



City of Chicago



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Office of the City Clerk

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Meeting Date:	11/13/2019
Sponsor(s):	Lightfoot (Mayor)
Type:	Ordinance
Title:	Amendment of Municipal Code Chapters 4, 7, 8 and 9 regarding cannabis-related penalties
Committee(s) Assignment:	Committee on Public Safety



OFFICE OF THE MAYOR
CITY OF CHICAGO

LORI E. LIGHTFOOT
MAYOR

November 13, 2019

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Superintendent of Police, I transmit herewith an ordinance amending various provisions of the Municipal Code regarding cannabis-related penalties.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in black ink, reading "Lori E. Lightfoot".
Mayor

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Section 1-4-145 of the Municipal Code of Chicago is hereby repealed in its entirety.

SECTION 2. Section 4-4-005 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-4-005 Definitions.

As used in this Title 4, unless the context clearly indicates otherwise:

(Omitted text is unaffected by this ordinance)

"Mayor" means the mayor of the City of Chicago or the mayor's designee.

"Minor cannabis offense" means a violation of Section 4 or 5 of the Cannabis Control Act concerning not more than 30 grams of any substance containing cannabis, provided the violation does not include a penalty enhancement under Section 7 of the Cannabis Control Act and is not associated with an arrest, conviction or other disposition for a violent crime as defined in subsection (c) of Section 3 of the Rights of Crime Victims and Witnesses Act.

(Omitted text is unaffected by this ordinance)

SECTION 3. Section 4-6-080 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-6-080 Adult family care center.

(Omitted text is unaffected by this ordinance)

(b) *Application – Additional information required.* In addition to the requirements set forth in Section 4-4-050, an application for, and, if requested, renewal of, a regulated business license to engage in the business of adult family care center shall be accompanied by the following information:

(Omitted text is unaffected by this ordinance)

(7) a statement as to whether, within ten years of the date of application or renewal, (i) the applicant, or (ii) any controlling person, or (iii) any member of the applicant's household residing at the center who is 18 years of age or older, or (iv) any manager or supervisor at the center has ever been convicted, in custody, under parole or under any other noncustodial supervision resulting from a conviction in a court of any jurisdiction for the commission of a felony of any type or a criminal offense of whatever degree involving neglect or abuse of an elderly person, domestic violence, drugs or narcotics (other than a minor cannabis offense), violence, fraud, theft, personal dishonesty, deception or forgery;

(Omitted text is unaffected by this ordinance)

(d) *License issuance and renewal – Prohibited when.* No regulated business license to engage in the business of adult family care center shall be issued to:

(Omitted text is unaffected by this ordinance)

(3) any applicant or licensee, as applicable, if, within ten years of the date of application or renewal, the applicant or licensee, or any controlling person, or any member of the applicant's household residing at the center who is 18 years of age or older, or any manager or supervisor at the center has ever been convicted, in custody, under parole or under any other noncustodial supervision resulting from a conviction in a court of any jurisdiction for the commission of a felony of any type or a criminal offense of whatever degree involving neglect or abuse of an elderly person, domestic violence, drugs or narcotics (other than a minor cannabis offense), violence, fraud, theft, personal dishonesty, deception or forgery;

(Omitted text is unaffected by this ordinance)

SECTION 4. Section 4-6-180 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-6-180 Hotel.

(Omitted text is unaffected by this ordinance)

(f) *Prohibited acts.* It shall be unlawful for any licensee engaged in the business of hotel to:

(Omitted text is unaffected by this ordinance)

(2) knowingly permit prostitution, pimping, gambling or illegal possession or delivery of, or trafficking in, controlled substances or other drugs, including illegal possession or delivery of or trafficking in cannabis, to occur on or immediately adjacent to the licensed establishment; or to fail to discover such illegal acts on or immediately adjacent to the licensed establishment under circumstances in which a reasonable person, exercising ordinary care and diligence, would infer that such activity is taking place; or to fail to report to the police in a timely

manner any criminal activity occurring on or immediately adjacent to the licensed establishment, if such criminal activity is observed by or reported to the licensee. Provided, however, that it shall be an affirmative defense to any prosecution under this subsection if the licensee immediately notified the police of the public nuisance occurring on or immediately adjacent to the licensed establishment. For purposes of this subsection, the term "licensee" also includes employees and agents of the licensee.

