

9/11/2019
10/28/2019
10/30/2019

152-O-19

AN ORDINANCE

Amending Portions of the City Code following the Enactment of the Illinois Cannabis Regulation and Tax Act to Address Possession of Recreational Marijuana and Associated Paraphernalia

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: City Code Title 8, Chapter 13, "Marijuana," of the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

CHAPTER 13 – MARIJUANA

8-13-1. - DEFINITIONS.

The following words and phrases, when used in this Chapter, have the following definitions:

<i>CANNABIS.</i>	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; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, 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 of such plant which is incapable of germination.
<i>CANNABIS</i>	A product derived from cannabis that is produced by extracting

<i>CONCENTRATE.</i>	cannabinoids from the plant through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats; water, ice, or dry ice, or butane, propane, CO2, ethanol, or isopropanol.
<i>CANNABIS CONTAINER.</i>	A sealed, traceable, container, or package used for the purpose of containment of cannabis or cannabis-infused product during transportation.
<i>CANNABIS FLOWER.</i>	Marijuana, hashish, and other substances that are identified as including any parts of the plant <i>Cannabis sativa</i> and including derivatives or subspecies, such as indica, of all strains of cannabis; including raw kief, leaves, and buds, but not resin that has been extracted from any part of such plant; nor any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin.
<i>CANNABIS-INFUSED PRODUCT.</i>	A beverage, food, oil, ointment, tincture, topical formulation, or another product containing cannabis that is not intended to be smoked.

8-13-2. - POSSESSION OF CANNABIS PROHIBITED.

- (A) It shall be unlawful for any person under the age of twenty-one (21) years old to knowingly possess cannabis within the limits of the City.
- (B) A person who is twenty-one (21) years of age or older and a resident of the State of Illinois may possess:
1. 30 grams of the cannabis flower;
 2. No more than 500 milligrams of THC contained in cannabis-infused product; and
 3. 5 grams of cannabis concentrate.
- (C) A person who is twenty-one (21) years of age or older and who is not a resident of the State of Illinois may possess:
1. 15 grams of cannabis flower;
 2. 2.5 grams of cannabis concentrate; and
 3. 250 milligrams of THC contained in a cannabis-infused product.

This Chapter shall not be construed as conflicting with or limiting enforcement of the Illinois Cannabis Control Act, 720 ILCS 550/, the Compassionate Use of Medical

Cannabis Program Act, 410 ILCS 130/1, or the Illinois Cannabis Regulation and Tax Act 410 ILCS 705/, as amended from time to time.

8-13-3. - POSSESSION OF CANNABIS BY PERSONS UNDER THE AGE OF 21; ADMINISTRATIVE ADJUDICATION; PENALTIES OR DISPOSITION.

- (A) Any person under the age of twenty-one (21) years old who violates this Chapter by possessing cannabis shall be issued a notice of violation. The notice of violation shall direct the individual to appear before the City's Division of Administrative Adjudication for an administrative adjudication hearing.
- (B) Any person under the age of twenty-one (21) years old appearing before the Division of Administrative Adjudication and found to have violated Section 8-13-2 of this Chapter by possessing cannabis shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each violation, or in the discretion of the Hearing Officer, may be referred to a suitable drug education, counseling, or rehabilitation program, or ordered to perform community service.

This Chapter shall not be construed as conflicting with or limiting enforcement of the Illinois Cannabis Control Act, 720 ILCS 550/, the Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/1, or the Illinois Cannabis Regulation and Tax Act 410 ILCS 705/, as amended from time to time.

8-13-4. - POSSESSION OF MORE THAN 30 GRAMS; PENALTIES OR DISPOSITION.

Persons twenty-one (21) years of age and older in violation of 8-13-2 and who are cited for violations of this Chapter will have such citations adjudicated in the Second Municipal District of the Circuit Court of Cook County. Any person found to have violated Section 8-13-2 of this Chapter by possessing more the allowed amounts of cannabis shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each violation.

This Chapter shall not be construed as conflicting with or limiting enforcement of the Illinois Cannabis Control Act, 720 ILCS 550/, the Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/1, or the Illinois Cannabis Regulation and Tax Act 410 ILCS 705/, as amended from time to time.

8-13-4. - ANNUAL REPORT.

The Chief of Police shall make an annual report and evaluation to the City Council of the disposition of all violations of this Chapter.

