

VILLAGE OF OAKWOOD
ORDINANCE NO. 05-3-14-1

ORDINANCE REGARDING POSSESSION OF CANNABIS OR DRUG
PARAPHERNALIA

WHEREAS, the corporate authorities of the Village of Oakwood have determined that it is in the best interest of the health and safety of the citizens of the village to prohibit the possession of cannabis and drug paraphernalia within the corporate limits of the village, and;

WHEREAS, the Village is authorized by the Illinois Municipal Code to make such regulation.

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

Section 1. That Title 9 of the Municipal Code of the Village of Oakwood is hereby amended to add the following Chapter 9.34 “Cannabis and Drug Paraphernalia” under II Offenses Against the Public Peace as follows:

Chapter 9.34 Cannabis and Drug Paraphernalia

Sections:

9.34.010 Definitions.

A. “Cannabis” shall have the meaning ascribed to it in Section 3 of the Illinois Cannabis Control Act, 720 ILCS Sec. 550/3.

B. "Drug paraphernalia" shall have the meaning ascribed to it in section 2 of the Illinois Drug Paraphernalia Control Act, 720 ILCS 600/2.

9.34.020 Possession of Cannabis.

It shall be unlawful for any person to possess cannabis or any substance containing cannabis.

9.34.030 Possession of Drug Paraphernalia.

(A) It shall be unlawful for any person to knowingly possess an item of drug paraphernalia 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.

(B) In determining intent under subsection (A), the trier of fact may take into consideration the proximity of the cannabis or controlled substances to the drug paraphernalia or the presence of cannabis or a controlled substance on the drug paraphernalia.

9.34.040 Exemptions.

§ 4. Exemptions. This Chapter shall not apply to :

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

(b) 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

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

(c) Items listed in Section 2 of this Act which are marketed for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for an illicit purpose prohibited by this Act.

In determining whether or not a particular item is exempt under this subsection, the trier of fact should consider, in addition to all other logically relevant factors, the following:

(1) the general, usual, customary, and historical use to which the item involved has been put;

(2) expert evidence concerning the ordinary or customary use of the item and the effect of any peculiarity in the design or engineering of the device upon its functioning;

(3) any written instructions accompanying the delivery of the item concerning the purposes or uses to which the item can or may be put;

(4) any oral instructions provided by the seller of the item at the time and place of sale or commercial delivery;

(5) any national or local advertising concerning the design, purpose or use of the item involved, and the entire context in which such advertising occurs;

(6) 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;

(7) 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;

(8) the existence and scope of legitimate uses for the object in the community.

9.34.040 Violation - Penalty

Any person who violates this ordinance shall be subject to a fine of up to \$150 plus court costs for the first offense and \$750 plus court costs for the second and any subsequent offense.

Section 2. This ordinance shall be in full force and effect from and after its passage, as provided by law.

Passed this 14th day of March, 2005, by more than a majority vote of the Village Board of the Village of Oakwood then holding office upon the following roll call vote:

Members voting Yes Bruce Hill, Bob Lucas, Debbie Young,
Gene McQuinn, Dave Parker and Mitch Zverevy.

Members voting No _____

Members Abstaining _____

Members Absent _____

Approved this 14th day of March, 2005

Tom Cook
Village President

Attest:

Jean Hill
Village Clerk

Published in Pamphlet form this 14th day of March

Jean Hill
Jean Hill, Village Clerk