

**Tentative Agenda
Municipal Committee
September 17, 2019
6:00 p.m.
City Hall Council Chambers**

Roll Call

Approval of the May 21, 2019 Minutes

DISCUSSION ITEMS

- 1) Consideration of proposed changes to City's Code Division 2-Controlled Substances and Alcohol
- 2) Next Tentative Meeting Date and Time – October 15, 2019

Adjournment

**DRAFT
MINUTES**

**Municipal Committee
May 21, 2019
6:00 p.m.
City Hall Council Chambers**

The meeting was called to order by Alderman Bill Van Buskirk, at 6:01 p.m.

Roll Call

Roll was called by Missy Wilson, Assistant City Administrator, and the attendance was as follows:

Present: Alderman Bill Van Buskirk (Chair), Alderman Janet Emerson, Alderman Greg Walters

Absent: Alderman Jim Aziere, Alderman Derek Ward

Approval of the November 20, 2018 Minutes

Approval of the November 20, 2018 Minutes was continued until the next Municipal Committee Meeting.

DISCUSSION ITEMS

- 1) Medical Marijuana Presentation

The item was discussed.

Jennifer Baird, City Attorney, presented on the topic.

Alderman Ward joined the meeting at 6:30 p.m.

Discussion continued.

Adjournment

Alderman Bill Van Buskirk made a motion to adjourn. The motion was approved by a majority of those present.

The meeting adjourned at 6:50 p.m.

DIVISION 2. - CONTROLLED SUBSTANCES AND ALCOHOL

Sec. 28-330. – Definitions.

Administer means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

- (1) A practitioner (or, in his/her presence, by his/her authorized agent), or
- (2) The patient or research subject at the direction and in the presence of the practitioner.

Controlled substance means a drug, substance, or immediate precursor in Schedules I through V listed in Chapter 195 of the Missouri Revised Statutes.

Counterfeit substance means a controlled substance which, on the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

Deliver or *delivery* means the actual, constructive or attempted transfer from one person to another of drug paraphernalia or of a controlled substance, or an imitation controlled substance, whether or not there is an agency relationship, and includes a sale.

Dispense means to deliver a narcotic or controlled dangerous drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for such delivery. “*Dispenser*” means a practitioner who dispenses.

Distribute means to deliver other than by administering or dispensing a controlled substance.

Drug means:

- (1) Substances recognized as drugs in the Official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary or any supplement to any of them;
- (2) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;
- (3) Substances, other than food, intended to affect the structure or any function of the body of humans or animals; and
- (4) Substances intended for use as a component of any article specified in subsections (1) through (3) of this definition. It does not include devices or their components, parts or accessories.

Drug paraphernalia means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance or an imitation controlled substance in violation of Sections 195.005 to 195.425, RSMo. It includes, but is not limited to:

- (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

- (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances or imitation controlled substances;
- (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance or an imitation controlled substance;
- (4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances or imitation controlled substances;
- (5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances or imitation controlled substances;
- (6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances or imitation controlled substances;
- (7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding-controlled substances or imitation controlled substances;
- (9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances or imitation controlled substances;
- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or imitation controlled substances;
- (11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances or imitation controlled substances into the human body;
- (12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - b. Water pipes;
 - c. Carburetion tubes and devices;
 - d. Smoking and carburetion masks;

- e. Roach clips meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- f. Miniature cocaine spoons and cocaine vials;
- g. Chamber pipes;
- h. Carburetor pipes;
- i. Electric pipes;
- j. Air-driven pipes;
- k. Chillums;
- l. Bongs;
- m. Ice pipes or chillers:

(13) Substances used, intended for use, or designed for use in the manufacture of a controlled substance;

In determining whether an object, product, substance or material is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- a. Statements by an owner or by anyone in control of the object concerning its use;
- b. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance or imitation controlled substance;
- c. The proximity of the object, in time and space, to a direct violation of Sections 195.005 to 195.425, RSMo.
- d. The proximity of the object to controlled substances or imitation controlled substances;
- e. The existence of any residue of controlled substances or imitation controlled substances on the object;
- f. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he/she knows, or should reasonably know, intend to use the object to facilitate a violation of Sections 195.005 to 195.0425, RSMo.; the innocence of an owner, or of anyone in control of the object, as to a direct violation of Sections 195.005 to 195.425, RSMo., shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
- g. Instructions, oral or written, provided with the object concerning its use;

- h. Descriptive materials accompanying the object which explain or depict its use;
- i. National or local advertising concerning its use;
- j. The manner in which the object is displayed for sale;
- k. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- l. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- m. The existence and scope of legitimate uses for the object in the community;
- n. Expert testimony concerning its use;
- o. The quantity, form or packaging of the product, substance or material in relation to the quantity, form or packaging associated with any legitimate use for the product, substance or material;
- p. The remaining provisions of this Section notwithstanding, the definition of 'paraphernalia' as used herein shall not include devices used in the propagation, measurement, or administration of medical marijuana, as defined by Article XIV, Section 1 of the Missouri Constitution if such paraphernalia is being (a) used by a person lawfully authorized to do so, and (b) such person is carrying proof of his/her lawful authorization at the time he/she is in possession of such paraphernalia.

