

Request For Board Action

REFERRED TO BOARD: December 9, 2019

AGENDA ITEM NO: 8

ORIGINATING DEPARTMENT: Administration

SUBJECT: Consideration of an Ordinance Amending the Village Code to Conform with the Illinois Cannabis Regulation and Tax Act

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The Cannabis Regulation and Tax Act requires municipalities to have local laws in conformance with the state law on the use and possession of cannabis. This will require changes to the existing Village Code. This includes updated definitions of drug paraphernalia, possession and use restrictions. The proposed ordinance updates the municipal code of the Village of Antioch to be consistent with The Act.

DOCUMENTS ATTACHED:

- 1) Ordinance

RECOMMENDED MOTION:

Move to approve an Ordinance Amending the Village Code to Conform with the Illinois Cannabis Regulation and Tax Act, waiving the second reading.

ORDINANCE No. ____

**AN ORDINANCE AMENDING THE VILLAGE CODE
TO CONFORM WITH
THE ILLINOIS CANNABIS REGULATION AND TAX ACT**

WHEREAS, Public Act 101-27, which was signed into law on June 25, 2019 made substantial changes to the then-existing state laws governing the possession, use and sale of cannabis within the State of Illinois, and

WHEREAS, a number of the changes relaxed or eliminated criminal penalties for possession and use of cannabis, effective January 1, 2020, and

WHEREAS, the existing Village of Antioch Municipal Code provides for certain criminal and quasi-criminal penalties and fines that will be contradictory to state law on and after January 1, 2020 as a result of the provisions of the above-cited Act, and

WHEREAS, the Act requires, and the Village wishes, to have local laws in conformance with state law on the use and possession of cannabis, and this requires changes to the existing code,

NOW THEREFORE, BE IT ORDAINED by the Village of Antioch, Lake County, Illinois, as follows:

SECTION 1: Section 4-14-1 of the Village Code of Ordinances, entitled "Definitions," is hereby amended to modifying term "DRUG PARAPHERNALIA" to read as follows, with all other definitions remaining in their present form (deletions ~~stricken~~, additions underlined):

DRUG PARAPHERNALIA: All equipment, products and materials of any kind which are commonly used, may be used or are 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 ~~"cannabis control act" or the "Illinois controlled substances act"~~, excepting any item regulated or permitted by the Illinois "cannabis regulation and tax act". It includes, but is not limited to:

- A. Kits peculiar to and marketed for use in manufacturing, compounding, converting, producing, processing or preparing ~~cannabis or a controlled substance~~;
- B. Isomerization devices peculiar to and marketed for use in increasing the potency of any species of plant which is ~~cannabis or a controlled substance~~;
- C. 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~~;
- D. Diluents and adulterants peculiar to and marketed for cutting ~~cannabis or a controlled substance~~ by private persons;
- E. Objects peculiar to and marketed for use in ingesting, inhaling, or otherwise introducing ~~cannabis, opiates, cocaine, methamphetamines, or other controlled substances, 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, and~~
- ~~10. Ice pipes or chillers.~~

F. Any item whose purpose, as announced or described by the seller, is for use in violation of the "~~cannabis control act~~" or the "Illinois controlled substances act".

SECTION 2: Section 6-2-5-3 of the Village Code of Ordinances, entitled "Marijuana; Cannabis" is hereby amended to read as follows:

A. Definition: "Cannabis" includes marijuana, hashish and other substances ~~which are identified as including any parts of the plant Cannabis sativa, whether growing or not; the seeds 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 therefrom), fiber, oil, or cake or the sterilized seed of such plant which is incapable of germination. (1976 Code § 130.040)~~ which are defined or regulated by the Illinois "Cannabis Regulation and Tax Act."

B. Possession:

1. It shall be unlawful for any person knowingly to possess any quantity of cannabis in the village in excess of the amounts allowable under the Illinois "Cannabis Regulation and Tax Act".

2. It shall be unlawful for any person to possess any quantity of cannabis in a school bus or on the grounds of any preschool, primary school, or secondary school, unless permitted for a registered medical cannabis patient under the "Compassionate Use of Medical Cannabis Pilot Program Act".

~~C. Exceptions: This section shall not apply to any person engaged in research with the prior written approval of the dangerous drugs commission of the state of Illinois or its successor agency, or the prior written approval of the department of law enforcement of the state or its successor agency. (1976 Code § 130.042) Minor Possession: It shall be unlawful for any person aged less than 21 years to possess any quantity of cannabis in the Village.~~

D. Use of Cannabis.

1. It shall be unlawful for any person to use any cannabis, or cannabis infused product in any public place, or in any motor vehicle.

2. It shall be unlawful for any person to use any cannabis, or cannabis infused product, in a school bus, on the grounds of any preschool, primary school, or secondary school, unless permitted for a registered medical cannabis patient under the "Compassionate Use of Medical Cannabis Pilot Program Act".

