
**THE VILLAGE OF BURNHAM
COOK COUNTY, ILLINOIS**

ORDINANCE NO. 2017 - O - 009

CANNABIS AND DRUG PARAPHERNALIA

**AN ORDINANCE AMENDING CHAPTER 62 – OFFENSES AND
MISCELLANEOUS PROVISIONS – ARTICLE V – OFFENSES
AGAINST PUBLIC HEALTH, PEACE AND SAFETY,
OF THE CODE OF ORDINANCES, VILLAGE OF BURNHAM,
COOK COUNTY, ILLINOIS**

WHEREAS, the Village of Burnham, Cook County, Illinois, has elected by referendum on March 11, 1980, to become a home rule unit, and accordingly, pursuant to the provisions of the *Constitution of the State of Illinois* of 1970, particularly Article VII Sec. 6 (a) thereof, the Village is a home rule unit; and

WHEREAS, pursuant to the powers of a home rule unit set forth in Article VII, Section 6(a) of the *Constitution of the State of Illinois* of 1970, the Village may 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; to enact ordinances therefore; and

WHEREAS, the President and Board of Trustees of the Village of Burnham (“the Corporate Authorities”) have determined that it is advisable, necessary, and in the best interest of the public health, safety, and welfare to enact certain regulations with regard to the general

offenses, particularly possession of cannabis, possession of drug paraphernalia, and related offenses; and

WHEREAS, the Corporate Authorities of the Village of Burnham have determined that it is a more dangerous and serious offense to possess cannabis, and or drug paraphernalia in a motor vehicle; and

WHEREAS, the Corporate Authorities of the Village of Burnham deem it advisable and in the best interest of the residents of the Village of Burnham to amend the Code of Ordinances of the Village of Burnham to add the offenses of possession of cannabis, possession of drug paraphernalia, possession of cannabis in a motor vehicle and possession of drug paraphernalia in a motor vehicle, and related offenses; and

BE IT ORDAINED, by the Village President (Mayor) and Board of Trustees of the Village of Burnham, Cook County, Illinois, by and through its home rule powers, as follows:

Section 1. INCORPORATION OF PREAMBLES

THAT, the Corporate Authorities of the Village hereby find that all the recitals contained in the preambles of this Ordinance are full, true and correct and do incorporate them into this Ordinance by this reference as if they were set forth verbatim in this section; and

Section 2. POSSESSION OF CANNABIS AND PENALTY

THAT, Section 62-198 of the Code of Ordinances, Village of Burnham, Illinois, is hereby added and amended to read as follows:

Sec. 62-198. Possession of cannabis and penalty.

- (1) **Definitions.** All terms and phrases used herein shall have the same meaning as ascribed to them in the Cannabis Control Act (720 ILCS 550/1 *et seq.*), as amended.
- (2) **Offense.** A person commits the offense of possession of cannabis by possessing

- thirty (30) grams or less of any substance containing cannabis unless permitted or authorized to do so pursuant to the Cannabis Control Act (720 ILCS 550/1 *et seq.*).
- (3) Per se violation. A violation of this Section is a per se violation and does not require a specific intent to possess for a violation to occur.
- (4) Penalty. Any person violating this Section shall be subject to a mandatory fine of not less than \$200.00, plus administrative costs, nor more than \$750.00, plus administrative costs, per offense.
- (5) Administrative adjudication. All proceedings for violations of this Chapter 62 – Offenses and miscellaneous provisions – Article V – Section 62-198, *et seq.*, shall be processed and proceed with the administrative adjudication procedures, Chapter 2 – Article VII – Administrative adjudication of non-vehicular code violations.
- (6) Non-exclusivity. Administrative adjudication procedures are not exclusive. The adoption by the Village of a system of administrative adjudication does not preclude the municipality from using other methods to enforce Village ordinances. Nothing contained in this Chapter shall prevent the Village from pursuing all available remedies by law.

Section 3. POSSESSION OF CANNABIS IN A MOTOR VEHICLE AND PENALTY

THAT, Section 62-199 of the Code of Ordinances, Village of Burnham, Illinois, is hereby added and amended to read as follows:

Sec. 62-199. Possession of cannabis in a motor vehicle and penalty.

