

VILLAGE OF GILBERTS

KANE COUNTY

STATE OF ILLINOIS

ORDINANCE NUMBER 17-2016

**An Ordinance amending the Village Code to Prohibit the Possession of Cannabis
and the Possession of Drug Paraphernalia**

**ADOPTED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE
VILLAGE OF GILBERTS
KANE COUNTY
STATE OF ILLINOIS**

December 6, 2016

**Published in pamphlet form by authority of the President and Board of Trustees of
the Village of Gilberts, Kane County, Illinois this 6th day of December 2016**

VILLAGE OF GILBERTS

**AN ORDINANCE AMENDING THE VILLAGE CODE
TO PROHIBIT THE POSSESSION OF CANNABIS
AND THE POSSESSION OF DRUG PARAPHERNALIA**

WHEREAS, the Village of Gilberts is an Illinois municipal corporation operating in accordance with the Illinois Municipal Code, 65 ILCS 5/1-1-1 et seq.; and

WHEREAS, the Village has authority pursuant to the Illinois Municipal Code to enact ordinances promoting the health, safety and welfare of the citizens of Gilberts; and

WHEREAS, the Illinois General Assembly recently enacted Public Act 99-697, which amended the Cannabis Control Act and the Drug Paraphernalia Act to de-criminalize possession of 10 grams or less of cannabis and the possession of drug paraphernalia when accompanied by less than 10 grams of cannabis and provide that such infractions are to be treated as a civil violation punishable by fine only; and

WHEREAS, the Village does not presently regulate the possession of Cannabis and finds it to be in the best interest of the health, safety, and welfare of the citizens of the Village of Gilberts, Illinois, to amend the Village Code to prohibit by means of municipal ordinance, the possession of less than ten grams of cannabis and provide for fines therefore; and

WHEREAS, the Village does not presently regulate the possession of drug paraphernalia and finds it to be in the best interest of the health, safety, and welfare of the citizens of the Village of Gilberts, Illinois, to amend the Village Code to prohibit, by means of a municipal ordinance, the possession of drug paraphernalia and provide for fines therefore.

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF GILBERTS, KANE COUNTY, ILLINOIS, as follows:

SECTION 1. RECITALS. The recitals listed above are incorporated into this Ordinance as if fully set forth in this Section 1.

SECTION 2. AMENDMENT. Chapter 3, entitled "Miscellaneous Offenses," of Title 5, entitled "Police and Public Safety," of the Village Code of the Village of Gilberts is hereby amended to add a new Section 5-3-5 and Section 5-3-6, which new Sections shall hereafter be and read as follows:

5-3-5: POSSESSION OF CANNABIS LESS THAN 10 GRAMS

- A. Definition. For purposes of this section the following definition shall apply unless the context clearly indicates or requires a different meaning.

CANNABIS: 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; its seeds, or resin; including tetrahydrocannabinol (THC), and all other cannabinol derivatives; its naturally occurring or synthetically produced ingredients, whether produce directly or indirectly by extraction or chemical synthesis. "Cannabis" shall not include the mature stalks, oil, or cake made from the seeds of such plant; fiber produced from stalks, 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 plant which is incapable of germinations.

B. Prohibited.

1. It shall be unlawful for any person knowingly to possess cannabis.
2. In determining intent under paragraph 1, the trier of fact may take into consideration, in addition to all other logically relevant factors, the proximity of the cannabis or controlled substances to drug paraphernalia or the presence of cannabis or a controlled substance on the drug paraphernalia, statements by any person in control of the object concerning its use, direct or circumstantial evidence of the intent of any person in control of the object, and the existence and scope of legitimate uses for the object.

C. Penalty.

1. Possession of less than ten grams of cannabis is punishable by a fine in an amount not less than \$250 and not more than \$500.
2. Possession of 10 to 30 grams of cannabis is punishable by a fine in an amount not less than \$500 and not more than \$750.
3. All other violations for possession of cannabis are subject to prosecution under section 5-3-1 of this code.
4. No period of imprisonment shall be sought or imposed for a violation for possessing less than ten grams of cannabis, and any such violation will be subject to the record keeping and expungement provisions established by the Illinois Criminal Identification Act.

5-3-6: POSSESSION OF DRUG PARAPHERNALIA

A. Prohibited.

1. It shall be unlawful for a person to knowingly possesses 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, when accompanied by an amount of cannabis less than 10 grams.

2. In determining intent under subsection 1, the trier of fact may take into consideration, in addition to all other logically relevant factors, the proximity of the cannabis or controlled substances to drug paraphernalia or the presence of cannabis or a controlled substance on the drug paraphernalia, statements by any person in control of the object concerning its use, direct or circumstantial evidence of the intent of any person in control of the object, and the existence and scope of legitimate uses for the object.

B. Penalty.

1. Possession of drug paraphernalia when accompanied by an amount of cannabis less than 10 grams is punishable by a fine in an amount not less than \$250 and not more than \$500.
2. No period of imprisonment shall be sought for violations of paragraph 1, and any such violation will be subject to the records keeping and expungement provisions established by the Illinois Criminal Identification Act.

SECTION 3. SEVERABILITY. In the event that any section, clause, provision, or part of this Ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect. If any part of this Ordinance is found to be invalid in any one or more of its several applications, all valid applications shall remain in effect.

SECTION 4. REPEAL AND SAVINGS CLAUSE. All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however that nothing in this Ordinance shall affect any rights, actions, or causes of action which shall have accrued to the Village of Gilberts prior to the effective date of this Ordinance.

SECTION 5. EFFECTIVE DATE. This Ordinance shall only be effective upon the passage, approval, and publication in the manner required by law.

ADOPTED THIS 6th DAY OF Dec., 2016, pursuant to roll call vote as follows:

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee David LeClercq	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Dan Corbett	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Nancy Farrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Louis Hacker	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Elissa Kojzarek	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Guy Zambetti	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
President Rick Zirk	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

APPROVED THIS 6th DAY OF Dec., 2016



Village President, Rick Zirk

Village Clerk, Debra Meadows

Published:

Dec. 7, 2016