

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF GLADSTONE, MISSOURI, TITLE III, OFFENSES, CHAPTER 130, OFFENSES AGAINST PUBLIC PEACE AND SAFETY, BY AMENDING CERTAIN SECTIONS AND ADDING CERTAIN SECTIONS TO CONFORM WITH ARTICLE XIV OF THE MISSOURI CONSTITUTION.

WHEREAS, the City Council desires to amend the Code of Ordinances, City of Gladstone, Missouri (“the Gladstone City Code”) to conform with Article XIV of the Missouri Constitution.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI AS FOLLOWS:

SECTION 1. Section 3.130.020 of the Gladstone City Code is hereby amended to read as follows:

Sec. 3.130.020. Drug paraphernalia—Definitions.

The following words, terms and phrases, when used in this section and section 3.130.030, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Controlled substance means a drug, substance, or immediate precursor as defined in RSMo 195.010.

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.

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; or
- (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 this definition. It does not include devices or their components, parts or accessories.

Drug paraphernalia.

- (1) All equipment, products and materials any kind of which are used or intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of RSMo Ch. 195.

- (2) The term "drug paraphernalia" includes, but is not limited to:
- a. Kits used or 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;
 - b. Kits used or intended for use, or designed for use, in manufacturing, compounding, converting, producing, processing, or preparing controlled substances or imitation controlled substances;
 - c. Isomerization devices used or intended for use, or designed for use, in increasing the potency of any species of plant which is a controlled substance or imitation controlled substances;
 - d. Testing equipment used or intended for use, or designed for use, in identifying, or in analyzing the strength, effectiveness or purity of controlled substances or imitation controlled substances;
 - e. Scales and balances used or intended for use, or designed for use, in weighing or measuring controlled substances or imitation controlled substances;
 - f. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use, or designed for use, in cutting controlled substances or imitation controlled substances;
 - g. Blenders, bowls, containers, spoons and mixing devices used or intended for use, or designed for use, in compounding controlled substances or imitation controlled substances;
 - h. Capsules, balloons, envelopes and other containers used or intended for use, or designed for use, in packaging small quantities of controlled substances or imitation controlled substances;
 - i. Containers and other objects used or intended for use, or designed for use, in storing or concealing controlled substances or imitation controlled substances;
 - j. Hypodermic syringes, needles and other objects used or intended for use, or designed for use, in parenterally injecting controlled substances or imitation controlled substances into the human body;
 - k. Objects used or intended for use, or designed for use, in ingesting, inhaling, or otherwise introducing cocaine, hashish, or hashish oil into the human body, except those designed or intended for use with marijuana, such as:
 1. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
 2. Water pipes;
 3. Carburetion tubes and devices;
 4. Smoking and carburetion masks;
 5. Roach clips meaning objects used to hold burning material, except those designed or intended for use with marijuana, that has become too small or too short to be held in the hand;

6. Miniature cocaine spoons and cocaine vials;
 7. Chamber pipes;
 8. Carburetor pipes;
 9. Electric pipes;
 10. Air-driven pipes;
 11. Chillums;
 12. Bonges;
 13. Ice pipes or chillers.
- (3) In determining whether an object 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 substances;
 - c. The proximity of the object, in time and space, to a direct violation of this section and section 3.130.030;
 - 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 such person knows intend to use the object to facilitate a violation of this act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this section and section 3.130.030 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 and 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.

Manufacture means the production, preparation, propagation, compounding or processing of drug paraphernalia or of 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. The term "manufacture" does not include the preparation or compounding of a controlled substance or an imitation controlled substance or the preparation, compounding, packaging or labeling of a narcotic or dangerous drug:

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

Practitioner means a physician, dentist, optometrist, podiatrist, veterinarian, scientific investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted by this state 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 this state, 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.

SECTION 2. Section 3.130.030 of the Gladstone City Code is hereby amended to read as follows:

Sec. 3.130.030. – Unlawful possession of drug paraphernalia.

A person commits the offense of unlawful possession of drug paraphernalia if he or she knowingly uses, or possesses 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 or an imitation controlled substance in violation of RSMo Ch. 579, or RSMo Ch. 195, except as authorized by Article XIV of the Missouri Constitution.

SECTION 3. Section 3.130.050 of the Gladstone City Code is hereby amended to read as follows:

Sec. 3.130.050. - Possession of marijuana; over 21.

