

ORDINANCE NO. MC-1027

AN ORDINANCE AMENDING CHAPTERS 70 AND 106 OF THE HOMEWOOD MUNICIPAL CODE CONCERNING THE POSSESSION AND CONSUMPTION OF RECREATIONAL CANNABIS

WHEREAS, on June 25, 2019, Governor JB Pritzker signed Public Act 101-0027, the Cannabis Regulation and Tax Act, which legalized the possession and consumption of recreational cannabis; and

WHEREAS, Section 11-20-5 of the Illinois Municipal Code (65 ILCS 5/11-20-5) authorizes the corporate authorities of each municipality to do all acts and make all regulations which may be necessary or expedient for the promotion of health; and

WHEREAS, the Village of Homewood seeks to enforce violations of the Cannabis Regulation and Tax Act, in accordance with the Act; and

WHEREAS, the Act prohibits minors from possessing or consuming cannabis or products containing THC unless they possess a medical marijuana permit; and

WHEREAS, the Act prohibits public consumption of cannabis or products containing THC; and

WHEREAS, the President and Board of Trustees of the Village of Homewood find it to be in the best interests of the Village of Homewood to amend chapters 70 and 106 of the Homewood Municipal Code for the benefit of the citizens of the Village of Homewood.

NOW THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Homewood, Cook County, Illinois, as follows:

SECTION ONE - AMENDMENTS TO THE HOMEWOOD MUNICIPAL CODE:

A. Section 70-150 of the Homewood Municipal Code is amended by deletion of the section in its entirety and insertion of the following:

Sec. 70-150. Regulation of Cannabis.

(a) For the purpose of this section, "cannabis" means marijuana, hashish, and other substances that are identified as including any parts of the plant *Cannabis sativa* and including derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin

extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction; however, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Cannabis" does not include industrial hemp as defined and authorized under the Industrial Hemp Act. "Cannabis" also means concentrate and cannabis-infused products.

(b) Except as otherwise provided in the Cannabis Regulation and Tax Act (410 ILCS 705/1-1 *et seq.*) or the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 *et seq.*), it shall be unlawful for any person knowingly to possess any quantity of any substance containing cannabis, except that the enforcement of this section shall be limited to persons knowingly possessing less than thirty (30) grams of cannabis flower, five hundred (500) milligrams of THC contained in a cannabis-infused product, or five (5) grams of cannabis concentrate.

(c) 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 Pilot Program Act as amended.

(d) 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 twenty-one (21) except as allowed by the Compassionate Use of Medical Cannabis Pilot Program Act as amended.

(e) No person shall use cannabis or cannabis-infused products in public or knowingly within the presence of a person under the age of twenty-one (21) except as allowed by the Compassionate Use of Medical Cannabis Pilot Program Act as amended.

(f) It shall be unlawful for any person to possess a cannabis plant, except as provided in the Cannabis Regulation and Tax Act, as amended.

(g) The Cannabis Regulation and Tax Act is hereby adopted by reference as though fully set forth herein. Any violation of the Cannabis Regulation and Tax Act which is not under the exclusive jurisdiction of a department or agency of the State of Illinois or the Cook County State's Attorney may be prosecuted through the Village Prosecutor as an ordinance

violation. Any violation of the Cannabis Regulation and Tax Act which is not under the exclusive jurisdiction of a department or agency of the State of Illinois or the Cook County State's Attorney and is not prohibited from being prosecuted through a system of local adjudications, as provided by statute, may be prosecuted through such local adjudication system as an ordinance violation.

(h) Any person in violation of the provisions of this section shall upon conviction thereof be fined an amount not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00) for each violation.

B. Section 70-151 of the Homewood Municipal Code is amended as follows (additional language underlined):

Sec. 70-151. Possession, manufacture or delivery of drug paraphernalia prohibited.

