

ORDINANCE NUMBER 08 - 38

**ORDINANCE AMENDING TITLE XIII, GENERAL
OFFENSES,
CHAPTER 133, OFFENSES AGAINST PUBLIC
MORALITY, ADDING SECTION 133.100, DRUG
PARAPHERNALIA**

WHEREAS, the Village of East Dundee is a home rule unit of local government under and pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, has the authority to exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the President and Board of Trustees of the Village of East Dundee having determined that it is in the best interests of the health, safety and welfare of the residents of the Village of East Dundee that **Title XIII, General Offenses, Chapter 133, Offenses Against Public Morality**, be amended to add a new Section 133.100, Drug Paraphernalia.

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AS FOLLOWS:

Section One. That **Title XIII, General Offenses, Chapter 133, Offenses Against Public Morality**, be amended to add **Section 133.100**, to the Village of East Dundee Code of Ordinances as follows:

' 133.100 Drug Paraphernalia

(A) As used in this section, unless the context otherwise requires:

1. "Drug paraphernalia" means 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, 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 Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act. 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. Dilutents 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:
 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;
 11. any item whose purpose, as announced or described by the seller, is for use in violation of this Section.

' 133.101 Determining Factors.

In determining whether an object is drug paraphernalia for the purpose of enforcing this Article, the following factors should be considered in addition to all other logically relevant factors:

1. Statements by an owner or by anyone in control of the object concerning its use;

2. Prior convictions, if any, of an owner, or anyone in control of the object under any state or federal law relating to any controlled substance;
3. The proximity of the object to controlled substances;
4. The existence of any residue of controlled substances on the object;
5. Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons whom he knows, or reasonably should know, intend to use the object to facilitate a violation of this Section; the innocence of an owner, or of anyone in control of the object, as to direct violation of this Section, shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
6. Instructions, oral or written, provided with the object concerning its use;
7. Descriptive materials accompanying the object which explain or depict its use;
8. National and local advertising concerning its use;
9. The manner in which the object is displayed for sale;
10. Whether the owner, or anyone in control of the object, is a legitimate supplier of like related items to the community, such as a licensed distributor or dealer of tobacco products;
11. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
12. The existence and scope of legitimate uses for the object in the community; and
13. Expert testimony concerning its use.

' 133.102 Sale, Display, Etc. of Drug Paraphernalia Prohibited.

- (a) It shall be unlawful for any person to sell, offer for sale, display, furnish, supply or give away any cocaine spoon, marijuana pipe, hashish pipe, or any drug paraphernalia;
- (b) The prohibition in this Section shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopaths, physicians, dentists, chiropodists, veterinarians, pharmacists or embalmers in the lawful course of their businesses or professions, nor to common carriers or warehouses or their employees engaged in the lawful transportation of such paraphernalia, nor to public officers or employees while engaged in the performance of their official duties nor to persons suffering from asthma, or any other medical condition requiring self-injection.

' 133.103 Penalty.

A person who violates this Section, upon conviction, shall be punished with a fine not to exceed Seven Hundred Fifty (\$750.00) Dollars and not less than One Hundred (\$100.00) Dollars. Each day of the violation shall be considered a separate offense.

Section Two. Severability. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the validity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

Section Three. Repeal. All ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

Section Four. Publication. This ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

Adopted this 7th day of July, 2008, pursuant to a roll call vote as follows:

AYES: Ruffalo, Gorman, Carlini, Lynan,
Cichowski, Pres. O'Leary

NAYES: _____

ABSENT: Mahony

Approved by me this 7th day of July, 2008.

Daniel O'Leary
DANIEL O'LEARY, President

Published in pamphlet form this 8th day of July, 2008, under the authority of the President and Board of Trustees.

ATTEST:
Susan Norton
SUSAN NORTON, Village Clerk

Recorded in the Village Records on July 8, 2008.

