

City of Columbia

701 East Broadway, Columbia, Missouri 65201



Agenda Item Number: Supplemental Information B74-14

Department Source: Law

To: City Council

From: City Manager & Staff

Council Meeting Date: October 20, 2014

Re: Supplemental Information for B74-14 - Amending Chapter 16 of the City Code Relating to Marijuana Cultivation

Documents Included With This Agenda Item

Supplemental Council Memo/Amendment Sheets

Supporting documentation includes: None

Executive Summary

At the request of Council member Hoppe, proposed amendments to B74-14 as it relates to the City's regulation of the marijuana ordinances are being provided to Council.

Discussion

Council member Hoppe tabled B74-14 for review and preparation of amendment sheets. Staff has reviewed and prepared amendment sheets as requested.

Fiscal Impact

Short-Term Impact: None.

Long-Term Impact: None.

Vision, Strategic & Comprehensive Plan Impact

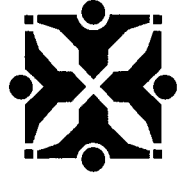
Vision Impact: Not Applicable

Strategic Plan Impact: Health, Safety and Wellbeing

Comprehensive Plan Impact: Not Applicable

City of Columbia

701 East Broadway, Columbia, Missouri 65201



Suggested Council Action


None.

Legislative History

1. B74-14 is introduced on March 17, 2014.
2. B74-14 is tabled at the April 7, 2014 meeting to the August 4, 2014 City Council meeting.
3. B74-14 is tabled at the August 4, 2014 meeting to the October 6, 2014 City Council meeting.
4. B74-14 is tabled at the October 6, 2014 Council meeting for amendments to be considered at the October 20, 2014 City Council meeting.



Department Approved



City Manager Approved



CITY OF COLUMBIA, MISSOURI

Disabilities Commission

October 13, 2014

To: Mayor and Members of Council

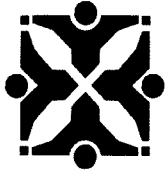
From: Columbia Disabilities Commission

Subject: Proposed Marijuana Ordinance

This summer, the Disabilities Commission considered the issue of the medical benefits of marijuana to people with disabilities. While the commission did not take an official position on the proposed marijuana ordinance, the commission members agreed evidence tends to support that marijuana is potentially beneficial for medical uses for people with disabilities.

On October 9, the commission discussed the proposed marijuana ordinance that is set to go in front of City Council later this month. The commission took a vote, and we unanimously support proposed Ordinance B74-14 because of its potential medical benefits to people with disabilities.

Chuck Graham
Chair
Columbia Disabilities Commission



CITY OF COLUMBIA, MISSOURI

SUBSTANCE ABUSE ADVISORY COMMISSION

TO: Mayor Bob McDavid and the Honorable Members of the Columbia City Council

FROM: Chris Hawf, Chair
Substance Abuse Advisory Commission

DATE: October 14, 2014

RE: Revisions to Proposed Amendments to City code as it Pertains to Marijuana

CC: Mike Matthes, City Manager
Sheela Amin, City Clerk
Stephanie Browning, Public Health and Human Services Director
Steve Hollis, Human Services Manager

At its October 8, 2014 meeting, the Substance Abuse Advisory Commission (SAAC) voted in favor of sending a memo to the City Council expressing the commission's disappointment that it was not allowed to discuss or vote on the revisions to the proposed amendments to the City's marijuana ordinance.

City of Columbia

701 East Broadway, Columbia, Missouri 65201



Agenda Item Number: Supplemental Information B74-14

Department Source: Law

To: City Council

From: City Manager & Staff

Council Meeting Date: October 6, 2014

Re: Supplemental Information for B74-14 - Amending Chapter 16 of the City Code Relating to Marijuana Cultivation

Documents Included With This Agenda Item

Supplemental Council Memo

Supporting documentation includes: Proposed amendments to the marijuana ordinances submitted by Barbara Hoppe.

Executive Summary

At the request of Council member Hoppe, proposed amendments to B74-14 as it relates to the City's regulation of the marijuana ordinances are being provided to Council.

Discussion

Council member Hoppe has provided proposed amendments to B74-14 as it relates to the marijuana ordinances (see attachments). Staff has not had an opportunity to review or prepare a formal amendment sheet to incorporate the amendments being proposed by Ms. Hoppe, but wanted to provide the information to Council with the packet for your information and use.

Fiscal Impact

Short-Term Impact: None.

Long-Term Impact: None.

Vision, Strategic & Comprehensive Plan Impact

Vision Impact: Not Applicable

Strategic Plan Impact: Health, Safety and Wellbeing

Comprehensive Plan Impact: Not Applicable

City of Columbia

701 East Broadway, Columbia, Missouri 65201



Suggested Council Action

None.

Legislative History

1. B74-14 is introduced on March 17, 2014.
2. B74-14 is tabled at the April 7, 2014 meeting to the August 4, 2014 City Council meeting.
3. B74-14 is tabled at the August 4, 2014 meeting to the October 6, 2014 City Council meeting.


Department Approved


City Manager Approved



SUPPORTING DOCUMENTS INCLUDED WITH THIS AGENDA ITEM ARE AS FOLLOWS:

Proposed amendments to the marijuana ordinances submitted by Barbara Hoppe

Original ordinance passed by voters November 2, 2004. Proposed new language underscored.

Proposed Amendment to City of Columbia Ordinance Section 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 adults and seriously ill persons under the age of 18 only with the specific consent and supervision of a parent or legal guardian who possess 35 grams or less of marijuana or cultivate no more than two (2) 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. No person shall possess more than 35 grams of harvested marijuana in addition to no more than two (2) marijuana plants. Designated caregivers in the case of seriously ill patients who are unable to cultivate marijuana plants themselves or for patients who require assistance in the administration of medical marijuana shall also not be subject to arrest, prosecution, punishment or sanction for possessing and/or cultivating said marijuana for the patient. Said marijuana plants are to be grown indoors and not in any outdoor location and shall be in a locked enclosure not accessible to children. Physicians who recommend marijuana for their patients shall not be subject to arrest, prosecution, punishment or sanction. If a person obtains a

physician's recommendation for marijuana, charges of marijuana possession, paraphernalia possession or cultivation of no more than two (2) marijuana plants shall be dismissed. If this provision is held invalid, then a maximum fine of fifty (50) dollars may be imposed. There shall be a strong presumption that the appropriate disposition is to defer prosecution or 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 person is also charged with a felony offense arising from the same set of facts and circumstances. The term "seriously ill people" 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 and is hereby repealed effective immediately.

Original ordinance passed by voters November 2, 2004. Proposed new language underscored.

Proposed Amendment to City of Columbia Ordinance Section 16-255.2:

Policies for enforcing marijuana ordinances.

(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, for possession and/or for the cultivation of no more than two (2) marijuana plants. This section shall be liberally construed for the accomplishment of these purposes.

(b) It shall be unlawful to possess up to 35 grams of marijuana, marijuana paraphernalia and/or possess or cultivate no more than two (2) marijuana plants. No person shall possess more than 35 grams of harvested marijuana in addition to no more than two (2) 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 35 grams of marijuana and/or possession of marijuana paraphernalia and/or cultivation and/or possession of no more than two (2) 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). Said marijuana plants are to be cultivated indoors and not in any outdoor location and shall be in a locked enclosure not accessible to children. 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.

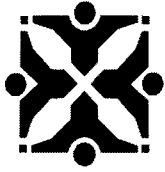
(c) Subsection (b) shall not apply to persons:

- (1) Who have been found guilty of a felony within the preceding (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 priorities of law enforcement.



CITY OF COLUMBIA, MISSOURI

RECEIVED JUL 28 2014

SUBSTANCE ABUSE ADVISORY COMMISSION

TO: Mayor Bob McDavid and the Honorable Members of the Columbia City Council

FROM: Chris Hawf, Chair
Substance Abuse Advisory Commission

DATE: July 15, 2014

RE: Recommendations regarding proposed amendments to City code as it pertains to marijuana

CC: Mike Matthes, City Manager
Sheela Amin, City Clerk
Stephanie Browning, Public Health and Human Services Director
Steve Hollis, Human Services Manager

At its April 7, 2014 meeting, the City Council requested the Substance Abuse Advisory Commission (SAAC) provide recommendations regarding Council Bill B74-14, amending Chapter 16 of the City Code as it relates to marijuana. The SAAC subsequently held a combined meeting and public hearing with the Board of Health on May 9, 2014 followed by a second combined meeting with the Board of Health and subject matter experts on June 12, 2014.

At the July 9, 2014 meeting (minutes attached) of the Substance Abuse Advisory Commission, a majority of commission members voted to recommend that all amendments to the existing ordinance contained in Council Bill B74-14 be rejected. As the commission was unable to reach consensus regarding a rationale, the commission voted to encourage its members to send their individual thoughts to City Council members.

*****These are draft minutes to be approved by the commissioners present at the next meeting of the Substance Abuse Advisory Commission*****

**Substance Abuse Advisory Commission
July 9, 2014 Meeting Minutes**

Commissioners Present: Kim Dude, Daniel Rader, Chris Hawf, Michael Schoelz, Michelle Baumstark, Mitchell Moore, Joseph Priesmeyer, Tony Coleman, and Teresa Stephenson

Commissioners Excused: Candy Cornman

Commissioners Absent: None

Guests: None

City Staff Present: Steve Hollis and Katie Spears

- I. **Call to Order/Introductions:** Hawf called the meeting to order at 12:00 p.m.
- II. **Approval of Agenda:** Dude moved to approve the agenda. The motion was seconded by Rader and passed with a unanimous vote.
- III. **Approval of June 12, 2014 Meeting Minutes:** Coleman moved to approve the minutes. The motion was seconded by Rader and passed with a unanimous vote.
- IV. **Old Business:**
 - A. **Council Bill B74-14 (amends City Code as it relates to marijuana):**

Coleman read a brief summary of his thoughts on the ordinance change. He emphasized the term "person" needs to be clarified. He also stated the issue needs to be addressed at the State and Federal level before it is even considered locally. There was some concern as to why section 16-253 was being eliminated on the proposed ordinance. Dan Viets, a member of the public and author of the draft legislation, explained that the strike-through on Section 16-253 was wording in the original ordinance before voters passed it 10 years ago. He said the proposed amendments are intended clean up that language. Dude made a motion to reject the proposed ordinance changes. The motion was seconded by Coleman. Rader asked if the proposed changes could be rejected but if the Commission could ask that marijuana be a low priority for law enforcement. Coleman explained the ordinance already reads that way. Baumstark said anything that is counterproductive towards the prevention of drug use when it comes to school age children is something Columbia Public Schools is not going to be in support of. She said it's illegal at the state and federal level and there are specific provisions in state and federal law in regards to drugs around schools. She explained that the school district is very concerned about this potential change and will not support it. Dude referred to several studies that show marijuana use is detrimental to students' brains and learning abilities. She also said the more laws are liberalized, the more youth view it as not harmful or think it's acceptable/normal. Priesmeyer said this is not the place to discuss the proposed changes. He said it needs to be done on the state and federal level first. Priesmeyer stated that it is irresponsible at best and dangerous at worst to be handled at the local level. Coleman said the City of Columbia should be concerned that this issue is being brought up at the local level while it is

illegal on the state and federal level. He explained the changes need to be made at the state level before anything local can be modified. Moore said The DARE Program that was used in many schools backfired and students actually used drugs more after attending the program. He pointed out that Baumstark's comment about Columbia Public Schools stance did not hold true in that instance. The Commission voted on the motion, 6 in favor, 3 opposed. Hawf asked Hollis what the next step would be. Hollis said the Commission needs to submit a report to City Council. Hawf asked Coleman if he would like to compile the report. Coleman accepted. Schoelz stated that he would like City Council to know that the misconceptions surrounding the proposed changes would lead to greater arrests and law enforcement issues. Baumstark reviewed some information that was provided by the Columbia Public School's attorney. The information she reviewed referred to Missouri State Statute RSMO 195.211 and the Missouri Safe Schools Act. Stephenson said she does not want to make the impression that the Commission voted down the changes solely because of a few bullet points. She stated that the reason it was voted down goes beyond law enforcement issues and confusion surrounding the changes. She stated that there is not enough time to develop a solid response to City Council. Hollis said a special meeting could be held if the Commission would like to do so. Coleman said he needed time to work on wording but read the following statement to the Commission, "We would recommend the City of Columbia do the same and put this proposal of changes on hold until such time changes are made at the State and Federal level with regards to definitions, classifications, penalties, and enforcement". Moore said he will come up with a counter argument and anticipate what the Commission will say. Dude asked if the report needs to be done individually. Hollis said no, the Commission will need to send one report along with draft minutes. Hollis said commissioners can send their own comments to council as citizens. Schoelz said Coleman's statement covered what needs to be covered. Schoelz made a motion to use part of Coleman's summary and submit it to City Council. Dude seconded the motion. There was a brief discussion. The Commission voted unanimously against the motion. Hawf asked when the statement needs to be done. Hollis said preferably no later than July 28, 2014. Coleman revised his statement to read, "It is recommended by the majority of the SAAC that the proposed changes to the ordinance be rejected. Individual Commissioners, as private citizens, may be submitting their own statement to clarify their views separately." Moore made a motion to send the statement as it reads to City Council. Schoelz seconded the motion. Priesmeyer wanted to clarify the motion before voting. Baumstark said her statement would be on behalf of Columbia Public Schools since she is an appointed representative. The Commission voted on the motion, 8 voted in favor and 1 abstained.

- V. **Public Comment:** Phillip Rabbit spoke briefly. He said he's been attending most of the meetings and his views don't align with everyone else's. He explained there has not been enough positive research because marijuana has been outlawed. He mentioned some of the research coming from Israel and Europe about Cannabis Law Reform.
- VI. **Commissioner Comments/Announcements/Updates:** None.
- VII. **Future Meeting Topics:** None.
- VIII. **Adjournment:** The meeting adjourned at 1:02 p.m


COLUMBIA PUBLIC SCHOOLS

Dr. Peter Stiepleman
Superintendent of Schools

ADMINISTRATION BUILDING

1818 West Worley Street (573) 214-3400
Columbia, Missouri 65203

July 22, 2014

City of Columbia
City Council
701 E Broadway
P.O. Box 6015
Columbia, Missouri, 65205

Dear Mayor and Members of the City Council:

Columbia Public Schools provides this letter in support of the City of Columbia's Substance Abuse Advisory Commission's recommendation to the City Council that the city ordinance not be revised to decriminalize the cultivation of marijuana, as proposed:

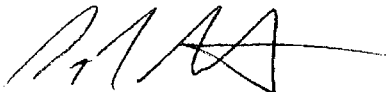
The mission of Columbia Public Schools is to provide an excellent education for all students. Columbia Public Schools, cooperates with state and federal governments to provide the best possible education for its students. In light of this mission, Columbia Public Schools cannot support any effort that contradicts the spirit of state and federal laws regarding the cultivation of marijuana.

The state and federal governments, both of whom provide funding to Columbia Public Schools, have deemed marijuana to be detrimental to the welfare and safety of school-aged children. Growing marijuana is illegal under state law pursuant to Section 195.211 RSMo. The federal Controlled Substances Act prohibits the manufacturing of controlled substances, such as marijuana. It is notable and supportive of the school district's position on this issue, that both state and federal law specifically increase penalties for these same offenses if the offenses occur within a certain distance of a school. Missouri's Safe Schools Act includes actions by students, which if committed by an adult would be a violation of Section 195.211 RSMo, as an "act of school violence." It is counterintuitive for the Columbia Public Schools to support any measure that has been deemed by the state and federal governments to be explicitly detrimental to the well-being and safety of school-aged children.

