



CITY OF CHESTERFIELD

Public Health & Safety Committee Meeting

November 7, 2023

2:00 PM

Conference Room 101

1. Call to Order
2. Roll Call
3. Approval of Minutes - August 21, 2023
4. Proposed Ordinance – amending Article XI Offenses concerning drugs with respect to the legalization of adult use marijuana.

The purpose of this proposed modification is to bring Chesterfield's existing ordinance into compliance with State law regarding adult possession, distribution, and use of recreational marijuana.

5. Proposed Ordinance – amending sections 210.900 and 220.150 related to firearms regulations.

The purpose of this proposed modification is to provide for the regulation/prohibition of the open carry of weapons within City parks.

6. Valley Merchants/Crime – Update

Chief Johnson will update the Committee on the issue of crime/shoplifting, etc. in the valley and merchant support of enforcement efforts.

7. Other
8. Next Meeting
- 9.. Adjourn

PERSONS REQUIRING AN ACCOMMODATION TO ATTEND AND PARTICIPATE IN THE PH&S COMMITTEE MEETING SHOULD CONTACT CITY CLERK VICKIE MCGOWND AT (636) 537-6716, AT LEAST TWO (2) BUSINESS DAYS PRIOR TO THE MEETING.

MINUTES

PUBLIC HEALTH & SAFETY COMMITTEE MEETING

August 21, 2023



1. Call to Order

The meeting was called to order at 5:30 PM by Chairperson Councilmember Mary Ann Mastorakos.

2. Roll Call

Councilmember Mary Ann Mastorakos, Ward II, Chairperson, Councilmember Barb McGuinness, Ward I, Councilmember Michael Moore, Ward III, Councilmember Merrell Hansen, Ward IV, Councilmember Gary Budoor, and Mayor Bob Nation. Also, in attendance was Chief Ray Johnson, Captain Cheryl Funkhouser, Captain Dan Dunn, Captain Mark Bruegenhemke, and Mr. John Foster.

3. Approval of Minutes

Councilmember Moore motioned and Councilmember Hansen seconded to approve the minutes of the May 8, 2023 Public Health & Safety Committee meeting. The motion to carried 4-0.

4. Interview of Nominee to Police Personnel Board

The members of the Board welcomed Mr. John Foster who is a candidate for appointment to the Police Personnel Board due to a resignation on that Board effective September 3, 2023.

The Committee members noted Mr. Foster's background as a Police Officer and Police captain at the City of Florissant and as an Assessment Team Leader with the Commission On Accreditation for Law Enforcement Agencies. Mr. Foster has also served as a volunteer in many organizations.

After discussion, Councilmember Moore motioned and Councilmember McGuinness seconded to recommend Mr. Foster for appointment to the Police Personnel Board. The motion carried 4-0. This will be placed on the agenda for the next City Council meeting.

5. The Committee reviewed a suggested resolution to approve the installation by the City of Ballwin of a license plate recognition camera within the City of Chesterfield Municipal boundaries shared by the City of Ballwin at the intersection of Clayton/Henry/Schoettler Roads. The camera will be owned and maintained by the City of Ballwin but information from the camera will be shared with the City of Chesterfield. St. Louis County has requested a resolution from the City of Chesterfield before installation on a County roadway.

The Committee agreed that the installation of this camera will benefit the City of Chesterfield. Therefore, Councilmember Moore motioned and Councilmember Hansen seconded to recommend approval of the Resolution to City Council to install a license

plate recognition camera at the intersection of Clayton/Henry/Schoettler Roads. The motion carried 4-0. This item will be addressed at the next City Council meeting planned for September 5, 2023.

6. Thefts at/in the commercial/retail district in Chesterfield Valley were discussed. Mayor Nation noted that he had been contacted by a resident who was very concerned about thefts in the business district in Chesterfield Valley. Chief Johnson informed the Committee members that there are currently 8 officers assigned full time to the business district. To date for 2023, the officers have recovered \$129,000.00 in property. The department now tows shoplifters' vehicles when apprehended while holding the arrested shoplifters during warrant application. Chief Johnson did relate that delayed reporting makes it difficult to apprehend violators and that some businesses do not encourage calling police for each violation.

Chief Johnson also noted the success of the FLOCK cameras in the areas.

