

Decatur's Approach

The City of Decatur chose to NOT embrace the Cannabis Industry

- Chose to prohibit craft growers, cultivation centers, infusers, processors, transporters and dispensaries
- NO taxes from the Cannabis industry
- Amended current ordinances and police procedures to comply with the recreational use of cannabis

Decatur's Ordinances

Chapter 73-24

A. It shall be unlawful for a person to possess thirty (30) grams or less of any substance containing cannabis. This subsection 24(A) shall be repealed on January 1, 2020.

Decatur's Ordinance continued

B. DEFINITIONS.

1. For purposes of this Section, cannabis includes marijuana, hashish and other substances which 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 such plant; and any compound, manufacture, salt, derivative, mixture or preparation of the 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, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted there from), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination. Cannabis does not include industrial hemp as defined and authorized under the Illinois Industrial Hemp Act. Cannabis also means concentrate and cannabis-infused products.

2. For purposes of this Section, 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 or unit of local government and all areas in a park, recreation area, wildlife area, or playground owned in whole or in part, leased, or managed by the State or 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 but does include retail tobacco stores.

Decatur's Ordinance continued

3. For purposes of this Section, retail tobacco stores means a retail establishment that derives more than 80% of its gross revenue from the sale of loose tobacco, plants or herbs and cigars, cigarettes, pipes and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. It includes an enclosed workplace that manufactures, imports, or distributes tobacco or tobacco products, when, as a necessary and integral part of the process of making, manufacturing, importing, or distributing a tobacco product, tobacco is heated, burned, or smoked, or a lighted tobacco product is tested, provided that the involved business entity: (1) maintains a specifically designated area or areas within the workplace for the purpose of heating, burning, smoking, or lighting activities, and does not create a facility that permits smoking throughout; (2) satisfies the 80% requirement related to gross sales; and (3) delivers tobacco products to consumers, retail establishments, or other wholesale establishments as part of its business.

C. Effective January 1, 2020, it shall be unlawful for a person under 21 years of age to purchase, possess, use, process, transport, grow or consume any substance containing cannabis except where authorized by the Illinois Compassionate Use of Medical Cannabis Pilot Program Act or by the Illinois Community College Cannabis Vocational Pilot Program.

Decatur's Ordinance continued

D. POSSESSION. Effective January 1, 2020, it shall be unlawful for a person 21 years of age or older to possess cannabis:

1. more than 30 grams of cannabis flower, more than 500 milligrams of THC contained in cannabis-infused product, and more than 5 grams of cannabis concentrate;
2. in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Illinois Compassionate Use of Medical Cannabis Pilot Program Act;
3. on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Illinois Compassionate Use of Medical Cannabis Pilot Program Act;
4. in any correctional facility;
5. in any vehicle not open to the public unless the cannabis is in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving; or
6. in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises.

Decatur's Ordinance continued

E. CONSUMPTION. Effective January 1, 2020, it shall be unlawful for a person 21 years of age or older to use cannabis:

1. in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Illinois Compassionate Use of Medical Cannabis Pilot 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 Illinois Compassionate Use of Medical Cannabis Pilot Program Act;
3. in any correctional facility;
4. in any motor vehicle;
5. in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;
6. in any public place; or
7. knowingly in close proximity to anyone under 21 years of age who is not a registered medical cannabis patient under the Illinois Compassionate Use of Medical Cannabis Pilot Program Act.

Decatur Police Department Directive

CANNABIS REGULATION AND TAX ACT

(This Act DOES NOT replace the Cannabis Control Act)

ALL CHANGES ARE EFFECTIVE JANURAY 1, 2020

POSSESSION OF CANNABIS PERSONS UNDER THE AGE OF 21 (410 ILCS 705/10-15)

No person under the age of 21 may purchase, possess, use, process, transport or consume any product containing cannabis not authorized under the medical cannabis regulation or the community college vocational program.

