

BY **Ms. Whaley**

NO. **31699-19**

AN ORDINANCE

Amending Sections 130.99, 139.01, 139.03, 139.13, and 139.15 of the Revised Code of General Ordinances Relating to Marihuana and Hashish Offenses of the City of Dayton.

WHEREAS, The Commission of the City of Dayton placed an advisory election concerning the reduction of marihuana and hashish offenses on the November 2018 General Election; and,

WHEREAS, The Citizens of the City of Dayton overwhelmingly supported, voting 73.71% in favor, the reduction of marihuana and hashish offenses within the City of Dayton; and,

WHEREAS, The Commission of the City of Dayton wishes to enact the will of the people; now, therefore,

BE IT ORDAINED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. That Section 130.99 of the Revised Code of General Ordinances of the City of Dayton is hereby amended to include the following:

(G) Regardless of the penalty provided in division (D) of this Section, the penalties for a person convicted of a minor misdemeanor marihuana or hashish offense, pursuant to § 139.02(C), 139.03, 139.13, or 139.15, shall be a fine of \$0.00 and all court costs shall be suspended. An arrest or conviction for a minor misdemeanor marihuana offense 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. (R.C. § 2925.11).

Section 2. That Section 139.01 of the Revised Code of General Ordinances of the City of Dayton is hereby amended to include the following:

Hashish. The resin or a preparation of the resin contained in marihuana, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.

Section 3. That Section 139.03 of the Revised Code of General Ordinances of the City of Dayton is hereby amended to include the following:

(C) Whoever violates this section is guilty of drug abuse:

(1) If the drug involved is a compound, mixture, preparation, or substance included in Schedule I or II of R.C. § 3719.41, with the exception of marihuana, drug abuse is a felony of the fourth degree, and if the offender has previously been convicted of a drug abuse offense, drug abuse is a felony of the third degree, and shall be prosecuted under appropriate state law.

(2) If the drug involved is a compound, mixture, preparation, or substance included in Schedule III, IV, or V of R.C. § 3719.41, drug abuse is a misdemeanor of the third degree, and if the offender has previously been convicted of a drug abuse offense, drug abuse is a misdemeanor of the second degree.

(3) If the drug involved is marihuana, and the amount of marihuana is less than one hundred grams, drug abuse is a minor misdemeanor. If the drug involved is marihuana, and the amount of marihuana is greater than or equal to one hundred grams but less than two hundred grams, drug abuse is a misdemeanor of the fourth degree.

(4) If the drug involved is hashish or a compound, mixture, preparation, or substance containing hashish, and the amount of hashish is less than five grams in solid form or less than one gram in a liquid concentrate, liquid extract, or liquid distillate form, drug abuse is a minor misdemeanor. If the drug involved is hashish, and the amount of hashish is equal to or greater than five grams but less than ten grams in the solid form or is equal to or greater than one gram but less than two grams in the liquid concentrate, liquid extract, or distilled form, drug abuse is a misdemeanor of the fourth degree.

(5) An offense involving marihuana or hashish greater than the amounts provided in subsection (3) and (4) shall be prosecuted under the appropriate state law.

(D) Arrest or conviction for a minor misdemeanor marihuana or hashish 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. (R.C. § 2925.11)

Section 4. That Section 139.13 of the Revised Code of General Ordinances of the City of Dayton is hereby amended to include the following:

(G) Notwithstanding anything in this Section, a violation of Section (C)(1) for drug paraphernalia used solely for marihuana or hashish is a minor misdemeanor offense.

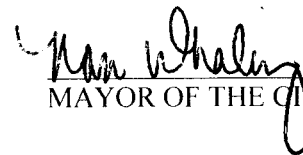
Section 5. That Section 139.15 of the Revised Code of General Ordinances of the City of Dayton is hereby amended to include the following:

(E) Notwithstanding anything in this Section, the giving or offering to make a gift of marihuana in an amount of 20 grams or less is a minor misdemeanor.

Section 6. That existing Sections 130.99, 139.01, 139.03, 139.13, and 139.15 of the Revised Code of General Ordinances of the City of Dayton are hereby amended to include the language above.

PASSED BY THE COMMISSION... **January 9**....., 2019

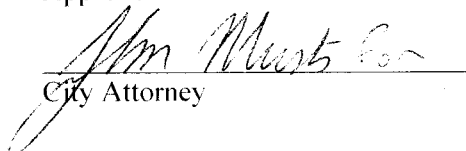
SIGNED BY THE MAYOR... **January 9**....., 2019


MAYOR OF THE CITY OF DAYTON, OHIO

Attest:


Clerk of Commission

Approved as to form:


City Attorney