

**Summary**  
**Board Bill Number 132**  
**As Amended**  
**Introduced by Alderman Bret Narayan**  
**November 5, 2021**

The proposed bill would repeal **Ordinance Numbers 66419, 68404 and 69429**, which pertain to the possession of marijuana and paraphernalia. The bill would also update local enforcement priorities, and probable cause and reasonable suspicion standards, and disciplinary standards to harmonize City policy with Article XIV of the Missouri State Constitution.

**BOARD BILL NUMBER 132 AS AMENDED INTRODUCED BY: ALDERMAN BRET NARAYAN / ALDERMAN JESSE TODD/ ALDERMAN DAN GUENTHER/ ALDERWOMAN CHRISTINE INGRASSIA/ ALDERWOMAN ANNIE RICE/ ALDERMAN BILL STEPHENS/ ALDERWOMAN SARAH MARTIN/ ALDERMAN SHANE COHN/ALDERMAN BRANDON BOSLEY/ ALDERWOMAN CARA SPENCER/ALDERMAN JOHN COATAR/ ALDERWOMAN HEATHER NAVARRO**

1 A board bill repealing **Ordinance Numbers 66419, 68404 and 69429**, pertaining to the  
2 possession of marijuana and paraphernalia, and updating local enforcement priorities, probable  
3 cause and reasonable suspicion standards, and disciplinary standards to harmonize city policy  
4 with Article XIV of the Missouri State Constitution.

5 **WHEREAS**, on November 6, 2018 the voters of the State of Missouri passed Amendment 2,  
6 permitting state-licensed physicians to recommend marijuana for medical purposes to patients  
7 with serious illnesses and medical conditions; and

8 **WHEREAS**, 83% voters in the City of St. Louis voted to amend the Missouri Constitution to  
9 allow for medical marijuana in the State of Missouri; and

10 **WHEREAS**, Amendment 2 is now codified under Article XIV of the Missouri State  
11 Constitution; and

12 **WHEREAS**, Individual residents of the State of Missouri are now permitted to be in possession  
13 of marijuana and to cultivate marijuana under certain circumstances; and

14 **WHEREAS**, The City of St. Louis seeks to protect doctor patient confidentiality; and

15 **WHEREAS**, The City of St. Louis seeks to avoid subjecting to invasive searches and seizures  
16 citizens who are lawfully availing themselves of medical therapies provided for the state  
17 constitution; and

18 **WHEREAS**, The Missouri Department of Health and Senior Services (“DHSS”) is tasked with  
19 overseeing Missouri’s medical marijuana program; and

1 **WHEREAS**, DHSS has differentiated “flowering marijuana plants” from “nonflowering  
2 marijuana plants” and “clones”; and

3 **WHEREAS**, The City of St. Louis does not wish to engage in any unauthorized seizures from  
4 the Citizens of St. Louis; and

5 **WHEREAS**, The St. Louis Metropolitan Police Department assumes the citizenry are law  
6 abiding until presented with evidence of illegal activities; and

7 **WHEREAS**, it is the responsibility of the Board of Alderman to harmonize the ordinances of  
8 the City of St. Louis with Missouri State law;

9 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

10 **SECTION ONE.** Definitions.

11 “Enforce” means to investigate, arrest, refer for prosecution, or punish.

12 “Flowering plant”, “nonflowering plant”, and “clone” mean the Missouri Department of Health  
13 and Senior Service’s definition of the same.

14 “Marijuana” means all parts of the plant genus Cannabis in any species or form thereof,  
15 including, but not limited to Cannabis Sativa L., Cannabis Indica, Cannabis Americana,  
16 Cannabis Ruderalis, and Cannabis Gigantea, and any other strains commonly understood within  
17 the scientific community to constitute marijuana, whether growing or not, the seeds thereof, the  
18 resin extracted from any part of the plant; and every compound, hybrid, manufacture, salt,  
19 derivative, mixture, or preparation of the plant, its seeds or resin, including marijuana-infused  
20 products. “Marijuana” does not include the mature stalks of the plant, fiber produced from the  
21 stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt,  
22 derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom),

1 fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

2 “*Marijuana-infused products*” means products that are infused with marijuana or an extract  
3 thereof and are intended for use or consumption other than by smoking, including, but not limited  
4 to, edible products, ointments, tinctures and concentrates.

