

**CITY OF DEARBORN HEIGHTS
ORDINANCE NO. H-19-04**

AN ORDINANCE OF THE CITY OF DEARBORN HEIGHTS, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF DEARBORN HEIGHTS, BE AMENDED BY ADDING SECTION 20-258 CONCERNING MARIHUANA VIOLATIONS.

THE CITY OF DEARBORN HEIGHTS ORDAINS THAT THE CODE OF ORDINANCES OF THE CITY OF DEARBORN HEIGHTS, MICHIGAN, IS HEREBY AMENDED BY ADDING A SECTION, TO BE NUMBERED 20-258, WHICH SHALL READ AS FOLLOWS:

SECTION I.

Sec. 20-258. Marihuana Violations.

(A) Definition of "Act". As used in this Section, the term "Act" shall mean Initiated Law 1 of 2018, the Michigan Regulation and Taxation of Marihuana Act. The Act is presently codified as Sections 333.27951 through 333.27967 of the Michigan Compiled Laws. However, to the extent possible, the term "Act" shall also include the Act and any possible, future amendments to the Act.

(B) Purpose and Finding Emergency. The State of Michigan has recently enacted the Act. This section is intended to ensure that the City's Code of Ordinances is consistent with the Act. Without this section, there will be gaps in the City's enforcement of regulations pertaining to marihuana. In the light of the foregoing, the City adopts this section on an emergency basis.

(C) Violations and Penalties for Violations. A person who commits any of the following acts, and is not otherwise authorized by the Act to conduct such activities, may be punished only as provided in this section and is not subject to any other form of punishment or disqualification, unless the person consents to another disposition authorized by law:

(1) 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 Act, a person who possesses not more than the amount of marihuana allowed by section 5 of the Act, cultivates not more than the amount of marihuana allowed by section 5 of the Act, 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 Act, or possesses with intent to deliver not more than the amount of marihuana allowed by section 5 of the Act, is responsible for a civil infraction and may be punished by a fine of not more than \$100 and forfeiture of the marihuana.

(2) Except for a person who engaged in conduct described in section 4 of the Act, a person who possesses not more than twice the amount of marihuana allowed by section 5 of the Act, cultivates not more than twice the amount of marihuana allowed by section 5 of the Act, 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 Act, or possesses with intent to deliver not more than twice the amount of marihuana allowed by section 5 of the Act:

- (a) 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;
 - (b) for a second violation, is responsible for a civil infraction and may be punished by a fine of not more than \$1,000 and forfeiture of the marihuana;
 - (c) 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.
- (3) Except for a person who engaged in conduct described by section 4(1)(a), 4(1)(d), or 4(1)(g) of the Act, 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:
- (a) for a first violation, is responsible for a civil infraction and may be punished as follows:
 - (1) 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
 - (2) if the person is at least 18 years of age, by a fine of not more than \$100 and forfeiture of the marihuana.
 - (b) for a second violation; is responsible for a civil infraction and may be punished as follows:
 - (1) 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
 - (2) if the person is at least 18 years of age, by a fine of not more than \$500 and forfeiture of the marihuana.
- (4) Except for a person who engaged in conduct described in section 4 of the Act, a person who possesses more than twice the amount of marihuana allowed by section 5 of the Act, cultivates more than twice the amount of marihuana allowed by section 5 of the Act, 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 Act, shall be guilty of a misdemeanor punishable by a fine of not more than \$500 but shall not be subject to imprisonment unless the violation was habitual, willful, and for a commercial purpose or the violation involved violence.

(D) Interpretation.

- (1) Generally. This section is to be interpreted in a manner that is consistent with the Act. Nothing stated in this section is intended to authorize or permit anything prohibited or otherwise deemed unlawful under the Act or State law more generally, if applicable. Nothing stated in this section is intended to grant rights or privileges in excess of those granted under the Act or State law more generally, if applicable.
- (2) Relation to City Code Sections 1-10 and 1-11. This section is intended to be consistent with the Act and State law more generally, if applicable. City Code Sections 1-10 and 1-11 do not govern, control, or pertain to the interpretation of this section.

SECTION II.

REPEAL

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

SECTION III.

SEVERABILITY

Should any section, subsection, clause, or phrase of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

SECTION IV.

EFFECTIVE DATE

This ordinance shall become effective upon publication as provided by law.

SECTION V.

AUTHENTICATION

This is to certify that the undersigned do hereby authenticate the foregoing record of the ordinance herein set forth.

DANIEL S. PALETKO, Mayor

WALTER J. PRUSIEWICZ, Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and correct copy of this ordinance adopted by the Council for the City of Dearborn Heights at a regular meeting of the Council held on the 26th day of February, 2019, and became effective by publication in the official newspaper of the City of Dearborn Heights and/or by publication as otherwise permitted by the City Charter on the 13th day of March, 2019.

WALTER J. PRUSIEWICZ, Clerk

Publication Date: March 13, 2019.