

# Village of McLean

## Ordinance#

**20-03-02**

**An Ordinance Adding Title XIV Regarding Cannabis  
to the Village of McLean Code of Ordinances**

Adopted by the Village Board  
Of the  
Village of McLean

Published in pamphlet form by authority of the Village of McLean, McLean

County, Illinois this 4-8 day of April, 2020.

ORDINANCE NO. 20-03-02

**AN ORDINANCE ADDING TITLE XIV REGARDING CANNABIS  
TO THE VILLAGE OF MCLEAN CODE OF ORDINANCES**

**WHEREAS**, the McLean Code of Ordinances was adopted on May 6, 1996, and duly published in book form; and

**WHEREAS**, on June 25, 2019, the State of Illinois adopted the Cannabis Regulation and Tax Act as Public Act 101-0027; and

**WHEREAS**, Section 10-5 of the Cannabis Regulation and Tax Act authorizes personal use and possession of cannabis; and

**WHEREAS**, the Corporate Authorities of the Village of McLean in exercise of the power reserved to them under the Cannabis Regulation and Tax Act desire to adopt certain regulations that comply with the mandates of the Cannabis Regulation and Tax Act regarding possession and use of cannabis, drug paraphernalia, and controlled substances within the Village of McLean.

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MCLEAN:**

**SECTION I:** the Village of McLean Code of Ordinances is amended by inserting a new Title XIV, which shall be as follows:

**TITLE XIV: DRUG OFFENSES**

Chapter

**140. CANNABIS**

**141. DRUG PARAPHERNALIA**

**CHAPTER 140: CANNABIS**

Section

140.01 Definitions

140.02 Possession and Use of Cannabis

140.03 Public Display of Cannabis and Public Intoxication

140.04 Cultivation of Cannabis

140.99 Penalty

**§ 140.01 DEFINITIONS.**

For the purposes of this title, the following words and phrases shall have the following meanings ascribed to them respectively.

**AUTHORIZED AGENT.** A person authorized by a Registered Qualifying Patient to tend his or her cannabis plants, which valid authorization shall be endowed only by a Power of Attorney or similar written instrument which names the Agent, is signed by the Registered Qualifying Patient, and has a duration of no more than two weeks within any six month period.

**CANNABIS.** 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 concentrate and cannabis-infused products.

**CANNABIS CONCENTRATE.** A product derived from cannabis that is produced by extracting cannabinoids from the plant through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats; water, ice, or dry ice; or butane, propane, CO<sub>2</sub>, ethanol, or isopropanol. The use of any other solvent is expressly prohibited unless and until it is approved by the Department of Agriculture.

**CANNABIS FLOWER.** 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; including raw kief, leaves, and buds, but not resin that has been extracted from any part of such plant; nor any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin.

**CANNABIS-INFUSED PRODUCT.** A beverage, food, oil, ointment, tincture, topical formulation, or another product containing cannabis that is not intended to be smoked.

**DELIVER OR DELIVERY.** The actual, constructive, or attempted transfer of possession, with or without consideration, whether or not there is an agency relationship.

**FACILITATE THE USE OF CANNABIS.** To deliver, transfer, gift, sell, or to otherwise provide cannabis or cannabis accessories to a person. It shall also include purchasing cannabis for a person and careless or negligent storage of cannabis so that it may be easily accessible to a person.

**MOTOR VEHICLE.** A vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways but does not include a vehicle operated exclusively on a rail or rails.

**PUBLIC PLACE.** Any place where a person could reasonably be expected to be observed by others. "Public place" includes all parts of buildings owned in whole or in part, or leased, by the State or a unit of local government. "Public place" 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.

**PUBLIC WAY.** The surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, way, lane, drive, circle, or other public right-of-way, including, but not limited to, utility easements, dedicated utility strips, or rights-of-way.

**REASONABLY INACCESSIBLE.** Out of reach of the driver and any passenger of a motor vehicle, which includes being in the trunk of the vehicle or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk. Areas that are not reasonably inaccessible include, but are not limited to, the glove compartment, any middle console compartment between the driver's seat and the front passenger seat, and either under or directly behind the driver's seat or the front passenger's seat.

