

SANGAMON COUNTY, ILLINOIS

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ORDINANCE  
NUMBER 16-56

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**AN ORDINANCE AMENDING THE VILLAGE CODE TO ADD A SUBCHAPTER FOR  
GENERAL OFFENSES INVOLVING CANNABIS**

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PAT SCHAD, Village Clerk

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Village Trustees

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on 10/25, 2016

Sorling Northrup – 1 N. Old State Capitol Plaza, Suite 200, Springfield, IL 62705

**ORDINANCE NO. 16- 56**

**AN ORDINANCE AMENDING THE VILLAGE CODE TO ADD A SUBCHAPTER FOR  
GENERAL OFFENSES INVOLVING CANNABIS**

**WHEREAS**, the Village of Chatham, Sangamon County, State of Illinois, is a duly organized and existing Village created under the provisions of the laws of the State of Illinois; and,

**WHEREAS**, the Village Board finds it in the best interests of the Village to modify its Code to outline prohibitions against the possession of cannabis and cannabis paraphernalia, and also to provide for a fair and efficient process to administratively adjudicate such violations; and,

**WHEREAS**, the Village Board of Trustees and the President of the Village of Chatham believe it is in the best interests of the Village to amend the Village Code in conformance with this Ordinance.

**NOW THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Chatham, Sangamon County, Illinois, as follows:

**Section 1. Recitals.** The foregoing recitals shall be and are hereby incorporated into and made a part of this Ordinance as if fully set forth in this Section 1.

**Section 2. Amendment to Village Code - Cannabis.** The Village Code is hereby amended by adding Sections 130.03–130.09 as follows:

## CANNABIS

### § 130.03 DEFINITIONS

For the purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CANNABIS.** As defined in 720 ILCS 550/3(a), **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.

**DRUG PARAPHERNALIA.** As defined in 720 ILCS 600/2(d), **DRUG PARAPHERNALIA** means all equipment, products and materials of any kind, which are intended to be used unlawfully 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 cannabis into the human body. It includes, but is not limited to:

(1) kits intended to be used unlawfully in manufacturing, compounding, converting, producing, processing or preparing cannabis;

(2) isomerization devices intended to be used unlawfully in increasing the potency of any species of plant which is cannabis;

(3) testing equipment intended to be used unlawfully in a private home for identifying or in analyzing the strength, effectiveness or purity of cannabis;

(4) diluents and adulterants intended to be used unlawfully for cutting cannabis by private persons;

(5) objects intended to be used unlawfully in ingesting, inhaling, or otherwise introducing cannabis, hashish, or hashish oil into the human body including, where applicable, the following items: water pipes; carburetion tubes and devices; smoking and carburetion masks; carburetor pipes; electric pipes; air-driven pipes; chillums; bonges; ice pipes or chillers; or any other item whose purpose is for use in violation of this subchapter.

**POSSESSION.** As defined in Illinois Pattern Criminal Instruction 4.16, **POSSESSION** may be actual or constructive. A person has actual possession when he or she has immediate and exclusive control over a thing. A person has constructive possession when he or she lacks actual possession of a thing he or she has both the power and the intention to exercise control over a thing. If two or more persons share the immediate and exclusive control or share the intention and the power to exercise control over a thing, then each person has possession.

#### **§ 130.04 POSSESSION OF CANNABIS**

It is prohibited for any person to knowingly possess cannabis within the corporate limits of the village.

Any person who violates this section with respect to not more than 10 grams of any substance containing cannabis shall be subject to ordinance violation proceedings per § 130.06, outlined below.

Any person who violates this section with respect to more than 10 grams of any substance containing cannabis shall be subject to criminal prosecution per 720 ILCS 550/4(b)–(g).

#### **§ 130.05 POSSESSION OF DRUG PARAPHERNALIA**

It is prohibited for any person to knowingly possess, within the corporate limits of the village, an item of drug paraphernalia with the intent to use it in ingesting, inhaling, or otherwise introducing cannabis into the human body, or in preparing cannabis for that use. In determining intent under this section, the trier of fact may take into consideration the proximity of the cannabis to drug paraphernalia or the presence of cannabis on the drug paraphernalia.

Any person violating this section in conjunction with a violation of § 130.04, possession of not more than 10 grams of cannabis, shall be subject to ordinance violation proceedings per § 130.06, outlined below.

Any person violating this section in conjunction with or with respect to more than 10 grams of any substance containing cannabis, or any other controlled substance, shall be subject to criminal prosecution per 720 ILCS 600/3.5.

#### **§ 130.06 VIOLATION PROCEEDINGS**

For violations of this subchapter, village police officers are authorized to issue citations. Citations shall be issued on forms approved by the Chief of Police and shall be served personally on the violator at the time of the violation(s).

Upon receipt of any citation(s) alleging violation(s) of § 130.04 and/or § 130.05, a violator may:

(A) Admit the violation(s): if, within 10 working days of issuance of the citation(s), the violator pays the fine (*see* § 130.09) for each violation at the village hall, such payment will be deemed both an admission and resolution; and the village will not prosecute the violation(s); or

(B) Deny the violation(s): if, within 10 working days of issuance of the citation(s), the violator does not pay the fine(s) at the village hall, the village will commence prosecution of the violation(s) pursuant to § 39.05; and the violator may be subject to hearing costs and/or costs of prosecution, in addition to the fine, if the violation(s) is/are sustained.

### **§ 130.07 ADMISSIBILITY OF CANNABIS**

In any ordinance violation hearing pursuant to this subchapter, cannabis shall only be admitted into evidence based upon: (1) a properly administered field test; or (2) opinion testimony of a peace officer based on the officer's training and experience as qualified by the hearing officer.

### **§ 130.08 BURDEN OF PROOF**

In any ordinance violation hearing pursuant to this subchapter, the village must prove the violation(s) by the "preponderance" or "greater weight" of the evidence.

### **§ 130.09 SPECIFIC PENALTIES**

(A) The fine for each violation of this subchapter is \$200.

(B) Further, if ordinance violation prosecution is commenced pursuant to § 130.06(B), the hearing officer shall have the discretion to impose—in addition to the minimum fine—up to \$100 for hearing costs and/or up to \$200 for costs of prosecution (such as attorney's fees, subpoenas, witness attendance, evidence testing, etc.) for each violation that is sustained.

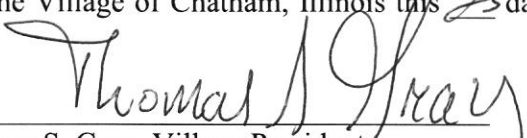
**Section 3. Severability.** In the event a court of competent jurisdiction finds this ordinance or any provision hereof to be invalid or unenforceable as applied, such finding shall not affect the validity of the remaining provisions of this ordinance and the application thereof to the greatest extent permitted by law.

**Section 4. Repeal and Savings Clause.** All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions, or causes of action which shall have accrued to the Village of Chatham prior to the effective date of this ordinance.

**Section 5. Effectiveness.** This ordinance shall be in full force and effect from and after passage, approval and publication in pamphlet form as provided by law.

	YES	NO	ABSENT	PRESENT
MARK CLAYTON	✓ REMOTE			
TERRY FOUNTAIN	✓			
DAVID KIMSEY			✓	
NINA LINDHORST	✓			
MATT MAU			✓	
JOE SCHATTEMAN	✓			
THOMAS S. GRAY				
TOTAL	4	0	2	0

**APPROVED** by the President of the Village of Chatham, Illinois this 25 day of OCT, 2016.

  
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 Thomas S. Gray, Village President

Attest:  
  
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 Pat Schad, Village Clerk