Furthermore, public school districts across the country, including Columbia Public Schools, have, with the assistance of state and federal funding, taken an active role in the prevention of the use of drugs, tobacco, alcohol and other substances which may have a negative effect on students. Section 161.504 RSMo allows the Department of Elementary and Secondary Education to allocate and award funds to local law enforcement agencies and public schools to jointly develop drug and alcohol use prevention and suppression programs. Sections 161.504 through 161.508 outline the goals of the Drug-Free Schools Act and associated programs. Any position other than one opposing the proposed change could jeopardize the school district's funding for programs through the Drug-Free Schools Act. This is generally true because the philosophy of such programs would be undermined by any position besides opposition. Statute specifically requires that the funds be used, among other things "to curtail drug and alcohol trafficking in and around schools, parks and playgrounds." Additionally, the goal of such programs, as required by statute, is aimed at "preventing drug and alcohol use" (Section 161.506.1(3)). In order to receive federal funding administered to the Department of Elementary and Secondary Education, Columbia Public Schools must submit a joint application with the chief law enforcement agency's legislative body. The school district is required to coordinate with law enforcement officials and community drug-prevention organizations under the law regarding these funds. Columbia Public Schools values its relationship with local law enforcement agencies and the role they play in keeping our schools and students safe.

For these reasons, Columbia Public Schools supports the Substance Abuse Advisory Commission's recommendation to the City Council that city ordinance not be revised to decriminalize the cultivation of marijuana.

Respectfully,

A handwritten signature in black ink, appearing to read 'P. Stiepleman', with a long horizontal line extending to the right.

Dr. Peter Stiepleman
Superintendent

Cc: Christine King, President, Columbia Board of Education
Jim Whitt, Vice President, Columbia Board of Education
Mike Mathes, City Manager, City of Columbia
Stephanie Browning, Director, Columbia/Boone County Health Department
Ken Burton, Chief, Columbia Police Department
Steve Hollis, Human Services Manager, Columbia/Boone County Health Department
Chris Hawf, Chair, City of Columbia Substance Abuse Advisory Commission



City of Columbia, Missouri

HUMAN RIGHTS COMMISSION

July 25, 2014

Honorable Mayor and Council Members,

Recently, the Human Rights Commission was tasked with reviewing the discriminatory impact of felony drug convictions; this assignment was in light of the proposed changes to the City of Columbia's marijuana ordinances. The Commission discussed this topic at our regularly scheduled May, June, and July meetings.

Commission members, city staff, and local advocates provided the data the commission used to review this topic. Sources included: Missouri Courts Drug Court Annual Reports, Human Rights Watch report on marijuana arrests by race and state, the ACLU's report "Marijuana in Black and White", a selection of articles provided by the Medical Marijuana Industry Group (MMIG), as well as articles from the Washington Post, New York Times, Kansas City Star, the Huffington Post, and the Los Angeles Times.

The data showed that in Missouri, as well as the rest of the nation, there is a racial disparity in marijuana arrests. Though a roughly equal percentage of both blacks and whites self-report as using marijuana, blacks were more likely to be arrested for marijuana offenses. In 2006, in Missouri, blacks were specifically 4.1 times as likely to be arrested. The national average for that same year was 3.8. Unfortunately, data addressing the discriminatory impact in sentencing on drug charges is harder to find. Often, an individual arrested on a felony drug charge can receive alternative sentencing rather than an outright conviction. However, increased rates of arrests of minorities leads to increased opportunities for felony drug convictions.

After careful consideration, the Commission voted unanimously that, based on the evidence, felony drug convictions likely have a discriminatory impact on minorities and those with lower socio-economic status. As such, the Commission believes that under certain conditions ordinance changes that could lessen the discriminatory impact of felony drug convictions would be appropriate.

Please do not hesitate to contact me if you have any questions.

Thank you.

Gabriel Scott Dean
Chair, Human Rights Commission

July 27, 2013

To: Mayor Bob McDavid
Members of the Columbia City Council

From: Michael Szewczyk, MD
Lynelle Phillips, MPH, RN
Board of Health

Re: Council Bill No. B 71-14 amending Chapter 16 of the City Code as it relates to marijuana

Recommendations

The Board of Health recommends against passage of Council Bill No. B 71-14, the proposed amendment to Chapter 16 of the City Code as it relates to marijuana

Discussion

At the request of the City Council, the Board of Health reviewed the proposed changes to Chapter 16, which would expand the current ordinance that limits criminal penalties for the possession of less than 35 grams of marijuana. The amended ordinance would allow for the cultivation and possession of up to 6 marijuana plants. Seriously ill individuals in possession of up to 6 plants would not be arrested, prosecuted or punished in municipal court if they have a doctor's recommendation that they use marijuana. For those individuals who do not have a physician's recommendation, cultivation or possession of up to 6 plants would be unlawful but the person would not be arrested or taken in to custody and would be issued a summons. The maximum penalty in municipal court would be a fine of up to \$250.00.

