

BILL NO. 10-13-2023 (1)

ORDINANCE NO. 1354

**AN ORDINANCE OF THE CITY OF MOUND CITY, MISSOURI, AMENDING THE CODE OF ORDINANCES REGARDING MARIJUANA.**

**WHEREAS**, effective December 6<sup>th</sup>, 2018, the Missouri Constitution was amended by adding Article XIV, Section 1, pertaining to medical marijuana; and

**WHEREAS**, effective December 8<sup>th</sup>, 2022, the Missouri Constitution was further amended by adding Article XIV, Section 2, regarding recreational marijuana; and

**WHEREAS**, it is necessary to amend the ordinances of the City to conform to the provisions of the Constitution.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF MOUND CITY, MISSOURI, AS FOLLOWS:**

**SECTION 1.** The Code of Ordinances of the City of Mound City is hereby amended by repealing the current Chapter 135 Personnel in its entirety and replacing it to read as follows:

**Chapter 135 Personnel**

**Article I Drug and Alcohol Policy**

**Section 135.010 Policy.**

- A. Under Federal law the City is required to provide its employees with a drug-free workplace. The City recognizes that drug and alcohol abuse are disorders which can be treated. It is the purpose of the City to encourage employees to seek prompt professional assistance in order to resolve drug and alcohol abuse problems before work performance is affected. The City intends to give the same consideration to employees who suffer from drug or alcohol abuse as it would give to employees suffering from any other illness or injury, subject to the further provisions of this Article.
- B. To meet these goals, it is the policy of the City of Mound City to insure that its employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner; to create a work place environment free from the adverse effects of alcohol and drug abuse or misuse; and to encourage employees to seek professional assistance when personal problems, including alcohol and drug dependency, adversely affect their ability to perform assigned duties.

**Section 135.020 Purpose.**

The purpose of this policy is to assure worker fitness for duty and to protect employees and the public from the risks posed by the impairment of alcohol and drugs. It is also the purpose of this policy to comply with all applicable Federal and State regulations governing drug-free workplace and the programs mandated under the above-noted acts. These acts mandate urine drug testing and breathalyzer alcohol tests for safety-sensitive positions and DOT regulated positions and prevent performance of safety-sensitive functions when there is a positive test result. The Federal

law also establishes standards for collection and testing of urine and breath specimens, the reporting of certain drug-related offenses, protective measures for certain employees tested, for the preservation of confidentiality and for certain reporting.

**Section 135.030 Applicability.**

This policy applies to all City employees. However, upon approval from the Board of Aldermen the City may remove the pre-employment drug screening requirement as a whole, with the exception of safety-sensitive positions or DOT regulated positions or for employees who perform safety-sensitive functions as these persons and activities are defined in the Omnibus Transportation Employee Testing Act and its implementing regulations including, but not limited to, persons who are required to possess a CDL license for the operation of a commercial vehicle and all law enforcement personnel.

**Section 135.040 Definitions.**

As used in this Chapter, the following terms shall have these prescribed meanings:

**ALCOHOL**

Alcohol consumed for beverage purposes; alcoholic, spirituous, vinous, or fermented, malt, or other liquors; a combination of liquors, a part of which is spirituous, vinous, or fermented; and all preparations or mixtures for beverage purposes containing alcohol.

**ALCOHOL-RELATED or DRUG-RELATED OFFENSE**

Any violation of a State statute or local ordinance which involves physically driving or operating or being in actual physical control of a motor vehicle while under the influence of alcohol, an illegal drug or controlled substance, or drug, or any combination thereof, or the possession, manufacture, transportation, use or sale of alcohol or drugs which possession, manufacture, transportation, use or sale is prohibited by state or federal statute or local ordinance.

**APPLICANT**

Any individual who has submitted an application for employment with the City, whether written or oral, including any current employee of the City who has submitted an application for a position not currently held by the employee, whether or not being hired into the position would be a promotion for the employee.

**COMMERCIAL VEHICLES**

As defined in the Statutes requiring commercial driver's license.

**DELAY**

Any failure to immediately report to the test site to participate in the required testing under this policy.

**DRUG**

Any controlled substance, alcohol, steroids, and any other drug or medication that can interfere with employment performance.



## **EMPLOYEE**

Any person being paid directly by the City to perform services for the City-on- City property or under supervision by the City, including individuals performing services directly under contract with the City, and any person paid by another entity to perform work on City property and who is directly supervised by City staff, whether full-time or part-time, and whether temporary, probationary or permanent.

## **ILLEGAL DRUG**

Any drug which is (a) not legally obtained, or (b) which is legally obtainable but has not been legally obtained. This definition further includes any drug requiring a medical prescription, to include medical marijuana as allowed for by State law (for non-DOT regulated positions), for which an employee does not have a lawful medical prescription; and any other drug listed as controlled substances in schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812), and further defined in regulation 21 CFR 1308.11-13.08.15. (This definition explicitly excludes the legal use under Missouri State Law of Medical Marijuana for non-DOT regulated positions).

## **IMPAIRED EMPLOYEE**

Any employee who exhibits behavior in the workplace which gives the employee's supervisor reasonable cause to believe that the employee is unable to perform the essential functions of his or her job as a result of drug or alcohol use, or whose behavior while conducting business for the City gives an HR representative or a Supervisor, who have completed the required training on identifying the symptoms of alcohol or drug impairment, or a law enforcement officer reasonable cause to believe the employee is under the influence of alcohol or illegal drugs or impaired by the use of alcohol or drugs (legal or illegal), or whose behavior when reporting for a work-related physical gives the attending physician reasonable cause to believe that the employee is under the influence of alcohol or illegal drugs or impaired by the use of alcohol or drugs (legal or illegal).

