

**Ordinance of the County Board
of
Kankakee County, Illinois**

**RE: ADOPTION OF AN ORDINANCE FOR THE POSSESSION AND DELIVERY OF
CANNABIS AND DRUG PARAPHERNALIA**

WHEREAS, the State of Illinois has recognized that previous legislation addressing cannabis has unnecessarily drawn a large segment of the population into the criminal justice system and has changed the amount of discretion the criminal justice has in cannabis related offenses by enacting 720 ILCS 550/1 *et seq.*, commonly known as the Cannabis Control Act; and,

WHEREAS, the County Board of Kankakee County in consultation with the State's Attorney's Office and the Sheriff's Department, agrees with the State of Illinois and finds it appropriate to adopt a County wide ordinance in accordance with State law; and,

WHEREAS, the Executive Committee at its regularly scheduled meeting of January 24, 2017, having reviewed, discussed and considered the matter, recommends to add to the Kankakee County Code, Chapter 42, Article I a new section "42-9" titled "Possession of cannabis" and include the below ordinance as part of this recommended Section; and,

WHEREAS, the Executive Committee at its regularly scheduled meeting of January 24, 2017, having reviewed, discussed and considered the matter, recommends to add to the Kankakee County Code, Chapter 42, Article I a new section "42-10" titled "Drug Paraphernalia" and include the below ordinance as part of this recommended Section.

NOW, THEREFORE, BE IT RESOLVED by the County Board of Kankakee County at this regularly scheduled meeting of February 14, 2017 after review, discussion and consideration, that Sections 42-9 and 42-10 be added to the Kankakee County Code under Chapter 42, Article I and the language of each Section shall be:

Section 42-9: Possession of cannabis.

- (a) *Definitions.* All terms and phrases used herein shall have the same meaning as ascribed to them in the Cannabis Control Act (720 ILCS 550/1 *et seq.*); except the term "person" is limited to natural persons who have attained the age of 17 years or more.
- (b) *Offense of possession of cannabis.* A person commits the offense of possession of cannabis within Kankakee County and the unincorporated areas of Kankakee County or areas of primary local police enforcement by the Kankakee County Sheriff's Office as defined by intergovernmental agreement between the Sheriff's Office and the local municipality as approved by the County Board by knowingly possessing ten grams or less of any substance containing cannabis unless permitted or authorized to do so pursuant to the Cannabis Control Act (720 ILCS 550/1 *et seq.*).
- (c) *Violations, penalties.*
 - (1) Any person violating Subsection (b) shall be subject to a mandatory fine of not less than \$200.00.

Section 42-10: Drug paraphernalia.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Drug paraphernalia means all equipment, products and materials of any kind which are 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 in violation of the Cannabis Control Act (720 ILCS 550/1 et seq.) and the Illinois Controlled Substance 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 of any species of plant which is 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 any species of plant of which is 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) Dilutents 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 in otherwise cleaning or refining, marihuana;
- (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 marihuana, cocaine, hashish, or hashish oil into the human body, such as:
 - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - b. Water pipes;
 - c. Carburetion tubes and devices;
 - d. Smoking and carburetion masks;
 - e. Roach clips: Meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;
 - f. Miniature cocaine spoons, and cocaine vials;
 - g. Chamber pipes;

- h. Carburetor pipes;
- i. Electric pipes;
- j. Air-driven pipes;
- k. Chillums;
- l. Bongs;
- m. Ice pipes or chillers.

(b) A variety of factors shall be considered when determining whether an item is drug paraphernalia, which shall include, but not be limited to, the following factors:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) Prior convictions, if any, of an owner, or of anyone in control of, the object, under any State or Federal law relating to any controlled substance;
- (3) The proximity of the object, in time and space, to a direct violation of this section;
- (4) The proximity of the object to controlled substances;
- (5) The existence of any residue of controlled substances on the object;
- (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom the owner knows, or should reasonably know, intend to use the object to facilitate a violation of this section; the innocence of an owner, or of anyone in control of the object, as to direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
- (7) Instructions, oral or written, provided with the object concerning its use;
- (8) Descriptive materials, accompanying the object which explain or depict its use;
- (9) National and local advertising concerning its use;
- (10) The manner in which the object is displayed for sale;
- (11) 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;
- (12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- (13) The existence and scope of legitimate uses for the object in the community;
- (14) Expert testimony concerning its use.

(c) *Sale or possession.* This section shall be in effect within the County to prohibit the sale and possession of items intended for use or designed for use with illegal cannabis or drugs.

(d) *Possession of.* 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 section. Any person who violates this subsection shall be fined \$200.00.

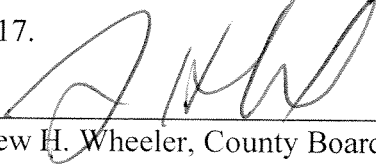
(e) *Manufacture or delivery of.* It is unlawful for any person to deliver, possess with intent to deliver, or manufacture, with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test analyze, pack, re-pack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this section. Any person who violates this subsection, shall be fined \$200.00.

(f) *Delivery to a minor.* Any person 18 years of age or over who violates Subsection (d) of this section by delivering drug paraphernalia to a person under 18 years of age shall be fined \$500.00.

(g) *Advertising.* It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection, shall be fined \$500.00.


(h) *Seizure without warrant.* All drug paraphernalia manufactured, delivered, possessed, intended for use or designed for use defined in this section shall be seized without a warrant by a peace officer and forfeited to the County without further order of court.

PASSED and adopted this 14th day of February, 2017.



Andrew H. Wheeler, County Board Chairman

ATTEST:



Bruce Clark, County Clerk