Committee members suggested that the Police Department schedule meetings with businesses in the area to encourage their participation in more aggressive action to prosecute the criminals involved.

The Committee directed that Chief Johnson report on this issue at the next meeting of the Public Health & Safety Committee.

7. Security glass at City Hall Front Desk

Chief Johnson reported that the City has not yet received a bid regarding security glass for the Front Desk at City Hall. He also noted that contractors seem reluctant to bid on this project.

There was discussion about the actual need for security glass at the front desk. Chief Johnson noted that when the building was being designed, this was discussed and it was not approved. The decision was that the front hall and desk area be a welcoming area to the citizens.

It was suggested that portable shields of some type be made available to staff at the front desk. Chief Johnson will check on the obtainability of shields.

Councilmember McGuinness motioned and Councilmember Hansen seconded to remove this item from the agenda for upcoming meetings until more information is available. This motion carried 4-0.

8. No new meeting date was set at this time.
9. Having no further business, Chairperson Mastorakos adjourned the meeting at 6:15 PM.

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF CHESTERFIELD AMENDING ARTICLE XI OFFENSES CONCERNING DRUGS WITH RESPECT TO THE LEGALIZATION OF ADULT USE MARIJUANA

WHEREAS, an amendment to the Missouri Constitution, herein referred to as Amendment 3, was approved by voters on November 8, 2022 to decriminalize adult use marijuana and to provide for the regulated production, distribution, testing, sale, and purchase of recreational marijuana by those ages 21 and older; and

WHEREAS, Amendment 3 gives the City authorization to enact ordinances not in conflict with Amendment 3 including the imposition of civil penalties for certain violations related to the possession, distribution, and use of recreational marijuana; and

WHEREAS, the City of Chesterfield, having carefully studied Amendment 3 and its mandate, wishes to establish regulations related to the possession, distribution, and use of recreational marijuana to protect the health, safety, and general welfare; and

WHEREAS, the City Council desires to amend the City's Code to protect the health, safety, and welfare of the residents of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, MISSOURI AS FOLLOWS:

Section I: Section 210.1800 of the City of Chesterfield Municipal Code shall be amended as set forth below, with language to be added underlined and language to be deleted stricken:

Section 210.1800 **Possession of Marijuana or Synthetic Cannabinoid**

A person commits the offense of possession of marijuana or any synthetic cannabinoid, as both the terms are is defined in Section 195.010, RSMo., if he/she knowingly possesses marijuana or any synthetic cannabinoid, except as authorized by Chapter 579 or Chapter 195, RSMo.

Section II: Section 210.1810 of the City of Chesterfield Municipal Code shall be amended as set forth below, with language to be added underlined and language to be deleted stricken:

Section 210.1810 Possession Of A Controlled Substance.

A person commits the offense of possession of a controlled substance, as defined in Section 195.010, RSMo., but not including marijuana if he/she knowingly possesses a controlled substance, but not including marijuana, except as authorized by Chapter 579, RSMo., or Chapter 195, RSMo.

Section III: Section 210.1830 of the City of Chesterfield Municipal Code shall be amended as set forth below, with language to be added underlined and language to be deleted stricken:

Section 210.1830 Unlawful Possession Of Drug Paraphernalia.

A person commits the offense of unlawful possession of drug paraphernalia if he/she knowingly uses, or possesses with intent to use, drug paraphernalia, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body, a controlled substance or an imitation controlled substance in violation of Chapter 579, RSMo., or Chapter 195, RSMo., not including products used for growing, consuming, storing, or processing marijuana.

Section IV: Section 210.1870 of the City of Chesterfield Municipal Code shall be adopted as follows:

Section 210.1870 Possession of Marijuana, Over Six Ounces

A person commits the offense of possession of marijuana, over six ounces, if he or she knowingly possess more than six ounces of marijuana.

Section V: Section 210.1880 of the City of Chesterfield Municipal Code shall be adopted as follows:

Section 210.1880 Unlawful Distribution

- A.** It is an offense to deliver or distribute marijuana or marijuana accessories, with or without consideration, to a person younger than twenty-one (21) years of age, except as allowed by Article XIV, Section 1 of the Missouri Constitution.
- B.** It is an offense for a person to deliver or distribute marijuana or marijuana accessories, with consideration, to a person twenty-one (21) years of age or older, except those marijuana facilities licensed to distribute marijuana, marijuana infused products, and marijuana accessories as allowed by Article XIV, Section 1 or Section 2 of the Missouri Constitution.

Section VI: Section 210.1890 of the City of Chesterfield Municipal Code shall be adopted as follows:

Section 210.1890 Marijuana Prohibited for Persons Under Twenty-One (21) Years of Age.

It is an offense for a person younger than twenty-one years of age to purchase, possess, use, consume, transport marijuana or marijuana accessories, except as allowed by Article XIV, Section 1 of the Missouri Constitution.

Section VII: Section 210.1900 of the City of Chesterfield Municipal Code shall be adopted as follows:

Section 210.1900 Unlawful Marijuana Cultivation.

- A.** It is an offense for any person or entity to possess marijuana plants without a valid registration for cultivation on file with the State of Missouri.
- B.** It is an offense for any person or entity, except those facilities licensed to do so by the State of Missouri, to keep more than six flowering marijuana plants, more than six nonflowering plants (over fourteen inches tall), or more than six clones (plants under fourteen inches tall).
- C.** Any person or entity who cultivates marijuana plants shall keep the plants and any marijuana produced by the plants at one private residence, in a locked space, and in a place that is not visible by normal, unaided vision from a public place. A person or entity who violates this subsection may be subject to a civil penalty not exceeding \$250.00 and forfeiture of the marijuana.

Section VIII: Section 210.1910 of the City of Chesterfield Municipal Code shall be adopted as follows:

Section 210.1910 Restrictions on Marijuana in Vehicles.

It is an offense for any person to smoke marijuana or use marijuana-infused products: (1) while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transportation while it is being operated; or (2) within a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated.

Section IX: Section 210.1920 of the City of Chesterfield Municipal Code shall be adopted as follows:

Section 210.1920 Sale of Marijuana, Marijuana-Infused Products, Marijuana

Accessories.

A. No Sales to Persons Under Twenty-One (21) Years of Age.

- 1.** A person who sells marijuana, including marijuana-infused products, or marijuana accessories, shall deny the sale of such products to any person who is less than twenty-one (21) years of age.
- 2.** A person or entity selling marijuana, including marijuana-infused products, or marijuana accessories, shall require proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that such prospective purchaser or recipient may be under the age of twenty-one (21).
- 3.** The operator's or chauffeur's license issued pursuant to the provisions of Section 302.177, RSMo., or the operator's or chauffeur's license issued pursuant to the laws of any State or possession of the United States to residents of those States or possessions, or an identification card as provided for in Section 302.181, RSMo., or the identification card issued by any uniformed service of the United States, or a valid passport shall be presented by the holder thereof upon request of any owner or employee of an establishment that sells to marijuana, including marijuana infused products, or marijuana accessories, for the purpose of aiding the registrant, agent or employee to determine whether or not the person is at least twenty-one (21) years of age when such person desires to purchase or possess marijuana, including marijuana-infused products, or marijuana accessories, procured from a vendor. Upon such presentation, the owner or employee of the establishment shall compare the photograph and physical characteristics noted on the license, identification card or passport with the physical characteristics of the person presenting the license, identification card or passport.
- 4.** A person cited for selling marijuana, including marijuana-infused products, or marijuana accessories to any person less than twenty-one (21) years of age in violation of this Section shall conclusively be presumed to have reasonably relied on proof of age of the purchaser or recipient, and such person shall not be found guilty of such violation if such person raises and proves as an affirmative defense that such individual presented a driver's license or other government-issued photo identification purporting to establish that such person was twenty-one (21) years of age or older.

B. Persons Under Twenty-One (21) Years of Age Prohibited from Purchasing.

1. Any person less than twenty-one (21) years of age shall not purchase or attempt to purchase marijuana, including marijuana-infused products, or marijuana accessories.
2. Any person less than twenty-one (21) years of age shall not misrepresent his/her age to purchase marijuana, including marijuana-infused products, or marijuana accessories.
3. No person shall, without authorization from the Department of Revenue, reproduce, alter, modify, or misrepresent any chauffeur's license, motor vehicle operator's license or identification card.

C. Proximity to Certain Institutions. It shall be unlawful for any person to sell, offer for sale, give away, or deliver marijuana, including marijuana-infused products, or marijuana accessories, within 1,000 feet of any church, day care center, elementary or secondary school.