A. Reasonable cause to believe that an employee is impaired by drugs or alcohol may consist of:

1. a severe decline in job performance;
2. abnormal or erratic behavior;
3. actions exhibiting impaired judgment or reflexes;
4. direct observation of drug or alcohol possession or use;
5. physical symptoms of drug or alcohol use, such as glassy or bloodshot eyes, odor of intoxicants on breath, slurred speech, poor balance, poor coordination, dilated pupils or impaired reflexes;
6. an accident where the employee's impairment appears to be a contributory factor;

7. behavior which creates a risk of injury to the employee, co-workers, the public or property;
8. behavior which disrupts the conduct of City business;
9. or any other symptom or combination of symptoms covered in required alcohol or drug impairment training but not specifically mentioned in this section.

#### LEGAL DRUG

Both prescribed, over the counter, and those drugs deemed legal by State or Federal law, which have been obtained in a legal manner.

#### MOTOR VEHICLE

Any self-propelled vehicle.

#### NEGATIVE DRUG TEST

Initial testing or confirmation testing does not show evidence of an Illegal Drug or any drug that could disqualify the individual from holding their current position of employment or obtaining employment with the City.

#### POSITIVE DRUG TEST

A confirmation drug test shows positive evidence of the presence of an Illegal Drug or any drug that could disqualify the individual from holding their current position of employment or applying for.

#### SAFETY SENSITIVE FUNCTION

Any of those on-duty functions set forth in 49 CFR 395.2, including, but not limited to, waiting to be dispatched; inspecting, servicing, or conditioning a commercial motor vehicle; all driving time; all time in or upon any City motorized vehicle; all time loading and unloading a vehicle; and all time repairing, obtaining assistance, or remaining with a disabled vehicle. For the purposes of this policy, safety-sensitive functions shall also include operation of any motor-driven equipment whether or not such operation requires a CDL.

#### SAFETY SENSITIVE POSITION

DOT-regulated positions, any position that requires the regular performance of safety sensitive tasks, and any position involving the performance of duties that could have a direct and immediate impact on the safety of the public and other public employees, including, but not limited to operating a City vehicle, operating a personal vehicle while engaging in City business, operating motor-driven equipment, working directly with children, guarding a pool or waterfront, working with power tools, equipment, or machinery, working with hazardous or caustic chemicals, or performing a function where



significant injury could result from employee error. Examples include, but are not limited to CDL drivers, police officers, emergency medical service providers, firefighters, law enforcement officers, any position of which public safety emergency dispatch operations are, or may be, required, childcare providers, lifeguards, chemists, and any position which involves the regular performance of safety sensitive functions.

## **SUBSTANCE ABUSE**

The use of any substance (alcohol, legal and illegal drugs) to the degree that the user experiences physical, emotional or social complications which threaten the health, safety, well-being or performance of the individual or fellow employees.

## **UNDER THE INFLUENCE**

Employees detected with drugs (legal or illegal) within the established limits. Employees will be deemed under the influence of alcohol where the alcohol level is at or above .02 percent. Federal regulations require breath testing to be done on evidential breath testing devices approved by the National Highway Safety Administration. An initial screening test is conducted first (1st). Any result that is less than two-hundredths (0.02) blood alcohol concentration is considered negative. If the blood alcohol concentration is two-hundredths (0.02) or greater, a second (2nd) confirmatory test must be conducted. Any employee who tests with a blood alcohol concentration of two-hundredths (0.02) or greater shall be removed from service for at least twenty-four (24) hours.

### **Section 135.050 Policy Administrator.**

- A. Unless otherwise designated by the Mayor of the City of Mound City in writing, the Mayor shall be designated as the Controlled Substance and Alcohol Policy Administrator for the City of Mound City. Any inquiries concerning this policy, its application, its administration or its interpretation shall be made to the Policy Administrator.
- B. The City of Mound City shall designate a position to be identified to the public and to employees whose incumbent is the primary person responsible for implementation and administration of this policy under the supervision of the Mayor, if the person is not the chief administrator of the jurisdiction.
- C. The Policy Administrator shall develop and maintain a current list of the positions that are governed by this policy. The list shall be available for inspection in the office of the City Clerk of the City of Mound City. Individuals who are applying for positions with the City of Mound City and affected employees shall be notified of the positions that are covered by this policy.
- D. The Policy Administrator shall develop all forms necessary to carry out the provisions of this policy, unless the forms are provided under the Federal regulations. The forms shall be provided to appropriate persons who are responsible for the implementation and management of this policy.

### **Section 135.060 Use, Possession or Sale of Alcohol and/or Drugs Prohibited**

- A. Employees are forbidden to report for work while under the influence of alcohol or illegal drugs or impaired by the use of alcohol or drugs (legal or illegal). Employees are forbidden to use or possess alcohol or drugs or be under the influence of alcohol or illegal drugs or impaired by the use of alcohol or drugs (legal or illegal) on City premises, while using City equipment, while performing City business, or during working hours, except for over-the-counter medications taken as per package directions or medications prescribed by a treating physician. No employee shall manufacture, sell, distribute, or dispense alcohol or drugs while on City premises or during the employee's working hours. This paragraph, however, shall not be applied so as to prevent the consumption or possession of alcohol or the possession of illegal drugs by any police officer when such consumption or possession is necessarily incident to the performance of his or her duties as a police officer. Any employee convicted of, or who pleads guilty to, an alcohol-related or drug-related offense occurring on City premises, while using City equipment, while performing City business or during the employee's working hours, must notify the Personnel Department no later than five days following such conviction or guilty plea, regardless of the sentence imposed. Failure to notify the Personnel Department of such conviction or guilty plea can be cause for termination. Any person convicted of, or who pleads guilty to, an alcohol-related or drug related offense occurring while on City premises, or on City business, or during the employee's working hours may be subject to discipline up to and including termination.
- B. Any employee who is consuming a prescribed or authorized controlled substance or other substance of any kind whose side effects may inhibit or impair the employee's performance shall provide written notice to the Policy Administrator of such consumption upon reporting to work and prior to engaging in any work-related activity, or earlier if possible. Failure to report shall be cause for disciplinary action up to and including termination from service.
- C. Any employee found to be in violation of any portion of this Chapter will be subject to disciplinary action up to and including termination.