SECTION 2: City Code Title 8, Chapter 14, "Drug Paraphernalia Control,"

of the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

CHAPTER 14 - DRUG PARAPHERNALIA CONTROL**8-14-1. - TITLE.**

This Chapter shall be known and may be cited as the *DRUG PARAPHERNALIA CONTROL ORDINANCE*.

8-14-2. - DEFINITIONS.

As used in this Chapter, unless the context otherwise requires:

<i>CONTROLLED SUBSTANCES.</i>	A drug, substance, immediate precursor, or synthetic drug in the schedules of Article II of the "Illinois Controlled Substance Act" 720 ILCS 570/100 et seq.
<i>DELIVER or DELIVERY.</i>	The actual, constructive or attempted transfer of possession, with or without consideration, whether or not there is an agency relationship.
<i>DRUG PARAPHERNALIA.</i>	All equipment, products and materials of any kind which are used, or intended 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 cannabis or a controlled substance in violation of the "Illinois Controlled Substances Act" 720 ILCS 570/100 et seq. It includes but is not limited to:
	(A) Kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or cannabis or from which a controlled substance can be derived;
	(B) Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;
	(C) Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled

	substance;
	(D) Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;
	(E) Scales and balances used or intended for use in weighing or measuring controlled substances;
	(F) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose used or intended for use in cutting controlled substances;
	(G) Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances;
	(H) Capsules, balloons, envelopes and other containers used, or intended for use, in packaging small quantities of controlled substances;
	(I) Containers and other objects used, or intended for use in storing or concealing controlled substances;
	(J) Hypodermic syringes, needles and other objects used, or intended for use, in parenterally injecting controlled substances into the human body;
	(K) Objects used, or intended for use, in ingesting, inhaling or otherwise introducing or cocaine into the human body, such as:
	1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
	2. Water pipes;
	3. Carburetion tubes and devices;
	4. Smoking and carburetion masks;
	5. Roach clips, meaning objects used to hold burning material such as marijuana cigarette that has become too small or too short to be held in the hand;

	6. Miniature cocaine spoons and cocaine vials;
	7. Chamber pipes;
	8. Carburetor pipes;
	9. Electric pipes;
	10. Air-driven pipes;
	11. Chillums;
	12. Bongs;
	13. Ice pipes or chillers;
	In determining whether an object is drug paraphernalia, a court should consider, in addition to all other logically relevant factors, the following:
	(A) Statements by an owner or by anyone in control of the object concerning its use;
	(B) 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 or cannabis;
	(C) The proximity of the object in time and space to a direct violation of this Chapter;
	(D) The proximity of the object to controlled substances;
	(E) The existence of any residue of controlled substances on the object;
	(F) Direct or circumstantial evidence of the intent of an owner or anyone in control of the object, to deliver it to persons whom he/she knows intend to use the object to facilitate a violation of the "Illinois Controlled Substances Act" 720 ILCS 570/100 et seq.; the innocence of an owner or of any one in control of the object as to a direct violation of the "Illinois Controlled Substances Act," 720 ILCS 570/100 et seq., shall not prevent a finding that the object is used or intended for use as drug

	paraphernalia.
	(G) Instructions, oral or written, provided with the object concerning its use;
	(H) Descriptive materials accompanying the object which explain or depict its use;
	(I) National and local advertising concerning its use;
	(J) The manner in which the object is displayed for sale;
	(K) 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;
	(L) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
	(M) The existence and scope of legitimate uses for the object in the community;
	(N) Expert testimony concerning its use.
MANUFACTURE.	The production, preparation, propagation, compounding, conversion or processing of controlled substances, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of controlled substances or labeling of its container, except that this term does not include:
	(A) By an ultimate user, the preparation or compounding of a controlled substance for his/her own use; or
	(B) By a practitioner, or his/her authorized agent under his/her supervision, the preparation, compounding, packaging or labeling of a controlled substance;
	1. As an incident to his/her administering or dispensing of a controlled substance in the course of his/her professional practice; or

	2. As an incident to lawful research, teaching or chemical analysis and not for sale.
<i>PERSON.</i>	Any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other entity.
<i>PRODUCE or PRODUCTION.</i>	Planting, cultivating, tending or harvesting.

8-14-3. - UNLAWFUL TO USE OR POSSESS DRUG PARAPHERNALIA.

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 controlled substance in violation the "Illinois Controlled Substances Act" 720 ILCS 570/100 et seq.