Decatur Police Department Directive

POSSESSION OF CANNABIS FOR PERSONS 21 OR OLDER (410 ILCS 705/10-10)

An ILLINOIS resident 21 and over may possess:

- not more than 30 grams of cannabis flower
- not more than 500 ml of THC contained in a cannabis-infused product
- not more than 5 grams of cannabis concentrate
- for registered qualifying (medical cannabis) patients any amount of cultivated cannabis produced in excess of 30 grams of raw cannabis or its equivalent but it must remain secured within the residence or residential property in which it was grown

Decatur Police Department Directive

A NON-ILLINOIS resident 21 and over may possess:

- not more than 15 grams of cannabis flower
- not more than 250 ml of THC contained in a cannabis-infused product
- not more than 2.5 grams of cannabis concentrate

Decatur Police Department Directive

NO PERSON may possess cannabis: (410 ILCS 705/10-35 (a) (2))

- in a school bus (unless permitted for a qualifying medical patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act)
- on the grounds of any preschool, primary school or secondary school (unless permitted for a qualifying medical patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act)
- in any correctional facility
- 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. A “cannabis container” has been defined as a sealed, traceable, container, or package used for the purpose of containment of cannabis or cannabis-infused product during transportation.
- in a private residence that is used at any time to provide licensed child-care or other similar social service care on the premises

Decatur Police Department Directive

CANNABIS USE / CONSUMPTION (410 ILCS 705/10-35 (a) (3))

No person may use cannabis regardless of age:

- * in a school bus (unless permitted for a qualifying medical patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act).
- * on the grounds of any preschool, primary school or secondary school (unless permitted for a qualifying medical patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act)
- * in any correctional facility
- * in any motor vehicle
- * in a private residence that is used at any time to provide licensed child-care or other similar social service care on the premises
- * in any public place (Defined as any place where a person could reasonably be expected to be observed by others. Includes all parts of buildings owned in whole or in part, or leased, by the State or a unit of local government. Public place includes all areas in a park, recreation area, wildlife area, or playground owned in whole or in part, leased, or managed by the State or a unit of local government. Does not include a private residence unless the private residence is used for licensed child care, foster care, or similar social service care on the premises).

Decatur Police Department Directive

CANNABIS USE / CONSUMPTION (410 ILCS 705/10-35 (a) (3))

No person may use cannabis regardless of age:

- knowingly in close proximity to anyone under the age of 21 who is not a medical cannabis patient
- No person may smoke cannabis in any location in violation of the smoke-free Illinois act.
- No person may operate, navigate or be in actual physical control of any motor vehicle, aircraft, watercraft or snowmobile while under the influence of cannabis.
- No person may facilitate the use of cannabis by any person who is not allowed to use cannabis under this act or the medical cannabis program.
- No person may transfer cannabis to any person contrary to this act or the medical cannabis program.
- No law enforcement officer, corrections officer, probation officer or firefighter can use cannabis while on duty, or off duty at the discretion of the employer.
- No person who has a school bus permit or CDL may use cannabis while on duty.

Decatur Police Department Directive

CULTIVATION/GROWING (410 ILCS 705/10-5 (b))

Only registered qualified medical cannabis patients can cultivate cannabis for personal use. The person must be an Illinois resident that is 21 or older and must be a qualifying patient. The plant limit is 5 plants that are more than 5 inches tall, per household, without a cultivation center or craft growers license (facilities licensed by the Department of Ag). Cultivation must take place in an enclosed, locked space. Adult registered qualifying patients may purchase seeds from a dispensary for home cultivation but may not give or sell the seeds to another. Cannabis plants must be stored out of public view.

Decatur Police Department Directive

- ILLINOIS VEHICLE CODE (625 ILCS 5/11-502.15)

Possession of adult use cannabis in a motor vehicle:

- (a) No driver may use cannabis within the passenger area of any motor vehicle upon a highway in this state
- (b) No driver may possess cannabis within any area of any motor vehicle upon a highway in this state except in a sealed, odor-proof, child resistant cannabis container.
- (c) No passenger may possess cannabis within any passenger area of any motor vehicle upon a highway in this state except in a sealed, odor-proof, child resistant cannabis container.
- (d) sections a, b and c above are class A misdemeanors

Decatur Police Department Directive

POSSESSION OF DRUG PARAPHERNELIA (410 ILCS 705/10-5)

Notwithstanding any other provision of law, and except as otherwise provided in this Act, the following acts are not a violation of this Act and shall not be a criminal or civil offense under State law or the ordinances of any unit of local government of this State or be a basis for seizure or forfeiture of assets under State law for persons other than natural individuals under 21 years of age:

(1) possession, consumption, use, purchase, obtaining, or transporting cannabis paraphernalia or an amount of cannabis for personal use that does not exceed the possession limit under Section 10-10 or otherwise in accordance with the requirements of this Act

Decatur Police Department Directive

CRIMINAL LAW / CITY ORDINANCE

- The Cannabis Control Act did not change. The Cannabis Regulation and Tax Act defines how and when possession, consumption, growing, etc. of cannabis is authorized.
- The City Ordinance has been amended, effective 1/1/20, to reflect the changes to possession and consumption of cannabis to reflect the Regulation Act.
- DO NOT arrest for possession of drug paraphernalia in conjunction with cannabis.