**REASONABLY SECURED.** In a sealed, odor-proof, and child-resistant container.

**REGISTERED QUALIFYING PATIENT.** The meanings ascribed to it in Section 10 of the Compassionate Use of Medical Cannabis Program Act as if that definition were incorporated herein.

**WHILE ON DUTY.** The time period when a person is working during his normal scheduled hours, during overtime hours when a person is working, and during any period of time in which a person is "on call" where he or she may be called upon to perform work duties at any time during that "on call" time period.

#### § 140.02 POSSESSION AND USE OF CANNABIS.

(A) It shall be unlawful for any person under 21 years of age to use or possess cannabis at any time except as otherwise permitted under the Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/1, et seq.

(B) It shall be unlawful for any person knowingly to possess more than 30 grams of cannabis flower, more than 500 milligrams of THC contained in cannabis-infused product, or more than 5 grams of cannabis concentrate.

(C) It shall be unlawful for any person to possess cannabis:

(1) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act;

(2) 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;

(3) 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;

(4) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;

(5) in an amount greater than 30 grams for Illinois residents and more than 15 grams for out of state residents;

(6) in any part of a building owned in whole or in part, or leased, by the Village of McLean; or

(7) in any other manner prohibited by state statutes, as they may be amended from time to time.

(D) It shall be unlawful for any person to use cannabis:

(1) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act;

(2) 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;

(3) in any motor vehicle;

(4) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;

(5) in any public place; or

(6) 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;

(7) while on duty by a person who has a school bus permit or a Commercial Driver's License.

(E) It shall be unlawful for any person to smoke cannabis in any place where smoking is prohibited under the Smoke Free Illinois Act.

(F) It shall be unlawful for any person to operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while using or under the

influence of cannabis in violation of Section 11-501 or 11-502.1 of the Illinois Vehicle Code.

(G) 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 Cannabis Regulation and Tax Act, 410 ILCS 705/1, et seq., or the Compassionate Use of Medical Cannabis Program Act.

(H) It shall be unlawful for any person to transfer cannabis to any person contrary to the Cannabis Regulation and Tax Act or the Compassionate Use of Medical Cannabis Program Act.

(I) It shall be unlawful for any person to transport, carry, possess, or have any cannabis on or about their person in any public place or upon any public way in the Village unless it is in the original package and the seal is unbroken.

#### **§ 140.03 PUBLIC DISPLAY OF CANNABIS AND PUBLIC INTOXICATION.**

(A) It shall be unlawful for any person in the Village to display, make a gift, make available, sell, or offer for sale any cannabis within any public place or public way in the Village.

(B) It shall be unlawful for any person under the influence of cannabis or controlled substances to enter or remain within any public place or public way within the Village.

#### **§ 140.04 CULTIVATION OF CANNABIS.**

(A) It shall be unlawful for any person to cultivate cannabis plants within the Village of McLean, except for a registered qualifying patient under the Compassionate Use of Medical Cannabis Program Act. It shall be unlawful for any person who is a registered qualifying patient under the Compassionate Use of Medical Cannabis Program Act to cultivate cannabis plants:

(1) unless the person has been a resident of the State of Illinois for more than 30 days before cultivation;

(2) in excess of 5 plants that are more than 5 inches tall per household;

(3) outside of an enclosed, locked space;

(4) using cannabis seeds purchased from somewhere other than a dispensary for the purpose of home cultivation, and seeds may not be given or sold to any other person;

(5) in a location where they are subject to ordinary public view (within the sight line with normal visual range of a person, unassisted by visual aids, from a public street or sidewalk adjacent to real property, or from within an adjacent property);

(6) without reasonable precautions to ensure the cannabis plants are secure from unauthorized access, including unauthorized access by a person under 21 years of age;

(7) on non-residential property and property that is not lawfully in the possession of the cultivator or without the consent of the person in lawful possession of the property;

(8) in a dwelling, residence, apartment, condominium unit, enclosed, locked space, or piece of property which has not been divided into multiple dwelling units and contains in excess of 5 plants at any one time; or

(9) unless residing at the residence where the cannabis plants are located, except that a registered qualifying patient's authorized agent may tend to the cannabis plants if attending to the residence for brief periods, such as when the qualifying patient is temporarily away from the residence.