D. Separate Offense. Each violation of this Section shall constitute a separate offense.

Section X: Section 210.1930 of the City of Chesterfield Municipal Code shall be adopted as follows:

Penalties for Marijuana Violations.

- A.** A person who smokes marijuana in a public place in violation of the law shall be subject to a civil penalty not exceeding one hundred dollars.
- B.** A person who is under twenty-one (21) years of age who possesses, uses, ingests, inhales, transports, delivers without consideration, or distributes without consideration three ounces or less of marijuana, or possesses, delivers without consideration, or distributes without consideration marijuana accessories is subject to a civil penalty not to exceed one hundred dollars and forfeiture of the marijuana. Any such person shall be provided the option of attending up to four hours of drug education or counseling in lieu of the fine.
- C.** A person twenty-one years (21) of age or older who possesses not more than twice the amount of marijuana allowed pursuant to this code, produces not more than twice the amount of marijuana allowed pursuant to this code, delivers without receiving any consideration or remuneration to a person who is at least twenty-one (21) years of age not more than twice the amount of marijuana allowed by this subsection, or possesses with

intent to deliver not more than twice the amount of marijuana allowed by this code:

1. For a first violation, is subject to a civil infraction punishable by a civil penalty not exceeding two hundred and fifty dollars and forfeiture of the marijuana;
 2. For a second violation, is subject to a civil infraction punishable by a civil penalty not exceeding five hundred dollars and forfeiture of the marijuana;
 3. For a third or subsequent violation, is subject to a misdemeanor punishable by a fine not exceeding one-thousand dollars and forfeiture of the marijuana;
 4. A person under twenty-one (21) years of age is subject to a civil penalty not to exceed two hundred and fifty dollars. Any such person shall be provided the option of attending up to eight hours of drug education or counseling in lieu of the fine; and
 5. In lieu of payment, penalties under this subsection may be satisfied by the performance of community service. The rate of pay-down associated with said service option will be the greater of \$15 or the minimum wage in effect at the time of judgment.
- D.** A person who cultivates marijuana plants that are visible by normal, unaided vision from a public place or who cultivates plants that are not kept in a locked space is subject to a civil penalty not exceeding \$250.00 and forfeiture of the marijuana.
- E.** For all other controlled substance violations, a person may be punished as provided in Sec. 1-10 of the Code.

Section XI: This ordinance shall be codified within the Municipal Code of the City of Chesterfield.

Section XII: This ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this ____ day of _____, 2023.

Presiding Officer

Bob Nation, Mayor

ATTEST:

Vickie McGownd

FIRST READING HELD:

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2. A person or entity selling marijuana, including marijuana-infused products, or marijuana accessories, shall require proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that such prospective purchaser or recipient may be under the age of twenty-one (21).
3. The operator's or chauffeur's license issued pursuant to the provisions of Section 302.177, RSMo., or the operator's or chauffeur's license issued pursuant to the laws of any State or possession of the United States to residents of those States or possessions, or an identification card as provided for in Section 302.181, RSMo., or the identification card issued by any uniformed service of the United States, or a valid passport shall be presented by the holder thereof upon request of any owner or employee of an establishment that sells to marijuana, including marijuana infused products, or marijuana accessories, for the purpose of aiding the registrant, agent or employee to determine whether or not the person is at least twenty-one (21) years of age when such person desires to purchase or possess marijuana, including marijuana-infused products, or marijuana accessories, procured from a vendor. Upon such presentation, the owner or employee of the establishment shall compare the photograph and physical characteristics noted on the license, identification card or passport with the physical characteristics of the person presenting the license, identification card or passport.
4. A person cited for selling marijuana, including marijuana-infused products, or marijuana accessories to any person less than twenty-one (21) years of age in violation of this Section shall conclusively be presumed to have reasonably relied on proof of age of the purchaser or recipient, and such person shall not be found guilty of such violation if such person raises and proves as an affirmative defense that such individual presented a driver's license or other government-issued photo identification purporting to establish that such person was twenty-one (21) years of age or older.