**Section 135.070 Submission to a Drug Test Required.**

The City may require testing of an employee or applicant under the circumstances set out below. Such testing may include blood testing, breath analysis, and urinalysis.

**A. Pre-employment Testing.**

- 1. Every new applicant for a position with the City will be required to submit to a test for illegal drugs prior to employment with the City.
- 2. When any City employee is promoted or rehired to any of the positions listed below, that employee will be required to submit to a test for illegal drugs.
  - a. Police Department: Police Chief, Assistant Police Chief, Police Major, Police Captain, Police Sergeant, Police Corporal, Police Officer, Lead Police Dispatcher, Police Dispatcher, Warrant Service Officer, Police Detention Officer, Parking Enforcement Officer, Police Identification



Officer, Police Evidence Technician, Police Chemist, Property Clerk, Reserve Police Officer.

- b. Fire Department: Fire Chief, Assistant Fire Chief.
- c. All positions in which the employee must maintain a commercial driver's license as a condition of his or her employment with the City.
- d. The director and assistant director of any City department, the City Manager, and Assistant City Manager(s).
- e. Any position for which a pre-employment physical examination is required.
- f. Any position deemed a Safety Sensitive Position.

- 3. When any position which requires drug testing as part of the hiring process is posted or advertised, the posting or advertisement shall state that drug testing will be required as part of the hiring process.

**B. Unscheduled (Random) Testing.** Employees in the job positions listed below will be subject to unscheduled (random) testing. Individual employees will be selected for unscheduled testing on a random basis by use of a computerized random selection software process under the direction and control of the Personnel Department. In the selection process, employees will be identified by a number, with no reference to their name.

- 1. Police Department: Police Chief, Assistant Police Chief, Police Major, Police Captain, Police Sergeant, Police Corporal, Police Officer, Lead Police Dispatcher, Police Dispatcher, Warrant Service Officer, Police Detention Officer, Parking Enforcement Officer, Police Identification Officer, Police Evidence Technician, Police Chemist, Property Clerk, Reserve Police Officer.
- 2. All positions in which the employee must maintain a commercial driver's license as a condition of their employment with the City.
- 3. Any employee who has been convicted of or pleaded guilty to a drug or alcohol related offense may be subject to a reasonable program of unscheduled drug and/or alcohol testing for 12 months immediately following the conviction, guilty plea or return to work.
- 4. Any position deemed a Safety Sensitive Position.

**C. Reasonable Cause.** Any employee may be directed to report for drug and/or alcohol testing when the employee's supervisor has reasonable cause to believe that the employee is an impaired employee. A supervisor making a reasonable cause referral must fill out a physical condition report before making the referral. The report shall be taken immediately to the Director of Personnel for approval of the referral. The Director of Personnel shall make the contents of the report available to the testing agency. A videotape or audiotape recording, or other nonintrusive physical documentation (such as photographs) of an employee's behavior may be made for purposes of substantiating a

reasonable cause determination. The employee must be informed that the videotape or other physical documentation is being made.

D. **Post-Accident.** Any employee may be directed to report for drug and/or alcohol testing when the employee has been involved in a work-related accident or incident:

1. while the employee was operating a motor vehicle while on City business, or
2. where there is reasonable cause to believe that the employee was an impaired employee at the time of the accident.

**Section 135.080 Drugs to be Tested For.**

When any employee or applicant is required to be tested under the provisions of this policy, the test may include screening for any one or more of the following drug groups:

Drug Group	Examples
Alcohol	
Amphetamines/Methamphetamines	Speed, Crank, Crystal, Preludin, Bennies
Barbiturates	Amobarbital, Butobarbital, Phenobarbital, Secobarbital Downers, Red Devils, Barbs, Goof Balls
Cocaine	Coke, Crack, Flake, Snow
Opiates	Codeine, Heroin, Morphine, Hydromorphone, Hydrocodone
Phencyclidine	PCP, Angel Dust, Wack, Water
Cannabinoids (THC)	Pot, Marijuana, Hash

**Section 135.090 Refusal to Consent to and Submit to Testing.**

An applicant who refuses to submit to a drug and/or alcohol test will not be hired for the position for which the applicant has applied. An employee who refuses to submit to any drug and/or alcohol test required under this policy is subject to disciplinary action up to and including termination. The reason(s) for the refusal shall be considered in determining the appropriate disciplinary action.

**Section 135.100 Drug Testing Procedure.**

- A. Consent. Before a drug and/or alcohol test is administered, the employee or applicant to be tested will be required to sign a form provided by the testing agency authorizing the test and permitting release of test results to the City Personnel Director. The form will contain space for the employee or applicant to indicate current or recent use of a Legal Drug, prescription drug, or over-the counter medication and may direct the testing agency to contact the employee's treating physician for further information about the employee's use of such medication. This form shall not relieve the testing agency from liability for any damage the employee or the City might suffer as a result of the negligence of the testing agency. Further, the admission of a Legal Drug, prescription drug, or over-the-counter medication will not negate position specific requirements as pertaining to Legal Drug use.



- B. Drug Testing Laboratory. When drug and/or alcohol testing is performed using urine or blood samples, the testing of the samples will be performed only by independent drug testing laboratories accredited by the National Institute on Drug Abuse (NIDA). Urine and blood samples will be taken at a site off City premises, as designated by the testing laboratory.
- C. Chain of Custody. The chain of custody of any blood or urine sample which is collected shall be protected by a drug testing custody and control form.
- D. Urine Testing. The urinalysis test will consist of both an initial screening test and a confirmation test (to be administered if the screening test results are positive). Test methods used will be those methods approved by the State of Missouri Department of Health as set out in the Missouri Code of State Regulations.
- E. Blood Testing. Blood specimens will be analyzed by using the Gas Chromatography Mass Spectroscopy (GCMS) test, or any other method approved by the State of Missouri Department of Health as set out in the Missouri Code of State Regulations.
- F. Breath Analysis. A Breath analysis may be used where reasonable cause is found to believe that an employee is under the influence of alcohol at work. Such test shall be conducted in the manner set out in the Missouri Code of State Regulations.
- G. Tampering with Testing Sample. If it is determined that an employee has tampered with or adulterated a testing sample, or submitted a false sample, the employee will be terminated. An applicant who has tampered with or adulterated a test sample, or who has submitted a false sample, will not be hired by the City.

**Section 135.110 Confidentiality of Testing Information.**

- A. All information regarding the testing of applicants and employees shall be a closed record. Laboratory and test results shall not be placed in an employee's general personnel file but shall be kept in separate folders that will be kept under lock and key under the control of the Director of Personnel, or any person serving in that capacity by approval of the City Manager. Test results will be released to the tested employee, upon the employee's request. Test results may be released to the following persons to the extent necessary for them to carry out their duties with the City: The employee's department director, the City Manager, a hearing officer appointed as part of the City's formal grievance procedure, the Law Department, the Personnel Board, and the City Council.
  - 1. Disclosure without employee consent is also authorized if:
    - a. Production of the information is compelled by law, or by judicial or administrative process;
    - b. the information has been placed at issue in a formal dispute between the City and the employee;
    - c. the information is to be used in administering an employee benefit plan; or
    - d. the information is needed by medical personnel for the diagnosis

### **Section 135.120 Consequences of a Positive Drug and/or Alcohol Test Result.**

- A. Applicants.** Job applicants will be denied employment with the City if drug and/or alcohol tests administered pursuant to this policy show:
  - 1. That the applicant is under the influence of alcohol; or
  - 2. the applicant has a confirmed positive test for the presence of an Illegal Drug; or
  - 3. the applicant has a confirmed positive test for any drug that would disqualify the applicant from the position applied for.
- B. Employees.** If an employee is found to be under the influence of alcohol or has a confirmed positive test result for an Illegal Drug or any drug that would disqualify the employee from their current position, the employee is subject to disciplinary action up to and including termination. An employee may be removed from duty with pay pending receipt of the results of any test administered under this policy. Factors to be considered in determining the appropriate disciplinary response include the employee's work history, length of employment, current job performance, severity of the employee's drug and/or alcohol problem as related to job duties, the employee's willingness, and ability to participate in a drug and/or alcohol rehabilitation program, and the existence of past disciplinary actions.

### **Section 135.130 Medical Review Officer.**

- A.** The City will provide an independent medical review officer, who will be a licensed physician with knowledge of substance abuse disorders, to review confirmed positive test results of an employee or applicant for the presence of a drug tested for under this policy that would disqualify the employee from their current position.
- B.** The medical review officer will review and interpret the test results and will examine alternate medical explanations for any positive test result. This action could include:
  - 1. conducting a medical interview with the employee;
  - 2. review of the employee's medical history; and
  - 3. review of any other relevant biomedical factors. The medical review officer will review all medical records made available by the employee when a confirmed positive test could have resulted from legally prescribed medication. The medical review officer will not, however, consider the results of blood or urine samples that are not obtained or processed in accordance with this policy.
- C.** The medical review officer will determine whether the employee's confirmed positive test result is:
  - 1. Verified;
  - 2. consistent with legal drug use; or
  - 3. scientifically insufficient.

*If the medical review officer determines that a test result is consistent with legal drug use or scientifically insufficient it shall be treated as a negative drug test by the City.*



### **Section 135.140 Temporary Impairment Due to Use of Prescribed Drugs.**

Employees who must use a prescription drug that causes adverse side effects, such as drowsiness or impaired motor skills, must inform their supervisor that they are taking such medication on the advice of a physician. The supervisor may place the employee on sick leave or temporarily assign the worker to different duties, as the best interest of the service may dictate.

### **Section 135.150 Disciplinary Issues.**

- A. Unless otherwise specified in this policy, the City of Mound City policies related to disciplinary action shall be followed when imposing discipline for violation of this policy.
- B. The acceptance by an employee of the rehabilitation assistance plan and contract does not serve as a bar to imposing disciplinary action related to violations of this policy.
- C. Any supervisor or manager who knowingly permits an employee to violate this policy or engage in work activity while consuming alcohol or a controlled substance or fails to enforce this policy shall be subject to immediate termination from employment.
- D. This policy does not displace any other penalties that may be imposed or be incurred as a result of violation of the City of Mound City policy or State and Federal laws or as provided in the Workers' Compensation laws.

### **Section 135.160 Coordination With Other Laws and Policies.**

- A. This policy shall be administered in compliance with other Federal, State and local laws related to employee health and welfare policies, leave policies, benefit programs and other related policies of the City of Mound City. In the case of apparent conflicts between this policy, other policies and applicable laws, the Policy Administrator shall make the appropriate rulings to resolve the potential conflicts whenever possible.
- B. In the event that any part of this policy is judicially determined to be in conflict with any law or to be in violation of any law or is rendered ineffective because of some State or Federal legislative enactment, that part(s) shall be void, but the remainder of the policy shall remain in effect. Parts that are void or voided shall be replaced as soon as possible so as to maintain the full effect of this policy and/or to bring it into compliance with relevant laws.

### **Section 135.170 Amendments.**

This policy is subject to amendment by the City of Mound City from time to time. Amendments that are made shall be provided to employees upon adoption and shall become effective as provided by the Policy Administrator.

