

**VILLAGE OF YELLOW SPRINGS  
ORDINANCE 2020-16**

**DECRIMINALIZING MARIJUANA IN THE VILLAGE OF YELLOW SPRINGS BY  
AMENDING CHAPTER 624 OF THE YELLOW SPRINGS CODE OF ORDINANCES**

WHEREAS, medical marijuana became legal in the state of Ohio in 2016, with dispensaries opening in 2019, while other use or possession of marijuana (also termed “marihuana”) remains prohibited under the Ohio Revised Code, and persons who do not qualify or cannot afford medical marijuana may be charged with criminal offenses with fines, potential incarceration and collateral consequences based on the amount of marijuana possessed; and

WHEREAS, Village Council, after input from the community in conjunction with review of policies and practices implemented by the Yellow Springs Police Department and Yellow Springs Mayor’s Court, recognizes significant progress in local decriminalization efforts; and

WHEREAS, Village Council desires to formalize such policies and practices by amending the Village General Offenses Code to modify marijuana-related misdemeanors pursuant to home rule, recognizing that other municipalities in Ohio have also exercised such discretion through legislation and voter initiatives by alleviating potential penalties associated with such misdemeanor offenses; and

WHEREAS, Village Council also acknowledges that in some circumstances, the Ohio Medical Marijuana Control Program authorizes possession by patients in amounts which exceed “bulk amounts” of 200 grams or more for felony prosecution, but the Village lacks home rule power to treat felonies as misdemeanors, therefore will support grassroots decriminalization efforts of felony marijuana offenses at the state level; and

WHEREAS, Village Council does not endorse drug use, but enacts this legislation to address inequalities in enforcement, acknowledging that historically, in the Village of Yellow Springs and other jurisdictions, citizens of color have been subject to disparate impacts from enforcement of marijuana laws,

NOW THEREFORE, BE IT ORDAINED by Council for the Village of Yellow Springs, Ohio that:

Section 1. The following Sections of Chapter 624 of the Village Codified Ordinances shall be amended to delete the language denoted with ~~striketrough~~ text and replace with the **underlined and bolded language** below:

**624.02: TRAFFICKING IN CONTROLLED SUBSTANCES; GIFT OF MARIHUANA**

- (a) No person shall knowingly do any of the following:
  - (1) Sell or offer to sell a controlled substance;
  - (2) Prepare for shipment, ship, transport, deliver, prepare for distribution or distribute a controlled substance or a controlled substance analog, when the offender knows or has reasonable

cause to believe that the controlled substance or a controlled substance analog, is intended for sale or resale by the offender or another person.

(b) This section does not apply to any of the following:

(1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, medical marijuana patients and caregivers and other persons whose conduct is in accordance with R.C. Chapters 3719, 3796, 4715, 4723, 4729, 4730, 4731, and 4741.

(2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration.

(3) Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the “Federal Food, Drug and Cosmetic Act” (21 U.S.C. 301 et seq., as amended), and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that Act.

(c) Whoever violates division (a) of this section is guilty of the following:

(1) Except as otherwise provided in divisions (c)(2) and (c)(3) of this section, trafficking in controlled substances is a felony to be prosecuted under appropriate state law.

(2) Except as otherwise provided in this division, ~~if the offense involves a gift of 20 grams or less of marihuana, trafficking in marihuana~~ **in an amount less than 200 grams** is a minor misdemeanor upon a first offense and a misdemeanor of the third degree upon a subsequent offense ~~or. If the offense involves a gift of 20 grams or less of marihuana and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree~~ **or if committed in conjunction with any felony offense.**

(3) If the drug involved in the violation is a compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and marihuana, one of the following applies:

A. Except as otherwise provided in division (c)(3)B. of this section, the offender is guilty of trafficking in marihuana and shall be punished under division (c)(2) of this section. The offender is not guilty of trafficking in a fentanyl-related compound and shall not be charged with, convicted of, or punished under R.C. § 2925.03(C)(9) for trafficking in a fentanyl-related compound.

B. If the offender knows or has reason to know that the compound, mixture, preparation, or substance that is the drug involved contains a fentanyl-related compound, the offender is guilty of trafficking in a fentanyl-related compound and shall be punished under R.C. § 2925.03(C)(9).

