

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

 X Resolution or Ordinance (Blue) Waiver of First Requested
 Recommendations of Boards, Commissions & Committees (Green)
 Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott Niehaus, Village Manager

DATE: February 11, 2020_ (COW) (B of T) **Date:** February 20, 2020

TITLE: Ordinance Revising "Drug Paraphernalia"

SUBMITTED BY: Chief. Roy Newton

BACKGROUND/POLICY IMPLICATIONS:

Amending Title XIII, Chapter 134 of the Lombard Village Code in re: Drug-Related Offenses

FISCAL IMPACT/FUNDING SOURCE:

Time and Materials:
Signage and Village Installation

Review (as necessary):

Village Attorney X	_____	Date	_____
Finance Director X	_____	Date	_____
Village Manager X	_____	Date	_____

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



LOMBARD POLICE DEPARTMENT

TO: Village Board of Trustees
Through Scott Niehaus
Village Manager

FROM: Roy Newton
Chief of Police

SUBJECT: Ordinance Revising "Drug Paraphernalia"

DATE: February 10, 2020

Honorable Lombard Village Board of Trustees,

As you are aware the State of Illinois will legalize cannabis and cannabis related products on January 1st, 2020. As the Village of Lombard has had an ordinance covering the possession of cannabis and paraphernalia (equipment in which to use cannabis), the State statute will void certain amounts of possession of cannabis and their products as well as drug paraphernalia.

The attached Village Ordinance has been amended relative to the possession of cannabis paraphernalia by individuals under twenty-one (21).

It is my opinion that the Village Board and The Honorable President Giagnorio sign the ordinance herein attached. If there are any questions, please do not hesitate to reach out to my office.

Respectfully,

A handwritten signature in black ink, appearing to read "RN", written over a horizontal line.

Roy Newton
Chief of Police

ORDINANCE NO. _____

**AN ORDINANCE
AMENDING TITLE XIII., CHAPTER 134
OF THE LOMBARD VILLAGE CODE
IN REGARD TO DRUG-RELATED OFFENSES**

BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: That Title XIII., Chapter 134, Section 134.05(A) of the Lombard Village Code is amended by revising the word “subchapter” as set forth in the opening language thereof, before the definition of cannabis, to read “Section 134.05”.

SECTION 2: That Title XIII., Chapter 134, Section 134.05(D) of the Lombard Village Code is amended by revising the word “Chapter”, as set forth in the opening language thereof, before subsection a., to read “Section”.

SECTION 3: That Title XIII., Chapter 134, Section 134.05(D)c. of the Lombard Village Code is amended by revising the reference to “defined in subsection (A)(4)” to read “listed in the definition of Drug Paraphernalia”.

SECTION 4: That Title XIII., Chapter 134 of the Lombard Village Code is amended by adding a new Section 134.06 thereto, which shall read in its entirety as follows:

“§ 134.06 Cannabis paraphernalia control.

(A) *Definitions.*

For the purpose of this Section 134.06, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Cannabis. This term shall have the meaning ascribed to it in subsection 134.01(A) as if that definition were incorporated herein.

Cannabis paraphernalia. All 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 in violation of the laws of the State of Illinois or the Village Code. 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 into the human body, including, where applicable, the following items:
 - (a) water pipes;
 - (b) carburetion tubes and devices;
 - (c) smoking and carburetion masks;
 - (d) carburetor pipes;
 - (e) electric pipes;
 - (f) air-driven pipes;
 - (g) chillums;
 - (h) bongs;
 - (i) ice pipes or chillers;
- (6) any item whose purpose, as announced or described by the seller, is for use in violation of this Section.

Deliver or delivery. The actual, constructive or attempted transfer of possession, with or without consideration, whether or not there is an agency relationship.

- (B) *Sale or delivery.* It is unlawful for any person, business, corporation, place, business, premises, company or other legal entity to sell or deliver, for any commercial consideration, any item of cannabis paraphernalia to any person under the age of twenty-one years old, unless said person under the age of twenty-one years old is a registered qualifying patient with a valid registry identification card, pursuant to the Compassionate Use of Medical Cannabis Program Act (410 ILCS 130/1, *et seq.*).
- (C) *Possession of cannabis paraphernalia.* It is unlawful for any person under the age of twenty-one years old to knowingly possess an item of cannabis 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, unless said person is a registered qualifying patient with a valid registry identification card, pursuant to the Compassionate Use of Medical Cannabis Program Act (410 ILCS 130/1, *et seq.*), or is participating in a Community

College Cannabis Vocational Pilot Program (410 ILCS 705/25-1 *et seq.*). In determining intent under this subsection (C), the trier of fact may take into consideration the proximity of the cannabis to cannabis paraphernalia or the presence of cannabis on the cannabis paraphernalia.

- (D) *Exemptions.* This Section shall not apply to:
- (1) Items marketed for use in the preparation, compounding, packaging, labeling or other use of cannabis as an incident to lawful research, teaching or chemical analysis and not for sale;
 - (2) 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, other than cannabis. 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 Cannabis Paraphernalia, which are used for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purpose prohibited by this Section. 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:
 - (a) The general, usual, customary and historical use to which the item involved has been put;
 - (b) 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;
 - (c) Any written instructions accompanying the delivery of the item concerning the purposes or uses to which the item can or may be put;
 - (d) Any oral instructions provided by the seller of the item at the time and place of sale or commercial delivery;
 - (e) Any national or local advertising concerning the design, purpose or use of the item involved, and the entire context in which such advertising occurs;
 - (f) 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;
 - (g) 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;

(h) The existence and scope of legitimate uses for the object in the community.”

SECTION 5: That Title XIII., Chapter 134, Section 134.99 of the Lombard Village Code is amended by adding the following between the second and third sentences thereof:

“Any person violating Section 134.06 of this Code shall be fined not less than \$200.00 and not more than \$750.00 for each offense.”

SECTION 6: That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form, as provided by law.

Passed on first reading this ____ day of _____, 2020.

First reading waived by action of the Board of Trustees this ____ day of _____, 2020.

Passed on second reading this ____ day of _____, 2020, pursuant to a roll call vote as follows:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by me this ____ day of _____, 2020.

Keith Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Published by me in pamphlet form this ____ day of _____, 2020.

Sharon Kuderna, Village Clerk