(Omitted text is unaffected by this ordinance)

SECTION 5. Section 4-60-030 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-60-030 License issuance prohibited when.

No license for the sale of alcoholic liquor shall be issued to:

(Omitted text is unaffected by this ordinance)

(o) A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of cannabis (other than a minor cannabis offense), narcotics or other controlled substances, or who has forfeited bond to appear in court to answer charges for any such violation;

(Omitted text is unaffected by this ordinance)

SECTION 6. Section 4-60-040 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-60-040 License – Application and issuance procedures.

(Omitted text is unaffected by this ordinance)

(b) The application shall be in writing, signed by the applicant if an individual. If the applicant is a club, partnership or corporation, the application shall be signed by a duly authorized agent thereof. If the applicant is a limited liability company managed by managers, the application shall be signed by a manager. If the applicant is a limited liability company managed by its members, the application shall be signed by a member. The application shall be verified by oath or affidavit, and shall include the following statements and information:

(Omitted text is unaffected by this ordinance)

(8) a statement as to whether the applicant has ever been convicted of a felony, gambling offense, violation of law concerning the manufacture, possession or sale of cannabis

(other than a minor cannabis offense), narcotics or other controlled substances, or violation of law concerning the manufacture, possession or sale of alcoholic liquor;

(Omitted text is unaffected by this ordinance)

SECTION 7. Section 4-64-210 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-64-210 License application.

Additional information – Required when. In addition to the requirements set forth in Section 4-4-050, an application for, and, if requested, a renewal of, a tobacco license under this Chapter shall be accompanied by the following information:

(Omitted text is unaffected by this ordinance)

(10) a statement whether the applicant or licensee, as applicable, or any person with a substantial ownership or controlling interest in the applicant or licensee: (I) has ever been convicted, in custody, under parole, or under any other non-custodial supervision resulting from an adjudication of guilt in any judicial or administrative proceeding in any jurisdiction of: (i) a felony of any kind including but not limited to any violation of the Illinois Drug Paraphernalia Control Act or its equivalent in another jurisdiction, or (ii) a criminal offense (other than a minor cannabis offense) of whatever degree; or (2) has ever admitted guilt in connection with any such felony or criminal offense (other than a minor cannabis offense) under circumstances where such admission of guilt is a matter of record; and

(Omitted text is unaffected by this ordinance)

SECTION 8. Section 4-64-220 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-64-220 Departmental duties – Inspections, investigations, reports and other responsibilities.

(Omitted text is unaffected by this ordinance)

(b) *Character and fitness of tobacco licensees – Investigation by BACP – Required.* The Commissioner shall investigate, or cause an investigation to be made of, any applicant or licensee, as applicable, seeking a tobacco license under this Chapter to engage in a covered business activity, and any person with a substantial ownership or controlling interest in such applicant or licensee, to determine: (i) the character, reputation and fitness including but not limited to the criminal background (other than a minor cannabis offense) of such person to engage in the covered business activity or to be entrusted with the sale of cigarettes; and (ii)

whether the premises identified in the license application complies with the applicable provisions of this Code including requirements as to location.

(Omitted text is unaffected by this ordinance)

SECTION 9. Section 4-64-230 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-64-230 License issuance and renewal – Prohibited when.

No tobacco license under this Chapter shall be issued to any person under the following circumstances:

(1) if, following an investigation pursuant to Section 4-64-220(b), the Commissioner determines that the applicant or licensee, as applicable, or any person with a substantial or controlling interest in the applicant or licensee: (i) has ever been convicted, in custody, under parole, or under any other non-custodial supervision resulting from an adjudication of guilt in any judicial or administrative proceeding in any jurisdiction of a felony of any kind or a criminal offense (other than a minor cannabis offense) of whatever degree that is rationally related to such person's fitness or capacity to engage in the covered business activity or to be entrusted with the sale of cigarettes; or (ii) has ever admitted guilt in connection with any such felony or ~~criminal~~ criminal offense (other than a minor cannabis offense) under circumstances where such admission of guilt is a matter of record; or (iii) otherwise lacks the character, reputation or fitness to engage in the covered business activity or to be entrusted with the sale of cigarettes; or

(Omitted text is unaffected by this ordinance)

SECTION 10. Section 4-75-040 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-75-040 License issuance and renewal – Prohibited when.

