
**VILLAGE OF SUGAR GROVE
BOARD REPORT**

TO: VILLAGE PRESIDENT & BOARD OF TRUSTEES
FROM: PATRICK ROLLINS, CHIEF OF POLICE
SUBJECT: ORDINANCE: AMENDING TITLE 5, CHAPTER 2, SECTION 7
MARIJUANA/CANNABIS RELATED VIOLATIONS
AGENDA: MARCH 3, 2020 VILLAGE BOARD MEETING
DATE: FEBRUARY 24, 2020

ISSUE

Should the Village Board consider changing the Marijuana/Cannabis Ordinance to remain in compliance with new Adult Use Cannabis State legislation that went into effect on January 1, 2020.

DISCUSSION

The legislatures of the State of Illinois enacted an adult use (recreational marijuana) legislation that went into effect in January. Prior to January, it was illegal to possess/sell/distribute/manufacture cannabis in the State of Illinois, except medical marijuana providers and patients under restricted parameters.

It is still illegal to possess, sell, distribute, manufacture, marijuana or its derivatives if the party does not conform to the new legislation as enacted. Local municipalities have authority to continue to enact and enforce local laws including the illegal use of cannabis not permitted under state law.

Our Village Attorney reviewed our current Village Code of Ordinances and is making the recommendations depicted below in order to be consistent and in compliance with the changes enacted by the State.

Title 5 (Police Regulations) Chapter 2 (General Offenses) Section 7(Marijuana (Cannabis) Related Violations) of the Village Code shall be amended to read as follows:

5-2-7: MARIJUANA (CANNABIS) RELATED VIOLATIONS:

5-2-7-1: DECLARATION OF POLICY AND AUTHORITY:

A. Declaration Of Policy: The Board of Trustees recognizes that: 1) the current state of scientific and medical knowledge concerning the effects of cannabis makes it necessary to acknowledge the physical, psychological, and sociological damage which is incumbent upon its use, and 2) the use of cannabis occupies the unusual position of being widely used, pervasive among the citizens of Illinois despite the warnings of possible harmful effects, and 3) previous legislation enacted to control or forbid the use of cannabis has often unnecessarily and unrealistically drawn a large segment of our population within the criminal justice system without succeeding in deterring the expansion of cannabis use, and 4) the State of Illinois recently enacted the Cannabis Regulation and Tax Act which legalizes the possession, use, and sale of cannabis in certain amounts under specifically enumerated conditions, and 5) the problems created by the use of cannabis are often local in scope and best dealt with on a local level. It is, therefore, the policy of the Board of Trustees for the Village, in the interest of the health and welfare of the citizens of the Village, to establish a reasonable penalty system which is responsive to the current state of knowledge concerning cannabis and consistent with its regulatory authority which directs the greatest efforts of law enforcement agencies toward the accumulation of more definitive knowledge concerning the use of cannabis, toward the education of the public with regard to the possible dangers inherent in the use of cannabis and toward the prevention of commercial traffickers in cannabis.

B. Declaration Of Authority: The Board of Trustees bases the authority of the instant section upon the traditional police powers granted to municipalities within the State of Illinois, consistent with the Cannabis Regulation and Tax Act, 410 ILCS 705/, and as well upon the statutory authorities enumerated in 65 Illinois Compiled Statutes, including, but not by limitation, 5/11-5-3 with regard to preventing intoxication, 5/11-60-2 with regard to preventing nuisances, 5/11-42-9 with respect to offensive businesses, 5/11-20-2 with respect to beverages and food sold for human consumption, 5/11-20-3 with respect to food and tobacco sold for human consumption, 5/11-20-6 with respect to destruction of weeds and 5/11-20-5 pertaining to the promotion of health, and those implied powers which are necessary and proper to carry out the statutorily expressed powers. Further, the Board of Trustees recognizes that it may exercise police powers on the same subject as exercised by the State so long as the exercise by the Village is not inconsistent with that of the State, and accordingly adopts this section in conformance with the principles announced in *Village of Winnetka v. Sinnett*, 272 Ill. App. 143; *Village of Mt. Prospect v Malouf*, 103 Ill. App. 2d 88; and *Waller v Florida*, 25 L.Ed.2d 435.

5-2-7-2: DEFINITIONS:

As used in this Section 5-2-7, the following words and terms shall have the meanings ascribed to them in this Section 5-2-7-2:

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 extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.

CASUAL DELIVERY: The delivery of not more than ten (10) grams of any substance containing cannabis without consideration.

DELIVER OR DELIVERY: The actual, constructive or attempted transfer of possession of cannabis, with or without consideration, whether or not there is an agency relationship.

MANUFACTURE: The production, preparation, propagation, compounding, conversion or processing of cannabis, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of cannabis or labeling of its container, except that this term does not include the preparation, compounding, packaging, or labeling of cannabis as an incident to lawful research, teaching, or chemical analysis and not for sale.

POSSESSION: The actual possession of cannabis, the constructive possession of cannabis, casual delivery and production, but does not include delivery or manufacture of cannabis for which the Village defers to the State in matters of prosecution.

PRODUCTION: Planting, cultivating, tending or harvesting.

5-2-7-3: RESEARCH:

The Police Commission and the Chief of Police for the Village shall accumulate those publications and other documents which are made available from public and private agencies concerning the studies as to the properties and enforcement of laws with reference to cannabis and shall, from time to time, report to the Board of Trustees with reference thereto.

