

SANGAMON COUNTY, ILLINOIS

ORDINANCE
NUMBER 19-39

**AN ORDINANCE AMENDING TITLE XIII OF THE VILLAGE CODE
REGARDING CANNABIS & DRUG PARAPHERNALIA VIOLATIONS**

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MATT MAU
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Village Trustees

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

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**AN ORDINANCE AMENDING TITLE XIII OF THE VILLAGE CODE
REGARDING CANNABIS & DRUG PARAPHERNALIA VIOLATIONS**

WHEREAS, the Village of Chatham (hereinafter, the “Village”), an Illinois municipal corporation; and

WHEREAS, on January 1, 2020, the Cannabis Regulation & Tax Act (hereinafter “Act”) will go into effect, legalizing the consumption and possession of limited amounts of cannabis for adults 21 and older in Illinois; and

WHEREAS, under the Act, Illinois residents may possess up to: (1) 30 grams, or just over one ounce of “flower”; (2) 5 grams of cannabis concentrate and (3) 500 milligrams of THC (the chemical that makes users high) in a cannabis infused product such as candy, other consumable products (referred to as “edibles”), or tinctures, and lotions; and

WHEREAS, the Village desires to update its regulations on the possession and use of cannabis, as well as on the possession and use of drug paraphernalia, to reflect the changes in the Act and as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF CHATHAM, SANGAMON COUNTY, ILLINOIS, AS FOLLOWS:

SECTION ONE: That the foregoing recitals be and the same are hereby incorporated herein by this reference and made a part hereof as though fully set forth as findings of fact by the President and Board of Trustees.

SECTION TWO: That Title XIII of the Chatham Village Code be and the same is hereby amended by replacing Sections 130.15 – 130.21 with the new Sections 130.15 – 130.18 as set forth in Exhibit A, attached hereto and by this reference incorporated herein and made a part hereof.

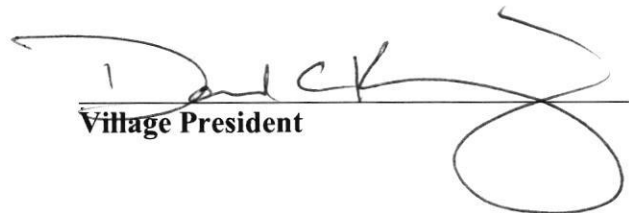
SECTION THREE: That if any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

SECTION FOUR: That this Ordinance shall be in full force and effect on January 1, 2020, after its passage, approval, and publication as required by law.

PASSED this 23rd day of December, 2019.

	AYE	NAY	ABSTAIN	ABSENT
KRISTEN CHIARO	✓			
ANDREW DETMERS	✓			
BRETT GERGER	✓			
RYAN MANN				✓
MATT MAU	✓			
PAUL SCHERSCHEL	✓			
DAVE KIMSEY				
TOTAL				

APPROVED this 23rd day of December, 2019.


Village President

ATTEST:

Village Clerk

Exhibit A

SECTION 130.15 CANNABIS & DRUG PARAPHERNALIA DEFINITIONS

As used in Sections 130.16, 130.17, and 130.18, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

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.

CANNABIS PARAPHERNALIA: means equipment, products, or materials intended to be used for planting, propagating, cultivating, growing, harvesting, manufacturing, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, or otherwise introducing cannabis into the human body.

CONTROLLED SUBSTANCE: Any substance as defined in Article II of the Illinois Controlled Substances Act, 720 Illinois Compiled Statutes 570/201 et seq.

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

DRUG PARAPHERNALIA: All equipment, products and materials of any kind, other than methamphetamine manufacturing materials as defined in Section 10 of the Methamphetamine Control and Community Protection Act and cannabis paraphernalia as defined in Section 1-10 of the Cannabis Regulation and Tax Act, 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 into the human body a controlled substance in violation of the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act or a synthetic drug product or misbranded drug in violation of the Illinois Food, Drug and Cosmetic Act. It includes, but is not limited to:

- A. Kits intended to be used unlawfully in manufacturing, compounding, converting, producing, processing, or preparing a controlled substance;

- B. Isomerization devices intended to be used unlawfully in increasing the potency of any species of plant which is a controlled substance;
- C. Testing equipment intended to be used unlawfully in a private home for identifying or in analyzing the strength, effectiveness or purity of controlled substances;
- D. Diluents and adulterants intended to be used unlawfully for cutting a controlled substance by private persons;
- E. Objects intended to be used unlawfully in ingesting, inhaling, or otherwise introducing cocaine or a synthetic drug product or misbranded drug in violation of the Illinois Food, Drug and Cosmetic Act 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;
 - 10. Ice pipes or chillers;
- F. Any items whose purpose, as announced or described by the seller, is for use in violation of this Act.

