

ORDINANCE NO. _____, SERIES 2019

AN ORDINANCE CREATING A NEW SUBSECTION OF THE LOUISVILLE METRO CODE OF ORDINANCES TO MAKE A SMALL AMOUNT OF MARIJUANA INTENDED FOR PERSONAL CONSUMPTION THE CITY'S LOWEST LAW ENFORCEMENT PRIORITY (AS AMENDED).

SPONSORED BY: COUNCILMEMBERS COAN, FOWLER, GREEN, JAMES, SHANKLIN AND SEXTON SMITH

WHEREAS, within the Louisville/Jefferson County Metro area, numerous individuals are arrested each year for nonviolent marijuana offenses, which result in a substantial cost to taxpayers; and

WHEREAS, making adult marijuana possession intended for personal consumption the city's lowest law enforcement priority will reduce expenditures on law enforcement and punishment of these offenses and resources would be better spent fighting serious and violent crimes; and

WHEREAS, prosecuting individuals for possessing small amounts of marijuana does little to deter drug abuse but does increase the number of people negatively affected by criminal records; and

WHEREAS, a growing number of states and cities have recently passed laws that ~~decriminalize~~ make possession of marijuana and specifically small amounts of marijuana the lowest law enforcement priority ~~for personal consumption~~; and

WHEREAS, Metro Council now adopts the lowest level enforcement priority for possession of marijuana for personal consumption for Louisville Metro Government; and

WHEREAS, the enactment of a new section of Louisville Metro Code of Ordinances ("LMCO") will make investigation, citations, and arrests of adults for

possession of a small amount of marijuana intended for personal consumption the city's lowest law enforcement priority, without superseding existing state or federal law.

NOW THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

SECTION I: Creates a new section of LMCO as follows:

§ 39.XX PURPOSE AND POLICY STATEMENT.

The purpose of this chapter is to direct Louisville Metro Public Safety Officials to make investigation, citations, and arrests of adults for possession of a small amount of marijuana intended for personal consumption the city's lowest law enforcement priority. Louisville Metro Public Safety Officials remain committed to working cooperatively with all state and federal agencies in enforcing laws concerning possession of marijuana. This section is not intended to limit the proper enforcement of generally applicable laws, but rather to state the policy of Metro Government. There shall be no penalty assessed for violating any section of this ordinance.

§ 39.XX DEFINITIONS.

ADULT. Twenty-one years of age or older.

LOWEST LEVEL ENFORCEMENT PRIORITY. All law enforcement activities related to offenses other than marijuana possession offenses by adults shall be given a higher priority than law enforcement activities related to marijuana possession offenses by adults.

MARIJUANA. All parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound,

mixture, or preparation which contains any quantity of these substances. The term “marijuana” does not include:

(a) Industrial hemp that is in the possession, custody, or control of a person who holds a license issued by the Department of Agriculture permitting that person to cultivate, handle, or process industrial hemp;

(b) Industrial hemp products that do not include any living plants, viable seeds, leaf materials, or floral materials;

(c) The substance cannabidiol, when transferred, dispensed, or administered pursuant to the written order of a physician practicing at a hospital or associated clinic affiliated with a Kentucky public university having a college or school of medicine;

(d) For persons participating in a clinical trial or in an expanded access program, a drug or substance approved for the use of those participants by the United States Food and Drug Administration;

(e) A cannabidiol product derived from industrial hemp, as defined in KRS 260.850; or

(f) A cannabidiol product approved as a prescription medication by the United States Food and Drug Administration.

MINOR. Any person who is not twenty-one (21) years of age or older.

PERSON. A human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority.

PERSONAL USE. One-half ounce or less of marijuana.

POSSESSION. To have actual physical possession or otherwise to exercise actual dominion or control over or use or consume marijuana.

PUBLIC SAFETY OFFICIALS. Employees of the Louisville Metro Police Department (“LMPD”), Louisville Metro Department of Corrections (“LMDC”), and other Metro Government peace officers.

§ 39.XX PUBLIC SAFETY OFFICIALS LOWEST LEVEL ENFORCEMENT PRIORITY.

Public Safety Officials shall make enforcement activity relating to marijuana possession offenses by adults their lowest enforcement priority. Law enforcement activities include, but are not limited to, investigation, citation, and arrest.

(A) This lowest enforcement priority policy shall not apply to the following:

- (1) Distribution or sale of marijuana;
- (2) Possession of marijuana by minors;
- (3) Driving under the influence; or

(4) A marijuana offense that occurs in conjunction with or is related to an act or threat of violence, or where Public Safety Officials reasonably believe that the marijuana offense poses a substantial threat of serious physical harm to the public.

(B) Nothing in this section shall prohibit Public Safety Officials from assisting state or federal law enforcement officers in the investigation of criminal activity involving individuals who may also be in violation of state and/or federal law other than adult personal use.

(C) Public Safety Officials shall include information regarding Metro Government’s policy and expectations as set forth in this section in the orientation of new employees and as part of their on-going in-service training.

§ 39.XX SEVERABILITY.

If a subsection of this chapter is found to be invalid for any reason, the remaining subsections of the chapter shall continue in full force and effect.

SECTION II: This Ordinance shall take effect upon its passage and approval.

H. Stephen Ott
Metro Council Clerk

David James
President of the Council

Greg Fischer
Mayor

Approved Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: _____