(d) As used in this section, “drug” includes any substance that is represented to be a drug.

Statutory reference: (R.C. § 2925.03)

## **624.025 CULTIVATION OF MARIHUANA.**

(a) No person shall knowingly cultivate marihuana-

~~—(b) This section does not apply to any person listed in~~ **in excess of 200 grams except as may be authorized by Ohio R.C. 2925.03(B)(1), (2) or (3), Chapter 3796 of the Revised**

Code, or a substantially equivalent municipal ordinance, to the extent and under the circumstances described in that division.

**(b) Any amount of marihuana or suspected marihuana seized by law enforcement officers under this section may be destroyed as contraband without a forfeiture hearing, even if the Yellow Springs Police Department does not cite the alleged cultivator.**

(c) Whoever commits a violation of division (a) of this section is guilty of illegal cultivation of marihuana.

(1) Except as otherwise provided in the following divisions, illegal cultivation of marihuana is a ~~minor misdemeanor or, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the fourth degree.~~ **civil infraction subject to a maximum fine of \$25 in Yellow Springs Mayor's Court.**

(2) If the amount of marihuana involved equals or exceeds ~~100 grams but is less than 200 grams, illegal cultivation of marihuana is a misdemeanor of the fourth degree or, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the third degree.~~

~~—(3) If the amount of marihuana involved equals or exceeds 200 grams, illegal cultivation of marihuana is a felony to be prosecuted under appropriate State law.~~

(d) ~~Arrest or~~ conviction for a ~~minor misdemeanor~~ violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(R.C. § 2925.04(A), (B), (C)(5), (G))

### **624.03 DRUG POSSESSION OFFENSES.**

(a) No person shall knowingly obtain, possess or use a controlled substance or a controlled substance analog.

(b) (1) This section does not apply to any of the following:

A. Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, **medical marijuana patients and caregivers**, and other persons whose conduct is in accordance with R.C. Chapters 3719, **3796**, 4715, 4723, 4729, 4730, 4731, and 4741.

B. If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration.

C. Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the Federal Food, Drug, and Cosmetic Act, and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that Act.

D. Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs if the prescription was issued for a legitimate medical purpose and not altered, forged, or obtained through deception or commission of a theft offense. As used in this division (b)(1)D., “deception” and “theft offense” have the same meanings as in R.C. § 2913.01.

(2) A. As used in division (b)(2) of this section:

5119.01. 1. “Community addiction services provider.” Has the same meaning as in R.C. §

2. “Community control sanction.” Has the same meanings as in R.C. § 2929.01

3. “Drug treatment program.” Has the same meanings as in R.C. § 2929.01.

4. “Health care facility.” Has the same meaning as in R.C. § 2919.16.

5. “Minor drug possession offense.” A violation of this section or R.C. § 2925.11 that is a misdemeanor or a felony of the fifth degree.

6. “Peace officer.” Has the same meaning as in R.C. § 2935.01.

7. “Post-release control sanction.” Has the same meaning as in R.C. § 2967.28.

8. “Public agency.” Has the same meaning as in R.C. § 2930.01.

9. “Qualified individual.” A person who is not on community control or post-release control and is a person acting in good faith who seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person who experiences a drug overdose and who seeks medical assistance for that overdose, or a person who is the subject of another person seeking or obtaining medical assistance for that overdose as described in division (b)(2)B. of this section.

10. “Seek or obtain medical assistance.” Includes, but is not limited to making a 9-1-1 call, contacting in person or by telephone call an on-duty peace officer, or transporting or presenting a person to a health care facility.

B. Subject to division (b)(2)F. of this section, a qualified individual shall not be arrested, charged, prosecuted, convicted, or penalized pursuant to this chapter for a minor drug possession offense if all of the following apply:

1. The evidence of the obtaining, possession, or use of the controlled substance or controlled substance analog that would be the basis of the offense was obtained as a result of the qualified individual seeking the medical assistance or experiencing an overdose and needing medical assistance.

2. Subject to division (b)(2)G. of this section, within 30 days after seeking or obtaining the medical assistance, the qualified individual seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional.