## **Article II Employees' Retirement System**

### **Section 135.180 Missouri Local Government Employees' Retirement System**

- A. The City of Mound City is a "political subdivision" as defined in Sections 70.600 through 70.670, RSMo., and hereby elects to have covered by the Missouri Local Government

Employees' Retirement System all of its eligible present and future general employees excepting Policemen and firemen.

- B. The City of Mound City hereby elects that one hundred percent (100%) of prior employment be considered for prior service credit in computing benefits and contributions to the system.
- C. The City of Mound City hereby elects to adopt no change in the contributions from covered employees, keeping the requirement of four percent (4%) of gross salary and wages as contributions from covered employees in accordance with the provisions of Sections 70.705 and 70.730, RSMo., as amended.
- D. The City of Mound City hereby elects to adopt no change in the method of determining a member employee's final average salary, changing to a thirty-six (36) consecutive-month period for determining a member employee's final average salary in accordance with Sections 70.600 and 70.656, RSMo., as amended.
- E. The City of Mound City hereby elects to adopt a change in the Benefit Program of member employees, changing to Benefit Program L-6 (2.00%) in accordance with Section 70.655, RSMo.
- F. The City of Mound City hereby elects to adopt no change in the Retirement Age Provision of covered employees, keeping member employees Option of Retirement upon attaining minimum service retirement age in accordance with Sections 70.600, 70.645 and 70.646, RSMo.
- G. The City Clerk shall certify this election to the Missouri Local Government Employees' Retirement System within ten (10) days hereof.

**SECTION 2:** The Code of Ordinances of the City of Mound City is hereby amended by repealing Chapter 220 Article XI Offenses Concerning Drugs in its entirety and replacing it read as follows:

### **ARTICLE XIII OFFENSES CONCERNING DRUGS**

#### **Section 210.1800 Definitions.**

As used in this Chapter, the following terms shall mean:

#### **ADMINISTER**

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:

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

#### **CONTROLLED SUBSTANCE**

A drug, substance or immediate precursor in Schedules I through V listed in Chapter 195, RSMo.



## **DELIVER or DELIVERY**

The actual, constructive or attempted transfer from one (1) 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.

## **DEPRESSANT OR STIMULANT SUBSTANCE**

- A. A drug containing any quantity of barbituric acid or any of the salts of barbituric acid or any derivative of barbituric acid which has been designated by the United States Secretary of Health and Human Services as habit forming under 21 U.S.C. Section 352(d);
- B. A drug containing any quantity of:
  - 1. Amphetamine or any of its isomers;
  - 2. Any salt of amphetamine or any salt of an isomer of amphetamine; or
  - 3. Any substance the United States Attorney General, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system;
- C. Lysergic acid diethylamide; or
- D. Any drug containing any quantity of a substance that the United States Attorney General, after investigation, has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

## **DISPENSE**

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**

To deliver other than by administering or dispensing a controlled substance.

## **DRUG**

- A. Substances recognized as drugs in the official United States or Official National Formulary or any supplement to any of them;
- B. Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;
- C. Substances other than food, intended to effect the structure or any function of the body of humans or animals; and
- D. 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**

- A. 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, 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. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances or imitation controlled substances;
  8. 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;
  9. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or imitation controlled substances;
  10. 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;



11. Objects used, 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:
  - 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, except those for use with 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;
  - n. Substances used, intended for use, or designed for use in the manufacture of a controlled substance.

B. 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:

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 or imitation controlled substance;
3. The proximity of the object, in time and space, to a direct violation of this chapter or Chapter 579, RSMo.;
4. The proximity of the object to controlled substances or imitation controlled substances;
5. The existence of any residue of controlled substances or imitation

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/she knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter or Chapter 579 RSMo.; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter or Chapter 579, RSMo., 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;
15. 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;

## **HALLUCINOGENIC SUBSTANCES**

Including lysergic acid diethylamide, mescaline, psilocybin, and various types of methoxyamphetamines.

## **“IMITATION DRUG” OR “IMITATION CONTROLLED SUBSTANCE”**

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:

- A. Whether the substance was approved by the Federal Food and Drug Administration for over-the-counter (non-prescription or non-legend) sales and was sold in the Federal Food and Drug Administration-approved package, with the Federal Food and Drug Administration-



approved labeling information:

- B. 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;
- C. Whether the substance is packaged in a manner normally used for illicit controlled substances;
- D. 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;
- E. The proximity of the substances to controlled substances;
- F. Whether the consideration tendered in exchange for the non-controlled 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 non-controlled substance that was initially introduced in commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to imitate. Furthermore, 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**

Persons required to obtain annual registration as issued by the State Division of Health as provided by Section 195.030, RSMo.

#### **MANUFACTURE**

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. 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:

- A. 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
- B. By a practitioner or by his/her authorized agent under his/her supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

## **MARIJUANA**

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; and every compound, manufacture, sale, 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.

## **PERSON**

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**

A licensed pharmacist as defined by the laws of this State, 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 this State.

## **PRACTITIONER**

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.

## **PRESCRIPTION**

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 or 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 the practitioner.

## **PRIMARY CAREGIVER**

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 or in other written notification to the Missouri Department of Health and Senior Services.

### **PRODUCTION**

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

### **QUALIFYING PATIENT**

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

### **WAREHOUSEMAN**

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.

### **WHOLESALE**

A person who supplies drug paraphernalia or controlled substances or imitation controlled substances that he himself has not produced or prepared, on official written orders, but not on prescriptions.

#### **210.1810 Possession or Control of a Controlled Substance.**

A person commits the offense of possession of a controlled substance if he or she knowingly possesses a controlled substance or controlled substance analog, as those terms are defined in Section 195.010, RSMo., except as authorized by Chapter 579, RSMo., Chapter 195, RSMo., but excluding the possession of marijuana.

#### **210.1820 Possession and Use of Drug Paraphernalia.**

- A. No person shall use, possess with intent to use deliver, possess with intent to deliver, or manufacture, 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 City ordinance or RSMo. 195.005 to 195.425.
- B. Notwithstanding the preceding language, this offense does not apply to marijuana paraphernalia. Any person violating this section shall be fined not less than one hundred dollars (\$100.00), no more than five hundred dollars (\$500.00), or shall be imprisoned for three (3) months or shall be both signed and sentenced.

#### **210.1830 Residential Cultivation of Medical and Recreational Marijuana.**

- A. To the extent allowed by State law, marijuana for medicinal purposes may be cultivated in a residential structure, provided:
1. The structure is the primary residence of a Primary Caregiver or Qualifying Patient and the marijuana is grown solely for the use of the Qualifying Patient who resides there or who is under the care of the Primary Caretaker.
  2. the residence has operating systems to assure that the emission of fumes or vapors connected with the cultivation are not allowed out of the building, or if the residence is in a multifamily building, that such fumes and vapors are not allowed into any other residence.
- B. To the extent allowed by State law, marijuana for recreational purposes may be cultivated in a residential structure, provided:
1. Cultivation is limited to six flowering, six non-flowering, and six clone plants and must be for non-commercial use.
  2. The residence has operating systems to assure that the emission of fumes or vapors connected with the cultivation is not allowed out of the building, or if the residence is a multifamily building, that such fumes and vapors are not allowed into any other residence.
  3. The cultivation must comply with the requirements of the Department and the person cultivating must have obtained a registration card from the Department.
  4. The plants and any marijuana produced by the plants in excess of three ounces must be kept at one private residence and in a locked place.
  5. Not more than twelve flowering marijuana plants may be kept in or on the grounds of a private residence at one time.
  6. That marijuana plants may not be visible by normal, unaided vision from a public place.
  7. A person who, pursuant to this section, cultivates marijuana plants that are not kept in a locked space is subject to a civil penalty not exceeding two hundred and fifty dollars (\$250.00) and forfeiture of the marijuana.
- C. The cultivation must comply with the security and other requirements of state law and the rules of the Division of Health and Senior Services.

#### **210.1840 Residential Consumption of Marijuana.**

- A. Persons may consume marijuana in their private residence, or in the residence of another with permission, but may not dispense or smoke marijuana in such a manner that the marijuana smoke or odor, exits the residence. If marijuana smoke or odor is capable of being detected by a person of ordinary senses (including but not limited to any police officer) beyond the property line of single-family home or outside of the owned or leased premises of a duplex or multifamily unit there shall be a rebuttable



presumption that this section has been violated. In a multifamily or similar dwelling, medical marijuana may not be dispensed or consumed in any common area.

- B. Violations of this provision shall be punishable by a fine not to exceed One Hundred Dollars (\$100.00).

#### **210.1850 Illegal Possession, Transportation, or Consumption of Marijuana**

##### **A. Illegal Possession and Transportation of Marijuana.**

1. No person under the age of 21 years may possess, use, ingest, inhale, transport, deliver with or without consideration, marijuana, or marijuana paraphernalia, except that qualified patients under the age of twenty-one years (21) years may possess medical marijuana or paraphernalia to the extent allowed by law.
2. No person may possess more than three ounces (3 oz) of recreational marijuana nor more than allowed by law of medical marijuana.

##### **B. Possession or Consumption Prohibited on Certain Property.**

1. It shall be unlawful for a person to be in possession or consumption of marijuana or possession of 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 correctional facility.

#### **210.1860 Illegal Use, Possession, Purchase, and Inducement Pertaining to Solvents.**

##### **A. Inhalation Or Inducing Others To Inhale Solvent Fumes To Cause Certain Reactions, Prohibited — Exceptions.**

1. No person shall intentionally smell or inhale the fumes of any solvent, particularly toluol, amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite and propyl nitrite and their iso-analogues 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. Inducing, Or Possession With Intent To Induce, Symptoms By Use Of Solvents And Other Substances, Prohibited.**

1. As used in this Section, "alcohol beverage vaporizer" means any device which, by means of heat, a vibrating element, or any method, is capable of producing a breathable mixture containing one (1) or more alcoholic

beverages to be dispensed for inhalation into the lungs via the nose or mouth or both.

2. 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 or abuse of any of the following substances:
  - a. Solvents, particularly toluol;
  - b. Ethyl alcohol;
  - c. Amyl nitrite and its iso-analogues;
  - d. Butyl nitrite and its iso-analogues;
  - e. Cyclohexyl nitrite and its iso-analogues;
  - f. Ethyl nitrite and its iso-analogues;
  - g. Pentyl nitrite and its iso-analogues; and
  - h. Propyl nitrite and its iso-analogues.
3. This Section shall not apply to substances that have been approved by the United States Food and Drug Administration as therapeutic drug products or are contained in approved over-the-counter drug products or administered lawfully pursuant to the order of an authorized medical practitioner.
4. No person shall intentionally possess any solvent, particularly toluol, amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite and propyl nitrite and their iso-analogues for the purpose of using it in the manner prohibited by this Section.
5. No person shall possess or use an alcoholic beverage vaporizer.
6. Nothing in this Section shall be construed to prohibit the legal consumption of intoxicating liquor.

**C. Possession Or Purchase Of Solvents To Aid Others In Violations, Prohibited — Violations Of This Section — Penalty. [1]**

1. No person shall intentionally possess or buy any solvent, particularly toluol, amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite and propyl nitrite and their iso-analogues for the purpose of inducing or aiding any other person to violate the provisions of this section.
2. Any person who violates any provision of this Section is guilty of an ordinance violation for the first violation.



