

ORDINANCE NO. 199

An Ordinance Pertaining to Illegal Drugs and Drug Paraphernalia

THE VILLAGE OF OTISVILLE ORDAINS:

SECTION 1. DEFINITIONS

- (a) The term "public place" as used in this Ordinance, shall mean any street, alley, park, parking lot, public building, any place of business or assembly open to or frequented by the public, and any other place which is open to the public view, or to which the public has access.
- (b) "Cocaine spoon" means: a spoon with a bowl so small that the primary use for which it is reasonably adapted or designed is to hold or administer cocaine, and which is so small as to be unsuited for the typical, lawful use of a spoon. A cocaine spoon may or may not be labeled as a "cocaine" spoon or "coke" spoon.
- (c) "Controlled substance" means: any drug, substance or immediate precursor enumerated in Sections 7210–7220, Public Act No. 368 of 1979 (MCL 333.721 et seq.) (commonly known as the Public Health Ordinance).
- (d) "Marijuana or hashish pipe" means: a pipe characterized by a bowl which is so small that the primary use for which it is reasonably adapted or designed is smoking of marijuana or hashish, rather than lawful smoking tobacco, and which may or may not be equipped with a screen.

SECTION 2. PROHIBITED ACTIVITIES

No person shall engage in any act or practice, or abet such person to do such act or to engage in such practice hereinafter enumerated:

A. Aiding and abetting.

Whenever any act is prohibited by this Ordinance, such prohibition shall extend to and include the causing, securing, aiding or abetting of another person to do such act.

B. Possession of marijuana and/or drug paraphernalia.

- (a) Possession of marijuana generally. A person who knowingly or intentionally possesses marijuana within the village shall be guilty of a misdemeanor. Marijuana means

all parts of the plant Cannabis Sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom; fiber, oil, cake, or the sterilized seed of the plant which is incapable of germination.

(b) Drug paraphernalia. It shall be unlawful for any person to sell, offer for sale, display, furnish, supply or give away drug paraphernalia, i.e., empty gelatin capsule, hypodermic syringe or needle, cocaine spoon, marijuana pipe, hashish pipe or other instrument, implement or device which is primarily adapted or designed for the administration or use of any controlled substance as enumerated in sections 7210–7220, Public Act No. 368 of 1979 (MCL 333.721 et seq.) (commonly known as the Public Health Ordinance). The prohibition contained in this section shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropractors, veterinarians, pharmacists or embalmers in the normal, lawful course of their respective businesses or professions nor to common carriers or warehousemen or their employees engaged in the lawful transportation of such paraphernalia, nor to public officers or employees while engaged in the performance of their official duties, nor to persons suffering from diabetes, asthma, or any other medical condition requiring self injections.

SECTION 3. PENALTIES

Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be punished by a fine not exceeding One Hundred (\$100.00) Dollars plus the cost of prosecution, or imprisonment in the Genesee County jail for a period not exceeding ninety (90) days, or both. Cost shall include all expenses, direct and indirect, to which the Village has been put in connection with the misdemeanor violation.

SECTION 4. SEVERABILITY

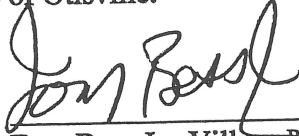
This Ordinance is deemed to be severable and if any part shall be declared invalid by any court, such judgment or decree shall affect only that part directly involved in the controversy.

SECTION 5. EFFECTIVE DATE

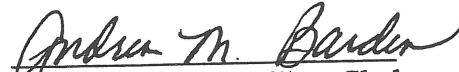
This Ordinance shall take effect ten (10) days after publication as set forth below.

SECTION 6. POSTING OF ORDINANCE

This Ordinance was approved by a vote of the Village of Otisville Council; a quorum being present on the 20th day of October, 2008 and ordered published in five (5) public places within the Village of Otisville.

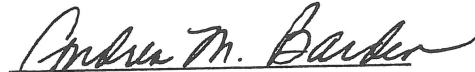


Tom Bess Jr., Village President



Andrea M. Barden, Village Clerk

I, Andrea M. Barden, do hereby certify that the foregoing Ordinance No. 199 was duly adopted at a regular meeting of the Otisville Village Council held on the 20th day of October, 2008, and posted in five (5) public places in the village.



Andrea M. Barden, Village Clerk