As part of its deliberations, the Board of Health (Board) had two meetings in conjunction with the Substance Abuse Advisory Commission (Commission), which will issue its own report to the Council. At the first combined meeting, a public hearing was held. The Board and Commission heard from Mr. Dan Viets, the author of the amendment. We also heard testimony from 17 other persons. Comments included 10 in favor of the amendments, 5 against and 2 that were indeterminate. At the second combined meeting, the Board and Commission heard from City, County and University law enforcement as well as the City attorney, municipal prosecutor and the State public defender.

In addition to these meetings, Board members reviewed emails from interested parties and many articles provided by advocates, proponents and other Board and Commission members. These included scientific studies, opinion pieces and reports regarding the impact of legalization of marijuana in Colorado and Washington. All information that was submitted was posted to a web page on the City's website which could be accessed by all interested parties. It can be accessed at: <http://www.gocolumbiamo.com/Health/marijuana.php>

In total, 10 out of 11 Board members provided an opinion that the City Council should not pass the proposed amendment. Reasons cited included:

- **Inconsistency with state law.** Regardless of the City Ordinance, growing even one marijuana plant is a felony offense in Missouri. State, County, University and City law enforcement made it very clear that growing marijuana or possession of any plants would be referred to State Court for potential felony prosecution. In addition, if grown in a home with children or within 2000 feet of a school, which would include the University of Missouri campus, it could be prosecuted as a Class A felony and be subject to mandatory minimum drug offense sentencing.
- **Misconception of immunity from State law.** Multiple Board members expressed concern that the amendments would provide a sense that it was okay to grow marijuana in Columbia, especially among students at the University, not recognizing that University Police are obliged to follow State law. This will result in the matter being referred to State Court for felony prosecution despite the presence of a City ordinance. Not only would students potentially and unwittingly wind up felons, it was noted that this could impact college recruitment and potential employers, which would ultimately negatively impact Columbia's reputation and economy.
- **Potential conflict with City ordinance.** The current ordinance, which was the result of a voter referendum, is working well. Even if an individual is arrested by a County or State officer and taken to State Court, possession of less than 35 grams is just a misdemeanor offense. However, 6 marijuana plants may produce pounds of marijuana. If the plants were processed and buds were stored in plastic bags in amounts over 35 grams, this could result in a felony possession according to the City ordinance.
- **Intent to distribute.** According to expert testimony, cultivation of 6 plants of marijuana with a four month plant cycle could result in up to 18 plants a year, producing pounds of marijuana. This would dramatically increase the amount of marijuana circulating in the community, which would inevitably reach adolescents and impact public health. While growing the plants would not be a felony under City ordinance, law enforcement reported that even giving away part of your cultivated plant puts one at risk for felony drug dealing. The legal line between producing several pounds of marijuana and "intent to distribute" would be quite ambiguous and up to the discretion of the law enforcement, who would likely follow state law.
- **Lack of regulation and infrastructure.** There is no infrastructure or regulations to support the implementation of the amended ordinance. For example, is a physician's recommendation verbal or written? Does it expire? Is the City going to issue medical marijuana cards or licenses to grow? What constitutes a plant? Do the buds need to stay on the stalk? Do plants need to be secure? Can they be grown in the back yard? Is there a limit on the number plants that can be grown in a household? If 3 students in an apartment have an 18 plant grow operation, will there be inspections of electrical connections, the high wattage lights, the chemicals used or for the presence of mold? Would you be allowed to grow with children in the house? All of these are known health concerns related to growing operations.

