

Ordinance No. **158-2018**

By – Councilpersons Caviness, Gorshe, Hill, Moore and Langman

An ordinance amending Section 513.03 “Drug Abuse” of Chapter 513 Drugs of the General Offenses Code of the Codified Ordinances for the City of Euclid to amend the penalty for possession of marijuana from a misdemeanor of the first degree to a minor misdemeanor.

WHEREAS, The Council of the City of Euclid, by this ordinance, wishes to align The City of Euclid code regarding the possession of marijuana with the current State of Ohio Revised Code; and

WHEREAS, Out of the 59 municipalities in Cuyahoga County, the City of Euclid has one of the most stringent code in regard to marijuana possession; and

WHEREAS, the Ohio Revised Code has decriminalized possession of small amounts of marijuana <100 grams resulting in a small fine but no jail time or criminal record. The current Euclid Codified Ordinance can have a severe negative impact on a person's life if arrested and prosecuted for possession of marijuana; and

WHEREAS, The cultivation, extraction, manufacture and dispensing of medical marijuana is now legal in the State of Ohio, and the legalization of recreational marijuana may become legal in The State of Ohio within the next decade, as it is now legal in several states across our nation.

NOW, THEREFORE, be it ordained by the Council of the City of Euclid, State of Ohio:

Section 1: That Section 513.03 “Drug Abuse” of Chapter 513 Drugs of the General Offenses Code of the Codified Ordinances for the City of Euclid is hereby amended to read as follows:

513.03 DRUG ABUSE.

(a) No person shall knowingly obtain, possess or use a controlled substance.

(b) Subsection (a) hereof does not apply to any of the following:

(1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4731 and 4741 or Ohio R.C. 4723.56;

(2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration;

(3) Any person who sells, offers for sale, prescribes, dispenses or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed or administered for that purpose in accordance with that Act; and

(4) Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs, where the drug is in the original container in which it was dispensed to such person.

(c) Whoever violates subsection (a) hereof is guilty of one of the following, provided the drug involved is not cocaine or a compound, mixture, preparation or substance containing cocaine and provided the drug involved is not L.S.D. or heroin:

(1) If the drug involved in the violation is a compound, mixture, preparation or substance included in Schedule III, IV or V, whoever violates subsection (a) hereof is guilty of possession of drugs, a misdemeanor of the third degree, provided the amount of the drug involved does not exceed the bulk amount and provided the offender previously has not been convicted of a drug abuse offense. If the offender previously has been convicted of a drug abuse offense, possession of drugs is a misdemeanor of the second degree. The penalty shall be as provided in Section 599.02. If the drug involved in the violation is an anabolic steroid included in Schedule III and if the offense is a misdemeanor of the third degree under this subsection, the court may, in lieu of sentencing the offender to a term of imprisonment in a detention facility, place the offender on conditional probation pursuant to Ohio R.C. 2925.11(F) or 2951.02(F).

(Adopting Ordinance)

~~(2) If the drug involved in the violation is marihuana, whoever violates subsection (a) hereof is guilty of possession of marihuana, a misdemeanor of the first degree. The penalty shall be as provided in Section 599.02.~~

(2) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates division (a) of this section is guilty of possession of marihuana. The penalty for the offense shall be determined as follows:

(A) Except as otherwise provided in section (c)(2)(B), or (C) of this section, possession of marihuana is a minor misdemeanor.

(B) If the amount of the drug involved equals or exceeds one hundred grams but is less than two hundred grams, possession of marihuana is a misdemeanor of the fourth degree.

(C) If the amount of the drug involved equals or exceeds two hundred grams but is less than one thousand grams, possession of marihuana is a felony of the fifth degree.

(3) If the drug involved in the violation is hashish, whoever violates subsection (a) hereof is guilty of possession of hashish, a minor misdemeanor, provided the amount of the drug involved is less than five grams in a solid form or less than two grams in a liquid concentrate, liquid extract or liquid distillate form. If the amount of the drug involved equals or exceeds five grams, but does not exceed ten grams, of hashish in a solid form, or equals or exceeds one gram, but does not exceed two grams, of hashish in a liquid concentrate, liquid extract or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree. The penalty shall be as provided in Section 599.02.

(d) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license or other right or privilege, or made in connection with the person's appearance as a witness.

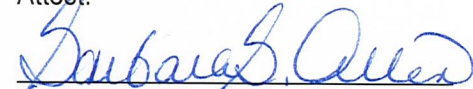
(e) In addition to the penalties provided in this section, the court shall proceed as provided in Ohio R.C. 2925.11(E)(2) and (3).

Section 2: That Section 513.03 "Drug Abuse" of Chapter 513 Drugs of the General Offenses Code of the Codified Ordinances for the City of Euclid is hereby amended.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.


Section 4: That this ordinance shall be in full force and effect from and after the earliest period allowed by law.

Attest:


Clerk of Council


President of Council

Passed: **December 3, 2018**


Mayor

Effective: **January 2, 2019**