

**AN ORDINANCE AMENDING CHAPTER 20 OF THE CODE
OF THE CITY OF PEORIA, ILLINOIS, ADDING SECTION 20-111 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; 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, the current state of scientific and medical knowledge concerning the effects of cannabis makes it necessary to acknowledge the physical, psychological and sociological damage which is incumbent upon its use; and

WHEREAS, the use of cannabis occupies the unusual position of being widely used and pervasive among the citizens of Illinois despite its harmful effects; and

WHEREAS, previous legislation enacted by the state of Illinois to control or forbid the use of cannabis has often unnecessarily and unrealistically drawn a large segment of our population within the criminal justice system without succeeding in deterring the expansion of cannabis use; and

WHEREAS, incidence of the abuse of drugs and other dangerous substances harm the peace, health, and welfare of the City; and

WHEREAS, pursuant to its home-rule powers, the City may pass and enforce all necessary police ordinances; and

WHEREAS, pursuant to its home-rule powers, the City may do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of diseases; 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 provisions of any ordinance enacted by the City Council of the City of Peoria, which imposes the same or greater restrictions or limitations upon the availability of drug paraphernalia, including the acquisition, sale or delivery of such items, are not invalidated or affected by 720 ILCS 600/1 et seq.; and

WHEREAS, the City Council of the City of Peoria, recognizes that it is necessary and in the best interest of the residents of the City of Peoria to regulate the possession of cannabis and the possession of drug paraphernalia.

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

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

Sec. 20-111. Possession of cannabis or drug paraphernalia.

(a) *Definitions.* For purposes of this section, the following definitions shall apply:

Cannabis means 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. 720 ILCS 550/3.

Controlled substance shall have the meaning ascribed to it in the Illinois Controlled Substances Act, 720 ILCS 570/102.

Drug paraphernalia means all equipment, products and materials of any kind, other than methamphetamine manufacturing materials as defined the Methamphetamine Control and Community Protection Act, 720 ILCS 646/5 et seq., which are intended to be used unlawfully 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 Cannabis Control Act, 720 ILCS 550/1 et seq., the Illinois Controlled Substances Act, 720 ILCS 570/100 et seq., or the Methamphetamine Control and Community Protection Act, 720 ILCS 646/5 et seq. It includes, but is not limited to:

- (1) kits intended to be used unlawfully in manufacturing, compounding, converting, producing, processing or preparing cannabis or a controlled substance;
- (2) isomerization devices intended to be used unlawfully in increasing the potency of any species of plant which is cannabis or a controlled substance;
- (3) testing equipment intended to be used unlawfully in a private home for identifying or in analyzing the strength, effectiveness or purity of cannabis or controlled substances;
- (4) diluents and adulterants intended to be used unlawfully for cutting cannabis or a controlled substance by private persons;
- (5) objects intended to be used unlawfully in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body including, where applicable, the following items:

- (A) water pipes;
- (B) carburetion tubes and devices;
- (C) smoking and carburetion masks;
- (D) miniature cocaine spoons and cocaine vials;
- (E) carburetor pipes;
- (F) electric pipes;
- (G) air-driven pipes;
- (H) chillums;
- (I) bongs; or
- (J) ice pipes or chillers.

(6) any item whose purpose, as announced or described, is for use in violation of this Section. 720 ILCS 600/2.

(b) *Possession of cannabis.* It shall be unlawful for any person to knowingly possess any substance containing cannabis.

(c) *Possession of drug paraphernalia.* It shall be unlawful for any person to knowingly possess an item of drug paraphernalia with the intent to use it in ingesting, inhaling, or otherwise introducing cannabis or a controlled substance into the human body, or in preparing cannabis or a controlled substance for that use. 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 2.5 grams or less cannabis, not less than \$500.00 nor more than \$600.00.
- (2) Possession of more than 2.5 grams of cannabis, not less than \$600.00 nor more than \$750.00.
- (3) Possession of drug paraphernalia in violation of above subsection (c), minimum fine of \$750.00.

Section 2. 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 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 _____, 2011.

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel