

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 74-14

AN ORDINANCE

amending Chapter 16 of the City Code as it relates to marijuana; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. Chapter 16 of the Code of Ordinances of the City of Columbia, Missouri, is hereby amended as follows:

Material to be deleted in ~~strikeout~~; material to be added underlined.

Sec. 16-253. Reserved ~~Possession of thirty-five grams or less of marijuana, or five grams or less of hashish.~~

~~It shall be unlawful for any person to possess thirty five (35) grams or less of marijuana or cannabis in any species or form thereof, including but not limited to cannabis sativa L., or five (5) grams or less of hashish. Any person found guilty of violating the provisions of this section shall be deemed guilty of a Class A misdemeanor.~~

...

Sec. 16-255.1. Medical marijuana.

(a) The purpose of this section is to ensure that patients, for whom marijuana has been recommended by a physician, suffer no punishment or penalty for obtaining, possessing, cultivating, and/or using medicinal marijuana and/or paraphernalia used to consume medicinal marijuana.

(b) Seriously ill people ~~adults~~ who obtain ~~possess~~ marijuana or cultivate up to six (6) marijuana plants and use marijuana and/or marijuana paraphernalia for medicinal purposes pursuant to the recommendation of a physician shall not be subject to arrest, prosecution, punishment or sanction. Physicians who recommend marijuana for their patients shall not be subject to arrest, prosecution, punishment or sanction. If a person an adult obtains a physician's recommendation for marijuana use, charges of marijuana possession, paraphernalia possession or cultivation of up to six (6) plants after an arrest,

~~such charges~~ shall be dismissed. If this provision is held invalid, then a maximum fine of fifty dollars (\$50.00) may be imposed. There shall be a strong presumption that the appropriate disposition is to defer prosecution or to suspend imposition of sentence. All such matters shall only be referred to the municipal prosecuting attorney, and no other prosecuting attorney, and the municipal prosecuting attorney shall not refer the matter to any other prosecutor, agency, or office, unless the adult is also charged with a felony offense arising from the same set of facts and circumstances. The term "seriously ill ~~people~~ adults" shall include patients who suffer from side-effects of the treatment of cancer, HIV/AIDS or symptoms of multiple sclerosis, glaucoma, arthritis, migraine headaches, chronic severe pain, or any other serious condition for which marijuana provides relief and for which a duly-licensed physician has recommended such use.

(c) The provisions of this section are severable. If any provision of this section is declared invalid, that invalidity shall not affect other provisions of the section which can be given effect without the invalid provision.

(d) Any city ordinance or regulation that is inconsistent with this section shall be null and void.

Sec. 16-255.2. Policies for enforcing marijuana offenses.

(a) The purpose of this section is to ensure that adults as defined by state criminal statutes, other than those excluded herein, are not arrested and suffer only a fine and/or community service or counseling and no other punishment or penalty, for the possession of a misdemeanor amount of marijuana as defined by state law and/or marijuana paraphernalia and/or for the cultivation of up to six (6) marijuana plants. This section shall be liberally construed for the accomplishment of these purposes.

(b) It shall be unlawful to possess up to thirty-five (35) grams of marijuana, marijuana paraphernalia and/or possess or cultivate up to six (6) marijuana plants. When any law enforcement officer suspects any adult as defined by state criminal statutes, other than those excluded herein, of possession of a misdemeanor amount of up to thirty-five (35) grams of marijuana and/or possession of marijuana paraphernalia and/or cultivation and possession of up to six (6) marijuana plants, that person shall not be required to post bond, suffer arrest, be taken into custody for any purpose nor detained for any reason other than the issuance of a summons, suffer incarceration, suffer loss of driver's license, or any other punishment or penalty other than the issuance of a summons and, if found guilty, a fine of up to two hundred fifty dollars (\$250.00). There shall be a strong presumption that the proper disposition of any such case is to suspend the imposition of sentence and/or require community service work and/or drug counseling and education. All such matters shall only be referred to the municipal prosecuting attorney, and no other prosecuting attorney, and the municipal prosecuting attorney shall not refer the matter to any other prosecutor, agency, or office, unless provisions of subsection (c) are applicable.

(c) Subsection (b) shall not apply to persons:

- (1) Who have been found guilty of a felony within the preceding ten (10) years; or
- (2) Who have been found guilty in a state court of a Class A misdemeanor, other than misdemeanor marijuana possession or cultivation or misdemeanor possession of marijuana paraphernalia, within the preceding five (5) years; or
- (3) Who have been found guilty in a state or municipal court of misdemeanor marijuana possession or cultivation on two or more prior occasions within the preceding five (5) years; or
- (4) Who are arrested on suspicion of any felony or misdemeanor offense chargeable only under state law, arising from the same set of facts and circumstances as the alleged marijuana offense.

(d) The provisions of this section are severable. If any provision of this section is declared invalid, that invalidity shall not affect other provisions of the section which can be given effect without the invalid provision.

(e) Any city ordinance or regulation that is inconsistent with this section shall be null and void and is hereby repealed effective immediately.

(f) The message of this section is that people should not use marijuana, but should also not lose opportunities for education and employment because of such use. The limited resources of law enforcement should be directed primarily toward crimes of violence or property loss. The enforcement of laws against marijuana shall be among the lowest ~~lower~~ priorities of law enforcement.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2014.

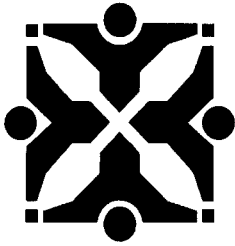
ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor



Source: Law

7005

Agenda Item No:

To: City Council

From: City Manager and Staff

MM

Council Meeting Date: Mar 17, 2014

Re: Amending Chapter 16 of the City Code Relating to Marijuana Cultivation

EXECUTIVE SUMMARY:

The proposed City Code amendment is being sponsored by Council member Hoppe. Dan Viets submitted the proposed ordinance.

DISCUSSION:

The Law Department has reviewed the ordinance and finds that it is not consistent with state and federal law on the same subject matter. The manufacture of a controlled substance is a felony under state law and regulated by Sections 195.005 to 195.425 of the Revised Statutes of Missouri.

FISCAL IMPACT:

None.

VISION IMPACT:

<http://www.gocolumbiamo.com/Council/Meetings/visionimpact.php>

None.

SUGGESTED COUNCIL ACTIONS:

None.

FISCAL and VISION NOTES:					
City Fiscal Impact Enter all that apply		Program Impact		Mandates	
City's current net FY cost	\$0.00	New Program/ Agency?	No	Federal or State mandated?	No
Amount of funds already appropriated	\$0.00	Duplicates/Expands an existing program?	No	Vision Implementation impact	
Amount of budget amendment needed	\$0.00	Fiscal Impact on any local political subdivision?	No	Enter all that apply: Refer to Web site	
Estimated 2 year net costs:		Resources Required		Vision Impact?	No
One Time	\$0.00	Requires add'l FTE Personnel?	No	Primary Vision, Strategy and/or Goal Item #	
Operating/ Ongoing	\$0.00	Requires add'l facilities?	No	Secondary Vision, Strategy and/or Goal Item #	
		Requires add'l capital equipment?	No	Fiscal year implementation Task #	