Imitation controlled substance means a substance that is not a controlled substance, which by dosage unit appearance (including color, shape, size and markings), or by representations made, would lead a reasonable person to believe that the substance is a controlled substance. In determining whether the substance is an "imitation controlled substance" the court or authority concerned should consider, in addition to all other logically relevant factors, the following:

- (1) Whether the substance was approved by the U.S. Food and Drug Administration (FDA) for over-the-counter (nonprescription or non-legend) sales and was sold in the FDA-approved package, with the FDA-approved labeling information;
- (2) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;
- (3) Whether the substance is packaged in a manner normally used for illicit controlled substances;
- (4) Prior convictions, if any, of an owner, or anyone in control of the object, under state or federal law related to controlled substances or fraud;
- (5) The proximity of the substances to controlled substances;
- (6) Whether the consideration tendered in exchange for the noncontrolled substance substantially exceeds the reasonable value of the substance considering the actual

chemical composition of the substance and, where applicable, the price at which over-the-counter substances of like chemical composition sell. An imitation controlled substance does not include a placebo or registered investigational drug either of which was manufactured, distributed, possessed or delivered in the ordinary course of professional practice or research.

License or Licensed means persons required to obtain annual registration as issued by the State Division of Health as provided by Section 195.030, RSMo.

Manufacture means the production, preparation, propagation, compounding or processing of drug paraphernalia or a controlled substance, or an imitation controlled substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include the preparation or compounding of a controlled substance or an imitation controlled substance by an individual for his/her own use or the preparation, compounding, packaging or labeling of a narcotic or dangerous drug:

- (1) By a practitioner as an incident to his/her administering or dispensing of a controlled substance or an imitation controlled substance in the course of his/her professional practice; or
- (2) By a practitioner or by his/her authorized agent under his/her supervision, for the purpose of, or as incident to, research, teaching or chemical analysis and not for sale.

Marijuana means all parts of the plant genus Cannabis in any species or form thereof, including, but not limited to Cannabis Sativa L., except industrial hemp, Cannabis Indica, Cannabis Americana, Cannabis Ruderalis, and Cannabis Gigantea, whether growing or not, the seeds thereof, the resin extracted from any part of the plant; every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake or the sterilized seed of the plant which is incapable of germination.

Medical marijuana means marijuana as defined and used in accordance with the provisions of Article XIV, Section 1 of the Missouri Constitution, as well as any and all regulations promulgated by the Missouri Department of Health and Senior Services.

Medical marijuana facility means a facility licensed and/or certified by the Missouri Department of Health and Senior Services to operate as a medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, medical marijuana testing facility, or medical marijuana transportation facility as those facilities are defined in Article XIV, Section 1 of the Missouri Constitution and 10 CSR 30-95.

Person means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, joint venture, association or any other legal or commercial entity.

Pharmacist means a licensed pharmacist as defined by the laws of the State of Missouri, and where the context so requires, the owner of a store or other place of business where controlled substances are compounded or dispensed by a licensed pharmacist; but nothing in this section shall be construed as conferring on a person who is not registered or licensed as a pharmacist any authority, right, or privilege that is not granted to him/her by the pharmacy laws of the State of Missouri.

Practitioner means a physician, dentist, optometrist, podiatrist, veterinarian, scientific investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted by the State of Missouri to distribute, dispense, conduct research with respect to or administer or to use in teaching or chemical analysis, a controlled substance in the course of professional practice or research in the State of Missouri, or a pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research.

Prescription means a written order, and in cases of emergency, a telephone order, issued by a practitioner in good faith in the course of his/her professional practice to a pharmacist for a drug for a particular patient, which specifies the date of its issue, the name and address of the patient (and, if such drug is prescribed for an animal, the species of such animal), the name and quantity of the drug prescribed, the directions for use of such drug, and the signature of such practitioner.

Primary caregiver means an individual twenty-one (21) years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under the provisions of Article XIV, Section 1 of the Missouri Constitution.

Production means the manufacture, planting, cultivation, growing or harvesting of drug paraphernalia or of a controlled substance or an imitation controlled substance.

Qualifying patient means a Missouri resident diagnosed with at least one (1) qualifying medical condition as defined by Article XIV, Section 1 of the Missouri Constitution.

Warehouseman means a person who, in the usual course of business, stores drugs for others, lawfully entitled to possess them and who has no control over the disposition of such drugs except for the purpose of such storage. engaged in the business of distributing drugs.

Wholesaler means a person who supplies drug paraphernalia or controlled substances or imitation controlled substances that he/she themselves has not produced or prepared, on official written orders, but not on prescriptions.

Sec. 28-331. – Controlled Substances.