KNOWLEDGE: Knows, acts knowingly or with knowledge:

- A. The nature or attendant circumstances of his/her conduct, described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist. Knowledge of a material fact includes awareness of the substantial probability that such fact exists.
- B. The result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.

C. Knowledge may be inferred from the surrounding circumstances.

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, 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, chemical analysis, or sold and possessed as provided in the Compassionate Use of Medical Cannabis Program Act, as amended, and the Cannabis Regulation and Tax Act, as amended.

NITROUS OXIDE (N₂O): A colorless flammable gas used as an anesthetic and in aerosols.

NITROUS OXIDE CARTRIDGE: Any cartridge containing less than twenty (20) ounces of compressed nitrous oxide (N₂O).

ORDINARY PUBLIC VIEW: Means within the sight line with normal visual range of a person, unassisted by visual aids, from a public street or sidewalk adjacent to real property, or from within an adjacent property.

PERSON: Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.

POSSESSION: Possession may be either actual or constructive.

A. Actual possession means exercising physical dominion.

B. Constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cannabis, drug paraphernalia or cannabis paraphernalia.

PRODUCE OR PRODUCTION: Planting, cultivating, tending or harvesting.

PUBLIC PLACE: Means any place where a person could reasonably be expected to be observed by others. This included, but is not limited to, all parts of buildings owned in whole or in part, or leased, by the State or a unit of local government and all areas in a park, recreation area, wildlife area, or playground owned in whole or in part, leased, or managed by the State or a unit of local government. The term "Public Place" does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises.

SECTION 130.16 POSSESSION OF CANNABIS

A. Possession, Exceeding State Limits. It shall be unlawful for and no person shall possess more than thirty grams (30g) of raw cannabis, cannabis-infused products containing more than five hundred milligrams (500 mg) of THC, or five grams (5g) of cannabis product in

concentrated form. It shall further be unlawful for and no person shall possess cannabis at the following locations: (1) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act; (2) on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act; (3) in any correctional facility; (4) in a vehicle not open to the public unless the cannabis is in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving; or (5) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises.

B. Possession, Sale or Providing to Minors Prohibited.

1. It shall be unlawful for and no person under the age of twenty-one (21) shall possess, consume, or use any substance containing cannabis or THC, except as allowed by the Compassionate Use of Medical Cannabis Program Act, as amended.
2. It shall be unlawful for and no person, after purchasing or otherwise obtaining any substance containing cannabis or THC shall sell, give or deliver such substance to a person under the age of 21, except as allowed by the Compassionate Use of Medical Cannabis Program Act, as amended.

C. Unlawful Consumption of Cannabis. It shall be unlawful for and no person shall use cannabis or cannabis-infused products at the following locations: (1) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act; (2) on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act; (3) in any correctional facility; (4) in any motor vehicle; (5) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises; (6) in any public place; or (7) knowingly in close physical proximity to anyone under 21 years of age who is not a registered medical cannabis patient under the Compassionate Use of Medical Cannabis Pilot Program Act; or in any place where smoking is prohibited under the Smoke Free Illinois Act.

D. Unlawful Possession of Cannabis Plant. It shall be unlawful for any person to possess a cannabis sativa plant, except as provided by the Cannabis Regulation and Tax Act, as may be amended. It shall further be unlawful to have a cannabis sativa plant in ordinary public view.

E. Penalty. Any person who pleads guilty or liable or is found guilty or liable by a court of law or administrative tribunal for a violation of this Section shall be fined as follows:

1. Paragraphs A through C shall be punished by a fine of two hundred and fifty dollars (\$250.00).

2. Paragraph D shall be punished by a fine of two hundred and fifty dollars (\$250.00) per cannabis sativa plant.

F. Exceptions.

1. Any person who manufactures, distributes, dispenses, or is in possession of any controlled substance for research purposes, pursuant to 720 Illinois Compiled Statutes 550/11, as hereafter amended, shall be exempt from the provisions of this Section.
2. Any person in possession of a compassionate use of medical cannabis card, as provided by the Compassionate Use of Medical Cannabis Program Act, as amended, may grow up to 5 cannabis plants within a secured enclosed facility.
3. Possession and/or consumption by any person in possession of a compassionate use of medical cannabis card, as provided by the Compassionate Use of Medical Cannabis Program Act, as may be amended, where said possession and/or consumption is authorized by and in accordance with said Act.
4. Any person who is licensed and authorized by the State of Illinois to dispense, cultivate, grow, infuse or deliver cannabis or substances containing THC to the extent it is permitted and authorized by State law.

G. Admissibility of Cannabis. In a prosecution for a violation of this section, evidence of 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 court.

