

AN ORDINANCE AMENDING CHAPTER 20 OF THE CODE OF THE CITY OF
PEORIA BY DELETING SECTION 20-112 PERTAINING TO POSSESSION OF
CANNABIS OR DRUG PARAPHERNALIA

WHEREAS, the City of Peoria is a home rule unit of government pursuant to Article VII, Section 6 of the Constitution of the State of Illinois 1970, and may exercise any power and perform any function pertaining to its government and affairs;

WHEREAS, the City Council of the City of Peoria has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and protect the public health, safety and welfare of its citizens; and

WHEREAS, on August 1, 2013, Illinois enacted Public Act 98-0122, the Compassionate Use of Medical Cannabis Pilot Program Act, allowing persons diagnosed with a qualifying medical condition to register with the Illinois Department of Public Health to obtain access to cannabis for medical use; and

WHEREAS, prior to July 29, 2016, except for those duly registered with the Illinois Department of Public Health under the Compassionate use of Medical Cannabis Pilot Program Act, possession of up to 10 grams of cannabis was a Class B misdemeanor that was punishable by up to six months in jail and fines up to \$1,500 and possession of drug paraphernalia was a Class A misdemeanor punishable by up to one year of imprisonment and a fine between \$750 and \$2500; and

WHEREAS, on July 29, 2016 Public Act 99-0697 amended the Cannabis Control Act, 720 ILCS 550/1 *et. seq.* and the Drug Paraphernalia Control Act, 720 ILCS 600/1 *et. seq.*, effectively making possession of cannabis of less than 10 grams and the possession of drug paraphernalia seized relating to an offense of possession of cannabis less than 10 grams, a civil law violation with a fine only penalty; and

WHEREAS, in response to Public Act 99-0697 the City adopted Ordinance No. 17,463 pursuant to its home rule powers and the Illinois Municipal Code, 65 ILCS 5/1-2.1-1 *et. seq.*, authorizing a home rule municipality to provide administrative adjudication for prosecution of certain ordinance violations; and

WHEREAS, Ordinance No. 17,463 created Section 20-112 (Possession of cannabis or drug paraphernalia) of the Code of the City of Peoria for the administrative adjudication of possession of cannabis of less than ten (10) grams of cannabis and the possession of drug paraphernalia seized relating to that offense; and

WHEREAS, as of January 1, 2020, Public Act 100-0027 (Cannabis Regulation and Tax Act) will allow adults over the age of 21 to possess up to 30 grams of cannabis if they are Illinois residents and 15 grams of cannabis for non-residents; and

WHEREAS, Public Act 100-0027 will render Section 20-112 of the Code of the City of Peoria null and void for possession of cannabis for adults over the age of 21; and

WHEREAS, Public Act 100-0027 would only allow the City to pursue violations through administrative adjudication against individuals between the ages of 18 and 21; and

WHEREAS, the City has determined that it is not economically or logistically feasible to run an administrative adjudication system strictly limited to ordinance tickets issued to individuals between the ages of 18 and 21; and

WHEREAS, there is nothing about the repeal of Ordinance No. 17, 463 that would prevent the Peoria Police Department from issuing citations under the Illinois Compiled Statutes for anyone violating the Cannabis Control Act, 720 ILCS 550/1 *et. seq.* or the Drug Paraphernalia Control Act, 720 ILCS 600/1 *et. seq.*

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS, as follows:

Section 1: Chapter 20 (Offenses and Miscellaneous Provisions) of the Code of the City of Peoria is hereby amended by deleting the stricken language and adding the underlined language as follows:

~~Sec. 20-112. – Possession of cannabis or drug paraphernalia.~~

- ~~(a) *Definitions.* All terms and phrases used in this section shall have the same meaning as ascribed to them in the Cannabis Control Act (720 ILCS 550/1 et seq.), as amended and in the Drug Paraphernalia Control Act (720 ILCS 600/1 et seq.), as amended.~~
- ~~(b) *Possession of cannabis.* It shall be unlawful for a person who knowingly possesses less than ten grams of any substance containing cannabis unless permitted or authorized to do so pursuant to the Cannabis Control Act (720 ILCS 550/1 et seq.).~~
- ~~(c) *Possession of drug paraphernalia.* It shall be unlawful for a person who violates subsection (a) of Section 4 of the Cannabis Control Act, to possess any drug paraphernalia that is seized during the violation for that offense. This subsection does not apply to a person who is legally authorized to possess hypodermic syringes or needles under the Hypodermic Syringes and Needles Act [720 ILCS 635/0.01 et seq.]. In determining intent under this subsection, the trier of fact may take into consideration the proximity of the cannabis or controlled substances to drug paraphernalia or the presence of cannabis or a controlled substance on the drug paraphernalia.~~
- ~~(d) *Penalty.* Violation of this section shall result in a fine plus administrative costs as follows:
 - ~~(1) For a first conviction of the offense of possession of less than ten grams of cannabis shall be punishable by a fine of not less than \$125.00.~~~~