*[1] Note: Under certain circumstances this offense can be a felony under state law.*

**210.1870 Public Consumption.**

- A. Smoking marijuana in a location where smoking tobacco is prohibited.
- B. Consumption of marijuana in a public place, other than in an area authorized by the City for that purpose is prohibited.
- C. Restaurants serving food which contains marijuana must register with the City and provide notice on all public entrances and on all menus that certain food contains marijuana.
- D. Violation of this Section shall be punishable by a fine not to exceed One Hundred Dollars (\$100.00) for the first offense and not more than Five Hundred Dollars (\$500.00) as well as confiscation of the marijuana for subsequent offenses.

**210.1890 Marijuana as a Public Nuisance.**

- A. The smell or noxious odor emitted from smoking, consumption, or cultivation of marijuana by a person possessing a valid State-issued license shall be treated as a public nuisance. Any odors emitted from cultivating or consuming marijuana shall be treated as a public nuisance.
- B. It shall be unlawful for any person or entity to cultivate marijuana in such a manner that constitutes a public nuisance. A public nuisance may be deemed to exist if cultivating marijuana produces light, glare, heat, noise, odor, or vibration that is detrimental to public health, safety, or welfare, or interferes with reasonable enjoyment of life and property.

**210.1900 Illegal Growing of Marijuana.**

- A. Possessing, transporting, planting, cultivating, harvesting, drying, processing, or manufacturing more than six flowering marijuana plants, six nonflowering marijuana plants (over fourteen inches tall), and six clones (plants under fourteen inches tall); or
- B. possessing, transporting, planting, cultivating, harvesting, drying, processing, or manufacturing marijuana plants without being registered with the Department of Health and Senior Services for cultivation of marijuana plants; or
- C. failing to keep in excess of three ounces of such plants in a locked space not visible by normal, unaided vision from a public place; or
- D. Growing or possessing such plants by a person under the age of twenty-one years.

**210.1910 Sale of Marijuana to Persons Under Twenty-One.**

No person shall deliver to, transfer to, or sell to persons twenty-one years of age or younger marijuana or marijuana paraphernalia.

**210.1920 Failure To Produce Medical Marijuana Identification.**

Any person who is in possession of medical marijuana shall, immediately upon the request of any law enforcement officer, produce a valid permit issued by the Missouri Department of Health and Senior Services (or its successor) for such possession, including, but not limited to, a qualified patient identification card, a qualified caretaker card, or a similar card issued by another state. Any person who fails to produce such a permit upon request shall be guilty of the offense of failure to produce a medical marijuana permit. Conviction of this offense shall be punishable by a fine not to exceed fifty dollars (\$50.00).

#### **210.1930 Disposal Of Medical Marijuana.**

No person shall dispose of marijuana or marijuana-infused products in an unsecured waste receptacle not in possession and control of the licensee and designed to prohibit unauthorized access.

#### **210.1940 Penalties.**

Subject to the limitations of this chapter, when not in conflict with another subsection, a person who possesses not more than twice the amount of marijuana allowed pursuant to this Chapter, produces not more than twice the amount of marijuana allowed pursuant to this Chapter, 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 this Chapter, or possesses with intent to deliver not more than twice the amount of marijuana allowed by this Chapter:

- A. For a first violation, is subject to an ordinance violation punishable by a fine not exceeding two hundred and fifty dollars (\$250.00) and forfeiture of the marijuana.
- B. For a second violation and subsequent violations, is subject to an ordinance violation punishable by a fine not exceeding five hundred dollars (\$500.00) and forfeiture of the marijuana.
- C. A person under twenty-one years of age is subject to a fine not to exceed two hundred and fifty dollars (\$250.00). Any such person shall be provided with the option of attending up to eight hours of drug education or counseling in lieu of the fine.
- D. 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.
- E. If the violation of this Section involves three ounces of marijuana or less, the penalty shall be punishable by a fine not to exceed One Hundred Dollars (\$100.00)

#### **210.1950 Driving Under the Influence of Marijuana**

A person commits the offense of driving under the influence of marijuana if he/she operates a motor vehicle under the influence of marijuana. Provided however that the presence of marijuana in the defendant's system alone shall not be sufficient proof that the defendant was under the influence of marijuana.

#### **210.1960 Additional Motor Vehicle Offenses Involving Marijuana.**



It shall be unlawful for any person to:

- A. 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.
- B. 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.
- C. Smoke marijuana within a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated.

**SECTION 3:** The Code of Ordinances of the City of Mound City is hereby amended by adding the following language to Chapter 405 Zoning Regulations Section 405.070 Definitions of Words:

#### **COMPREHENSIVE MARIJUANA CULTIVATION FACILITY**

A facility licensed by the department to acquire, cultivate, process, package, store on-site or off-site, transport to or from, and sell marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones) to a marijuana dispensary, a marijuana testing facility, or a comprehensive marijuana-infused products manufacturing facility. A comprehensive marijuana cultivation facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana. A comprehensive marijuana cultivation facility's authority to process marijuana shall include the creation of prerolls, but shall not include the manufacture of marijuana-infused products.

#### **COMPREHENSIVE MARIJUANA DISPENSARY FACILITY**

A facility licensed by the department to acquire, process, package, store on-site or off-site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and drug paraphernalia used to administer marijuana to a qualifying patient or primary caregiver, as those terms are defined in Section 260.010 of the City Code, or to a consumer, anywhere on the licensed property or to any address as directed by the patient, primary caregiver, or consumer and consistent with the limitations of Chapter 260 of the City Code, and as otherwise allowed by law. Comprehensive marijuana dispensary facilities may receive transaction orders at the dispensary directly from the consumer in person, by phone, or via the internet including from a third party. A comprehensive marijuana dispensary facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana, but shall collect all appropriate tangible personal property sales tax for each sale and provided for by general or local law. A comprehensive marijuana dispensary facility's authority to process marijuana shall include the creation of prerolls.

