

## CHAPTER 5

### THEFT AND RELATED OFFENSES

#### SECTION:

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#### 11-5-1: THEFT:

A person commits theft when other than by the use of a firearm, not from the person, and in an amount not exceeding three hundred dollars (\$300.00), he or she knowingly:

- A. Obtains or exerts unauthorized control over property of the owner; or
- B. Obtains by deception, control over property of the owner; or
- C. Obtains by threat, control over property of the owner; or
- D. Obtains control over stolen property knowing the property to have been stolen or under such circumstances as would reasonably induce the person to believe that the property was stolen, and
  - 1. Intends to deprive the owner permanently of the use or benefit of the property; or
  - 2. Knowingly uses, conceals or abandons the property in such manner as to deprive the owner permanently of such use or benefit; or

3. Uses, conceals, or abandons the property knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.

**11-5-2: PRIMA FACIE EVIDENCE OF INTENT:**

It shall be prima facie evidence of intent that a person "knowingly obtains by deception, control over property of the owner" when he or she fails to return, within forty five (45) days after written demand from the owner, the down payment and any additional payments accepted under a promise, oral or in writing, to perform services for the owner for consideration of three thousand dollars (\$3,000.00) or more, and the promisor willfully without good cause failed to substantially perform pursuant to the agreement after taking a down payment of ten percent (10%) or more of the agreed upon consideration. This provision shall not apply where the owner initiated the suspension of performance under the agreement, or where the promisor responds to the notice within the forty five (45) day notice period. A notice in writing, addressed and mailed by registered mail, to the promisor at the last known address of the promisor, shall constitute proper demand.

**11-5-3: PRIMA FACIE EVIDENCE, THEFT BY LESSEE:**

It shall be prima facie evidence that a person "knowingly obtains or exerts unauthorized control over property of the owner" when a lessee of the personal property of another fails to return it to the owner within thirty (30) days after written demand from the owner for its return. A notice in writing, given after the expiration of the leasing agreement, addressed and mailed by registered mail, to the lessee at the address last given and shown on the leasing agreement shall constitute proper demand.

**11-5-4: THEFT OF LOST OR MISLAID PROPERTY:**

A person who obtains control over lost or mislaid property commits theft when that person:

- A. Knows or learns the identity of the owner or knows, or is aware of, or learns of a reasonable method of identifying the owner; and
- B. Fails to take reasonable measures to restore the property to the owner; and
- C. Intends to deprive the owner permanently of the use or benefit of the property.

**11-5-5: THEFT OF LABOR OR SERVICES OR USE OF PROPERTY:**

A person commits theft when he or she obtains the temporary use of property, labor or services of another which are available only for hire, by means of threat or deception or knowing that such use is without the consent of the person providing the property, labor or services.

**11-5-6: FALSE REPORT OF THEFT AND OTHER LOSSES:**

A person who knowingly makes a false report of a theft, destruction, damage or conversion of any property to the Lincolnshire Police Department or other Village governmental agency with the intent to defraud an insurer commits an offense.

**11-5-7: OFFENDER'S INTEREST IN THE PROPERTY:**

- A. It is no defense to a charge of theft of property that the offender has an interest therein, when the owner also has an interest to which the offender is not entitled.
- B. Where the property involved is that of the offender's spouse, no prosecution for theft may be maintained unless the parties were not living together as man and wife and were living in separate abodes at the time of the alleged theft.

**11-5-8: THEFT FROM COIN-OPERATED MACHINES:**

- A. A person commits theft from a coin-operated machine when he or she knowingly and without authority and with intent to commit a theft from such machine, opens, breaks into, tampers with, or damages a coin-operated machine.
- B. As used in this Section, the term "coin-operated machine" shall include any automatic vending machine or any part thereof, parking meter, coin telephone, coin laundry machine, coin dry cleaning machine, amusement machine, music machine, vending machine dispensing goods or services, money changer.

**11-5-9: COIN-OPERATED MACHINES, POSSESSION OF KEY OR DEVICE:**

Whoever possesses a key, tool, instrument, explosive or device or a drawing, print or mold of a key, tool, instrument, explosive or device designed to open, break into, tamper with or damage a coin-operated machine as defined in paragraph B of Section 11-5-8 of this Chapter, with intent to commit a theft from such machine, shall be guilty of an offense.

**11-5-10: UNLAWFUL INTERFERENCE WITH PUBLIC UTILITY SERVICES:**

- A. A person commits the offense of unlawful interference with public utility services when he or she knowingly, without the consent of the owner of the services, impairs or interrupts any public water, sewer, telecommunications service, or other public services, or diverts, or causes to be diverted in whole or in part, any public water, sewer, telecommunications service or other public services or installs or removes any device for the purpose of such diversion.
- B. The term "public water, sewer, or other public service" mean any service that is owned and operated by the Village of Lincolnshire.
- C. Any instrument, apparatus, or device used in obtaining utility services without paying the full charge therefore or any meter that has been altered, tampered with, or bypassed so as to cause a lack of measurement or inaccurate measurement of utility services on premises controlled by the customer or by the person using or receiving the direct benefit of utility service at that location shall raise a rebuttable presumption of the commission of the offense described in subparagraph A by such person.