- (1) Definitions. All terms and phrases used herein shall have the same meaning as ascribed to them in the Cannabis Control Act (720 ILCS 550/1 *et seq.*), as amended.

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- (2) Offense. No one may possess, transport, carry, or have thirty (30) grams or less of any substance containing cannabis within any area of any motor vehicle upon any street, highway, or property, public or private, in the Village of Burnham.
- (3) Per se violation. A violation of this Section is a per se violation and does not require a specific intent to possess for a violation to occur. The mere presence of cannabis in a motor vehicle shall give rise to a rebuttable presumption of possession by everyone within that motor vehicle.
- (4) Penalty. Any person violating this Section shall be subject to a mandatory fine of not less than \$400.00, plus administrative costs, nor more than \$750.00, plus administrative costs, per offense.
- (5) Administrative adjudication. All proceedings for violations of this Chapter 62 – Offenses and miscellaneous provisions – Article V – Section 62-198, *et seq.*, shall be processed and proceed with the administrative adjudication procedures, Chapter 2 – Article VII – Administrative adjudication of non-vehicular code violations.
- (6) Non-exclusivity. Administrative adjudication procedures are not exclusive. The adoption by the Village of a system of administrative adjudication does not preclude the municipality from using other methods to enforce Village ordinances. Nothing contained in this Chapter shall prevent the Village from pursuing all available remedies by law, in addition to the impoundment of the motor vehicle.
- (7) Medical cannabis.
- a. A driver or passenger, who is a medical cannabis cardholder, a medical cannabis designated caregiver, medical cannabis cultivation center agent, or dispensing organization agent may possess medical cannabis within any area

of any motor vehicle upon a highway in this State in a sealed, tamper-evident medical cannabis container.

- b. A driver or passenger, who is a medical cannabis cardholder, may not use medical cannabis within the passenger area of any motor vehicle upon a highway in this State.

Section 4. POSSESSION OF DRUG PARAPHERNALIA AND PENALTY.

THAT, Section 62-200 of the Code of Ordinances, Village of Burnham, Illinois, is hereby added and amended to read as follows:

Sec. 62-200. Possession of drug paraphernalia and penalty.

- (1) **Definitions.** All terms and phrases used herein shall have the same meaning as ascribed to them in the Drug Paraphernalia Control Act (720 ICLS 600/1 *et seq.*), as amended.
- (2) **Offense.** It shall be a violation of this Section for any person to possess an item of drug paraphernalia which is intended to be used unlawfully in planning, 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 Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, or a synthetic drug product or a misbranded drug in violation of the Illinois Food, Drug, and Cosmetic Act.
- (3) **Per se violation.** A violation of this Section is a per se violation and does not require a specific intent to possess for a violation to occur.

- (4) Penalty. Any person violating this Section shall be subject to a mandatory fine of not less than \$300.00, plus administrative costs, nor more than \$750.00, plus administrative costs, per offense.
- (5) Administrative adjudication. All proceedings for violations of this Chapter 62 – Offenses and miscellaneous provisions – Article V – Section 62-198, *et seq.*, shall be processed and proceed with the administrative adjudication procedures, Chapter 2 – Article VII – Administrative adjudication of non-vehicular code violations.
- (6) Non-exclusivity. Administrative adjudication procedures are not exclusive. The adoption by the Village of a system of administrative adjudication does not preclude the municipality from using other methods to enforce Village ordinances. Nothing contained in this Chapter shall prevent the Village from pursuing all available remedies by law.

Section 5. POSSESSION OF DRUG PARAPHERNALIA IN A MOTOR VEHICLE AND PENALTY

THAT, Section 62-201 of the Code of Ordinances, Village of Burnham, Illinois, is hereby added and amended to read as follows:

Sec. 62-201. Possession of drug paraphernalia in a motor vehicle and penalty.

- (1) Definitions. All terms and phrases used herein shall have the same meaning as ascribed to them in the Drug Paraphernalia Control Act (720 ICLS 600/1 *et seq.*), as amended.
- (2) Offense. No one may possess, transport, carry or have drug paraphernalia within any area of any motor vehicle upon any street, highway, or property, public or private, in the Village of Burnham.