5 “*Openly*” means occurring or existing in a manner that is unconcealed, undisguised, or obvious.

6 “*Paraphernalia*” means “All equipment, products, substances, and materials of any kind which  
7 are used, intended for use, or designed for use, in planting, propagating, cultivating, growing,  
8 harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing,  
9 containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human  
10 body a controlled substance or an imitation controlled substance” (RSMO 195.223)

11 “*Police officer*” means any employee of the City of St. Louis tasked with enforcing the law and  
12 the power of arrest.

13 “*Probable cause*” means looking at the “totality of the circumstances and mak[ing] a common  
14 sense practical decision whether there is a fair probability that contraband or evidence of crime  
15 will be found in a particular place”. *Illinois v. Gates*, 462 U.S. 213, 238 (1983), *State v.*  
16 *Roggenbuck*, 387 S.W.3d 376 (Mo. banc 2012).

17 “*Publicly*” means occurring or existing in a public place; or occurring or existing in any outdoor  
18 location that is clearly observable from a public place.

19 “*Public place*” means any street, alley, park, sidewalk, public building other than individual  
20 dwellings, or any place of business or assembly open to or frequented by the public, and any

1 other place to which the public has access.

2 “Qualified Patient” means a Missouri medical marijuana card holder pursuant to Article XIV of  
3 the Missouri State Constitution and the rules and regulations of the Missouri Department of  
4 Health and Senior Services.

5 “Resources” means any funds, money, personnel, personnel time, grants, use of facilities,  
6 property, real estate, approval, or other means that is owned or controlled by the City of St.  
7 Louis, except the Civil Courts Building, the Carnahan Courthouse, and other city-owned  
8 facilities used by the 22d Judicial Circuit of the State of Missouri. “Resources” shall include,  
9 but not be limited to, all activities of the Division of Police, the City Counselor’s Office, and the  
10 Municipal Court.

11 **SECTION TWO.** Repeal of Ordinances 66419, 68404 and 69429.

12 A. **Ordinance Number 66419** regarding possession of marijuana and paraphernalia, as  
13 amended by **Ordinance Number 68404**, as codified in Chapter 11.61.010 through Chapter  
14 11.61.030, and as approved August 2, 2004, is hereby repealed.

15 B. **Ordinance Number 69429**, as codified in Chapter 11.60.300 through Chapter 11.60.330,  
16 and as approved April 29, 2013, is hereby repealed.

17 **SECTION THREE.** Use of City Resources to Enforce Marijuana Laws.

18 A. Except as provided in this Section, no resources of the City of St. Louis shall be expended  
19 or otherwise used to enforce laws that permit the punishment for the use or possession of  
20 marijuana involving two (2) or less ounces of marijuana, or six (6) or fewer flowering marijuana  
21 plants or marijuana paraphernalia against any individual or entity. The City of St. Louis may

1 expend resources to enforce laws that permit punishment for the use or possession of marijuana  
2 or marijuana paraphernalia against:

3 1. Any individual who provides marijuana to an individual under the age of twenty-one (21)  
4 unless such person is a Qualified Patient;

5 2. Any individual who possesses more than six (6) flowering marijuana plants for  
6 cultivation unless such individual holds a cultivation license or patient cultivation  
7 identification card;

8 3. Any individual who transfers, distributes, sells, or cultivates marijuana on land or in  
9 buildings where the owner of the land or buildings has prohibited marijuana on the  
10 premises and has provided reasonable notice by a lease provision or posted notice to  
11 tenants or occupants of the land or buildings that such conduct is prohibited;

12 4. Any individual who possesses flowering marijuana plants who does not keep all such  
13 plants indoors, locked and secure, unless such individual has been granted a cultivation  
14 license by the Missouri Department of Health and Senior Services.

15 5. Any individual or entity that openly and publicly displays or consumes marijuana 2  
16 except for displays and consumption on private residential property where the person  
17 consuming 3 marijuana is either an owner of the property, a person who has a leasehold  
18 interest in the 4 property, or any other person who has been granted express or implied  
19 permission to consume 5 marijuana on the property by the owner or the lessee of the  
20 property.

21 6. Any individual who is not in compliance with this state or local law.

