

CITY ATTORNEY MEMORANDUM

To: Matt Russell, Mayor; City Council Members
From: Megan McCullough, City Attorney
Cc: David Cameron, City Administrator
RE: Amendments to Ordinance 23-04
Date: March 7, 2023

Following the first read of proposed Ordinance 23-04 at the regular meeting of the City Council on February 21, 2023, staff became aware of an Emergency Rule recently published by the Missouri Department of Health and Senior Services (“DHHS”), the regulatory authority over medical and recreational marijuana in Missouri. The Emergency Rule appears in the newest set of Proposed Rules by the DHHS that would take effect this summer, superseding the rules currently in place. Based on the provisions of the DHHS Emergency Rule, we have made certain changes to the proposed Ordinance 23-04, specifically including: (1) the addition of clarifying language to address drive-through options for dispensaries, as acknowledged in the new DHHS Emergency Rule; and (2) the adjustment of minimum age requirements for persons allowed to enter the premises of marijuana facilities. We have additionally moved the phrase “formed after December 8, 2022” to the forefront of each defining provision to ensure clarity in determining those facilities to which the code sections apply.

Attached to this memorandum are the proposed revisions, shown in **GREEN** font with the same formatting scheme as commonly used (strikethrough indicating deletions, bold/underline indicating additions), to Ordinance 23-04, that were made following the first read. Staff is recommending passage of the motion to amend, which would allow the City Council to proceed to a second read and possible vote on Ordinance 23-04, as amended.

In order to put this recommendation into effect, the following motion should be made:

1. **In the title of Chapter 635, I move to strike out the words “Licensed Under” and insert the words “as Defined in” and “Sections 1 and 2”.**
2. **In 635.040 Subsection A, I move to strike out the words “formed after December 8, 2022” and insert the words “After December 8, 2022” at the beginning of the paragraph.**
3. **In 635.040 Subsection B, I move to strike out the words “formed after December 8, 2022” and insert the words “After December 8, 2022” at the beginning of the paragraph.**
4. **In 635.040 Subsection C, I move to strike out the words “formed after December 8, 2022” and insert the words “After December 8, 2022” at the beginning of the paragraph.**
5. **In 635.050 Subsection A, I move to strike out the words “formed after December 8, 2022” and insert the words “After December 8, 2022” at the beginning of the paragraph.**
6. **In 635.050 Subsection B, I move to strike out the words “formed after December 8, 2022” and insert the words “After December 8, 2022” at the beginning of the paragraph.**
7. **In 635.050 Subsection C, I move to strike out the words “formed after December 8, 2022” and insert the words “After December 8, 2022” at the beginning of the paragraph.**
8. **In 635.060 Subsection A, I move to strike out the words “formed after December 8, 2022” and insert the words “After December 8, 2022” at the beginning of the paragraph.**
9. **In 635.060 Subsection B, I move to strike out the words “formed after December 8, 2022” and insert the words “After December 8, 2022” at the beginning of the paragraph.**
10. **In 635.060 Subsection C, I move to strike out the words “formed after December 8, 2022” and insert the words “After December 8, 2022” at the beginning of the paragraph.**

11. In the heading of 635.090, I move to strike out the words “Licensed Under” and insert the words “as Defined in” and “Sections 1 and 2”.
 12. In 635.090 Subsection B, I move to insert the sentence “All marijuana, marijuana-infused products, and marijuana accessories sold or delivered pursuant to the provisions of this Chapter shall be sold or delivered in opaque packaging so as to prevent the sale and delivery from being visible from a public place outside of the marijuana facility without the use of binoculars, aircraft, or other optical aids” at the conclusion of the paragraph.
 13. In 635.090 Subsection G, I move to substitute the new proposed sentence, “No person under the age of twenty-one (21) years may enter any area of a marijuana facility beyond the marijuana facility’s public access point area, unless such person is (1) a qualifying patient, or (2) accompanying a parent or guardian who is a qualifying patient, primary caregiver, or consumer at least twenty-one (21) years of age or older”, in the place of the former proposed sentence, “No person under the age of eighteen (18) years, except a qualifying patient when accompanied by a parent or legal guardian, shall be allowed on the premises of a medical marijuana facility, comprehensive facility, or marijuana facility.”
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Megan E. McCullough, City Attorney