- ~~(2) For a second conviction of the offense of possession of less than ten grams of cannabis shall be punishable by a fine of not less than \$250.00.~~
 - ~~(3) For a third conviction of the offense of possession of less than ten grams of cannabis shall be punishable by a fine of not less than \$500.00.~~
 - ~~(4) For a fourth or subsequent conviction of the offense of possession of less than ten grams of cannabis shall be punishable by a fine of not less than \$750.00.~~
 - ~~(5) For a first conviction of the offense possession of drug paraphernalia in violation of above subsection (c) shall be punishable by a fine of not less than \$125.00.~~
 - ~~(6) For a second conviction for possession of drug paraphernalia in violation of above subsection (c) shall be punishable by a fine of not less than \$250.00.~~
 - ~~(7) For a third conviction for possession of drug paraphernalia in violation of above subsection (c) shall be punishable by a fine of not less than \$500.00.~~
 - ~~(8) For a fourth or subsequent conviction for possession of drug paraphernalia in violation of above subsection (c) shall be punishable by a fine of not less than \$750.00.~~
- ~~(e) *Exemption.* A person charged with violation of this section may assert the following exemptions as an affirmative defense:~~
- ~~(1) This section does not apply to a person who is legally authorized to possess hypodermic syringes or needles under the "Hypodermic Syringes and Needles Act."~~
 - ~~(2) This section does not apply to a person or entity who is authorized to possess, keep for sale, offer for sale, sell, or deliver for any commercial consideration cannabis, a controlled substance, a look-alike substance, synthetic alternative drug, or drug paraphernalia pursuant to the "Illinois Controlled Substances Act" (720 ILCS 570/101 et seq.), the "Compassionate Use of Medical Cannabis Pilot Program Act" (410 ILCS 130/1 et seq.), or another provision of Illinois Statute.~~
- ~~(f) *Medical use of cannabis.* Notwithstanding the foregoing, it shall not be unlawful for any individual who is a registered qualifying patient or a registered designated caregiver, as those terms are defined in the Compassionate Use of Medical Cannabis Pilot Program Act ("Act") (410 ILCS 130/1 et seq.), to possess cannabis or drug paraphernalia for the purpose of engaging or assisting in the medical use of cannabis, to engage in the medical use of cannabis, or to assist a qualifying patient with the medical use of cannabis in accordance with the provisions of the Act. An individual is presumed to be acting lawfully and in compliance with this section and the terms of the Act where such individual is in possession of: (i) a valid registry identification card; and (ii) no more than two and~~

~~one-half (2.5) ounces of cannabis (or such other amount as authorized by the Act). The following activities are also not unlawful under this section to the extent they are in compliance with the provisions of the Act:~~

- ~~(1) Selling cannabis paraphernalia to a registered cardholder upon presentation of an unexpired registry identification card in the recipient's name, if employed and registered as a dispensing agent by a registered dispensing organization;~~
- ~~(2) Being in the presence or vicinity of the lawful medical use of cannabis; or~~
- ~~(3) Assisting a registered qualifying patient with the act of administering cannabis.~~

~~Nothing in this subsection (f) shall be construed to permit possession or use of cannabis or paraphernalia in a manner prohibited or otherwise inconsistent with this section or the provisions of the Act, including, but not limited to, possession of an amount of cannabis in excess of two and one-half ounces (or such other amount as authorized by the Act), or the non-medical use or unlawful sharing of cannabis. No medical cannabis cardholder may possess medical cannabis in the passenger area of any motor vehicle except in a sealed, tamper-evident medical cannabis container that is reasonably inaccessible while the vehicle is moving. The use of medical cannabis in any public place within the City of Peoria is prohibited.~~

- ~~(g) Severability. In the event that any provision or provisions, or portion or portions of this section shall be declared to be invalid or unenforceable by a court of competent jurisdiction, such adjudication shall in no way affect or impair the validity or enforceability of any of the remaining provisions or portions of this section that may be given effect without such invalid or unenforceable provision or provisions, portion or portions.~~

~~(Ord. No. 17463, § 1, 5-9-17)~~

Section 2. This ordinance shall be in full force and effect immediately after its passage and publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS this _____ day of _____, 2019.

AYES:

NAYS:

ABSENT:

APPROVED:

Jim Ardis, Mayor

ATTEST:

Beth Ball, City Clerk

EXAMINED AND APPROVED:

Donald B. Leist, Corporation Counsel