereof. The Corporate Authorities hereby declare that they would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentence, clauses or phrases be declared unconstitutional, invalid or ineffective.

SECTION 4: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent, and only to the extent, that they are in conflict herewith.

SECTION 5: This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

SECTION 6: The Village Clerk is hereby directed to publish this ordinance in pamphlet form.

