

COUNCIL WORKSHOP ITEM

ITEM: An Ordinance Prohibiting the Possession of Drug Paraphernalia
DATE: February 6, 2001
PREPARED BY: Enza Petrarca, Staff Attorney *EP*
PURPOSE: To adopt an ordinance prohibiting the possession of drug paraphernalia

DISCUSSION:

The proposed ordinance amends the Downers Grove Municipal Code by adding a section prohibiting the possession of drug paraphernalia. Currently, possession of drug paraphernalia is prosecuted at State level as a Class A misdemeanor. The ordinance will allow the officers to prosecute the possession of drug paraphernalia charge as a village ordinance violation. However, the officers will still have the discretion to prosecute the violation as a Class A misdemeanor if they so choose. The ordinance provides a minimum fine of \$250.00 and a maximum fine of \$750.00 for the possession of drug paraphernalia. The ordinance also amends the fine amount for the possession of less than 30 grams of cannabis to a minimum fine of \$75.00 and a maximum fine of \$750.00.

ATTACHMENT:

An Ordinance Prohibiting the Possession of Drug Paraphernalia

RECOMMENDATION:

Please place ordinance on the February 13, 2001 Workshop Agenda

Village Manager

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE DOWNERS GROVE
MUNICIPAL CODE REGARDING THE POSSESSION OF CANNABIS**

BE IT ORDAINED by the Council of the Village of Downers Grove, in DuPage County, Illinois, as follows: (Additions are indicated by shading; deletions by ~~strikeout~~.)

SECTION 1. That Section 15-25 of the Downers Grove Municipal Code is hereby amended as follows:

15-25. Possession of cannabis prohibited.

(~~ba~~) For purposes of this ordinance, ~~cannabis is defined as follows~~ the following definitions apply:
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, cake or the sterilized seed of such plant which is incapable of germination.

Drug Paraphernalia: Includes all equipment, products and materials of any kind which are peculiar to, or marketed for use, or are used, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body, cannabis in violation of the Cannabis Control Act or any controlled substance. It includes but is not limited to:

- i. Kits peculiar to an marketed for use, or used in manufacturing, compounding, converting, producing, processing or preparing cannabis;
- ii. Isomerization devices peculiar to, or marketed for use, or used in increasing the potency of any species of plant which is cannabis;
- iii. Testing equipment peculiar to, or marketed for private home use in, or used for, identifying or analyzing the strength, effectiveness or purity of cannabis;
- iv. Diluents and adulterants peculiar to, or marketed for use in, or used for, cutting cannabis or any controlled substance by private persons;
- v. Objects peculiar to, marketed for use in, or used for ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, hashish oil, or any controlled substance into the human body including, where applicable, the following terms: water pipes, carburetion tubes and devices; smoking and carburetion masks; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice pipes or chillers;
- vi. Any item whose purpose, as announced or described by the seller, is for use in violation of this Section;

(ab) It shall be unlawful for any person to grow, possess, sell, give away, barter, deliver, exchange, distribute, or administer, or in any way possess any cannabis or any drug paraphernalia.

~~(c) Any person who violates this section with respect to not more than ten grams of cannabis, shall be fined not less than twenty five dollars nor more than two hundred dollars.~~

~~Any person who violates this section with respect to more than ten grams but less than thirty grams, shall be fined not less than fifty dollars nor more than five hundred dollars.~~

(c) Exemptions:

(1) Items marketed for the use in the preparation, compounding, packaging, labeling or other use of cannabis as an incident to lawful research, teaching, or chemical analysis and not for sale.

(2) Items marketed for, or historically and customarily used in connection with the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance.

(3) Items exempt under this section include, but are not limited to, garden hoes, rakes, sickles, baggies, tobacco pipes and cigarette-rolling papers.

(4) Items that are marketed for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purpose prohibited by this Section:

i. Considerations. In determining whether or not a particular item is exempt under this Section, all other logically relevant factors should be considered, including the following:

a. The general, usual, customary, and historical use to which the item involved has been put;

b. Expert evidence concerning the ordinary or customary use of the item and the effect of any peculiarity in the design or engineering of the item upon its functioning;

c. Any written instructions accompanying the delivery of the item concerning the purposes or uses to which the item can or may be put;

d. Any oral instructions provided by the seller of the item at the time and place of sale or commercial delivery;

e. Any national or local advertising, concerning the design, purpose or use of the item involved, and the entire context in which such advertising occurs;

f. The manner, place and circumstances in which the item was displayed for sale, as well as any item or items displayed for sale or otherwise exhibited upon the premises where the sale was made;

g. 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;

h. The existence and scope of legitimate uses for the object in the community.

(d) A person who possesses drug paraphernalia shall be fined not less than two hundred fifty dollars (\$250.00) nor more than seven hundred fifty dollars (\$750.00).

(e) A person who possesses less than thirty (30) grams of cannabis shall be fined not less than seventy five dollars (\$75.00) nor more than seven hundred fifty dollars (\$750.00)

(f) The provisions of this Section relating to the possession of cannabis shall be applicable to the possession of any quantity of cannabis less than thirty (30) grams. (Ord. No. 2389, § 1; Ord. No. 2877, § 1.)

SECTION 2. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

Passed:

Published:

Attest: _____
Village Clerk

[cannabis]