3. Subject to division (b)(2)G. of this section, the qualified individual who obtains a screening and receives a referral for treatment under division (b)(2)B.2. of this section, upon the request of any prosecuting attorney, submits documentation to the prosecuting attorney that verifies that the qualified individual satisfied the requirements of that division. The documentation shall be limited to the date and time of the screening obtained and referral received.

C. If a person is found to be in violation of any community control sanction and if the violation is a result of either of the following, the court shall first consider ordering the person’s participation or continued participation in a drug treatment program or mitigating the penalty specified in R.C. § 2929.13, 2929.15, or 2929.25, or any substantially equivalent municipal ordinance, whichever is applicable, after which the court has the discretion either to order the person’s participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in any of those applicable sections:

1. Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;

2. Experiencing a drug overdose and seeking medical assistance for that overdose or being the subject of another person seeking or obtaining medical assistance for that overdose as described in division (b)(2)B. of this section.

D. If a person is found to be in violation of any post-release control sanction and if the violation is a result of either of the following, the court or the parole board shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in R.C. § 2929.141 or 2967.28, whichever is applicable, after which the court or the parole board has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in either of those applicable sections:

1. Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;

2. Experiencing a drug overdose and seeking medical assistance for that emergency or being the subject of another person seeking or obtaining medical assistance for that overdose as described in division (b)(2)B. of this section.

E. Nothing in division (b)(2)B. of this section shall be construed to do any of the following:

1. Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regards to a defendant who does not qualify for the protections of division (b)(2)B. of this section or with regards to any crime other than a minor drug possession offense committed by a person who qualifies for protection pursuant to division (b)(2)B. of this section for a minor drug possession offense;

2. Limit any seizure of evidence or contraband otherwise permitted by law;

3. Limit or abridge the authority of a peace officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in that division;

4. Limit, modify, or remove any immunity from liability available pursuant to law in effect prior to September 13, 2016 to any public agency or to an employee of any public agency.

F. Division (b)(2)B. of this section does not apply to any person who twice previously has been granted an immunity under division (b)(2)B. of this section. No person shall be granted an immunity under division (b)(2)B. of this section more than two times.

G. Nothing in this section shall compel any qualified individual to disclose protected health information in a way that conflicts with the requirements of the "Health Insurance Portability and Accountability Act of 1996," 104 Pub. L. No. 191, 110 Stat. 2021, 42 U.S.C. §§ 1320d et seq., as amended, and regulations promulgated by the United States Department of Health and Human Services to implement the act or the requirements of 42 C.F.R. Part 2.

(c) Whoever violates division (a) of this section is guilty of one of the following:

(1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule I or Schedule II, with the exception of marihuana or hashish, whoever violates division (a) of this section is guilty of a felony to be prosecuted under appropriate state law.

(2) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule III, Schedule IV, or Schedule V, whoever violates division (a) of this section is guilty of possession of drugs. The penalty for the offense shall be determined as follows:

A. Except as otherwise provided in division (c)(2)B. of this section, possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, a felony to be prosecuted under appropriate state law.

B. If the amount of the drug involved equals or exceeds the bulk amount, possession of drugs is a felony to be prosecuted under appropriate state law.

(3) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates division (a) of this section is guilty of possession of marihuana. The penalty for the offense shall be determined as follows:

A. Except as otherwise provided in division (c)(3)B. or (c)(3)C. of this section, possession of marihuana is a ~~minor misdemeanor~~. **civil infraction subject to a maximum fine of up to \$25.**

B. If the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams, possession of marihuana is a ~~misdemeanor of the fourth degree~~. **civil infraction subject to a maximum fine of up to \$50.**

C. If the amount of the drug involved equals or exceeds 200 grams, possession of marihuana is a felony to be prosecuted under appropriate state law.

(4) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates division (a) of this section is guilty of possession of hashish. The penalty for the offense shall be determined as follows:

A. Except as otherwise provided in division (c)(4)B. or (c)(4)C. of this section, possession of hashish is a ~~minor misdemeanor~~. **civil infraction subject to a maximum fine of up to \$25.**

B. If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a ~~misdemeanor of the fourth degree~~. **civil infraction subject to a maximum fine of up to \$50.**

C. If the amount of the drug involved equals or exceeds ten grams of hashish in a solid form or equals or exceeds two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a felony to be prosecuted under appropriate state law.

(5) If the drug involved in the violation is a compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and marihuana, one of the following applies:

A. Except as otherwise provided in division (c)(5)B. of this section, the offender is guilty of possession of marihuana and shall be punished as provided in division (c)(3) of this section. Except as otherwise provided in division (c)(5)B. of this section, the offender is not guilty of possession of a fentanyl-related compound under R.C. § 2925.11(C)(11) and shall not be charged with, convicted of, or punished under R.C. § 2925.11(C)(11) for possession of a fentanyl-related compound.

B. If the offender knows or has reason to know that the compound, mixture, preparation, or substance that is the drug involved contains a fentanyl-related compound, the offender is guilty of possession of a fentanyl-related compound and shall be punished under R.C. § 2925.11(C)(11).

(6) If the drug involved in the violation is a compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any Schedule III, Schedule

IV, or Schedule V controlled substance that is not a fentanyl-related compound, one of the following applies:

A. Except as otherwise provided in division (c)(6)B. of this section, the offender is guilty of possession of drugs and shall be punished as provided in division (c)(2) of this section. Except as otherwise provided in division (c)(6)B. of this section, the offender is not guilty of possession of a fentanyl-related compound under R.C. § 2925.11(C)(11) and shall not be charged with, convicted of, or punished under R.C. § 2925.11(C)(11) for possession of a fentanyl-related compound.

B. If the offender knows or has reason to know that the compound, mixture, preparation, or substance that is the drug involved contains a fentanyl-related compound, the offender is guilty of possession of a fentanyl-related compound and shall be punished under R.C. § 2925.11(C)(11).

(d) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(e) (1) In addition to any prison term or jail term authorized or required by division (c) of this section and R.C. § 2929.13, 2929.14, 2929.22, 2929.24, and 2929.25, or any substantially equivalent municipal ordinance, and in addition to any other sanction that is imposed for the offense under this section or R.C. § 2929.11 through 2929.18, or R.C. § 2929.21 to 2929.28, or any substantially equivalent municipal ordinance, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (a) of this section may suspend the offender's driver's or commercial driver's license or permit for not more than five years. However, if the offender pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

(2) If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.

(f) (1) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016 may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.

(2) Upon the filing of a motion under division (f) of this section, the sentencing court, in its discretion, may terminate the suspension.

Statutory reference: R.C. § 2925.11

#### **624.06 USE OR POSSESSION OF PARAPHERNALIA.**

(a) As used in this section, "drug paraphernalia" means any equipment, product, or material of any kind that is used by the offender, intended by the offender for use, or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing,

concealing, injecting, ingesting, inhaling, or otherwise introduced into the human body, a controlled substance in violation of this chapter. "Drug paraphernalia" includes, but is not limited to, any of the following equipment, products, or materials that are used by the offender, intended by the offender for use, or designed by the offender for use, in any of the following manners:

(1) A kit for propagating, cultivating, growing, or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived.

(2) A kit for manufacturing, compounding, converting, producing, processing, or preparing a controlled substance.

(3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine.

(4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance.

(5) Testing equipment for identifying, or analyzing the strength, effectiveness, or purity of, a controlled substance.

(6) A scale or balance for weighing or measuring a controlled substance.

(7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, for cutting a controlled substance.

(8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana.

(9) A blender, bowl, container, spoon, or mixing device for compounding a controlled substance.

(10) A capsule, balloon, envelope, or container for packaging small quantities of a controlled substance.

(11) A container or device for storing or concealing a controlled substance.

(12) A hypodermic syringe, needle, or instrument for parenterally injecting a controlled substance into the human body.

(13) An object, instrument, or device for ingesting, inhaling, or otherwise introducing into the human body, marihuana, cocaine, hashish, or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe, with or without a screen, permanent screen, hashish head, or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.

(b) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:

(1) Any statement by the owner or by anyone in control of the equipment, product, or material, concerning its use.

(2) The proximity in time or space of the equipment, product, or material, or of the act relating to the equipment, product, or material, to a violation of any provision of this chapter or Ohio R.C. Chapter 2925.

(3) The proximity of the equipment, product, or material to any controlled substance.