3. It shall be unlawful to knowingly use cannabis, or any cannabis infused product, in close physical proximity to any person under 21 years of age who is not a registered medical cannabis patient under the "Compassionate Use of Medical Cannabis Pilot Program Act".

4. It shall be unlawful to smoke cannabis in any place where smoking is prohibited under the "Smoke Free Illinois Act".

SECTION 3: Section 6-2-5-4 of the Village Code of Ordinances, entitled "Drug Paraphernalia," is hereby amended to read as follows:

A. Short Title: This section shall be known and may be cited as the PARAPHERNALIA ORDINANCE.

B. Definitions: For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning:

~~CANNABIS: Defined in 720 Illinois Compiled Statutes 550/33.~~

COCAINE SPOON: A spoon with a bowl so small that the primary use for which it is reasonably adapted or designed is to hold or administer cocaine, and which is so small as to be unsuited for the typical, lawful uses of a spoon. A cocaine spoon may or may not be merchandised on a chain and may or may not be labeled as a cocaine spoon or coke spoon.

CONTROLLED SUBSTANCE: Any drug, substance or immediate precursor enumerated in the controlled substances act, but not Cannabis lawfully possessed, used, or otherwise regulated under the Illinois Cannabis Regulation and Tax Act.

DRUG PARAPHERNALIA: All equipment, products and materials of any kind which are commonly used, may be used, intended for use or designed 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 a controlled substance as defined in the controlled substances act.

1. Drug paraphernalia includes, but is not limited to:

a. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance ~~or cannabis~~ or from which a controlled substance ~~or cannabis~~ can be derived;

b. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substance ~~or cannabis~~;

c. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance ~~or cannabis~~;

d. Testing equipment used, intended for use or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances ~~or cannabis~~;

e. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances ~~or cannabis~~;

f. Diluents and adulterants, such as quinine, hydrochloride, manitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances ~~or cannabis~~;

~~g. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;~~
(Reserved)

h. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances ~~or cannabis~~;

i. Capsules, balloons, envelopes, and other containers used, intended for use or designed for use in packaging small quantities of controlled substances ~~or cannabis~~;

j. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances ~~or cannabis~~;

k. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, opiates, cocaine, or other controlled substances, hashish or hashish oil into the human body, such as, but not limited to:

~~(1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;~~

~~(2) Water pipes;~~

~~(3) Carburetion tubes and devices;~~

~~(4) Smoking and carburetion masks;~~

~~(5) Roach clips, which are objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;~~

~~(6) Chamber pipes;~~

~~(7) Carburetor pipes;~~

~~(8) Electric pipes;~~

~~(9) Air driven pipes;~~

~~(10) Chillums;~~

~~(11) Bongs;~~

~~(12) Ice pipes or chillers.~~

2. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

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

b. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

c. The proximity of the object, in time and space, to a direct violation of this subsection;

d. The proximity of the object to controlled substances;

e. The existence of any residue of controlled substances on the object;

f. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who, he knows or should reasonably know, intend to use the object to facilitate a violation of this subsection. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this subsection shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia;

g. Instructions, oral or written, provided with the object concerning its use;

- h. Descriptive materials accompanying the object which explain or depict its use;
- i. National and local advertising concerning its use;
- j. The manner in which the object is displayed for sale;
- k. 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;
- l. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- m. The existence and scope of legitimate uses for the object in the community; and
- n. Expert testimony concerning its use.

~~MARIJUANA PIPE OR HASHISH PIPE: A pipe characterized by a bowl which is so small that the primary use for which it is reasonably adapted or designed is the smoking of marijuana or hashish, rather than lawful smoking of tobacco, and which may or may not be equipped with a screen. (1976 Code § 130.061; amd. Ord. 16-08-21, 8-1-2016)~~

C. Prohibitions:

1. It shall be unlawful for any person to possess, sell, offer for sale, display, furnish, supply or give away any cocaine spoon, ~~marijuana pipe, hashish pipe,~~ or any drug paraphernalia.
2. The prohibition contained in this section shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropractors, veterinarians, pharmacists or embalmers in the normal lawful course of their respective businesses or professions, nor to common carriers or warehousemen 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 diabetes, asthma, or any other medical condition requiring self-injection.

SECTION 4: Section 6-4-2, of the Village Code of Ordinances, entitled "Definitions," is hereby amended by striking subsection "L" of the definition of Chronic Nuisance Property. All other definitions and sections not amended remain in their present form.

SECTION 5. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law.

PASSED and APPROVED this ____ day of _____, 2019.

LAWRENCE M. HANSON, Mayor

ATTEST:

LORI K. ROMINE, Village Clerk