## **COMPREHENSIVE MARIJUANA-INFUSED PRODUCTS MANUFACTURING FACILITY**

A facility licensed by the department to acquire, process, package, store, manufacture, transport to or from a marijuana dispensary or a marijuana testing facility, and sell marijuana-infused products, prerolls, and infused prerolls to a marijuana dispensary, a marijuana testing facility, or another comprehensive marijuana-infused products manufacturing facility. A comprehensive marijuana-infused products manufacturing facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana.

## **CONSUMER**

A person who is at least twenty-one years of age.

## **DEPARTMENT**

The Department of Health and Senior Services or its successor agency.

## **MARIJUANA or MARIHUANA**

Cannabis indica, Cannabis sativa, and Cannabis ruderalis, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. "Marijuana" or "Marihuana" do not include industrial hemp containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis, or commodities or products manufactured from industrial hemp.

## **MARIJUANA DISPENSARY**

A medical marijuana dispensary facility, a comprehensive marijuana dispensary facility, or a micro-business as those terms are defined herein or in Art. XIV of the constitution.

## **MARIJUANA-INFUSED PRODUCTS**

Products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

## **MARIJUANA TESTING FACILITY**

A facility certified by the State of Missouri to acquire, test, certify, and transport marijuana.

## **MARIJUANA TRANSPORTATION FACILITY**

A facility certified by the state to transport marijuana to a qualifying patient or a primary caregiver, as those terms are defined in Section 260.010 of the City Code, or to a medical marijuana cultivation facility, a comprehensive marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a comprehensive marijuana-infused products manufacturing facility, a marijuana dispensary, a marijuana testing facility, or another marijuana transportation facility.



**MEDICAL MARIJUANA CULTIVATION FACILITY**

A facility licensed by the department, to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, marijuana testing facility, or to a medical marijuana-infused products manufacturing facility and shall also mean a comprehensive marijuana cultivation facility, as that term is defined in Article XIV of the Constitution.

**MEDICAL MARIJUANA DISPENSARY FACILITY**

A facility licensed by the department, to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, as those terms are defined in Section 210.1800 of the City Code, or another medical marijuana dispensary facility.

**MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING FACILITY**

A facility licensed by the department, to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a marijuana testing facility, or another medical marijuana-infused products manufacturing facility.

**SECTION 4.** The Code of Ordinances of the City of Mound City is hereby amended by adding the following uses to Chapter 405 Zoning Regulations Section 405.140:

- 22. Comprehensive Marijuana Cultivation Facility.
- 23. Comprehensive Marijuana Dispensary Facility.
- 24. Comprehensive Marijuana-Infused Products Manufacturing Facility.
- 25. Marijuana Dispensary.
- 26. Marijuana Testing Facility.
- 27. Marijuana Transportation Facility.
- 28. Medical Marijuana Cultivation Facility.
- 29. Medical Marijuana Dispensary Facility.
- 30. Medical Marijuana-Infused Products Manufacturing Facility.

**SECTION 5.** The Code of Ordinances of the City of Mound City is hereby amended by adding the following uses to Chapter 405 Zoning Regulations Section 405.150:

- 22. Comprehensive Marijuana Cultivation Facility.
- 23. Comprehensive Marijuana Dispensary Facility.
- 24. Comprehensive Marijuana-Infused Products Manufacturing Facility.
- 25. Marijuana Dispensary.
- 26. Marijuana Testing Facility.

27. Marijuana Transportation Facility.
28. Medical Marijuana Cultivation Facility.
29. Medical Marijuana Dispensary Facility.
30. Medical Marijuana-Infused Products Manufacturing Facility.

**SECTION 6.** The Code of Ordinances of the City of Mound City is hereby amended by adding the following language to Chapter 605 Business Regulations:

**Section 605.270 Marijuana Businesses**

**A. Definitions**

1. **“Constitution”** shall mean the Constitution of the State of Missouri.
2. **“Consumer”** means a person who is at least twenty-one years of age.
3. **“Marijuana”** or **“Marihuana”** means Cannabis indica, Cannabis sativa, and Cannabis ruderalis, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. ‘Marijuana’ or ‘Marihuana’ do not include industrial hemp containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis, or commodities or products manufactured from industrial hemp.
4. **“Marijuana Business”** means any facility licensed by the Department of Health and Senior Services under the authority granted by Article XIV of the Constitution.
5. **“Marijuana-Infused Products”** means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

**B. Edible Marijuana, Labeling Requirements.**

1. No edible marijuana-infused product, packaging, or logo sold in this City pursuant to Article XIV of the Missouri Constitution shall be designed in the shape of a human, animal, or fruit, including realistic, artistic, caricature, or cartoon renderings. However, geometric shapes, including, but not limited to, circles, squares, rectangles, and triangles, shall be permitted.
2. Each package, or packages with or within a package, containing an edible marijuana-infused product with ten or more milligrams of tetrahydrocannabinols (THC) shall be stamped with a universal symbol for such products, which shall consist of the following:
  - a. A diamond containing the letters "THC";



- b. The letter "M" located under the "THC" within the diamond, to signify that the product is for medical purposes; and
- c. The number of milligrams of THC in the package.

The universal symbol shall be placed on the front of the package in red and white print and shall measure one-half inch by one-half inch from point to point.



**SECTION 7:** The provisions of any ordinance or code section in conflict with any provision of this ordinance are hereby repealed to the extent of such conflict.

**SECTION 8:** This ordinance shall be in full force and effect from and after the date of its passage and approval.

**SECTION 9:** The provisions of this ordinance are severable and if any provision hereof is declared invalid, unconstitutional or unenforceable, such determination shall not affect the validity of the remainder of this ordinance.

Read the first time by title only and approved by the Board of Aldermen of the City of Mound City, Missouri, this 13<sup>th</sup> day of June, 2023.

Read the second time by title only and passed by the Board of Aldermen and approved by the Mayor of the City of Mound City, Missouri this 13<sup>th</sup> day of June, 2023.

ATTEST:

  
Amiisa Brandon  
City Clerk

Quash N. Nann  
Mayor