

**CITY OF BELLEVILLE
ORDINANCE NO. 19-003**

**AN ORDINANCE TO RESTATE THE CONTROLLED SUBSTANCE AND TOXIC
CHEMICALS SECTION OF THE CITY OF BELLEVILLE CODE OF ORDINANCES.**

THE CITY OF BELLEVILLE ORDAINS:

DIVISION 3. - CONTROLLED SUBSTANCES AND TOXIC CHEMICALS

Subdivision I. - Generally

Sec. 50-320. Possession or use of marihuana.

(a) It shall be unlawful for any person to knowingly or intentionally possess marihuana except as permitted by the provisions of Michigan Medical Marihuana Act (MCL 333.26421 et seq.) and the Michigan Regulation and Taxation of Marihuana Act as may be amended.

(b) Cultivation of marihuana by a qualifying patient as defined in MCL 333.26423 and by individuals 21 year of age and older under the Michigan Regulation and Taxation of Marihuana Act shall be permitted in zoning districts in single-family detached dwellings which are owned or rented (with the owner's consent) and occupied by the qualifying patient or recreational user for their use.

(c) Cultivation of marihuana by a primary caregiver as defined in MCL 333.26423 shall be permitted in zoning districts in single-family detached dwellings which are owned or rented (with the owner's consent) and occupied by such persons for their residential use or his/her qualifying patients, residential use, to whom they are connected through registration with the Michigan Department of Licensing and Regulatory Affairs.

(d) All of the above permitted cultivation of marihuana plants shall be in compliance with the applicable building and fire codes and shall not occupy more than 25 percent of the dwelling excluding the basement square footage.

(e) It shall be unlawful for any person, facility, or business located in the City of Belleville to operate any marihuana establishment as permitted in section 6.1 of the Michigan Regulation and Taxation of Marihuana Act as the City hereby completely prohibits such establishments from locating within the boundaries of the City.

(f) It shall be unlawful for any person to use or possess marihuana except as authorized by the provisions of the Michigan Medical Marihuana Act (as may be amended et seq.) and the Michigan Regulation and Taxation of Marihuana Act (as may be amended).

(g) A person shall not transport or possess usable marihuana in or upon a motor vehicle or any self-propelled vehicle designed for land travel unless the usable marihuana is one or more of the following:

- (1) Enclosed in a case that is carried in the trunk of the vehicle;
- (2) Enclosed in a case that is not readily accessible from the interior of the vehicle, if the vehicle in which the person is travelling does not have a trunk.

Sec. 50-321. Loitering.

It shall be unlawful for any person to knowingly loiter or remain in any place for the purpose of unlawfully using or possessing a controlled substance or where the use of controlled substance is practiced, encouraged or allowed.

Subdivision II. Drug Paraphernalia

Sec. 50-330. Definition, determination of "drug paraphernalia."

(a) As used in this subdivision the terms marihuana accessories and "drug paraphernalia" mean any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting; propagating; cultivating; growing; harvesting; manufacturing; compounding; converting; producing; processing; preparing; testing; analyzing; packaging; repackaging; storing; containing; concealing; injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance; including, but not limited to, all of the following:

- (1) An isomerization device specifically designed for use in increasing the potency of any species of plant which plant is a controlled substance.
- (2) Testing equipment specifically designed for use in identifying or in analyzing the strength, effectiveness, or purity of a controlled substance.
- (3) A weight scale or balance specifically designed for use in weighing or measuring a controlled substance.
- (4) A diluent or adulterant, including, but not limited to, quinine hydrochloride, mannitol, mannite, dextrose, and lactose, specifically designed for use with a controlled substance.
- (5) A separation gin or sifter specifically designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana.
- (6) An object specifically designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body.

(7) A kit specifically designed for use in planting, propagating, cultivating, growing, or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived.

(8) A kit specifically designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(9) A device, commonly known as a cocaine kit, that is specifically designed for use in ingesting, inhaling, or otherwise introducing controlled substances into the human body, and which consists of at least a razor blade and a mirror.

(10) A device, commonly known as a bullet, that is specifically designed to deliver a measured amount of controlled substances to the user.