(4) The existence of any residue of a controlled substance on the equipment, product, or material.

(5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product, or material, to deliver it to any person whom he or she knows intends to use the equipment, product, or material to facilitate a violation of any provision of this chapter

or Ohio R.C. Chapter 2925. A finding that the owner or anyone in control of the equipment, product, or material is not guilty of a violation of any other provision of this chapter or Ohio R.C. Chapter 2925 does not prevent a finding that the equipment, product, or material was intended or designed by the offender for use as drug paraphernalia.

(6) Any oral or written instruction provided with the equipment, product, or material concerning its use.

(7) Any descriptive material accompanying the equipment, product, or material and explaining or depicting its use.

(8) National or local advertising concerning the use of the equipment, product, or material.

(9) The manner and circumstances in which the equipment, product, or material is displayed for sale.

(10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product, or material to the total sales of the business enterprise.

(11) The existence and scope of legitimate uses of the equipment, product, or material in the community.

(12) Expert testimony concerning the use of the equipment, product, or material.

(c) (1) Subject to division (d)(2) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.

(2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if he or she knows or reasonably should know that the equipment, product, or material will be used as drug paraphernalia.

(3) No person shall place an advertisement in any newspaper, magazine, handbill, or other publication that is published and printed and circulates primarily within this State, if he or she knows that the purpose of the advertisement is to promote the illegal sale in this Municipality or in this State of the equipment, product, or material that the offender intended or designed for use as drug paraphernalia.

(d) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, **medical marijuana patients and caregivers** and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, **3796**, 4715, 4723, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Ohio R.C. 3719.172.

(2) Division (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marihuana.

(e) Notwithstanding Ohio R.C. Chapter 2981, any drug paraphernalia that was used, possessed, sold, or manufactured in violation of this section shall be seized, after a conviction for that violation, shall be forfeited, and upon forfeiture shall be disposed of pursuant to Ohio R.C. 2981.12(B).

(f) (1) Whoever violates ~~division (e)(1) of this section~~ is guilty of illegal use or possession of drug paraphernalia, a **minor** misdemeanor. ~~of the fourth degree.~~

~~—(2) Except as provided in division (f)(3) of this section, whoever violates division (e)(2) of this section is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.~~

~~—(3) Whoever violates division (c)(2) of this section by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.~~

~~—(4) Whoever violates division (c)(3) of this section is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.~~

~~(g) (1) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if~~ If the offender pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the **paraphernalia** violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.

(2) A. Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016 may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.

B. Upon the filing of a motion under division (g)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

(R.C. § 2925.14)

(h) Illegal use or possession of marihuana drug paraphernalia.

(1) As used in this division (h), "drug paraphernalia" has the same meaning as in division (a) of this section.

(2) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, all factors identified in division (b) of this section.

(3) No person shall knowingly use, or possess with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marihuana.

(4) This division (h) does not apply to any person identified in division (d)(1) of this section, and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by Ohio R.C. 3719.172.

(5) Division (e) of this section applies with respect to any drug paraphernalia that was used or possessed in violation of this section.

(6) Whoever violates division (h)(3) of this section is guilty of illegal use or possession of marihuana drug paraphernalia, a ~~minor misdemeanor~~ **civil infraction subject to a maximum fine of up to \$50.**

~~(7) A. In addition to any other sanction imposed upon an offender for a violation division (h) of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if~~ If the offender pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the

**marihuana paraphernalia** violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of division (h) of this section, the court immediately shall comply with R.C. § 2925.38.

B. 1. Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under division (h) of this section prior to September 13, 2016 may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under division (h) of this section shall not file such a motion.

2. Upon the filing of a motion under division (h)(7)B. of this section, the sentencing court, in its discretion, may terminate the suspension.

(R.C. § 2925.141)

**Section 2.** This Ordinance shall take effect at the earliest time allowed by law.

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Brian Housh, Council President

Passed: 9-8-2020

Attest: \_\_\_\_\_  
Judy Kintner, Clerk of Council

## **ROLL CALL**

Brian Housh \_\_Y\_\_ Marianne MacQueen \_\_Y\_\_ Kevin Stokes \_Y\_

Lisa Kreeger \_\_Y\_\_ Laura Curliss \_\_Y\_\_