- (3) Per se violation. A violation of this Section is a per se violation and does not require a specific intent to possess for a violation to occur. The mere presence of the paraphernalia in a motor vehicle shall give rise to a rebuttable presumption of possession by everyone within that motor vehicle.
- (4) Penalty. Any person violating this Section shall be subject to a mandatory fine of not less than \$400.00, plus administrative costs, nor more than \$750.00, plus administrative costs, per offense.
- (5) Administrative adjudication. All proceedings for violations of this Chapter 62 – Offenses and Miscellaneous Provisions – Article V – Section 62-198, *et seq.*, shall be processed and proceed with the administrative adjudication procedures, Chapter 2 – Article VII – Administrative adjudication of non-vehicular code violations.
- (6) Non-exclusivity. Administrative adjudication procedures are not exclusive. The adoption by the Village of a system of administrative adjudication does not preclude the municipality from using other methods to enforce Village ordinances. Nothing contained in this Chapter shall prevent the Village from pursuing all available remedies by law, in addition to the impoundment of the motor vehicle.

Section 6. ADMISSIBILITY OF EVIDENCE

THAT, Section 62-202 of the Code of Ordinances, Village of Burnham, Illinois, is hereby added and amended to read as follows:

Sec. 62-202. Admissibility of evidence.

The evidence of cannabis and/or drug paraphernalia for a violation of sections 62-198, 62-199, 62-200, 62-201 of this Code of Ordinances of the Village of Burnham, Illinois, shall be admitted into evidence based upon:

- (1) A properly administered field test; or
- (2) Opinion testimony of a police officer based on the officer's training and experience and qualified by the administrative adjudication hearing officer.

Section 7. LEGISLATIVE ACT OF HOME RULE MUNICIPALITY

THAT, this Ordinance and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such Ordinance should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or, (b) legislate in a manner or regarding a manner not delegated to municipalities by state law. It is the intent of the Corporate Authorities of the Village of Burnham, Cook County, Illinois, that to the extent that the terms of this Ordinance should be inconsistent with any non-preemptive state law, that this Ordinance should supersede state law in that regard within its jurisdiction.

Section 8. SEVERABILITY

THAT, if any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any other provision of this Ordinance.

Section 9. REPEALER OF CONFLICTING ORDINANCES

THAT, all Ordinances, Resolutions, Motions or Orders in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 10. EFFECTIVE UPON PUBLICATION

THAT, this Ordinance shall be in full force and effect after its passage, approval and publication according to law.


Section 11. PUBLISHED IN PAMPHLET FORM

THAT, this Ordinance shall be published in pamphlet form by the authority of the Village President (Mayor) and the Board of Trustees of the Village of Burnham, Cook County, Illinois.

PASSED by the Village President (Mayor) and Board of Trustees of the Village of Burnham, Cook County, Illinois, this 28th day of December, 2017.

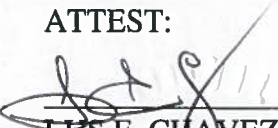
PRESIDENT AND VILLAGE BOARD MEMBERS

	AYES:	NAYS:	ABSENT:	ABSTAIN:
Trustee John Cap Jr.	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Trustee Denise Bonner	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Trustee Graciela Garcia	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Trustee Brenda Greer	<u> </u>	<u> X </u>	<u> </u>	<u> </u>
Trustee Carmella Richardson	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Trustee Travis Claybrooks	<u> X </u>	<u> </u>	<u> </u>	<u> </u>



ROBERT E. POLK
Village President (Mayor)

ATTEST:

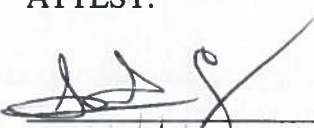


LUS E. CHAVEZ
Village Clerk (SEAL)

Recorded in Village Records:

Published in pamphlet form by authority of the Village President (Mayor) and Board of Trustees of the Village of Burnham, Cook County, Illinois, on 28 day of December, 2017.

ATTEST:



LUS E. CHAVEZ, VILLAGE CLERK
(SEAL)