(a) No license under this chapter shall be issued to the following persons:

(Omitted text is unaffected by this ordinance)

(3) any applicant or licensee, as applicable, if, within ten years prior to the date of application or renewal, such applicant or licensee or any controlling person or any person charged with responsibility for day-to-day management or supervision of the facility or any existing employee of the facility has ever been convicted, in custody, under parole or under any other noncustodial supervision resulting from a conviction in a court of any jurisdiction for the commission of a felony of any type other than those felonies required to be disclosed under

paragraph (2) of subsection (a) of this section or of a misdemeanor offense (other than a minor cannabis offense) involving drugs or narcotics; unless, upon the request of such person, the commissioner determines that such person has been substantially rehabilitated to warrant the public trust. The burden of proof of substantial rehabilitation shall be on the person seeking such rehabilitation;

(Omitted text is unaffected by this ordinance)

SECTION 11. Chapter 7-24 of the Municipal Code of Chicago is hereby amended by inserting, prior to Article I, a new Section 7-24-001, as follows:

7-24-001 Definitions.

As used in this chapter:

"Cannabis Control Act" means the Cannabis Control Act, codified at 720 ILCS 550/1 et seq., or its successor act.

"Cannabis Regulation and Tax Act" means the Cannabis Regulation and Tax Act, codified at 410 ILCS 705/1-1 et seq., or its successor act.

"Compassionate Use of Medical Cannabis Program Act" means the Compassionate Use of Medical Cannabis Program Act, codified at 410 ILCS 130/1 et seq., or its successor act.

"Illinois Controlled Substances Act" means the Illinois Controlled Substances Act, codified at 720 ILCS 570/100 et seq., or its successor act.

"Illinois Vehicle Code" means the Illinois Vehicle Code, codified at 625 ILCS 5/1-100 et seq., or its successor act.

"Smoke Free Illinois Act" means the Smoke Free Illinois Act, codified at 410 ILCS 82/1 et seq., or its successor act.

SECTION 12. Section 7-24-099 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

7-24-099 Possession Prohibited possession or use of cannabis.

(a) ~~It is a violation of this section for any person to possess up to 15 grams of any substance containing cannabis. As used in this section, "cannabis" 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, any other 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.~~

(a) *Definitions.* As used in this Section, the following definitions shall apply:

"Cannabis" has the meaning ascribed to that term in Section 1-10 of the Cannabis Regulation and Tax Act.

"Cannabis concentrate" has the meaning ascribed to that term in Section 1-10 of the Cannabis Regulation and Tax Act.

"Cannabis-infused product" has the meaning ascribed to that term in Section 1-10 of the Cannabis Regulation and Tax Act.

"Public place" has the meaning ascribed to that term in subsection (a) of Section 10-35 of the Cannabis Regulation and Tax Act.

(b) *Possessing cannabis.* Except as otherwise provided in subsection (g) of this section, 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 any correctional facility;

(4) in a vehicle not open to the public, unless the cannabis is in a reasonably secured, sealed container within the meaning of Section 10-35(a)(2)(D) of the Cannabis Regulation and Tax Act. Provided, however, that in any motor vehicle upon a highway, the cannabis shall be in a sealed, odor-proof, child-resistant cannabis container within the meaning of Section 11-502.15 of the Illinois Vehicle Code;

(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; or

(6) in violation of Section 4 of the Cannabis Control Act.

(c) Using cannabis. It shall be unlawful for any person to use cannabis or any substance containing cannabis, including but not limited to any cannabis concentrate or cannabis-infused product:

(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 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; or

(6) in any public place.

(d) Other prohibited acts. It shall be unlawful for any person to:

(1) smoke cannabis in any place where smoking is prohibited under the Smoke Free Illinois Act;

(2) facilitate the use of cannabis by any person who is not allowed to use cannabis under the Cannabis Regulation and Tax Act or Compassionate Use of Medical Cannabis Program; or

(3) transfer cannabis to any person contrary to the Cannabis Regulation and Tax Act or Compassionate Use of Medical Cannabis Program Act.

~~(b)~~ (e) Notice and hearing. A person upon whom a notice of violation has been served for violating this section shall: (1) appear for a hearing at the location, date and time indicated on the notice of violation; or (2) adjudicate the matter by mail in the time and manner described in the Procedural Rules and Regulations of the Department of Administrative Hearings.

