

CITY OF ALBION ORDINANCE 2019-03

AN ORDINANCE TO AMEND ORDINANCE 58-166, POSSESSION AND USE OF MARIJUANA

FINDINGS AND PURPOSE: As the City Council is aware, the State of Michigan recently voted to adopt the Michigan Regulation and Taxation of Marihuana Act, also known as Initiated Law #1 of 2018. This legislation provides structure similar to the Michigan Medical Marihuana Act for businesses seeking to gain licensure for the manufacture and distribution of recreational marihuana. The legislation also modified the various penalties associated with the possession and use of marihuana by both persons who are the age of majority and minors. Our current ordinance is based upon the previous penalties contained within the Michigan Health Code. This Ordinance is being proposed for adoption so that our criminal ordinance is compliant with state law. As such, this ordinance is recommended for approval.

THE CITY OF ALBION ORDAINS THAT THE CODE OF ORDINANCES, CITY OF ALBION, MICHIGAN, IS HEREBY AMENDED BY AMENDING CHAPTER 58, ARTICLE VI, SECTION 58-166, WHICH READS AS FOLLOWS:

Section 1:

58-166: POSSESSION OR USE OF MARIJUANA

A. Possession of Excess Marihuana

- (1) The possession of marihuana, in excess of the amounts authorized by the Michigan Regulation and Taxation of Marihuana Act, as may be amended, (the "MRTMA"), is prohibited.
- (2) A person who possesses, delivers, or possesses with intent to deliver more than the amount of marihuana allowed by the MRTMA or cultivates more than the amount of marihuana plants allowed by the MRTMA, shall be responsible for a civil infraction and may be punished by a fine of not more than \$100.00 and forfeiture of all marihuana.
- (3) A person who possesses, delivers, or possesses with intent to deliver more than twice the amount of marihuana allowed by the MRTMA or cultivates more than twice the amount of marihuana plants allowed by the MRTMA, shall be punishable as follows:

- a. For a first violation, the person shall be responsible for a civil infraction and may be punished by a fine of not more than \$500.00 and forfeiture of the marihuana;
- b. For a second violation, the person shall be responsible for a civil infraction and may be punished by a fine of not more than \$1,000.00 and forfeiture of the marihuana;
- c. For a third or subsequent violation, the person shall be guilty of a misdemeanor and may be punished by a fine of not more than \$500.00 in addition forfeiture of the marihuana.

B. Minors in Possession of Marihuana.

(1) 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, except as otherwise authorized by law, shall be responsible for a civil infraction as follows:

- a. For a first offense:
 - i. If the person is less than 18 years of age, a fine of not more than \$100 or community service, forfeiture of the marihuana, and completion of 4 hours of drug education or counseling.
 - ii. If the person is at least 18 years of age, a fine of not more than \$100 and forfeiture of the marihuana.
- b. For a second offense:
 - i. If the person is less than 18 years of age, a fine of not more than \$500 or community service, forfeiture of the marihuana, and completion of 8 hours of drug education or counseling.
 - ii. If the person is at least 18 years of age, by a fine of not more than \$500 and forfeiture of the marihuana.

C. Use of Marihuana on City Property Prohibited

- (1) Consuming, smoking, or otherwise using marihuana on, in, or at any City property or park is prohibited.

D. Use of Marihuana in Public Prohibited.

- (1) Consuming, smoking, or otherwise using marihuana in a public place, on the grounds of a public school where children attend classes for preschool, kindergarten, or grades 1 through 12, in a school bus, or where prohibited by the person who owns, occupies, or manages the property is prohibited. As used in this section, "public place" shall not include an area designated for marihuana consumption authorized by the City and which are not accessible to persons under 21 years of age.

- (2) A person who violates this subsection is responsible for a civil infraction punishable by a fine of not more than \$100.00 and forfeiture of the marihuana.

E. Prosecution under any section of this ordinance shall not be deemed to preclude prosecution available under any other local, state, or federal law.

F. The possession, use, delivery, or intent to deliver marihuana or the cultivation of marihuana plants specifically authorized or permitted by other City Ordinances or state law is not a violation of this Section.

G. Words used within this Section shall be construed to have the same meaning as provided in the MRTMA.

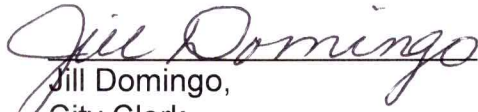
State Law Reference: MCL 333.27951, et seq

Section 2: Validity and Severability. The provisions of this Ordinance are severable and the invalidity of any phrase, clause or part of this Ordinance shall not affect the validity or effectiveness of the remainder of the Ordinance.

This Ordinance shall take effect May 15, 2019 after publication.

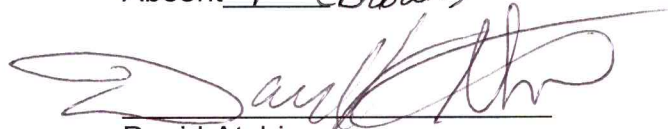
First Reading:
April 1, 2019

Ayes 5
Nays 1 (Williamson)
Absent 1 (Brown)


Jill Domingo,
City Clerk

Second Reading & Adoption:
April 15, 2019

Ayes 4
Nays 2 (Clark & Williamson)
Absent 1 (Brown)


David Atchison,
Mayor