H. Relationship to State Laws. Except as provided herein, violations of this section shall be considered civil in nature and prosecuted as local ordinance violations. The Village may however, in its discretion, refer violations involving the possession or consumption of cannabis under the Cannabis Control Act, or other applicable law, to the State's Attorney for charges pursuant to State law instead of bringing charges pursuant to this section, but no person shall be charged both pursuant to this chapter and State law for the same offense. If the law requires a charge involving the possession or consumption of cannabis to be referred to the State's Attorney to be charged criminally pursuant to State law, the Village shall make such a referral and shall not prosecute the violation as a local ordinance violation.

SECTION 130.17 POSSESSION OF DRUG PARAPHERNALIA PROHIBITED

A. Violation for Possession of Drug Paraphernalia: No person shall knowingly possess any item of Drug Paraphernalia, as defined in Section 130.15, where it is evident the purpose

is for unlawfully ingesting, inhaling, or otherwise introducing a controlled substance into the human body, or in preparing a controlled substance for that use within the corporate limits of the Village of Chatham. In determining evidence or intent of an unlawful purpose, the trier of fact may take into consideration the proximity of the controlled substances to the drug paraphernalia or the presence of a controlled substance on the drug paraphernalia.

- B. Penalty. Any person who pleads guilty or liable or is found guilty or liable by a court of law or administrative tribunal shall be punished by a fine of two hundred and fifty dollars (\$250.00).
- C. Forfeiture. “Drug paraphernalia” as defined in Section 130.15, seized by police officers pursuant to an arrest or issuance of a notice to appear for a violation of this Section, shall be forfeited to the Village upon a plea of guilty or liability, a finding of guilt or liable and/or a disposition of court supervision or probation by a court of law or upon the individual utilizing any administrative remedy allowed by the Village without further order of the court. Any other items which may be seized or forfeited pursuant to Section 720 Illinois Compiled Statutes 600/5, may be forfeited in the same manner as described therein for a violation of this Section.
- D. Exemptions. This Section does not apply to:
1. Items used in the preparation, compounding, packaging, labeling, or other use of a controlled substance as an incident to lawful sale, use, research, teaching or chemical analysis and not for sale.
 2. Items 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 unless such item has the presence of a controlled substance. Items exempt under this subsection include, but are not limited to, garden hoes, rakes, sickles, baggies, tobacco pipes, and cigarette rolling papers.
 3. Items listed in the definition of “drug paraphernalia” in Section 130.15 if said items are used solely for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purposes prohibited by this chapter.
 4. A person who is legally authorized to possess hypodermic syringes or needles under the Hypodermic Syringes and Needles Act, 720 Illinois Compiled Statutes 635/0.01 et seq.
- E. Relationship to State Laws. Except as provided herein, violations of this section shall be considered civil in nature and prosecuted as local ordinance violations. The Village may however, in its discretion, refer violations involving the possession or use of drug

paraphernalia under the Drug Paraphernalia Control Act, or other applicable law, to the State's Attorney for charges instead of bringing charges pursuant to this section, but no person shall be charged both pursuant to this chapter and State law for the same offense. If the law requires a charge involving drug paraphernalia to be referred to the State's Attorney to be charged criminally pursuant to State law, the Village shall make such a referral and shall not prosecute the violation as a local ordinance violation.

SECTION 130.18 POSSESSION OF CANNABIS PARAPHERNALIA BY MINORS PROHIBITED

- A. Violation for Possession of Cannabis Paraphernalia by Minors. No person under the age of 21 shall knowingly possess any item of Cannabis Paraphernalia where it is evident the purpose is for unlawfully ingesting, inhaling, or otherwise introducing cannabis into the human body, or in preparing cannabis for that use within the corporate limits of the Village of Chatham. In determining evidence or intent of an unlawful purpose, the trier of fact may take into consideration the proximity of the controlled substances to the cannabis paraphernalia or the presence of a controlled substance on the cannabis paraphernalia.
- B. Penalty. Any person who pleads guilty or liable or is found guilty or liable by a court of law or administrative tribunal shall be punished by a fine of two hundred and fifty dollars (\$250.00).
- C. Forfeiture. "Cannabis paraphernalia" as defined in Section 130.15, seized by police officers pursuant to an arrest or issuance of a notice to appear for a violation of this Section, shall be forfeited to the Village upon a plea of guilty or liability, a finding of guilt or liable and/or a disposition of court supervision or probation by a court of law or upon the individual utilizing any administrative remedy allowed by the Village without further order of the court. Any other items which may be seized or forfeited pursuant to Section 720 Illinois Compiled Statutes 600/5, may be forfeited in the same manner as described therein for a violation of this Section.