

ORDINANCE NO. 2018-_____

AN ORDINANCE PROHIBITING THE POSSESSION OR CONSUMPTION OF CANNABIS WITHIN THE CITY OF KNOXVILLE, ILLINOIS AND REVISING THE PENALTIES FOR POSSESSION OF DRUG PARAPHENALIA

WHEREAS, the City Council of the City of Knoxville, Illinois (“City”) is empowered, by Section 11-20-5 of the Municipal Code (65 ILCS 5/11-20-5), to do all acts and make all regulations which may be necessary or expedient for the promotion of health; and

WHEREAS, the City Council of the City is likewise, empowered, by Section 11-1-1 of the Municipal Code (65 ILCS 5/11-1-1) to pass and enforce all necessary police ordinances; and

WHEREAS, Section 17.5 of the Cannabis Control Act (720 ILCS 550/17.5) permits municipalities to adopt, by ordinance, fines for the possession of cannabis which differ from said Act; and

WHEREAS, the City Council of the City of Knoxville finds it in the best interest of the City and its residents to prohibit the possession or consumption of cannabis and cannabis lookalike substances within the City, except where the possession or consumption of cannabis is lawful in accordance with all terms of the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 *et seq.*); and

WHEREAS, the possession of drug paraphernalia is currently unlawful under the Knoxville City Code, but whereas the City Council of the City of Knoxville finds it in the best interest of the City and its residents to revise the Knoxville City Code’s provisions and increase the administrative warning ticket fines for possession of drug paraphernalia;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KNOXVILLE, KNOX COUNTY, ILLINOIS AS FOLLOWS:

Section 1: Section 16-3-3-A (Appendix A) of the Knoxville City Code is hereby amended to provide for the following Administrative Warning Ticket fees:

Parking Violations (Other than Handicapped Parking):	\$35
Handicapped Parking Violations:	\$250
Possession of Drug Paraphernalia:	\$150
Possession of Cannabis:	\$150
Possession of Synthetic Cannabinoid:	\$150
Possession of Cannabis Look-alike Substance:	\$150
All Other Violations (unless another fine is expressly provided for in the text of the ordinance):	\$75

Section 2: Article 2 (“Drug Paraphernalia”) of Chapter 16 of the Knoxville City Code is deleted in its entirety and replaced with a new Article 2 of Chapter 16 (“Cannabis and Drug Paraphernalia”), which shall provide as follows:

ARTICLE 2: Cannabis and Drug Paraphernalia

SEC. 16-2-1: Definitions

For the purposes of this article, the following words have the meanings ascribed to them in this section:

- A. “Cannabis” means any substance so defined in the “Cannabis Control Act,” (720 ILCS 550/1 et seq.), as heretofore or hereafter amended.
- B. “Synthetic cannabinoid” means any laboratory-created or otherwise man-made compound that functions similar to or mimics the effect of the active ingredient in marijuana, tetrahydrocannabinol (THC), including, but not limited to, any quantity of a natural or synthetic material, compound, mixture, preparation, substance and their analog (including isomers, esters, ethers, salts, and salts of isomers) containing a cannabinoid receptor agonist.
- C. “Look-alike substance” or “cannabis look-alike substance” means a substance which 1) by overall dosage unit appearance, including shape, color, size, markings or lack thereof, taste, consistency or any other identifying physical characteristic of the substance would lead a reasonable person to believe that the substance is cannabis or a synthetic cannabinoid; or 2) is expressly or impliedly represented to be cannabis or a synthetic cannabinoid, or distributed under circumstances which would lead a reasonable person to believe that the substance is cannabis or a synthetic cannabinoid. For the purpose of determining whether the representations made or the circumstances of the distribution would lead a reasonable person to believe the substance to be cannabis or a synthetic cannabinoid under this clause 2, the court or other authority may consider the following factors in addition to any other factor that may be relevant: a) statements made by the owner or person in control of the substance concerning its nature, use or effect; b) statements made to the buyer or recipient that the substance may be resold for profit; c) whether the substance is packaged in the manner normally used for the illegal distribution of controlled substances; d) whether the distribution or attempted distribution included an exchange of or demand for money or other property as consideration and whether the amount of the consideration was substantially greater than the reasonable retail market value of the substance.

D. "Drug paraphernalia" includes all equipment, products and materials of any kind, other than methamphetamine manufacturing materials as defined in Section 10 of the "Methamphetamine Control and Community Protection Act" (720 ILCS 646/10), which are (i) possessed or intended for use, (ii) being or have been used, or (iii) peculiar to and marketed 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 look-alike substances, synthetic alternative drugs, cannabis or a controlled substance in violation of this ordinance, 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 646/1 et seq.). This includes, but is not limited to, the following:

- (1) Kits that are (i) possessed or intended for use, (ii) being used or have been used, or (iii) peculiar to and marketed for use, in manufacturing, compounding, converting, producing, processing or preparing cannabis, controlled substances, look-alike substances, or synthetic alternative drugs;
- (2) Isomerization devices that are (i) possessed or intended for use, (ii) being used or have been used, or (iii) peculiar to and marketed for use, to increase the potency of any species of plant which is cannabis or a controlled substances, look-alike substances, or synthetic alternative drugs;
- (3) Testing equipment that is (i) possessed or intended for use, (ii) being or has been used, or (iii) peculiar to and marketed, for private home use in identifying or in analyzing the strength, effectiveness or purity of cannabis or controlled substances, look-alike substances, or synthetic alternative drugs;
- (4) Diluents and adulterants that are (i) possessed or intended for use, (ii) being used or have been used, or (iii) peculiar to and marketed, for cutting cannabis, controlled substance, look-alike substances, or synthetic alternative drugs by private persons;
- (5) Objects that are (i) possessed or intended for use, (ii) being used or have been used, or (iii) peculiar to and marketed for use, in injecting, ingesting, inhaling, or otherwise introducing look-alike substances, cannabis, cocaine, hashish, hashish oil, or any controlled substance, look-alike substances, or synthetic alternative drugs 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;
- j. ice pipes or chillers

- (6) any item whose purpose, as announced or described by the seller, is for use in violation of this article or the "Drug Paraphernalia Control Act" (720 ILCS 600/1 et seq.).

SEC. 16-2-2: Determination Factors for Drug Paraphernalia

In determining whether an object is Drug Paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) 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;
- (3) The proximity of the object, in time and space, to a direct violation of this article or a direct violation of state or federal law;
- (4) The proximity of the object to controlled substances;
- (5) The existence of any residue of controlled substances on the object;
- (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of this article; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this article shall not prevent a finding that the object is intended for use, or designed for use as Drug Paraphernalia;
- (7) Instructions, oral or written, provided with the object concerning its use;
- (8) Descriptive materials accompanying the object which explain or depict its use;
- (9) National and local advertising concerning its use;
- (10) The manner in which the object is displayed for sale;
- (11) 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;

- (12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- (13) The existence and scope of legitimate uses for the object in the community; and
- (14) Expert testimony concerning its use.

SEC. 16-2-3: Offenses

- A. **Possession of Drug Paraphernalia:** It is unlawful for any person 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 a controlled substance or a look-alike substance.
- B. **Manufacture or Delivery of Drug Paraphernalia:** It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, Drug Paraphernalia, knowing, or under circumstances where one reasonably should know, 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 a controlled substance or a look-alike substance.
- C. **Advertisement of Drug Paraphernalia:** It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purposes of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as Drug Paraphernalia.
- D. **Sale of Drug Paraphernalia:** It shall be unlawful and it is hereby declared to be a nuisance for any store, place or premises to keep for sale, offer for sale, sell, or deliver for any commercial consideration any item of Drug Paraphernalia.
- E. **Possession, Sale or Consumption of Cannabis, Cannabis Look-alike Substances and Synthetic Cannabinoids:** It is unlawful for any person to possess, keep for sale, sell, or deliver for any commercial consideration cannabis, a synthetic cannabinoid, or a cannabis look-alike substance.
- F. It shall be an affirmative defense to a charge under this Section that the accused had authority to possess, keep for sale, offer for sale, sell, or deliver any item or substance prohibited in this Section pursuant to the Illinois Controlled Substances Act (720 ILCS 570/101, et seq.), or that the accused is legally authorized to possess hypodermic syringes or needles under the Hypodermic Syringes and Needles Act (720 ILCS 635/0.01, et seq.).

G. 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 1) a valid registry identification card, and 2) no more than 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 paragraph 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 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 Knoxville is prohibited.

SEC. 16-2-4: Penalty

Any person found to be in violation of any provision of this article shall be subject to a fine of not less than one hundred fifty dollars (\$150) nor more than seven hundred and fifty dollars (\$750) for each offense. Any offer of compromise, by the issuance of an administrative warning ticket (AWT), shall be without prejudice to the City’s right to seek the full range of fines, per this section, should any violator of this article fail to pay the amount demanded by the AWT within fifteen days of the AWT’s issuance. In addition to any fine imposed for a violation of this article, any material possessed or used in violation of this article shall be subject to forfeiture.

Section 3: In the event that a court of competent jurisdiction declares any particular provision of this ordinance to be invalid or unenforceable, the remaining provisions of this ordinance shall be

construed to be valid and enforceable. The invalidity of any part of this ordinance shall not affect any part or parts thereof.

Section 4: This Ordinance is hereby ordered to be published in pamphlet form by the Acting Clerk of the City of Knoxville, Illinois, and said Acting Clerk is ordered to keep at least three (3) copies hereof available for public inspection in the future and in accordance with the Illinois Municipal Code.

Section 5: This Ordinance shall be in full force and effect from and after its passage, approval and ten (10) day period of publication in the manner provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KNOXVILLE, KNOX COUNTY, ILLINOIS, IN REGULAR AND PUBLIC SESSION THIS _____ DAY OF _____, 2018.

APPROVED:

Mayor

(SEAL)

ATTEST:

Acting City Clerk

CERTIFICATE OF PUBLICATION

I, Leslie Wilt, the undersigned, do hereby certify that I am the duly qualified and Acting Clerk of the City of Knoxville, a municipal corporation of and in the County of Knox, Illinois, that the foregoing Ordinance No. 2018-_____, titled "AN ORDINANCE PROHIBITING THE POSSESSION OR CONSUMPTION OF CANNABIS WITHIN THE CITY OF KNOXVILLE, ILLINOIS AND REVISING THE PENALTIES FOR POSSESSION OF DRUG PARAPHENALIA," is a true and accurate copy of the Ordinance passed by the City Council of the City of Knoxville on the meeting date set forth therein, and that the Ordinance was published by me in pamphlet form this _____ day of _____, 2018, by making three (3) copies thereof available on that date for public inspection.

Acting Clerk

[Seal]