(a) Whenever used in this Article V, "drug paraphernalia" means all equipment, products, and materials of any kind 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 by Illinois law. ~~in violation of the Cannabis Control Act (720 ILCS 550/1 et seq.) or the Illinois Controlled Substances Act (720 ILCS 570/100 et seq.)~~ It includes but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting any plant species classified as a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of plant any species classified as a controlled substance;

(4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances;

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;

~~(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or otherwise cleaning or refining cannabis (Reserved);~~

(8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(11) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing ~~cannabis, cocaine, hashish, or hashish oil~~ controlled substances into the human body, ~~such as:~~

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

~~— (ii) Water pipes;~~

~~— (iii) Carburetion tubes and devices;~~

~~— (iv) Smoking and carburetion masks;~~

~~— (v) Roach clips or similar objects used to hold burning material too small or to be held in the hand;~~

~~— (vi) Miniature cocaine spoons and cocaine vials;~~

~~— (vii) Chamber pipes;~~

- ~~— (viii) Carburetor pipes;~~
- ~~— (ix) Electric pipes;~~
- ~~— (x) Air driven pipes;~~
- ~~— (xi) Chillums;~~
- ~~— (xii) Bongs; and~~
- ~~— (xiii) Ice pipes or chillers.~~

(13) In determining whether an object is drug paraphernalia, a court or hearing officer may consider, in addition to all other logically relevant factors, the following:

- (i) Statements concerning the object's use made by an owner or by anyone in control of the object;
- (ii) The proximity of the object, in time and space, to a direct violation of Section 70-150 of this code;
- (iii) The proximity of the object to controlled substances;
- (iv) The existence of any residue of controlled substances on the object;
- (v) Direct or circumstantial evidence of the intent of an owner, or anyone in control of the object, to deliver it to persons whom he/she knows, or should reasonably know, intend to use the object to facilitate a violation of Section 70-150 of this code, the Cannabis Control Act or the Illinois Controlled Substances Act;
- (vi) Instructions, oral or written, provided with the object concerning its use;
- (vii) Descriptive materials accompanying the object explaining or depicting its use;
- (viii) Advertising concerning its use;
- (ix) Information found on social media concerning the object's use;
- (x) How the object is displayed for sale;

(xi) Whether the owner, or anyone in control of the object, is a legitimate supplier of similar items, such as a licensed tobacco distributor or dealer;

(xii) The existence and scope of legitimate uses for the object in the community;

(xiii) Expert testimony concerning its use; and

(xiv) Whether the owner, or anyone in control of the object, is exempted from the prohibitions imposed by subsection 70-150(e) (b) of this code.

(b) Possession of drug paraphernalia prohibited. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this subchapter. Any person who violates this section may be fined not less than \$100.00 or more than \$750.00 for each offense.

(c) Manufacture or delivery of drug paraphernalia prohibited. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture, with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this subchapter. Any person who violates this section, upon conviction, may be fined not less than \$100.00 or more than \$750.00 for each offense.

(d) Civil forfeiture. If, after hearing pursuant to 65 ILC5 5/1-2.2-1, the defendant is found liable for violation of Sections 70-150 and/or 70-151, all drug paraphernalia recovered from the defendant shall be subject to forfeiture.

(e) Severability. If any provision of Sections 70-150 and/or 70-151, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

C. Section 105-451 of the Homewood Municipal Code is amended as follows (additional language underlined):

Sec. 106-451. Impoundment for certain violations.

A motor vehicle shall be subject to impoundment when used in the commission of any of the following violations:

...

(7) Operation or use of a motor vehicle while soliciting, possessing, or attempting to solicit or possess cannabis or a controlled substance, as defined by in violation of the Cannabis Control Act or the Illinois Controlled Substances Act;

SECTION TWO - EFFECTIVE DATE:

This ordinance shall be in full force and effect on January 1, 2020.

PASSED and APPROVED this 12th day of November, 2019.


Village President

ATTEST:


Village Clerk

Ayes: 4

Nays: 2

Abstain: —

Absent: —