22 **SECTION FOUR.** Probable Cause & Reasonable Suspicion.

1 A. In light of the Missouri Constitution’s sanction of medical marijuana, the smell of  
2 marijuana, whether raw or burnt, the visual presence of smoke or vapor of marijuana, the visual  
3 presence of marijuana or marijuana infused products, the visual presence of less than 6 flowering  
4 plants, nor the visual presence of marijuana paraphernalia is no longer indicia that a crime has  
5 been or is being committed, and as such shall not be sufficient to establish probable cause to  
6 search, seize, or arrest any individual or entity or their property.

7 B. Notwithstanding Subsection A of this Section Four, the smell of marijuana, whether raw  
8 or burnt, the visual presence of smoke or vapor of marijuana, the visual presence of marijuana  
9 or marijuana infused products, or the visual presence of flowering plants may be sufficient to  
10 establish a finding of reasonable suspicion which may be grounds, subject to officer discretion  
11 rooted in an analysis of the totality of the circumstances, for a brief stop for the sole purpose of  
12 determining whether an individual is a qualified patient.

13 1. If the individual is a Qualified Patient, the suspicion is relieved and the individual is  
14 free to go. If the individual is not a Qualified Patient, subject to officer discretion  
15 and a totality of the circumstances analysis, probable cause may be determined for  
16 the purpose of further search or seizure.

17 2. If the police officer is unable to verify, for any reason, that an individual is not a  
18 Qualified Patient, the officer may, given an analysis of the totality of the  
19 circumstances, collect all information necessary to issue a summons. If an individual  
20 appears at any Court date with proof that they are a Qualified Patient, the matter shall  
21 be dismissed.

1 C. The odor or presence of marijuana and related products may, when combined with  
2 additional factors and context, represent an element of a finding of probable cause or reasonable  
3 suspicion, subject to officer discretion and further interpretation by Missouri courts.

4 D. This ordinance shall not prohibit police officers from making an arrest where there is a  
5 valid warrant, where there is probable cause to believe that an individual is driving under the  
6 influence, or where there is probable cause to believe that an individual is violating other state  
7 or local laws.

8 **SECTION FIVE.** Recognition of Article XIV of the Missouri State Constitution.

9 A. Recognizing that the citizenry of the State of Missouri overwhelmingly voted to adopt Article  
10 XIV of the Missouri State Constitution, the City of St. Louis recognizes the legitimacy and medical  
11 authenticity of the State’s medical marijuana program.

12 B. Subject to Civil Service Commission Rule and/or Department of Personnel Regulation, any  
13 city employee who is a Qualified Patient may present their medical marijuana card to avoid adverse  
14 employer actions based on a positive drug test for marijuana.

15 C. Nothing in this section shall prevent the City of St. Louis from taking adverse employer  
16 actions based on acute marijuana intoxication while on duty.

17 **SECTION SIX.** Severability.

18 It is hereby declared to be the intention of the Board of Aldermen that each and every part,  
19 section and subsection of this Ordinance shall be separate and severable from each and every  
20 other part, section and subsection hereof and that the Board of Aldermen intends to adopt each  
21 said part, section and subsection separately and independently of any other part, section and  
22 subsection. In the event that any part, section or subsection of this Ordinance shall be determined

1 to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections  
2 shall be and remain in full force and effect, unless the court making such finding shall determine  
3 that the valid portions standing alone are incomplete and are incapable of being executed in  
4 accord with the legislative intent.

5 **SECTION SEVEN.** Emergency Clause.

6 The passage of this ordinance being deemed necessary for immediate preservation of the public  
7 peace, health and safety, an emergency is hereby declared to exist within the meaning of Section  
8 20 of Article IV of the Charter, and this ordinance shall be in full force and effect immediately  
9 upon its passage and approval by the Mayor.

**ORDINANCE #66419**  
**Board Bill No. 183**

An ordinance repealing Ordinance 61507, codified as in Section 11.61.010 et seq. of the Revised Code pertaining to the delivery of drug paraphernalia, enacting a new ordinance prohibiting the possession of drug paraphernalia and the possession of drug paraphernalia with intent to deliver; containing definitions, a penalty clause and an emergency clause.

**BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

**SECTION ONE.** Ordinance 61507 is hereby repealed and, in lieu thereof, the following new provisions are enacted.

**SECTION TWO.** Definitions.

For purposes of this ordinance the following words and phrases shall have the following meanings:

A. "Deliver" means the actual, constructive, or attempted transfer from one person to another of drug paraphernalia, whether or not there is an agency relationship, and includes a sale;

B. "Drug paraphernalia" means:

1. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, other illegal controlled substances, or imitation controlled substances into the human body, including, but not limited to:

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, such as a 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.

2. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

a. Statements by an owner or by anyone in control of the object concerning its use;

- b. 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, imitation controlled substance, or drug paraphernalia;
  - c. The proximity of the object, in time and space, to a direct violation of state or federal laws concerning use or sale of controlled substances;
  - d. The proximity of the object to controlled substances or imitation controlled substances on the object;
  - e. The existence of any residue of controlled substances or imitation controlled substances on the object;
  - f. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of state or federal laws concerning use or sale of controlled substances; the innocence of an owner, or of anyone in control of the object, as to direct violation state or federal laws concerning use or sale of controlled substances; shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
  - g. Instructions, oral or written, provided with the object concerning its use;
  - h. Descriptive materials accompanying the object which explain or depict its use;
  - i. National or local advertising concerning its use;
  - j. The manner in which the object is displayed for sale;
  - k. 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;
  - l. Direct or circumstantial evidence of the ratio of sales of the object or similar objects to the total sales of the business enterprise;
  - m. The existence and scope of legitimate uses for the object in the community;
  - n. Expert testimony concerning its use;
  - o. Where the object has been or is being offered for sale, the manner in which the object is displayed and the number of similar objects displayed.
- C. "Person" means individual, corporation, firm, business trust, estate, trust, partnership or association, or any other legal entity.

**SECTION TWO.** Possession, Delivery of and manufacture of drug paraphernalia prohibited.

It is unlawful for any person to use, possess with intent to use, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia as defined in Section One of this ordinance.

**SECTION THREE.** Penalty for violation.

Any person found guilty of violating the provisions of Section Two of this ordinance shall be fined no less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) or by imprisonment up to ninety (90) days or by both fine and imprisonment.

**SECTION FOUR.** Emergency clause.

This being an ordinance for the preservation of public peace, health, and safety, it is hereby declared to be an emergency measure within the meaning of Sections 19 and 20 of Article IV of the Charter of the City of St. Louis and therefore shall become effective immediately upon its passage and approval by the mayor.

**Approved: August 2, 2004**

**ORDINANCE #68404**  
**Board Bill No. 115**

An ordinance pertaining to the definitions of drug paraphernalia, amending Ordinance 66419, approved August 2, 2004, codified as Chapter 11.61 of the Revised Code, by repealing Section 11.61.010 pertaining to the definitions of drug paraphernalia and enacting in lieu thereof a new section pertaining to the same subject matter; and containing a severability clause and emergency clause.

**BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

**SECTION ONE.** Section 11.61.010 of the Revised Code, is hereby repealed and enacted in lieu thereof is the following:

11.61.010 Definitions.

For purposes of this chapter the following words and phrases shall have the following meanings:

A. "Deliver" means the actual, constructive, or attempted transfer from one person to another of drug paraphernalia, whether or not there is an agency relationship, and includes a sale.

B. "Drug paraphernalia" means:

1. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, other illegal controlled substances, or imitation controlled substances into the human body as defined under either Federal law or Missouri State law, including, but not limited to:

- 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, such as a marihuana 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. any other objects commonly used or adapted for use in ingesting, inhaling or otherwise involving a controlled substance, regardless if such object has another intended use;

2. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- a. Statements by an owner or by anyone in control of the object concerning its use,
- b. 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, imitation controlled substance, or drug paraphernalia,
- c. The proximity of the object, in time and space, to a direct violation of state or federal laws concerning use or sale of controlled substances,
- d. The proximity of the object to controlled substances or imitation controlled substances on the object,
- e. The existence of any residue of controlled substances or imitation controlled substances on the object,
- f. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of state or federal laws concerning use or sale of controlled substances; the innocence of an owner, or of anyone in control of the object, as to direct violation state or federal laws concerning use or sale of controlled substances; shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia,
- g. Instructions, oral or written, provided with the object concerning its use,
- h. Descriptive materials accompanying the object which explain or depict its use,
- i. National or local advertising concerning its use,
- j. The manner in which the object is displayed for sale,
- k. 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,
- l. Direct or circumstantial evidence of the ratio of sales of the object or similar objects to the total sales of the business enterprise,
- m. The existence and scope of legitimate uses for the object in the community,
- n. Expert testimony concerning its use,
- o. Where the object has been or is being offered for sale, the manner in which the object is displayed and the number of similar objects displayed.