8-14-4. - UNLAWFUL TO DELIVER OR MANUFACTURE DRUG PARAPHERNALIA WITH INTENT TO DELIVER.

It is unlawful for any person to deliver, possess with intent to deliver or manufacture drug paraphernalia knowing that it will be used 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 cannabis or a controlled substance in violation of the "Illinois Controlled Substances Act" 720 ILCS 570/100 et seq.

8-14-5. - UNLAWFUL TO ADVERTISE DRUG PARAPHERNALIA.

It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement knowing that the purpose of the advertisement taken as a whole is to promote the sale of objects used or intended for use as drug paraphernalia.

8-14-6. - PENALTY.

Violation of any Section of this Chapter will constitute a civil law punishable by a fine of two hundred dollars (\$200.00).

8-14-7. - SEVERABILITY.

If any provision of this Chapter or the application thereof to any person or circumstance is held invalid the invalidity does not affect other provisions or

applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.

SECTION 3: City Code Title 9, Chapter 5, Section 10, "Alcoholic Beverages; Consumption/ Possession Public Property," of the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

9-5-10. - ALCOHOLIC BEVERAGES AND CANNABIS; CONSUMPTION/ POSSESSION PUBLIC PROPERTY.

Except as otherwise provided below, no person shall within the corporate limits of the City.

- (A) *Transport:* Transport any alcoholic beverage or cannabis products within the passenger area of any motor vehicle except in the original container and with the seal unbroken.
- (B) *Consumption In Vehicles:* Consume or have on his/her person open containers of alcoholic beverages or cannabis products in or on any part of any motor vehicle.
- (C) *Consumption In Public:*
 - 1. Consume or have on his/her person or in or about personal property open containers of alcoholic beverages or cannabis products in public buildings, parks, beaches, highways, streets, alleys, sidewalks, parkways and public parking lots. Notwithstanding any of the foregoing, service of alcoholic beverages at a sidewalk cafe authorized for such service pursuant to Subsection 7-2-6(D) of this Code and possession and consumption of alcoholic beverages by patrons at such cafes shall be permitted.
 - 2. Have on his/her person or in or about personal property containers of alcoholic beverages or cannabis products in public buildings, parks, or beaches.
 - 3. Except for patrons of the Canal Shores Golf Course or individuals attending a special event on the golf course, persons cannot-consume or have on his/her person or in or about personal property containers of alcoholic beverages on the Canal_Community Golf Course. This Section shall not be construed to prohibit the consumption or possession of alcoholic beverages within an area bounded by the north wall and the east wall of the American Legion building at 1030 Central Street and by the intersection of a line one hundred feet (100') west of the American

Legion building and a line one hundred feet (100') south of said building, provided that appropriate State and City liquor licenses are in effect for the American Legion building premises.

- (D) *Violation:* Any person found violating any of the provisions of this Section shall be fined not less than five hundred dollars (\$500.00), nor more than one thousand dollars (\$1,000.00) for each offense. It shall not be a defense to any citation written for any violation of any provision of this Section that the containers of alcoholic beverages were empty at the time the citation was issued.

This Section shall not be construed to prohibit the possession or consumption of alcoholic beverages within public buildings, on streets, alleys, sidewalks, parkways and public parking lots in conjunction with an authorized event where such event and use of said alcoholic beverages has been disclosed in writing to and authorized by the City Manager or his/her designee.

This Chapter shall not be construed as conflicting with or limiting enforcement of the Illinois Cannabis Control Act, 720 ILCS 550/, the Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/1, or the Illinois Cannabis Regulation and Tax Act 410 ILCS 705/, as amended from time to time.

SECTION 4: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5: If any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 6: Ordinance 152-O-19 shall be in full force and effect after its passage and approval.


SECTION 7: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: November 11, 2019

Approved:

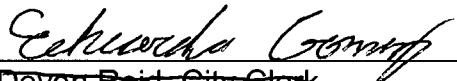
Adopted: November 25, 2019

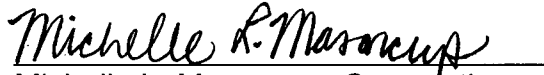
December 16, 2019


Stephen H. Hagerty, Mayor

Attest:

Approved as to form:


Devon Reid, City Clerk
Eduardo Gomez, Deputy City Clerk


Michelle L. Masoncup, Corporation Counsel