(11) A device, commonly known as a snorter, that is specifically designed to carry a small amount of controlled substances to the user's nose.

(12) A device, commonly known as an automotive safe, that is specifically designed to carry and conceal a controlled substance in an automobile, including, but not limited to, a can used for brake fluid, oil, or carburetor cleaner which contains a compartment for carrying and concealing controlled substances.

(13) A spoon, with or without a chain attached, that has a small diameter bowl and that is specifically designed for use in ingesting, inhaling, or otherwise introducing controlled substances into the human body.

Sec. 50-331. Possession.

It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, processes, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance except as specifically permitted in the Michigan Regulation and Taxation of Marihuana Act or the Michigan Medical Marihuana Act.

Sec. 50-332. Manufacture, delivery or sale.

(a) It is unlawful for any reason to deliver, sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell, marihuana accessories or drug paraphernalia, knowing that it will be used to plant, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance except as specifically permitted in the Michigan Regulation and Taxation of Marihuana Act or the Michigan Medical Marihuana Act.

(b) Before a person is arrested for a violation of subsection (a) of this section, the city attorney shall notify the person in writing, not less than two business days before the person is to be arrested, that the person is in possession of specific, defined material that has been determined

by the city attorney to be marihuana accessories or drug paraphernalia. The notice also shall request that the person refrain from selling or offering for sale the material and shall state that if the person complies with the notice, no arrest will be made for a violation of subsection (a) of this section.

(c) If a person complies with a notice sent under subsection (b) of this section, the compliance is a complete defense for the person against a prosecution under this section, as long as the compliance continues.

Sec. 50-333. Advertising.

It is unlawful for any person to place in any newspaper, magazine, handbill, sign, poster, or other publication any advertisement, knowing that the purpose of the advertisement in whole or in part is to promote the sale of objects designed or intended for use as drug paraphernalia.

Sec. 50-334. Exceptions.

This subdivision shall not apply to:

(a) An object sold or offered for sale to a person licensed under article 15 or under the Occupational Code (MCL 339.101 et seq.) or any intern, trainee, apprentice, or assistant in a profession licensed under article 15 or under the Occupational Code for use in that profession.

(b) An object sold or offered for sale to any hospital, sanitarium, clinical laboratory, or other health care institution including a penal, correctional, or juvenile detention facility for use in that institution.

(c) An object sold or offered for sale to a dealer in medical, dental, surgical, or pharmaceutical supplies.

(d) A blender, bowl, container, spoon, or mixing device not specifically designed for a use described in section 50-330.

(e) A hypodermic syringe or needle sold or offered for sale for the purpose of injecting or otherwise treating livestock or other animals.

(f) An object sold, offered for sale, or given away by a state or local governmental agency or by a person specifically authorized by a state or local governmental agency to prevent the transmission of infectious agents.

Sec. 50-335. Civil forfeiture.

Any marihuana accessories or drug paraphernalia used, sold, possessed with intent to use or sell, or manufactured with intent to sell in violation of this subdivision shall be seized and forfeited to the city.

Sec. 50-336. Penalties

(a) Except for a person who engaged in conduct described in sections 4(1)(a), 4(1)(b), 4(1)(c), 4(1)(d), 4(1)(g), or 4(1)(h) of the Michigan Regulation and Taxation of Marihuana Act (“MRTMA”), a person who possesses not more than the amount of marihuana allowed by section 5 of the MRTMA, cultivates not more than the amount of marihuana allowed by section 5 of the MRTMA, delivers without receiving any remuneration to a person who is at least 21 years of age not more than the amount of marihuana allowed by section 5 of the MRTMA, or possesses with intent to deliver not more than the amount of marihuana allowed by section 5 of the MRTMA, is responsible for a civil infraction and may be punished by a fine of not more than \$100 and forfeiture of the marihuana.