Except as authorized by Article XIV of the Missouri Constitution, it is unlawful for a person at least twenty-one years of age to purchase, possess, consume, use, ingest, inhale, process, transport, deliver, or distribute, more than three ounces of marijuana, or its equivalent.

SECTION 4. Section 3.130.051 of the Gladstone City Code is hereby added to read as follows:

Sec. 3.130.051. – Public Consumption; Smoking.

- A. No person shall consume marijuana in a public place.
- B. No person shall smoke marijuana in a public place. Violation of Section 3.130.050(B) shall be punishable by a fine not to exceed One Hundred Dollars (\$100.00).
- C. No person shall smoke marijuana in any place the smoking of tobacco is prohibited.
- D. For purposes of this section, a public place means any public or private property, or portion thereof, that is open to the general public, including but not limited to, sidewalks, streets, bridges, parks, schools, and businesses.
 1. “Public place” shall not include:
 - a. The residence of the person smoking or consuming marijuana or the residence of another person when the person in control of the property has consented to the smoking or consumption of marijuana; or
 - b. Any area licensed for such activity by the City.

SECTION 6. Section 3.130.052 of the Gladstone City Code is hereby added to read as follows:

Sec. 3.130.052. – Sale to Persons Under Twenty-One.

- A. Except as authorized by Article XIV of the Missouri Constitution, no person shall deliver to, transfer to, or sell to persons under twenty-one years of age marijuana or marijuana accessories.
- B. For purposes of this Chapter, "Marijuana accessories" means any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marijuana into the human body.

SECTION 7. Section 3.130.053 of the Gladstone City Code is hereby added to read as follows:

Sec. 3.130.053. – Possession by Persons Under Twenty-One, Three Ounces or Less.

- A. Except as provided by Article XIV of the Missouri Constitution, no person under twenty-one years of age may possess, use, ingest, inhale, transport, deliver, or distribute marijuana or marijuana accessories.
- B. For offenses involving three ounces or less of marijuana, and no monetary consideration, violation of this Section shall be punishable by a fine not to exceed One Hundred Dollars

(\$100.00). Any such person shall be provided the option of attending up to four hours of drug education or counseling in lieu of the fine.

SECTION 8. Section 3.130.054 of the Gladstone City Code is hereby added to read as follows:

Sec. 3.130.054. – Possession; Less than Twice the Legal Limit.

- A. A person who possesses not more than twice the amount of marijuana allowed pursuant to Mo. Const., Article XIV, produces not more than twice the amount of marijuana allowed pursuant to Mo. Const., Article XIV, delivers without receiving any consideration or remuneration to a person who is at least twenty-one years of age not more than twice the amount of marijuana allowed by Mo. Const., Article XIV, or possesses with intent to deliver not more than twice the amount of marijuana allowed by Mo. Const., Article XIV:
1. For a first violation, is subject to a fine not exceeding two hundred and fifty dollars and forfeiture of the marijuana.
 2. For a second and subsequent violations, is subject to a fine not exceeding five hundred dollars and forfeiture of the marijuana.
 3. A person under twenty-one years of age is subject to a civil penalty not to exceed two hundred and fifty dollars. Any such person shall be provided the option of attending up to eight hours of drug education or counseling in lieu of the fine.
 4. In lieu of payment, penalties under this subsection may be satisfied by the performance of community service. The rate of pay-down associated with said service option will be the greater of \$15 or the minimum wage in effect at the time of judgment.

SECTION 9. Section 3.130.055 of the Gladstone City Code is hereby added to read as follows:

Sec. 3.130.055. – Motor Vehicle Offenses.

- A. It shall be unlawful for any person to:
1. Operate or be in physical control of any motor vehicle, train, aircraft, motorboat, or other motorized form of transport while under the influence of marijuana. Notwithstanding the foregoing, a conviction of a person who is at least twenty-one years of age for any applicable offenses shall require evidence that the person was in fact under the influence of marijuana at the time the person was in physical control of the motorized form of transport and not solely on the presence of tetrahydrocannabinol (THC) or THC metabolites, or a combination thereof, in the person's system.
 2. Consume marijuana while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated.
 3. Smoke marijuana within a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated.

