

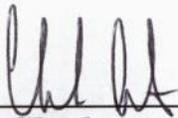
City of St. Charles, Illinois

Ordinance No.: 2020-M-5

**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).**

**Adopted by the
City Council
of the
City of St. Charles
February 3, 2020**

Published in pamphlet form by
authority of the City Council
of the City of St. Charles,
Kane and Du Page Counties,
Illinois, **February 10, 2020**



City Clerk



(SEAL)

City of St. Charles, Illinois
Ordinance No. 2020-M-5

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.

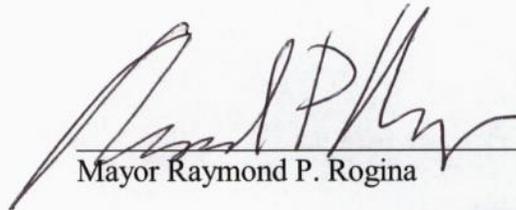
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Section 19. Effective Date. This Ordinance shall be in full force and effect 10 days after its passage, approval and publication in pamphlet form as provided by law.

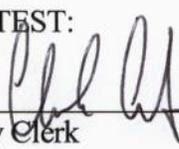
PRESENTED to the City Council of the City of St. Charles, Illinois, this 3rd day of February, 2020.

PASSED by the City Council of the City of St. Charles, Illinois, this 3rd day of February, 2020.

APPROVED by the Mayor of the City of St. Charles, Illinois, this 3rd day of February, 2020.



Mayor Raymond P. Rogina

ATTEST:


City Clerk

COUNCIL VOTE:
Ayes: 8
Nays: 0
Absent: 2
Abstain: 0



State of Illinois)
) ss.
Counties of Kane and DuPage)

Certificate

I, CHUCK AMENTA, certify that I am the duly elected and acting Municipal City Clerk of the City of St. Charles, Kane and DuPage Counties, Illinois.

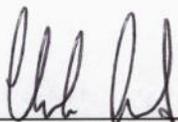
I further certify that on **February 3, 2020**, the Corporate Authorities of such municipality passed and approved Ordinance No. **2020-M-5** entitled:

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).

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. **2020-M-5**, including the Ordinance and a cover sheet thereof was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on **February 10, 2020**, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

DATED at St. Charles, Illinois, this **3rd** day of **February 3, 2020**.



Municipal Clerk

(S E A L)