5-2-7-4: FIRST OFFENDERS:

Whenever any person who has not previously been convicted of any offense under this Section or any law of the United States or of any state related to cannabis or controlled substances, as defined in the Illinois Controlled Substances Act, pleads guilty to or is found guilty of violating Sections 5-2-7-5 and 5-2-7-6 of this Chapter, the court may, without entering a judgment of guilt and with the consent of such person, defer further proceedings and place him on probation upon reasonable terms and conditions as it may require. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided herein. Upon fulfillment of the terms and conditions, the court may discharge such person and dismiss the proceedings against him.

5-2-7-5: POSSESSION OF CANNABIS:

Except as otherwise provided in the Cannabis Regulation and Tax Act, 410 ILCS 705/, and the Industrial Hemp Act, 505 ILCS 89/, it is unlawful for any person knowingly to possess cannabis.

5-2-7-6: MANUFACTURE OR DELIVERY OF CANNABIS:

Except as otherwise provided in the Cannabis Regulation and Tax Act, 410 ILCS 705/, and the Industrial Hemp Act, 505 ILCS 89/, it is unlawful for any person knowingly to manufacture, deliver, or possess with intent to deliver, or manufacture, cannabis.

5-2-7-7: PRODUCTION OF CANNABIS PLANT:

Except as otherwise provided in the Cannabis Regulation and Tax Act, 410 ILCS 705/, and the Industrial Hemp Act, 505 ILCS 89/, it is unlawful for any person knowingly to produce the cannabis sativa plant or to possess such plants unless the production or possession has been authorized by Sections 11 or 15.2 of the Cannabis Control Act.

5-2-7-8: SEIZED SUBSTANCES:

All substances containing cannabis which have been seized as a result of violations hereunder, whether or not there is conviction, shall be subject to forfeiture and the Chief of Police is directed to take custody of said forfeited property and remove it for disposition in accordance with the law.

5-2-7-9: POSSESSION OF DRUG PARAPHERNALIA:

A. Possession: Except as otherwise provided in the Cannabis Regulation and Tax Act, 410 ILCS 705/, and the Industrial Hemp Act, 55 ILCS 89/, a person who knowingly possesses an item of "drug paraphernalia", as defined in the Drug Paraphernalia Control Act, 720 ILCS 600/2, 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 petty offense.

B. Determining Intent: In determining intent in subsection A 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.

COST

Approximately \$500 in Attorney fees.

RECOMMENDATION – Staff recommends that the Village Board approve Ordinance # 2020-0303-PD amending the Marijuana (cannabis) related violations Title 5, Chapter 2 Section 7.



**VILLAGE OF SUGAR GROVE
KANE COUNTY, ILLINOIS**

Ordinance No. 2020-0303-PD

**An Ordinance Amending Title 5 (Police Regulations) Chapter 2 (General Offenses)
Section 7 (Marijuana (Cannabis) Related Violations) of the Village Code
Village of Sugar Grove, Kane County, Illinois**

Adopted by the
Board of Trustees and President
of the Village of Sugar Grove
this __ day of _____, 2020.

Published in Pamphlet Form
by Authority of the Board of Trustees
of the Village of Sugar Grove, Kane County,
Illinois, this __ day of _____, 2020.

ORDINANCE NO. 2020-0303PD

**An Ordinance Amending Title 5 (Police Regulations) Chapter 2 (General Offenses)
Section 7(Marijuana (Cannabis) Related Violations) of the Village Code
Village of Sugar Grove, Kane County, Illinois**

BE IT ORDAINED by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois, as follows;

WHEREAS, the Village of Sugar Grove (“Village”) is not a home rule municipality within Article VII, Section 6A of the Illinois Constitution, and accordingly, acts pursuant to the powers granted to it under 65 ILCS 5/1-1 *et seq.*; and,

WHEREAS, the Village of Sugar Grove Village Code of Ordinances contains certain provisions regarding the regulation of cannabis for personal use; and,

WHEREAS, the State of Illinois recently adopted the Cannabis Regulation and Tax Act (410 ILCS 705 *et seq.*) which amended the Cannabis Control Act (720 ILCS 550 *et seq.*) to legalize the possession and use of cannabis for personal consumption in certain enumerated amounts; and,

WHEREAS, the Village therefore finds it necessary to amend its Village Code of Ordinances with regard to the same to ensure consistency and compliance with said changes to State law.

NOW, THEREFORE, be it ordained by the corporate authorities of the Village of Sugar Grove, Kane County, Illinois, as follows.

SECTION 1: TEXT AMENDMENT

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of the Board of Trustees for the Village, in the interest of the health and welfare of the citizens of the Village, to establish a reasonable penalty system which is responsive to the current state of knowledge concerning cannabis and consistent with its regulatory authority which directs the greatest efforts of law enforcement agencies toward the accumulation of more definitive knowledge concerning the use of cannabis, toward the education of the public with regard to the possible dangers inherent in the use of cannabis and toward the prevention of commercial traffickers in cannabis.

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include the preparation, compounding, packaging, or labeling of cannabis as an incident to lawful research, teaching, or chemical analysis and not for sale.

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B. Determining Intent: In determining intent in subsection A 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.

EFFECTIVE DATE: This Ordinance shall be in full force and effect on and after its approval, passage and publication in pamphlet form as provided by law.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois, this 3rd day of March 2020.

P. Sean Michels
President of the Board of Trustees
of the Village of Sugar Grove, Kane
County, Illinois

ATTEST: _____
Alison Murphy
Clerk, Village of Sugar Grove

	Aye	Nay	Absent	Abstain
Trustee Heidi Lendi	___	___	___	___
Trustee Jennifer Konen	___	___	___	___
Trustee Sean Herron	___	___	___	___
Trustee Ted Koch	___	___	___	___
Trustee Rick Montalto	___	___	___	___
Trustee Ryan Walter	___	___	___	___
Village President P. Sean Michels	___	___	___	___