

AN ORDINANCE AMENDING CHAPTER 20 OF THE CODE OF THE CITY OF PEORIA ADDING SECTION 20-112 PERTAINING TO POSSESSION OF CANNABIS OR DRUG PARAPHERNALIA AND CHAPTER 32 OF THE CODE OF THE CITY OF PEORIA AMENDING SECTION 32-3 PERTAINING TO ADMINISTRATIVE ADJUDICATION

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; and

WHEREAS, the City Council of the City of Peoria, Peoria County, Illinois 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, Public Act 99-0697 that came into effect on July 29, 2016, amended the Cannabis Control Act, 720 ILCS 550/1 *et seq.*, and the Drug Paraphernalia Control Act, 720 ILCS 600/1 *et seq.* that effectively made the possession of cannabis 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, 720 ILCS 550/17.5 of the Cannabis Control Act as amended by PA 99-0697, states that provisions of any ordinance enacted by any municipality or unit of local government which imposes a fine upon possession of cannabis other than as defined in this Act are not invalidated or affected by this Act; and

WHEREAS, pursuant to its home rule powers, the City may pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities, with such fines or penalties as may be deemed proper; and

WHEREAS, the Illinois Municipal Code, 65 ILCS 5/1-2.1-1, *et seq.*, authorizes a home rule municipality to provide by ordinance a system of administrative adjudication for prosecution of certain ordinance violations permitted by the Illinois Constitution; and

WHEREAS, Chapter 32 of the Code of the City of Peoria already provides for the process and procedure for the system of administrative adjudication for prosecution of certain violations of the Code of the City of Peoria; and

WHEREAS, the City Council of the City of Peoria finds that the administrative adjudication of any and all violations of the Code of the City of Peoria, including the possession of cannabis less than 10 grams or the possession of drug paraphernalia seized relating to an offense of possession of cannabis less than 10 grams, is the most effective manner to prosecute and process violations of the City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS AS FOLLOWS:

Section 1. There shall be added to Chapter 20 of the Code of the City of Peoria, Illinois, Section 20-112 which shall read 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 (10) 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 as follows:

- (1) Possession of less than 10 (ten) grams of cannabis, not less than \$300.00 plus administrative costs nor more than \$750.00 plus administrative costs.
- (2) Possession of drug paraphernalia in violation of above subsection (c), not less than \$300.00 plus administrative costs nor more than \$750.00 plus administrative costs.

(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
- (2) 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 (2.5) 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 Ordinance 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 Ordinance that may be given effect without such invalid or unenforceable provision or provisions, portion or portions.

Section 2: Section 32-3 of Chapter 32 of the Code of the City of Peoria is hereby amended by deleting the following stricken words and by adding the following underlined words:

Sec. 32-3. Certain ordinances to be enforced through administrative adjudication.

The following Code violations are approved to be administratively adjudicated:

- (1) Any violation of any section of chapter 13.
- (2) Any violation of the Peoria Zoning Ordinance, Appendix B of the Code of the City of Peoria.
- (3) Any violation of the Peoria Land Development Code, Appendix C of the Code of the City of Peoria.
- (4) Any violation of Article XIII of Chapter 5 of the Code of the City of Peoria.
- (5) Any violation of Article II, section 5-27 of Chapter 5 of the Code of the City of Peoria.
- (6) Any violation of Article XIV, section 5-532 of Chapter 5 of the Code of the City of Peoria.

- (7) Any violation of Article XIV, section 5-534 of Chapter 5 of the Code of the City of Peoria.
- (8) Any violation of Chapter 5, Article VI, section 5-264, Criminal housing management.
- (9) Unless specifically prohibited by the Illinois Constitution or exceeding the City's home rule authority, any violation of any provisions or sections of any chapter of the Code of the City of Peoria which upon conviction, is punishable by a fine as a penalty.

Section 3. This ordinance shall be in full force and effect ten (10) days after its publication in pamphlet form.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS this _____ day of _____, 2017.

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel