



AGENDA ITEM EXECUTIVE SUMMARY

Agenda Item number: 5b

Title: Recommendation to approve an Ordinance Amending Title 9 “Public Peace, Morals and Welfare” and Title 10 “Vehicles and Traffic” of the City of St. Charles Municipal Code (Sale of Drug Paraphernalia and Cannabis).

Presenter: Police Chief Keegan

Meeting: Government Operations Committee

Date: January 21, 2020

Proposed Cost: N/A

Budgeted Amount: \$

Not Budgeted:

Executive Summary *(if not budgeted please explain):*

In an effort to streamline and bring up to date the City Ordinance in accordance to the recent January 1, 2020 State of Illinois cannabis laws, the Police Department recommends the attached revisions be made to Title 9 “Public Peace, Morals and Welfare” and title 10 “Vehicles and Traffic” of the City of St. Charles City Code. Please see the attached document which highlights these requested modifications.

Attachments *(please list):*

Ordinance with proposed changes

Recommendation/Suggested Action *(briefly explain):*

The Police Department recommends approval of these updates to Title 9 “Public Peace, Morals and Welfare” and Title 10 “Vehicles and Traffic of the City Ordinance.



Memo

Date: January 14, 2020
To: Mark Koenen, City Administrator
From: James Keegan, Chief of Police
CC: Raymond Rogina, Mayor
Re: Cannabis Related Ordinances

In summary, pursuant to changes in state law as it pertains to the recreational purchase, possession and use of cannabis, several city ordinances are in need of revision.

Specifically, I am making a recommendation to modify the following ordinances:

- Subsection (A)(12) of Section 9.45.020, entitled “Definitions,” of Chapter 9.45, entitled “***Nuisance Abatement***,” of Title 9, entitled “Public Peace, Morals and Welfare.” (clean-up language in regards to definitions and applicable offenses)
- Section 9.50.010; 9.50.020, entitled “Drug paraphernalia – Defined,” of Chapter 9.50, entitled “***Public Sale of Drug Paraphernalia***,” of Title 9, entitled “Public Peace, Morals and Welfare.” (follows state statute in regards to specific age requirements for the legal sale of cannabis related paraphernalia)
- Section 9.51.010; 9.51.020; 9.51.030; 9.51.040 entitled “***Possession, Use, and Consumption of Cannabis***,” of Title 9, entitled “Public Peace, Morals and Welfare.” (expands the prohibitions for the illegal possession, use and consumption of cannabis pursuant to state statute)
- Section 9.53.010; 9.53.020; 9.53.030; 9.53.040; 9.53.050 entitled “Findings,” of Chapter 9.53, entitled “***Drug Paraphernalia***,” of Title 9, entitled “Public Peace, Morals and Welfare.” (follows state statute in regards to the specific age requirements for the legal possession of cannabis related paraphernalia)
- Subsection (6) of Section 10.04.022, entitled “***Seizure and impoundment of motor vehicles – Use in connection with illegal activity***,” of Chapter 10.04, entitled “General Provisions,” of Title 10, entitled “Vehicles and Traffic.” (modifies the possession limits when a vehicle can be impounded pursuant to a lawful arrest by a police officer)

Reminders on Possession, Use and Consumption of Cannabis

Who may purchase and/or possess cannabis?

Adults 21 years of age or older.

How much may a purchaser possess?

Illinois residents over the age of 21 may legally possess:

- 30 grams of cannabis flower
- 500 mg of THC in a cannabis-infused product
- 5 grams of a cannabis concentrate.

Non-residents over the age of 21 may legally possess:

- 15 grams of cannabis flower
- 250mg of THC in a cannabis-infused product
- 2.5 grams of cannabis concentrate

These totals are cumulative, meaning a person 21 years of age or older may possess a combination of cannabis flower, cannabis-infused products, and cannabis concentrates up to the limit for each category of product.

Additional Restrictions on Use and Possession of cannabis:

- It shall be unlawful for any person to knowingly use or consume cannabis in a manner inconsistent with the Cannabis Control Act, the Cannabis Regulation and Tax Act.
- Exemptions: Prohibitions shall not apply when otherwise allowed under the Compassionate Use of Medical Cannabis Program Act or the Cannabis Regulation and Tax Act.
- Use: It shall be unlawful for any person to use cannabis in or about any public place or places. "Public Place" means any place where a person could reasonably be expected to be observed by others, including but not limited to all parts of buildings owned in whole or in part, or leased, by the State of Illinois, or the City of St. Charles or other public body, but does not include a private residence unless

the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises.

Examples Codified Within our Ordinance:

A. It shall be unlawful for any person to possess or use cannabis in a school bus, or on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act.

B. It shall be unlawful for any person to possess cannabis in a vehicle not open to the public unless the cannabis is in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving.

C. It shall be unlawful for any person to possess or use cannabis in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises.

D. It shall be unlawful for any person to use cannabis in any public place or motor vehicle; or smoke cannabis in any place where smoking is prohibited under the Smoke Free Illinois Act; or smoke cannabis in retail tobacco stores as defined in the Smoke Free Illinois Act.

E. It shall be unlawful for any person to use cannabis knowingly in close physical proximity to anyone under 21 years of age who is not a registered medical cannabis patient under the Compassionate Use of Medical Cannabis Program Act;

F. It shall be unlawful for any person to facilitate the use of cannabis by any person who is not allowed to use cannabis under the City of St. Charles Municipal Code, the Cannabis Regulation and Tax Act or the Compassionate Use of Medical Cannabis Program Act.

G. It shall be unlawful for any person to transfer cannabis to any person contrary to the City of St. Charles Municipal Code, the Cannabis Regulation and Tax Act or the Compassionate Use of Medical Cannabis Program Act.

H. It shall be unlawful for any person to knowingly permit his or her residence, any other private property under his or her control, or any vehicle under his or her control, to be used by a person under the age of 21, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act.

I. It shall be unlawful for any person to cultivate cannabis unless permitted pursuant to the Compassionate Use of Medical Cannabis Program Act, except that the effect of this subsection shall be limited to persons cultivating less than six (6) cannabis plants.

J. It shall be unlawful for any person permitted to cultivate cannabis pursuant to the Compassionate Use of Medical Cannabis Program Act to cultivate more than five (5) cannabis plants in excess of five (5) inches tall; to cultivate cannabis in a place that is not an enclosed, locked space; or to store cannabis plants in a location that is subject to ordinary public view.

Summary

Each of the aforementioned cannabis related ordinance revisions were vetted by our legal team and reviewed with senior staff. I feel these revisions work in concert with state statute and recommend their approval.

City of St. Charles, Illinois
Ordinance No. 2020-M-_____

An Ordinance Amending Title 9, Entitled “Public Peace, Morals and Welfare,” and Title 10, Entitled “Vehicles And Traffic,” of The City of St. Charles Municipal Code Book (Sale of Drug Paraphernalia and Cannabis).

WHEREAS, the City of St. Charles (the “City”) is a home rule unit of local government under Article VII, Section 6 of the 1970 Illinois Constitution and except as limited by such Section, it may exercise any power and perform any function pertinent to its government and affairs; and

WHEREAS, the corporate authorities of the City are expressly empowered to legislate to protect the health, safety and welfare of the residents of the City; and

WHEREAS, the corporate authorities of the City have previously approved legislation regulating and prohibiting the possession of cannabis; and

WHEREAS, on January 1, 2014, the Compassionate Use of Medical Cannabis Program Act became effective, which act authorizes licensed dispensaries, cultivation centers and registered qualifying patients to possess and/or use those amounts of cannabis as authorized by such act, without being subject to arrest or prosecution; and

WHEREAS, on January 1, 2020, the Cannabis Regulation and Tax Act (the “Act”) became effective, which Act authorizes the purchase, procurement, possession, consumption, use or transportation of cannabis and cannabis-infused products under the terms and conditions set forth in the Act, without being subject to arrest or prosecution; and

WHEREAS, the corporate authorities and the City have determined that it is necessary to amend the St. Charles Municipal Code Book to be consistent with the provisions of the Act; and

WHEREAS, the corporate authorities and the City have determined that it is necessary to amend the St. Charles Municipal Code Book to prohibit the smoking of cannabis in tobacco retail stores; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the city of St. Charles, Kane and DuPage Counties, Illinois, as follows:

Section 1. Recitals. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. Subsection (A)(12) of Section 9.45.020, entitled “Definitions,” of Chapter 9.45, entitled “Nuisance Abatement,” of Title 9, entitled “Public Peace, Morals and Welfare,” of the City of St. Charles Municipal Code Book is hereby amended as follows:

9.45.020 – Definitions

...

(A)(12) Illegal Possession, Cultivation, Manufacture or Delivery of Cannabis as defined in 720 ILCS 550/1, et seq.

...

Section 3. Section 9.50.010, entitled “Drug paraphernalia – Defined,” of Chapter 9.50, entitled “Public Sale of Drug Paraphernalia,” of Title 9, entitled “Public Peace, Morals and Welfare,” of the City of St. Charles Municipal Code Book is hereby amended as follows:

9.50.010 – Drug paraphernalia – Defined

A. "Drug paraphernalia" means all equipment, products and materials of any kind, other than cannabis paraphernalia as defined in this Section , 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 a controlled substance in violation of the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act or a synthetic drug product or misbranded drug in violation of the Illinois Food, Drug and Cosmetic Act. It includes, but is not limited to:

1. kits intended to be used unlawfully in manufacturing, compounding, converting, producing, processing or preparing a controlled substance;
2. isomerization devices intended to be used unlawfully in increasing the potency of any species of plant which is 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 controlled substances;
4. diluents and adulterants intended to be used unlawfully for cutting a controlled substance by private persons;
5. objects intended to be used unlawfully in ingesting, inhaling, or otherwise introducing cocaine, or a synthetic drug product or misbranded drug in violation of the Illinois Food, Drug and Cosmetic Act 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 Section or the Drug Paraphernalia Control Act.

B. “Cannabis paraphernalia,” all equipment, products, or materials intended to be used for planting, propagating, cultivating, growing, harvesting, manufacturing, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, or otherwise introducing cannabis into the human body.

Section 4. Section 9.50.020, entitled “Sale to Minors - Unlawful,” of Chapter 9.50, entitled “Public Sale of Drug Paraphernalia,” of Title 9, entitled “Public Peace, Morals and Welfare,” of the City of St. Charles Municipal Code Book is hereby amended as follows:

9.50.020 – Sale to minors – Unlawful

It is unlawful for any person to sell or offer to sell any drug paraphernalia or cannabis paraphernalia, articles or equipment, as defined in Section 9.50.010 to any person under the age of twenty-one (21), except where such articles or equipment are prescribed for strictly medical purposes and are used as such.

Section 5. Chapter 9.51, entitled “Possession of Cannabis,” of Title 9, entitled “Public Peace, Morals and Welfare,” of the City of St. Charles Municipal Code Book is hereby retitled as follows:

Title 9 - Public Peace, Morals and Welfare

...

Chapter 9.51 - Possession, Use, and Consumption of Cannabis.

...

Section 6. Section 9.51.010, entitled “Findings,” of Chapter 9.51, entitled “Possession, Use, and Consumption of Cannabis,” of Title 9, entitled “Public Peace, Morals and Welfare,” of the City of St. Charles Municipal Code Book is hereby amended as follows:

9.51.010 – Findings

A. It shall be unlawful for any person to knowingly use or consume cannabis in a manner inconsistent with the Cannabis Control Act, the Cannabis Regulation and Tax Act.

B. Exemptions: The prohibitions in this Chapter shall not apply when otherwise allowed under the Compassionate Use of Medical Cannabis Program Act or the Cannabis Regulation and Tax Act.

C. Use: It shall be unlawful for any person to use cannabis in or about any public place or places. As used in this Chapter, “public place” means any place where a person could reasonably be expected to be observed by others, including but not limited to all parts of

buildings owned in whole or in part, or leased, by the State of Illinois, or the City of St. Charles or other public body, but does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises.

Section 7. Section 9.51.020, entitled “Cannabis defined,” of Chapter 9.51, entitled “Possession, Use, and Consumption of Cannabis,” of Title 9, entitled “Public Peace, Morals and Welfare,” of the City of St. Charles Municipal Code Book is hereby amended as follows:

9.51.020 – Cannabis defined

Cannabis, as defined in the Cannabis Control Act and the Cannabis Regulation and Tax Act, means marijuana, hashish, and other substances that are identified as including any parts of the plant *Cannabis sativa* and including derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction; however, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Cannabis" does not include industrial hemp as defined and authorized under the Industrial Hemp Act. . "Cannabis" also means cannabis flower, concentrate, and cannabis-infused products.

Section 8. Section 9.51.020, entitled “Possession unlawful,” of Chapter 9.51, entitled “Possession, Use, and Consumption of Cannabis,” of Title 9, entitled “Public Peace, Morals and Welfare,” of the City of St. Charles Municipal Code Book is hereby amended as follows:

9.51.030 – Possession, Use, and Consumption unlawful

A. It is unlawful for any person under 21 years of age to knowingly possess any quantity of any substance containing cannabis, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act.

B. It shall be unlawful for any person who is a resident of this State to knowingly possess cannabis in excess of the following amounts:

1. 30 grams, but less than 100 grams, of cannabis flower;
2. 500 milligrams tetrahydrocannabinol (THC) in cannabis-infused products; and
3. 5 grams cannabis concentrate.

The possession limits contained herein are to be considered cumulative.

C. It shall be unlawful for any person who is not a resident of this State to knowingly possess cannabis in excess of the following amounts:

1. 15 grams, but less than 100 grams, of cannabis flower;
2. 25 milligrams tetrahydrocannabinol (THC) in cannabis-infused products; and
3. 2.5 grams cannabis concentrate.

The possession limits contained herein are to be considered cumulative.

D. It shall be unlawful for any person to possess or use cannabis in a school bus, or on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act.

E. It shall be unlawful for any person to possess cannabis in a vehicle not open to the public unless the cannabis is in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving.

F. It shall be unlawful for any person to possess or use cannabis in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;

G. It shall be unlawful for any person to use cannabis in any public place or motor vehicle; or smoke cannabis in any place where smoking is prohibited under the Smoke Free Illinois Act; or smoke cannabis in retail tobacco stores as defined in the Smoke Free Illinois Act.

H. It shall be unlawful for any person to use cannabis knowingly in close physical proximity to anyone under 21 years of age who is not a registered medical cannabis patient under the Compassionate Use of Medical Cannabis Program Act;

I. It shall be unlawful for any person to facilitate the use of cannabis by any person who is not allowed to use cannabis under the City of St. Charles Municipal Code, the Cannabis Regulation and Tax Act or the Compassionate Use of Medical Cannabis Program Act.

J. It shall be unlawful for any person to transfer cannabis to any person contrary to the City of St. Charles Municipal Code, the Cannabis Regulation and Tax Act or the Compassionate Use of Medical Cannabis Program Act.

K. It shall be unlawful for any person to knowingly permit his or her residence, any other private property under his or her control, or any vehicle under his or her control, to be used by a person under the age of 21, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act.

L. It shall be unlawful for any person to cultivate cannabis unless permitted pursuant to the Compassionate Use of Medical Cannabis Program Act, except that the effect of this subsection shall be limited to persons cultivating less than six (6) cannabis plants.

M. It shall be unlawful for any person permitted to cultivate cannabis pursuant to the Compassionate Use of Medical Cannabis Program Act to cultivate more than five (5) cannabis plants in excess of five (5) inches tall; to cultivate cannabis in a place that is not an enclosed, locked space; or to store cannabis plants in a location that is subject to ordinary public view.

Section 9. Section 9.51.040, entitled “Possession unlawful,” of Chapter 9.51, entitled “Possession, Use, and Consumption of Cannabis,” of Title 9, entitled “Public Peace, Morals and Welfare,” of the City of St. Charles Municipal Code Book is hereby amended as follows:

9.51.040 – Violation – Penalty

Any person, firm or corporation violating any provision of this Chapter shall be fined not less than two hundred fifty dollars (\$250.00) but not more than seven hundred and fifty (\$750.00) dollars for each offense, and a separate offense shall be deemed committed on each day on which a violation occurs or continues.

In the alternative, any person violating any provisions of this Chapter shall, upon conviction, complete fifteen (15) hours of community restitution for the first offense, thirty (30) hours of community restitution for the second offense, and one hundred (100) hours of community restitution for each subsequent offense. All community service shall be completed within one (1) years from the date of conviction.

Section 10. Section 9.53.010, entitled “Findings,” of Chapter 9.53, entitled “Drug Paraphernalia,” of Title 9, entitled “Public Peace, Morals and Welfare,” of the City of St. Charles Municipal Code Book is hereby deleted in its entirety and replaced with Section 9.53.010, entitled “Exempt Items” as follows:

9.53.010 – Exempt Items

- A. Items marketed for use in lawful research, teaching or chemical analysis and not for sale.
- B. Items marketed for, or historically and customarily used in connection with the use of cannabis, tobacco or any other lawful substance, to include but not limited to garden hoses, rakes, sickles, baggies, tobacco pipes, and cigarette rolling papers.
- C. Items used for decorative purposes provided such items have been rendered completely inoperable or incapable of being used for any illicit purposes prohibited in this Chapter.
- D. Items specifically exempted by the Cannabis Control Act and the Cannabis Regulation and Tax Act.

Section 11. Section 9.53.020, entitled “Definitions,” of Chapter 9.30, entitled “Drug Paraphernalia,” of Title 9, entitled “Public Peace, Morals and Welfare,” of the City of St. Charles Municipal Code Book is hereby amended as follows:

9.53.020 – Definitions

Unless the context otherwise requires, the following terms as used in this Chapter have the meanings ascribed to them.

- A. “Cannabis.” The term “cannabis” is defined in 720 ILCS 550/3(a) of the Cannabis Control Act, Section 1-10 of the Cannabis Regulation and Tax Act, and Section 9.51.020 of the City of St. Charles Municipal Code Book.
- B. “Cannabis paraphernalia.” The term “cannabis paraphernalia” is defined in Section 9.50.010 of the City of St. Charles Municipal Code Book.
- C. “Controlled substance” means (i) a drug, substance, immediate precursor, or synthetic drug in the Schedules of Article II of the Illinois Controlled Substance Act or (ii) a drug or other substance, or immediate precursor, designated as a controlled substance by the he Illinois Department of Human Services through administrative rule.
- D. “Drug paraphernalia” is defined in Section 9.50.010 of the City of St. Charles Municipal Code Book.
- E. “Instrument” means a device used, designed for use, or intended for use in ingesting, smoking, administering or preparing any other controlled substance into the human body.

Section 12. Section 9.53.030, entitled “Prohibition,” of Chapter 9.30, entitled “Drug Paraphernalia,” of Title 9, entitled “Public Peace, Morals and Welfare,” of the City of St. Charles Municipal Code Book is hereby amended as follows:

9.53.030 – Prohibition

- A. It is unlawful for any person to have, possess, sell, offer to sell, dispense or give away any instrument or drug paraphernalia adapted for the use of smoking, inhaling or ingesting any controlled substance.
- B. It shall be unlawful for any person, firm or corporation to sell cannabis paraphernalia unless such person is employed and licensed as a dispensing agent by a dispensing organization.

Section 13. Section 9.53.040, entitled “Application,” of Chapter 9.30, entitled “Drug Paraphernalia,” of Title 9, entitled “Public Peace, Morals and Welfare,” of the City of St. Charles Municipal Code Book is hereby in its entirety and replaced with Section 9.53.040, entitled “Forfeiture and Seizure of Prohibited Property” as follows:

9.53.040 – Forfeiture and Seizure of Prohibited Property

A. All drug paraphernalia, cannabis paraphernalia, and instruments are subject to forfeiture when found in violation of this Chapter.

B. Drug paraphernalia, cannabis paraphernalia, and instruments subject to forfeiture may be seized by any police officer upon process issued by a court having jurisdiction.

C. Seizures may be made by police officers if there is probable cause to believe that the drug paraphernalia, cannabis paraphernalia, and instruments are in violation of the Cannabis Control Act, or has been used to introduce a controlled substance into the human body, or has controlled substance on it, including its residue, or is dangerous to health or safety and existing circumstances do not allow reasonable time for the officer to obtain lawful process,

D. The presence of drug paraphernalia, cannabis paraphernalia, and instruments which are deemed to be violations of this Chapter, or are otherwise subject to forfeiture shall not subject the entire inventory to seizure of forfeiture.

E. When drug paraphernalia, cannabis paraphernalia, and instruments are seized under this Chapter, the Chief of Police may have the drug paraphernalia, cannabis paraphernalia, and instruments removed to a place designated by him.

F. The Circuit Court shall determine the validity of any seizures made under this Chapter and determine the disposition of all seized property.

G. When property is forfeited under this Chapter, the Chief of Police may retain the drug paraphernalia, cannabis paraphernalia, and instruments for official use or have the property destroyed.

Section 14. Section 9.53.050, entitled “Violation - Penalty,” of Chapter 9.30, entitled “Drug Paraphernalia,” of Title 9, entitled “Public Peace, Morals and Welfare,” of the City of St. Charles Municipal Code Book is hereby removed in its entirety and replaced with Section 9.53.040, entitled “Forfeiture and Seizure of Prohibited Property” as follows:

9.53.050 – Violation – Penalty

Any person, firm or corporation violating any provision of this Chapter shall be fined not less than two hundred fifty dollars (\$250.00) but not more than seven hundred and fifty (\$750.00) dollars for each offense, and a separate offense shall be deemed committed on each day on which a violation occurs or continues.

In the alternative, any person violating any provisions of this Chapter shall, upon conviction, complete fifteen (15) hours of community restitution for the first offense, thirty (30) hours of community restitution for the second offense, and one hundred (100) hours of community restitution for each subsequent offense. All community service shall be completed within one (1) years from the date of conviction.

Section 15. Subsection (6) of Section 10.04.022, entitled “Seizure and impoundment of motor vehicles – Use in connection with illegal activity,” of Chapter 10.04, entitled “General Provisions,” of Title 10, entitled “Vehicles and Traffic,” of the City of St. Charles Municipal Code Book is hereby amended as follows:

10.04.022 – Seizure and impoundment of motor vehicles – Use in connection with illegal activity

...

- (6) Operation or use of a motor vehicle while illegally soliciting, possessing, or attempting to solicit or possess cannabis or a controlled substance, in violation of the Cannabis Control Act or the Illinois Controlled Substances Act, except the vehicle shall not be subject to seizure or impoundment if the violation for possession of cannabis is not more than 100 grams ; or

...

Section 16. Severability. If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

Section 17. Codification. The corporate authorities of the City intend that this Ordinance will be made part of the Municipal Code and that sections of this Ordinance can be renumbered or relettered, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or relettered and typographical errors can be corrected with the authorization of the City Attorney, or his or her designee.

Section 18. Conflict. All parts of the Municipal Code in conflict with the terms or provisions of this Ordinance shall be and the same are hereby amended or repealed to the extent of such conflict, and said Municipal Code and all other existing ordinances shall otherwise remain in full force and effect.

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Section 19. Effective Date. This Ordinance shall be in full force and effect 10 days after its passage, approval and publication in pamphlet form as provided by law.

PRESENTED to the City Council of the City of St. Charles, Illinois this ____ day of _____, 2020.

PASSED by the City Council of the City of St. Charles, Illinois, this ____ day of _____, 2020.

APPROVED by the Mayor of the City of St. Charles, Illinois, this ____ day of _____, 2020.

Mayor Raymond P. Rogina

ATTEST:

City Clerk

COUNCIL VOTE:

Ayes:

Nays:

Absent:

Abstain:

APPROVED AS TO FORM:

City Attorney

DATE: _____

9.50.010 – Drug paraphernalia – Defined

A. "Drug paraphernalia;" ~~articles or equipment commonly used in the consumption or ingestion of controlled substances or cannabis include, but are not limited to, the following enumerated articles: cocaine spoons, pot pipes, water pipes, hypodermic needles, syringes, roach clips and literature devoted wholly or substantially to describing or illustrating explicitly the consumption or ingestion of a controlled substance or cannabis which tends to promote the use of a controlled substance or cannabis; all equipment, products and materials of any kind, other than cannabis paraphernalia as defined in this Section , 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 a controlled substance in violation of the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act or a synthetic drug product or misbranded drug in violation of the Illinois Food, Drug and Cosmetic Act. It includes, but is not limited to:~~

1. kits intended to be used unlawfully in manufacturing, compounding, converting, producing, processing or preparing a controlled substance;

2. isomerization devices intended to be used unlawfully in increasing the potency of any species of plant which is 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 controlled substances;

4. diluents and adulterants intended to be used unlawfully for cutting a controlled substance by private persons;

5. objects intended to be used unlawfully in ingesting, inhaling, or otherwise introducing cocaine, or a synthetic drug product or misbranded drug in violation of the Illinois Food, Drug and Cosmetic Act 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 Section or the Drug Paraphernalia Control Act.

B. "Cannabis paraphernalia," all equipment, products, or materials intended to be used for planting, propagating, cultivating, growing, harvesting, manufacturing, producing, processing,

preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, or otherwise introducing cannabis into the human body.

9.50.020 – Sale to minors – Unlawful

It is unlawful for any person to sell or offer to sell any drug paraphernalia or cannabis paraphernalia, articles or equipment, as defined in Section 9.50.010 to any person under the age of eighteen~~twenty-one~~ (21), except where such articles or equipment are prescribed for strictly medical purposes and are used as such.

9.51.010 – Findings

~~The corporate authorities of the city of St. Charles are advised that there is a widespread illegal use of Cannabis within the city, and further finds that the adoption of a local ordinance governing said possession and illegal use of Cannabis will be helpful for the effective control and elimination of this drug.~~

A. It shall be unlawful for any person to knowingly use or consume cannabis in a manner inconsistent with the Cannabis Control Act, the Cannabis Regulation and Tax Act.

B. Exemptions: The prohibitions in this Chapter shall not apply when otherwise allowed under the Compassionate Use of Medical Cannabis Program Act or the Cannabis Regulation and Tax Act.

C. Use: It shall be unlawful for any person to use cannabis in or about any public place or places. As used in this Chapter, “public place” means any place where a person could reasonably be expected to be observed by others, including but not limited to all parts of buildings owned in whole or in part, or leased, by the State of Illinois, or the City of St. Charles or other public body, but does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises.

9.51.020 – Cannabis defined

Cannabis, as defined in the Cannabis Control Act and the Cannabis Regulation and Tax Act, means ~~includes 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, and any 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, marijuana, hashish, and other substances that are identified as including any parts of the plant Cannabis sativa and including derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction; however, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Cannabis" does not include industrial hemp as defined and authorized under the Industrial Hemp Act. . "Cannabis" also means cannabis flower, concentrate, and cannabis-infused products.

9.51.030 – Possession, Use, and Consumption unlawful

It is unlawful for any person to knowingly possess any quantity of any substance containing Cannabis, except that the effect of this Chapter shall be limited for purposes of municipal prosecution to persons knowingly possessing less than thirty (30) grams of any substance containing Cannabis.

A. It is unlawful for any person under 21 years of age to knowingly possess any quantity of any substance containing cannabis, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act.

B. It shall be unlawful for any person who is a resident of this State to knowingly possess cannabis in excess of the following amounts:

1. 30 grams, but less than 100 grams, of cannabis flower;
2. 500 milligrams tetrahydrocannabinol (THC) in cannabis-infused products; and
3. 5 grams cannabis concentrate.

The possession limits contained herein are to be considered cumulative.

C. It shall be unlawful for any person who is not a resident of this State to knowingly possess cannabis in excess of the following amounts:

1. 15 grams, but less than 100 grams, of cannabis flower;
2. 250 milligrams tetrahydrocannabinol (THC) in cannabis-infused products; and
3. 2.5 grams cannabis concentrate.

The possession limits contained herein are to be considered cumulative.

D. It shall be unlawful for any person to possess or use cannabis in a school bus, or on the grounds of any preschool or primary or secondary school, unless permitted for a

qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act.

E. It shall be unlawful for any person to possess cannabis in a vehicle not open to the public unless the cannabis is in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving.

F. It shall be unlawful for any person to possess or use cannabis in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;

G. It shall be unlawful for any person to use cannabis in any public place, motor vehicle, or smoke cannabis in any place where smoking is prohibited under the Smoke Free Illinois Act and in retail tobacco stores, as defined in the Smoke Free Illinois Act.

H. It shall be unlawful for any person knowingly in close physical proximity to anyone under 21 years of age who is not a registered medical cannabis patient under the Compassionate Use of Medical Cannabis Program Act;

I. It shall be unlawful for any person to facilitate the use of cannabis by any person who is not allowed to use cannabis under the City of St. Charles Municipal Code, the Cannabis Regulation and Tax Act or the Compassionate Use of Medical Cannabis Program Act.

J. It shall be unlawful for any person to transfer cannabis to any person contrary to the City of St. Charles Municipal Code, the Cannabis Regulation and Tax Act or the Compassionate Use of Medical Cannabis Program Act.

K. It shall be unlawful for any person to knowingly permit his or her residence or any other private property under his or her control to permit the consumption of cannabis by a person under the age of 21, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act.

L. It shall be unlawful for any person to cultivate cannabis unless permitted pursuant to the Compassionate Use of Medical Cannabis Program Act, except, that the effect of this subsection shall be limited to persons cultivating less than five (5) cannabis plants.

M. It shall be unlawful for any person permitted to cultivate cannabis pursuant to the Compassionate Use of Medical Cannabis Program Act to cultivate cannabis that is more than 5 inches tall, to cultivate cannabis in a place that is not an enclosed, locked space, or to store cannabis plants in a location that is subject to ordinary public view.

9.51.040 – Violation – Penalty

Any person, firm or corporation violating any provision of this Chapter ~~having not more than 10~~

~~grams shall be fined not less than two hundred fifty dollars (\$200.00250.00) but for each offense, and a separate offense shall be deemed committed on each day on which a violation occurs or continues. Any person, firm, or corporation violating any provision of this Chapter having more than 10 grams, but less than 30 grams, shall be fined not more than seven hundred and fifty (\$750.00) dollars for each offense, and a separate offense shall be deemed committed on each day on which a violation occurs or continues.~~

~~In the alternative, any person violating any provisions of this Chapter shall, upon conviction, complete fifteen (15) hours of community restitution for the first offense, thirty (30) hours of community restitution for the second offense, and one hundred (100) hours of community restitution for each subsequent offense. All community service shall be completed within one (1) years from the date of conviction.~~

9.53.010 – Findings Exempt Items

~~The corporate authorities of the city of St. Charles are advised that there is a widespread illegal use of drugs and drug paraphernalia within the city, and further finds that the adoption of a local ordinance governing said drug paraphernalia will be helpful for the effective control and elimination of drugs and drug paraphernalia~~

~~A. Items marketed for use in lawful research, teaching or chemical analysis and not for sale.~~

~~B. Items marketed for, or historically and customarily used in connection with the use of cannabis, tobacco or any other lawful substance, to include but not limited to garden hoses, rakes, sickles, baggies, tobacco pipes, and cigarette rolling papers.~~

~~C. Items used for decorative purposes provided such items have been rendered completely inoperable or incapable of being used for any illicit purposes prohibited in this Chapter.~~

~~D. Items specifically exempted by the Cannabis Control Act and the Cannabis Regulation and Tax Act.~~

9.53.020 – Definitions

Unless the context otherwise requires, the following terms as used in this Chapter have the meanings ascribed to them.

~~A. “Cannabis.” The term “cannabis” is defined in 720 ILCS 550/3(a) of the Cannabis Control Act, Section 1-10 of the Cannabis Regulation and Tax Act, and Section 9.51.020 of the City of St. Charles Municipal Code Book.~~

~~B. “Cannabis paraphernalia.” The term “cannabis paraphernalia” is defined in Section 9.50.010 of the City of St. Charles Municipal Code Book.~~

C. ~~“Controlled substance” means any drug or controlled substance as defined under any law of the state of Illinois or of the United States of America (i) a drug, substance, immediate precursor, or synthetic drug in the Schedules of Article II of the Illinois Controlled Substance Act or (ii) a drug or other substance, or immediate precursor, designated as a controlled substance by the he Illinois Department of Human Services through administrative rule.~~

D. ~~“Drug paraphernalia” is defined in Section 9.50.010 of the City of St. Charles Municipal Code Book.~~

E. ~~“Instrument” means a device used, designed for use, or intended for use in ingesting, smoking, administering or preparing ~~cannabis, cocaine, phenethylamine, opium or any derivative thereof, or any other controlled substance~~ into the human body, including but not limited to, the following:~~

~~Metal, wooden, acrylic, glass, stone, plastic or ceramic marijuana (Cannabis sativa) or hashish pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;~~

~~Water pipes designed for use or intended for use with marijuana (Cannabis sativa), hashish, hashish oil or cocaine;~~

~~Carburation tubes and devices;~~

~~Smoking and carburation masks;~~

~~Roach clips;~~

~~Separation gins designed for use or intended for use in cleaning marijuana;~~

~~Cocaine spoons and vials;~~

~~Chamber pipes;~~

~~Carburetor pipes;~~

~~Electric pipes;~~

~~Air driven pipes;~~

~~Chillums;~~

~~Bongs;~~

~~Ice pipes or chillers; and~~

~~One hitters and dugout storage containers.~~

9.53.030 – Prohibition

A. It is unlawful for any person to have, possess, sell, offer to sell, dispense or give away any instrument or drug paraphernalia adapted for the use of smoking, inhaling or ingesting any controlled substance.

B. It shall be unlawful for any person, firm or corporation to sell cannabis paraphernalia unless such person is employed and licensed as a dispensing agent by a dispensing organization.

9.53.040 – ~~Application~~ Forfeiture and Seizure of Prohibited Property

~~The provisions of this Chapter shall not apply to:~~

~~Any person who has been authorized by the Department of Mental Health and Developmental Disabilities, with the approval of the Illinois State Police, to possess and deliver substances containing cannabis;~~

~~Persons registered under federal law to conduct research with cannabis.~~

A. All drug paraphernalia, cannabis paraphernalia, and instruments are subject to forfeiture when found in violation of this Chapter.

B. Drug paraphernalia, cannabis paraphernalia, and instruments subject to forfeiture may be seized by any police officer upon process issued by a court having jurisdiction.

C. Seizures may be made by police officers if there is probable cause to believe that the drug paraphernalia, cannabis paraphernalia, and instruments are in violation of the Cannabis Control Act, or has been used to introduce a controlled substance into the human body, or has controlled substance on it, including its residue, or is dangerous to health or safety and existing circumstances do not allow reasonable time for the office to obtain lawful process,

D. The presence of drug paraphernalia, cannabis paraphernalia, and instruments which are deemed to be violations of this Chapter, or are otherwise subject to forfeiture shall not subject the entire inventory to seizure of forfeiture.

E. When drug paraphernalia, cannabis paraphernalia, and instruments are seized under this Chapter, the Chief of Police may have the drug paraphernalia, cannabis paraphernalia, and instruments removed to a place designated by him.

F. The Circuit Court shall determine the validity of any seizures made under this Chapter and determine the disposition of all seized property.

G. When property is forfeited under this Chapter, the Chief of Police may retain the drug paraphernalia, cannabis paraphernalia, and instruments for official use or have the property destroyed.

9.53.050 – Violation – Penalty

~~Any persons, firm or corporation violating any provision of this Chapter shall be fined not more than five hundred dollars for each offense, and a separate offense shall be deemed committed on each day on which a violation occurs or continues.~~

Any person, firm or corporation violating any provision of this Chapter shall be fined not less than two hundred fifty dollars (\$250.00) but not more than seven hundred and fifty (\$750.00) dollars for each offense, and a separate offense shall be deemed committed on each day on which a violation occurs or continues.

In the alternative, any person violating any provisions of this Chapter shall, upon conviction, complete fifteen (15) hours of community restitution for the first offense, thirty (30) hours of

community restitution for the second offense, and one hundred (100) hours of community restitution for each subsequent offense. All community service shall be completed within one (1) years from the date of conviction.