- (a) Except as authorized by Article XIV, Section 1 of the Missouri Constitution, no person shall possess, have under his/her control, manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare, distribute, sell, prescribe, administer, dispense or any controlled substance or imitation controlled substance and no person as a wholesaler shall supply the same, without having first obtained annually a registration issued by the Department of Health in accordance with the rules and regulations promulgated by it.

- (b) Except as authorized by Article XIV, Section 1 of the Missouri Constitution, it is unlawful for any person to plant, cultivate, protect, harvest, cure, prepare, barter, sell, give away, use, or offer to sell, furnish, give away, or to possess marijuana.
- (c) Except as authorized by Article XIV, Section 1 of the Missouri Constitution, it is unlawful for any person to use, or possess with intent to use, a controlled substance, or an imitation controlled substance.

Sec. 28-332. - Paraphernalia.

- (a) Except as authorized by Article XIV, Section 1 of the Missouri Constitution, 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, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this Article.
- (b) Except as authorized by Article XIV, Section 1 of the Missouri Constitution, it is unlawful for any person to deliver, possess with intent to deliver, sell or advertise for sale, or manufacture with intent to deliver, drug paraphernalia, under circumstances where one knows or reasonable should know that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or an imitation controlled substance in violation of this Article.

Sec. 28-333. - Inhalation, use, possession, or sale of solvents.

- (a) No person shall intentionally smell or inhale the fumes of any solvent, particularly toluol, or induce any other person to do so, for the purpose of causing a condition of, or inducing symptoms of, intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of senses or nervous system, or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes; except that this section shall not apply to the inhalation of any anesthesia for medical or dental purposes.
- (b) No person shall intentionally or willfully induce the symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses or nervous system, distortion of audio, visual or mental processes by the use of any solvent, particularly toluol.
- (c) No person shall intentionally possess any solvent, particularly toluol, for the purpose of using it in the manner prohibited by this section.
- (d) No person shall intentionally possess or buy any solvent, particularly toluol, for the purpose of inducing or aiding any other person to violate the provisions of this section.
- (e) No person shall knowingly and intentionally sell or otherwise transfer possession of any solvent, particularly toluol, to any person for the purpose of causing a condition of, or inducing symptoms of, intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of senses or nervous system, or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes.

- (f) No person who owns or operates any business which receives over 50 percent of its gross annual income from the sale of alcoholic beverages or beer shall sell or offer for sale toluol or any toxic glue.

Sec. 28-334. - Driving while intoxicated.

A person commits the offense of driving while intoxicated if he operates a motor vehicle while in an intoxicated or drugged condition.

Sec. 28-335. - Driving with excessive blood alcohol content.

- (a) A person commits the crime of "driving with excessive blood alcohol content" if such person operates a motor vehicle in this state with 0.08 of one percent or more by weight of alcohol in such person's blood.
- (b) As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 milliliters of blood or 210 liters of breath and may be shown by chemical analysis of the person's blood, breath, saliva or urine. For purposes of determining the alcoholic content of a person's blood under this section, the test shall be conducted in accordance with the provisions of RSMo 577.020 to 577.041.

Sec. 28-336. - Arrest without warrant, when.

An arrest without a warrant by a law enforcement officer, for a violation of section 28-333 or 28-334 is lawful whenever the arresting officer has reasonable grounds to believe that the person to be arrested has violated the section, whether or not the violation occurred in the presence of the arresting officer; provided, however, that any such arrest without warrant must be made within 1½ hours after such claimed violation occurred.

Sec. 28-337. - Consumption of alcoholic beverages in moving motor vehicles.

No person shall consume any alcoholic beverage while operating moving motor vehicle upon any street or highway within the city.

Sec. 28-338. – Failure to produce medical marijuana identification card.

Any person in possession of medical marijuana shall, immediately upon request of any law enforcement officer, produce a valid identification card issued by the Missouri Department of Health and Senior Services, or its successor, or the respective equivalent identification card or authorization issued by another state or political subdivision of another state, authorizing them, as a qualifying patient or primary caregiver, or employee of a licensed medical marijuana facility, to access medical marijuana as provided by Missouri law. Any person who fails to produce such identification shall be guilty of the offense of failure to produce a medical marijuana identification card.

Sec. 28-339. – Administration of medical marijuana in a public place.

- (a) No person shall administer medical marijuana in a public place.
- (b) For the purpose of this section, the term "administer" shall have the definition set forth in Article XIV, Section 1 of the Missouri Constitution.
- (c) For the purpose of this section, the term "public place" shall have the definition set forth in 19 CSR 30-95.010.

Sec. 28-340. – Disposal of medical marijuana.

- (a) No person shall dispose of medical marijuana, medical marijuana-infused products, or medical marijuana byproduct except as prescribed by 19 CSR 30-95.

Sec. 28-341. – Driving under the influence of marijuana.

- (a) A person commits the offense of driving under the influence of marijuana if he/she operates a motor vehicle within the city limits while under the influence of marijuana.
- (b) For purposes of determining the marijuana content of a person's blood under this Section, a chemical test shall be conducted in accordance with the provisions of Section 577.020 to 577.041, RSMo.

Secs. 28-342—28-360. - Reserved.