Decatur Police Department Directive

ADDITIONAL INFORMATION

- For possession charges over the amount authorized by this act, the charge will substantiate the total amount of the cannabis product. For example, possession of 40 grams of cannabis is charged as 40 grams, NOT possession of 10 grams (for the amount over 30 grams).
- For possession charges that exceed the legal limit, DPD will seize all the cannabis or cannabis product to substantiate the overage charge. We will not just seize the amount of cannabis or cannabis product in excess of the legal limit.
- We will not take enforcement action on legal amounts of cannabis located on a person not contained in a package from a cannabis dispensary. Transportation in a vehicle still requires the use of a cannabis container.
- Cannabis or cannabis product possessed legally under this act shall not be a basis for seizure or forfeiture of assets.

Decatur Police Department

ADDITIONAL INFORMATION

- For people transporting cannabis in a vehicle that is stored in a proper, sealed container the officer can use discretion in taking enforcement action based off the “reasonably inaccessible” clause.
- We will continue to use K9 free air sniffs as established.
- The new City Ordinance does not allow for the establishment of cannabis cafés or other like establishments for public cannabis consumption.
- No parent or guardian may knowingly permit any person under the age of 21 to violate any section of this act, when the person under the age of 21 is in the parent or guardian’s residence, or any other private property under their control, or in any vehicle, conveyance or watercraft under their control.
- A cannabis cultivation center or dispensary employee may exhibit the smell of raw cannabis on their person. In dealing with those employees, if their employment is verified, you should consider their employment status in your decision to search.

Decatur Police Department Directive

ADDITIONAL INFORMATION

- We believe there will be some court cases down the road which will result in case law to give us better guidance on some of these issues.
- Is someone who is on their porch using cannabis considered to be in their private residence or does it fall under the “reasonably believed to be observed by others” – guidance at this time is to enforce as a violation because they are not in their residence. As stated case law will sort this out.
- Use is not allowed in a public place, thus not only smoking but the edibles would also be illegal in a public place such as eating a cannabis brownie in a bar.
- In both of these cases we will not be actively looking for these violations, but may have to respond based on a call from a citizen. If not sure reach out to a command officer for guidance.
- Definition pertaining to this Act can be found under 410 ILCS 705/1-10

On-Premise Consumption in non-Cannabis Business Establishment

In Decatur

Considering allowing “Cannabis Cafes”

- Would give individuals a non-public place to consume cannabis
- Concern that part of Decatur’s population does not live in a residence which would allow for on-premise consumption

On-Premise Consumption in non-Cannabis Business Establishment

- The Illinois Cannabis Regulation and Tax Act amended 410 ILCS 82/35 to allow retail tobacco stores, with local permission, on-premise consumption of cannabis in a specifically designated area
- The establishment must maintain a specifically designated area for the purpose of heating, burning, smoking, or lighting cannabis, is limited to individuals 21 years of age or older and maintain a locked door or barrier to any specifically designated area for the purpose of heating, burning, smoking, or lighting cannabis

On-Premise Consumption in non-Cannabis Business Establishment

“Retail Tobacco Stores” are defined in the Smoke Free Illinois Act (410 ILCS 82/10)

- a retail store that derives more than 80% of its gross revenue from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes, and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental
- Does not include large commercial establishments or any establishment with any type of liquor, food, or restaurant license
- 410 ILCS 82/35 requires retail tobacco stores to be free standing if in operation after the effective date of the Act

On-Premise Consumption in non-Cannabis Business Establishment

- The Smoke Free Illinois Act requires the establishment to file annually with the Illinois Department of Public Health an affidavit stating the percentage of its gross income that was derived from the sales of loose tobacco, plants, herbs and cigars, cigarettes, pipes, and other smoking devices for burning tobacco and related smoking accessories to be considered a “retail tobacco store”
- Currently, the Illinois Department of Public Health does not require affidavits to be filed nor do they have a process for receiving them