- **Surrogate growers.** It was noted that frequently those who are seriously ill are not physically able to grow marijuana. The amendment does not provide for a care giver to be able to cultivate the marijuana, nor would a care giver be able to legally transport the marijuana plant or buds from one residence to another.

Some of the Board members were sympathetic to the need for decriminalization of possession of marijuana. Most agreed that marijuana might have medicinal uses, which should be identified through appropriate clinical research. That said, there was a clear consensus that further decriminalization or legalization is best accomplished on a statewide basis with due consideration for the development of the necessary infrastructure to support such a program, including specific provisions to protect youth. Since Columbia is a community that attracts and hosts tens of thousands of youth every year, several Board members were not in favor of an ordinance specific to Columbia because of the potential impact on adolescent health. A statewide policy could include specific regulations to protect youth, such as those in place for tobacco and alcohol.

Marijuana is a drug and even if one considers it beneficial to legalize its use, it is imperative to recognize that its abuse can have significant public health ramifications. Recognizing this, Colorado and Washington State spent months developing and putting in place their regulations.

It was understood from the discussion with law enforcement and the prosecutor that this amendment would be confusing and ambiguous, not just for the police but for the citizens as well. Rather than further decriminalizing possession of marijuana for medical use, given current State law, it could have the opposite effect, and result in felony arrests of youth and citizens who actually intended to follow the City Ordinance. This would be devastating for students and residents who believed it was “okay” to cultivate marijuana in Columbia.

Based on the evidence, the testimony and the public health implications, the Board concluded that the current ordinance works well and it should be left unchanged.



CITY OF COLUMBIA, MISSOURI

Disabilities Commission

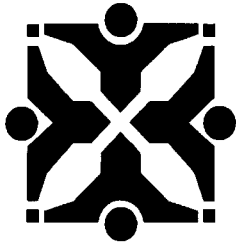
July 28, 2014

RE: Disability Discussion of Proposed Medical Marijuana Ordinance

Adam:

The Disabilities Commission did not take a position on the proposed medical marijuana ordinance. After the presentation and discussion, I asked if anyone would like to make a motion in support or in opposition and no motion was made. While evidence gathered by the Commission tends to support that it is potentially beneficial for medical uses for people with disabilities, the members generally felt they lacked the professional capacity to make a recommendation one way or the other.

Chuck Graham
Chair
Columbia Disabilities Commission



Source: Law

706

Agenda Item No: B 74-14

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 #	

MOTION TO AMEND:

MADE BY: _____

SECONDED BY: _____

MOTION: I move that Council Bill B 74-14 be amended as set forth on this amendment sheet.

=====

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

Sec. 16-255.1(b) is amended as follows:

Sec. 16-255.1. Medical marijuana.

...

“(b) Seriously ill adults and seriously ill persons under the age of eighteen (18) only with the specific consent and supervision of a parent or legal guardian who obtain possess thirty-five (35) grams or less of marijuana or cultivate no more than two (2) 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. No person shall possess more than thirty-five (35) grams of harvested marijuana in addition to no more than two (2) marijuana plants. Designated caregivers in the case of seriously ill patients who are unable to cultivate marijuana plants themselves or for patients who require assistance in the administration of medical marijuana shall also not be subject to arrest, prosecution, punishment or sanction for possessing and/or cultivating said marijuana for the patient. Said marijuana plants are to be grown indoors and not in any outdoor location and shall be in a locked enclosure not accessible to children. 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 no more than two (2) marijuana 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 person ~~adult~~ is also charged with a felony offense arising from the same set of facts and circumstances. The term "seriously ill persons ~~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.”

...

MOTION TO AMEND:

MADE BY: _____

SECONDED BY: _____

MOTION: I move that Council Bill B 74-14 be amended as set forth on this amendment sheet.

=====

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

Sec. 16-255.2(a) and (b) are amended as follows:

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, ~~for possession and/or for the cultivation of no more than two (2) 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 no more than two (2) marijuana plants. No person shall possess more than thirty-five (35) grams of harvested marijuana in addition to no more than two (2) 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/or possession of no more than two (2) 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). Said marijuana plants are to be cultivated indoors and not in any outdoor location and shall be in a locked enclosure not accessible to children. 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.”

...

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