C. "Person" means individual, corporation, firm, business trust, estate, trust, partnership or association, or any other legal entity.

**SECTION TWO.** If any provision, clause, sentence, paragraph or word of this ordinance or the application thereof to any person, entity or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this ordinance are declared severable.

**SECTION THREE.** This Ordinance, being deemed necessary for the immediate preservation of public health, safety and welfare, is hereby declared to be an emergency measure and shall become effective immediately upon its approval by the Mayor.

**Approved: July 7, 2009**

**ORDINANCE #69429**  
**Board Bill No. 275**  
**Floor Substitute**

An Ordinance establishing policies for the possession and enforcement of marijuana offenses in the City of St. Louis, Missouri; containing a severability clause, and a penalty clause and an effective date clause.

**WHEREAS**, the Missouri State Court system and Circuit Attorney's Office of the City of St. Louis currently handle a multitude of marijuana possession cases;

**WHEREAS**, valuable prosecutorial resources are utilized in prosecuting marijuana offenses;

**WHEREAS**, the City Counselor's Office of the City of St. Louis has available resources to prosecute minor marijuana offenses in an efficient and expeditious manner in City Court thereby allowing State resources to be focused on more serious crime;

**WHEREAS**, people should not possess the controlled substance of marijuana, but also should not incur unreasonably harsh consequences as a result of possession of minor amounts;

**WHEREAS**, the message of this ordinance is that people should not use marijuana, but also should 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;

**WHEREAS**, when any law enforcement officer suspects any adult as defined by state criminal statutes, other than those excluded in section two below, of possession of less than 35 grams of marijuana, it is desired that such person not be required to post bond, suffer physical arrest, be taken into custody or detained for other than the issuance of a summons;

**BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

**SECTION ONE. Possession and Enforcement of Marijuana Offenses.**

It shall be unlawful for any person to possess marijuana as defined in Chapter 195.010 et. seq. of the Revised Statutes of Missouri as amended.

**SECTION TWO.**

It is intended that the following persons shall continue to be prosecuted in State Court rather than City Court:

- i. Those who have pled or been found guilty of a felony within the preceding ten (10) years; or
- ii. Who have pled or been found guilty in a state court of a Class A misdemeanor, other than misdemeanor marijuana possession, within the preceding five (5) years; or
- iii. Who have pled or been found guilty in a state or municipal court of misdemeanor marijuana possession on two or more occasions within the preceding five (5) years; or
- iv. Who are arrested on suspicion of any felony or misdemeanor arising from the same set of facts and circumstances as the alleged marijuana offense.
- v. Who possess marijuana packaged in a manner intended for sale or distribution;
- vi. Who possesses over 35 grams of marijuana;
- vii. Who otherwise causes the City Counselor's Office to reasonably believe that a request for handling by the Circuit Attorney is warranted.

**SECTION THREE. Penalty Clause.**

Any person violating this Ordinance shall be subject to a fine of not less than one hundred dollars and not more than five hundred dollars. There is 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.

**SECTION FOUR. Funding of Substance Abuse Awareness, Prevention and Treatment Programs.**

Any fine collected as a result of this ordinance will be used to cover administrative costs of the court, and any amount collected greater than the cost of administration shall be evenly divided between the City of St. Louis General Revenue Fund and the St. Louis Mental Health Board for the purpose of funding substance abuse awareness, prevention and treatment programs with an emphasis on high school-aged youth.

**SECTION FIVE. Severability Clause.**

The provisions of this section are severable. If any provision of this Ordinance is declared invalid, that invalidity shall not affect other provisions of the Ordinance which can be given effect without the invalid provision.

**SECTION SIX. Effective Date.**

This Ordinance shall take effect on June 1, 2013.

**Approved: April 29, 2013**