

BILL NO. 2377ORDINANCE NO. 2200

**AN ORDINANCE PROVIDING FOR THE REPEAL OF ORDINANCE 55
CODE SECTION 21-81-85 AND THE REVISION THEREOF
REGARDING CONTROLLED SUBSTANCES IN THE CITY OF
CHESTERFIELD**

WHEREAS, the City Council of the City of Chesterfield seeks to protect its residents; and

WHEREAS, the presence of controlled substances and drugs harms the community; and

WHEREAS, expanding the list of controlled substances is in the best interest of the community.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Sec. 21-81. Shall now be amended and replaced as follows:

Section 1. It shall be unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense, distribute, or compound any controlled or counterfeit substance, except as otherwise authorized by law or to possess any apparatus, device or instrument for the unauthorized use of any controlled substance as those controlled substances are described in section 195.017 of the Missouri Revised Statutes.

Section 2. For the purpose of this division, the following phrases are defined:

Controlled substance shall be defined as and include the following:

- (1) Cannabis which includes marijuana, hashish and other substances which are identified as including any parts of the plant cannabis sativa, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination; and
- (2) "Controlled substances": As defined and enumerated in chapter 195 of the Missouri Revised Statutes in effect on October 12, 1981.

Drug paraphernalia shall be defined as and include all equipment, products 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, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this article. 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;
- (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;
- (4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
- (5) Scales and balances used, intended for use, or designed for use in weighing or measuring 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;
- (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;
- (9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
- (11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting 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.

Section 3. Factors to be used in determination of objects status as drug paraphernalia. 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:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) 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;
- (3) The proximity of the object, in time and space, to a direct violation of this division;
- (4) The proximity of the object to controlled substances;
- (5) The existence of any residue of controlled substances on the object;

- (6) 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 knows, or should reasonably know, intend to use the object to facilitate a violation of this division; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this division shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
- (7) Instructions, oral or written provided with the object concerning its use;
- (8) Descriptive materials accompanying the object which explain or depict its use;
- (9) National or local advertising concerning its use;
- (10) The manner in which the object is displayed for sale;
- (11) 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;
- (12) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- (13) The existence and scope of legitimate uses for the object in the community;
- (14) Expert testimony concerning its use.

Section 4. Prohibited Acts

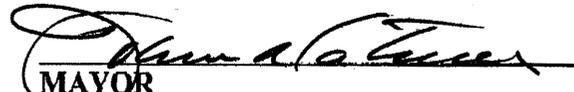
- (a) No person shall use, or possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.
- (b) No person shall deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably 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.
- (c) No person who is eighteen (18) years of age or over shall violate paragraph (b) of this section, by delivering drug paraphernalia to a person under eighteen (18) years of age who is at least three (3) years his junior; any person convicted of such an offense shall be guilty of a specific offense and may be punished as provided in section 6 of this Ordinance.

Section 5. Wherever in this division, rule, regulation or order promulgated by any officer of the city under authority duly vested in him, any act is prohibited or is declared to be unlawful or an offense or misdemeanor or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, upon conviction of a violation of any such provision of this division or of any such rule, regulation or order, the violator shall be punished as provided in Section 6 of this Ordinance.

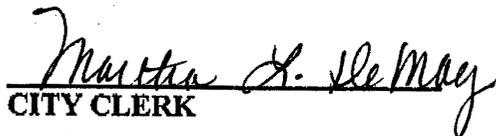
Section 6. Penalties. Any person who shall be convicted of a violation of any provisions of this section shall be deemed guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars (\$1,000.00) or a jail sentence not to exceed twelve (12) months or by both such fine and jail sentence unless a lesser penalty be required by law, in which event the punishment shall not exceed such lesser penalty required by law.

Section 7. This Ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this 19th day of September, 2005.


MAYOR

ATTEST:


CITY CLERK