~~(e)~~ The director of administrative hearings is authorized to impose, in addition to the fine authorized for the violation of subsection (a), a requirement that a violator attend a drug awareness or drug education program.

~~(d)~~ Citations shall not be issued under this section for violations of subsection (a) occurring on the grounds of a school or public park.

~~(e)~~ (f) Penalty for violation. Any In addition to any other penalty provided by law, any person who violates subsections (b), (c) or (d) of this section: (1) shall be subject to a fine of \$50.00 not less than \$250.00 nor more than \$500.00 for the first offense, and \$100.00 \$500.00 for the second and each subsequent violation occurring within a period of 30 days; and (2) may

be required to perform community service in accordance with Section 1-4-120 or attend a drug awareness, drug education, or restorative justice program. Provided, however, that if the person who violates this section is under 21 years of age at the time the violation occurs, in lieu of a fine such person may be required to perform community service in accordance with Section 1-4-120 or attend a drug awareness, drug education, or restorative justice program. Each such violation of subsections (b), (c) or (d) shall constitute a separate and distinct offense. Pursuant to Section 1-4-120 of the Code, a requirement that the violator perform community service may be included as a component of any penalty imposed pursuant to this section.

(f) (g) Construction of section. This section shall not apply to the possession or use of medical cannabis by a person in compliance with the Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/1, et seq.

SECTION 13. Section 7-24-225 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

7-24-225 Unlawful drugs in motor vehicle – Impoundment.

(a) ~~The owner of record of any~~ Any motor vehicle that contains any controlled substance ~~or cannabis, as defined in violation of the Illinois Controlled Substances Act, 720 ILCS 570/100, et seq., and the Cannabis Control Act, 720 ILCS 550/1, et seq., or that is used in connection with the unlawful purchase, or attempt to purchase, or unlawful sale or attempt to sell, such controlled substances or cannabis shall be subject to seizure and impoundment pursuant to this section.~~ The owner of record of any motor vehicle that is seized and impounded pursuant to this section shall be liable to the City city for an administrative penalty of \$2,000.00, plus any applicable towing and storage fees. Provided however, that if the violation takes place within 500 feet of the boundary line of a public park or elementary or secondary school, the administrative penalty shall be \$3,000.00, plus towing and storage fees. Any such vehicle shall be subject to seizure and impoundment pursuant to this section.

(Omitted text is unaffected by this ordinance)

(c) ~~The provisions of Section 2-14-132 shall apply whenever a motor vehicle is seized and impounded pursuant to this section.~~

(d) ~~This section shall not apply to possession of medical cannabis by a person in compliance with the Medical Cannabis Pilot Program Act, 410 ILCS 130/1, et seq.~~

SECTION 14. Chapter 8-16 of the Municipal Code of Chicago is hereby amended by inserting a new Section 8-16-001, as follows.

8-16-001 Definitions.

As used in this chapter:

"Cannabis" has the meaning ascribed to that term in Section 1-10 of the Cannabis Regulation and Tax Act.

"Cannabis Regulation and Tax Act" means the Cannabis Regulation and Tax Act, codified at 410 ILCS 705/1-1 et. seq, or its successor act.

"Compassionate Use of Medical Cannabis Program Act" means the Compassionate Use of Medical Cannabis Program Act, codified at 410 ILCS 130/1 et seq., or its successor act.

"Community College Cannabis Vocational Pilot Program" means the Community College Cannabis Vocational Pilot Program established pursuant to Article 25 of the Cannabis Regulation and Tax Act, or its successor program.

SECTION 15. Chapter 8-16 of the Municipal Code of Chicago is hereby amended by inserting a new Section 8-16-065, as follow:

8-16-065 Cannabis offenses involving minors.

(a) *Sale, provision or transfer of cannabis to minors prohibited – Exception.* Except as otherwise provided in this subsection (a), it shall be unlawful for any person to: (1) sell, give or deliver cannabis, with or without remuneration, in any amount or in any form to any person under 21 years of age, or (2) permit cannabis to be sold, given or delivered, without or without remuneration, in any amount or in any form to any person under 21 years of age, or (3) allow any person under 21 years of age to purchase, possess, use, process, transport, grow, or consume cannabis in any amount or in any form, unless the activity described in items (1) through (3) of this subsection is authorized by the Compassionate Use of Medical Cannabis Program Act or Community College Cannabis Vocational Pilot Program.