SECTION 10. Section 3.130.056 of the Gladstone City Code is hereby added to read as follows:

Sec. 3.130.056. – Possession or consumption on Certain Property; Prohibited.

No person shall possess or consume marijuana or possess marijuana accessories on the grounds of a public or private preschool, elementary or secondary school, institution of higher education, in a school bus, or on the grounds of any correction facility.

SECTION 11. Section 3.130.057 of the Gladstone City Code is hereby added to read as follows:

Sec. 3.130.057. – Illegal Growing.

1. The following acts by a person are unlawful:
 - A. **Illegal Growing.** Possessing, transporting, planting, cultivating, harvesting, drying, processing, or manufacturing i) more than six (6) flowering marijuana plants, ii) more than six (6) nonflowering marijuana plants, iii) more than six (6) clones, or iv) any lesser number of such plants or clones if the person is not registered with the department of health and senior services for cultivation of marijuana plants pursuant to Article XIV, Section 2.4(24).
 - B. **Illegal Growing; Registered Cultivator.** A person registered with the department of health and senior services pursuant to Article XIV, Section 2.4(24) for cultivation of marijuana plants within the limits of Article XIV, Section 2.10(1)(b) shall not keep the plants and any marijuana produced by the plants in excess of three ounces at more than one private residence, or in an unlocked space, or in a manner in which they are visible by normal, unaided vision from a public place; and further, shall not keep more than twice the number of allowable plants under Article XIV, Section 2.10(1)(b) in or on the grounds of a private residence at one time.
 - C. **Illegal Growing; Visibility; Unregistered Cultivator.** A person who is not registered pursuant to Article XIV, Section 2.4(24) and who cultivates marijuana plants that are visible by normal, unaided vision from a public place.
 - D. **Illegal Growing; Unsecured; Unregistered Cultivator.** A person who is not registered pursuant to Article XIV, Section 2.4(24) and who cultivates marijuana plants that are not kept in a locked space.
2. **Penalties.**
 - a. A person who cultivates marijuana plants that are visible by normal, unaided vision from a public place is subject to a civil penalty not exceeding two hundred and fifty dollars and forfeiture of the marijuana.
 - b. A person who cultivates marijuana plants that are not kept in a locked space is subject to a civil penalty not exceeding two hundred and fifty dollars and forfeiture of the marijuana.

SECTION 12. Section 3.130.110 of the Gladstone City Code is hereby added to read as follows:

Sec. 3.130.110. – Controlled Substances.

A person commits the offense of possession of a controlled substance if they knowingly possess any drug or substance included in Schedules I through V of the Uniform Controlled Substances Act found in Chapter 195 of the Missouri Revised Statutes within the City, except as authorized by Chapter 579, RSMo., or Chapter 195, RSMo., or Article XIV of the Missouri Constitution.

SECTION 13. That this Ordinance shall be in full force and effect from and after the date of its passage and approval.

SECTION 14. That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

INTRODUCED, READ, PASSED, AND ADOPTED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 27TH DAY OF FEBRUARY, 2023.



Bill Garnos, Mayor

ATTEST:



Kris Keller, City Clerk

First Reading: February 27, 2023

Second Reading: February 27, 2023



Request for Council Action

RES # City Clerk Only

BILL # 23-12

ORD # 4.631

Date: 2/23/2023

Department: General Administration

Meeting Date Requested: 2/27/2023

Public Hearing: Yes Date: [Click here to enter a date.](#)

Subject: Amendment to Title III, Chapter 130, to conform with Article XIV of the Missouri Constitution.

Background: In November of 2022, Missouri voters approved Amendment 3 which amended Article XIV of the Missouri Constitution to legalize recreational adult-use of marijuana. Generally, adults ages twenty-one or older may now purchase, possess, and use up to 3 ounces of marijuana. Article XIV does not allow for the public use of marijuana, driving while under the influence of marijuana, the use of marijuana in the workplace, or the use of marijuana by persons under twenty-one years of age. As a result, it is necessary to amend certain sections of the Code of Ordinances in order for it to be consistent with the State constitution.

Budget Discussion: Funds are budgeted in the amount of \$ from the N/A Fund. Ongoing costs are estimated to be \$ annually. Previous years' funding was \$.

Public/Board/Staff Input:

Provide Original Contracts, Leases, Agreements, etc. to: City Clerk and Vendor.

John Mullane
City Attorney

SW
City Manager