(b) Except for a person who engaged in conduct described in section 4 of the MRTMA, a person who possesses not more than twice the amount of marihuana allowed by section 5 of the MRTMA, cultivates not more than twice the amount of marihuana allowed by section 5 of the MRTMA, delivers without receiving any remuneration to a person who is at least 21 years of age not more than twice the amount of marihuana allowed by section 5 of the MRTMA, or possesses with intent to deliver not more than twice the amount of marihuana allowed by section 5 of the MRTMA:

(1) for a first violation, is responsible for a civil infraction and may be punished by a fine of not more than \$500 and forfeiture of the marihuana;

(2) for a second violation, is responsible for a civil infraction and may be punished by a fine of not more than \$500 and forfeiture of the marihuana;

(3) for a third or subsequent violation, is guilty of a misdemeanor and may be punished by a fine of not more than \$500 and forfeiture of the marihuana.

(c) Except for a person who engaged in conduct described by section 4(1)(a), 4(1)(d), or 4(1)(g) of the MRTMA, a person under 21 years of age who possesses not more than 2.5 ounces of marihuana or who cultivates not more than 12 marihuana plants:

(1) for a first violation, is responsible for a civil infraction and may be punished as follows:

(a) if the person is less than 18 years of age, by a fine of not more than \$100 or community service, forfeiture of the marihuana, and completion of 4 hours of drug education or counseling; or

(b) if the person is at least 18 years of age, by a fine of not more than \$100 and forfeiture of the marihuana.

(2) for a second violation, is responsible for a civil infraction and may be punished as follows:

(a) if the person is less than 18 years of age, by a fine of not more than \$500 or community service, forfeiture of the marihuana, and completion of 8 hours of drug education or counseling; or

(b) if the person is at least 18 years of age, by a fine of not more than \$500 and forfeiture of the marihuana.

(d) Except for a person who engaged in conduct described in section 4 of the MRTMA, a person who possesses more than twice the amount of marihuana allowed by section 5 of the MRTMA, cultivates more than twice the amount of marihuana allowed by section 5 of the MRTMA, or delivers without receiving any remuneration to a person who is at least 21 years of age more than twice the amount of marihuana allowed by section 5 of the MRTMA, shall be responsible for a misdemeanor, but shall not be subject to imprisonment unless the violation was habitual, willful, and for a commercial purpose or the violation involved violence.

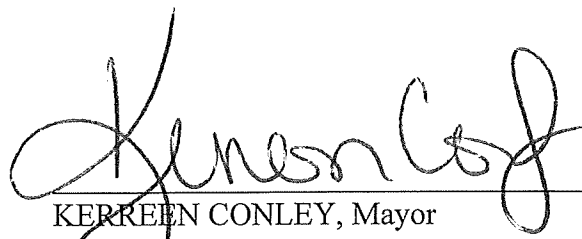
(3) All other violations of this Chapter 50 shall be a misdemeanor offense subject to a fine of not more than \$500 and forfeiture of the marihuana or paraphernalia.

ADOPTED, APPROVED AND PASSED by the City Council of the City of Belleville this 2nd day of December, 2019.

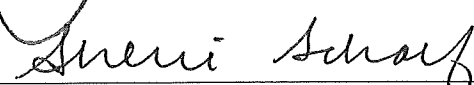
MOTION: Fielder SECOND: Marcotte

AYES: 5 NAYS: 0 ABSENT: 0 VOTE: 5-0

Bates
Conley
Fielder
Marcotte
Voigt



KERREEN CONLEY, Mayor



SHERRI SCHARF, City Clerk

I hereby certify that the foregoing is a true copy of the Ordinance as passed by the City Council of the City of Belleville at a regular Council Meeting held in the City Council Room in said City on the 2nd day of December, 2019.



SHERRI SCHARF, City Clerk

I further certify that the foregoing was published in the Belleville Area Independent, a newspaper of general circulation in the City of Belleville, on the 21st day of November, 2019.



SHERRI SCHARF, City Clerk

Within forty-five (45) days after publication of any ordinance duly passed by the Council, a petition may be presented to the Council protesting against such ordinance continuing in effect. Said petition shall contain the text of such ordinance and shall be signed by not less than six percent (6%) of the registered electors registered at the last preceding election at which a Mayor of the City was elected. Said ordinance shall thereupon and thereby be suspended from operation and the Council shall immediately reconsider such ordinance.

Introduced:	11-18-19
Published:	11-21-19
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Published:	12-5-19
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