#### **§ 140.99 PENALTY.**

(A) Any person who violates any provision of this Chapter, inclusive of all subsections thereof, shall, upon conviction, be assessed a fine of not less than two hundred dollars (\$200.00) and not more than seven hundred fifty dollars (\$750.00).

(B) Where any person has been convicted of any of the provisions of this Section at any prior time, then there shall be added to the applicable minimum fine the amount of one hundred dollars (\$100.00) for each such prior conviction.

### **CHAPTER 141: DRUG PARAPHERNALIA**

#### Section

141.01 Definitions

141.02 Possession of Drug Paraphernalia

141.99 Penalty

#### **§ 141.01 DEFINITIONS.**

For the purposes of this title, the following words and phrases shall have the following meanings ascribed to them respectively.

***CANNABIS ACCESSORIES.*** Any equipment, products, or materials of any kind that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounded, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or

containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis into the human body as permitted by the Cannabis Regulation and Tax Act.

**CONTROLLED SUBSTANCE.** The meanings ascribed to it in Section 102 of the Illinois Controlled Substances Act as if that definition were incorporated herein.

**DRUG PARAPHERNALIA.** 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, 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, 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. "Drug Paraphernalia" does not include cannabis accessories if possessed or used by any person 21 years of age or older who is otherwise lawfully permitted to possess or use cannabis under the Cannabis Regulation and Tax Act. "Drug Paraphernalia" 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, hashish oil, 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 the Cannabis Control Act, the Illinois Controlled Substances Act, the Cannabis Regulation and Tax Act, or any provision of this chapter.

**§ 141.02 POSSESSION OF DRUG PARAPHERNALIA.**

(A) No person shall knowingly possess an item of drug paraphernalia with the intent to use it illegally in injecting, ingesting, inhaling or otherwise introducing into the human cannabis or a controlled substance or in illegally preparing cannabis or a controlled substance for that use or illegally planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, or concealing cannabis or a controlled substance.

(B) In determining intent under division (A) above, 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.

**§ 141.99 PENALTY.**

(A) Any person who violates any provision of this Chapter, inclusive of all subsections thereof, shall, upon conviction, be assessed a fine of not less than two hundred dollars (\$200.00) and not more than seven hundred fifty dollars (\$750.00).

(B) Where any person has been convicted of any of the provisions of this Section at any prior time, then there shall be added to the applicable minimum fine the amount of one hundred dollars (\$100.00) for each such prior conviction.

**SECTION II:** if any section or part of this Ordinance is held invalid, it shall not affect the validity of the remainder of this Ordinance.

**SECTION III:** this Ordinance shall take effect 10 days after publication thereof as provided by law.

**PASSED AND APPROVED** at a regular meeting of the President and Board of Trustees of the Village of McLean this 2nd day of March, 2020; and upon roll call the vote was as follows:

  
\_\_\_\_\_  
President of the Board of Trustees of the  
Village of McLean

**ATTEST:**

  
\_\_\_\_\_  
Village Clerk

AYES: 5  
NAYS: 0  
ABSENT: 1

STATE OF ILLINOIS )

) SS

COUNTY OF MCLEAN )

**PUBLICATION CERTIFICATE**

I, the undersigned Village Clerk, certify that I am the duly elected and acting Village Clerk of the Village of McLean, McLean County, Illinois.

I further certify that on **Monday, March 2, 2020**, the Board of Trustees of such municipality passed and approved **Ordinance No. 20-03-02**, entitled:

**An Ordinance Adding Title XIV Regarding Cannabis to the Village of McLean Code of Ordinances**

Board of Trustees of the Village of McLean previously adopted a Resolution that authorized all Village Ordinances to be published in pamphlet form.

The pamphlet form of Ordinance No. **20-03-02**, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on 4-8, **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 Village Clerk.

Dated at McLean, Illinois, this 20<sup>th</sup> day of **April, 2020**.

  
Village Clerk

(SEAL)