(b) *Possession and use of cannabis by minors prohibited – Exception.* It shall be unlawful for any person under 21 years of age to possess or use cannabis, except in compliance with the Compassionate Use of Medical Cannabis Program Act.

(c) *Penalty for violation.* Any person who violates this section: (1) shall be subject to a fine of not less than \$50.00 for the first offense, and \$100.00 for the second and each subsequent offense occurring within a period of 30 days; and (2) may be required to perform community service in accordance with Section 1-4-120 or attend a drug awareness, drug education, or restorative justice program. Provided, however, that if the person who violates this section is under 21 years of age at the time the violation occurs, in lieu of a fine such person

may be required to perform community service in accordance with Section 1-4-120 or attend a drug awareness, drug education, or restorative justice program.

SECTION 16. Section 9-104-050 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

9-104-050 License – Qualifications.

An applicant is qualified to receive a public chauffeur license if the applicant:

(Omitted text is unaffected by this ordinance)

15. has not, within the 5-year period preceding the date of application, been convicted by a court of any jurisdiction, under parole, under any supervision or any similar deferral program, or subject to conditional discharge for any of the following offenses: (i) any felony as defined by Article 2 of the Illinois Criminal Code of 2012, codified at 720 ILCS 5/2-0.5, et seq.; (ii) the illegal sale or possession of any controlled substance or cannabis (other than a minor cannabis offense, as defined in Section 4-4-010); (iii) operating a motor vehicle under the influence of a controlled substance, cannabis or alcohol; (iv) indecent solicitation of a child or any criminal sexual abuse or similar crime; or (v) any crime involving moral turpitude.

SECTION 17. Section 9-104-140 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

9-104-140 License – Suspension, revocation and penalties.

(Omitted text is unaffected by this ordinance)

(d) The commissioner, upon receiving a complaint, is authorized to require any licensee to: (i) be evaluated by an Illinois-licensed physician that the licensee has the capability to safely operate a public passenger vehicle; and (ii) take a test, conducted by authorities approved by the commissioner, for the presence of ~~cannabis or other~~ any illegal drug (other than cannabis) or inebriating substance in the body. If the physician does not certify that the licensee has the capability to safely operate a public passenger vehicle, or if the licensee fails the drug or substance test, the commissioner shall immediately suspend the licensee's public chauffeur license.

SECTION 18. Section 9-108-150 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

9-108-150 Horse-drawn carriage chauffeur license – Application – Qualifications – Fee.

(Omitted text is unaffected by this ordinance)

(j) The Commissioner, upon receiving a complaint, is authorized to require any horse-drawn carriage chauffeur licensee to: (i) be evaluated by an Illinois-licensed physician that the licensee has the capability to safely operate a horse-drawn carriage; and (ii) take a test, conducted by authorities approved by the Commissioner, for the presence of ~~cannabis or other~~ any illegal drug (other than cannabis) or inebriating substance in the body. If the physician does not certify that the licensee has the capability to safely operate a horse-drawn carriage, or if the licensee fails the drug or substance test, the Commissioner shall immediately suspend the licensee's horse-drawn carriage chauffeur license.

SECTION 19. Section 9-110-130 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

9-110-130 Pedicab chauffeur license – Application.

(Omitted text is unaffected by this ordinance)

(d) The commissioner, upon receiving a complaint, is authorized to require any pedicab chauffeur licensee to: (i) be evaluated by an Illinois-licensed physician that the licensee has the capability to safely operate a pedicab; and (ii) take a test, conducted by authorities approved by the commissioner, for the presence of ~~cannabis or other~~ any illegal drug (other than cannabis) or inebriating substance in the body. If the physician does not certify that the licensee has the capability to safely operate a pedicab, or if the licensee fails the drug or substance test, the commissioner shall immediately suspend the licensee's pedicab chauffeur license.

SECTION 20. Section 9-114-315 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

9-114-315 Allowing unlawful acts.

(Omitted text is unaffected by this ordinance)

(b) No owner, or driver of a charter/sightseeing vehicle, or security guard, shall allow any passenger:

(Omitted text is unaffected by this ordinance)

3. to unlawfully possess any drug paraphernalia.

(Omitted text is unaffected by this ordinance)

SECTION 21. Upon its passage and approval, this ordinance shall take full force and effect on January 1, 2020.