- B. Persons Under Twenty-One (21) Years of Age Prohibited from Purchasing.**
- 1.** Any person less than twenty-one (21) years of age shall not purchase or attempt to purchase marijuana, including marijuana-infused products, or marijuana accessories.
 - 2.** Any person less than twenty-one (21) years of age shall not misrepresent his/her age to purchase marijuana, including marijuana-infused products, or marijuana accessories.
 - 3.** No person shall, without authorization from the Department of Revenue, reproduce, alter, modify, or misrepresent any chauffeur's license, motor vehicle operator's license or identification card.
- C. Proximity to Certain Institutions.** It shall be unlawful for any person to sell, offer for sale, give away, or deliver marijuana, including marijuana-infused products, or marijuana accessories, within 1,000 feet of any church, day care center, elementary or secondary school.
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- C.** A person twenty-one years (21) of age or older who possesses not more than twice the amount of marijuana allowed pursuant to this code, produces not more than twice the amount of marijuana allowed pursuant to this code, delivers without receiving any consideration or remuneration to a person who is at least twenty-one (21) years of age not more than twice the amount of marijuana allowed by this subsection, or possesses with

intent to deliver not more than twice the amount of marijuana allowed by this code:

1. For a first violation, is subject to a civil infraction punishable by a civil penalty not exceeding two hundred and fifty dollars and forfeiture of the marijuana;
 2. For a second violation, is subject to a civil infraction punishable by a civil penalty not exceeding five hundred dollars and forfeiture of the marijuana;
 3. For a third or subsequent violation, is subject to a misdemeanor punishable by a fine not exceeding one-thousand dollars and forfeiture of the marijuana;
 4. A person under twenty-one (21) years of age is subject to a civil penalty not to exceed two hundred and fifty dollars. Any such person shall be provided the option of attending up to eight hours of drug education or counseling in lieu of the fine; and
 5. In lieu of payment, penalties under this subsection may be satisfied by the performance of community service. The rate of pay-down associated with said service option will be the greater of \$15 or the minimum wage in effect at the time of judgment.
- D.** A person who cultivates marijuana plants that are visible by normal, unaided vision from a public place or who cultivates plants that are not kept in a locked space is subject to a civil penalty not exceeding \$250.00 and forfeiture of the marijuana.
- E.** For all other controlled substance violations, a person may be punished as provided in Sec. 1-10 of the Code.

Section XI: This ordinance shall be codified within the Municipal Code of the City of Chesterfield.

Section XII: This ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this ____ day of _____, 2023.

Presiding Officer

Bob Nation, Mayor

ATTEST:

Vickie McGownd

FIRST READING HELD:

BILL NO. _____

ORDINANCE NO.

5

AN ORDINANCE OF THE CITY OF CHESTERFIELD AMENDING SECTIONS 210.900 AND 220.150 OF THE CITY MUNICIPAL CODE RELATED TO FIREARMS REGULATIONS

WHEREAS, the State of Missouri has preempted the entire field of legislation touching in any way firearms to the exclusion of any order, ordinance or regulation by any political subdivision, including the City of Chesterfield; and

WHEREAS, RSMo 21.750 allows political subdivisions to pass ordinances which conform exactly with the provisions of RSMo 571.010 to 571.070; and

WHEREAS, RSMo 21.750 further allows the City to regulate the open carrying of firearms readily capable of lethal use or the discharge of firearms within the City, provided such ordinances comply with RSMo 252.243; and

WHEREAS, the City, having carefully studied the aforementioned statutes, desires to update its ordinances to reflect the current state of the law; and

WHEREAS, the City Council desires to amend the City's Code to protect the health, safety, and welfare of the residents of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, MISSOURI AS FOLLOWS:

Section I: Section 210.900 of the City of Chesterfield Municipal Code shall be amended as set forth below, with language to be added underlined and language to be deleted ~~stricken~~:

Section 210.900 **Carrying Concealed Firearms Prohibited — Penalty For Violation.**

A. It shall be a violation of this Section, punishable as hereinafter provided, for any person to carry any concealed firearm or openly carried firearm into:

- 1.** Any Police, Sheriff or Highway Patrol office or station without the consent of the Chief Law Enforcement Officer in charge of that office or station. Possession of a firearm in a vehicle on the premises of the office or station shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

2. Within twenty-five (25) feet of any polling place on any election day. Possession of a firearm in a vehicle on the premises of the polling place shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
3. The facility of any adult or juvenile detention or correctional institution, prison or jail. Possession of a firearm in a vehicle on the premises of any adult, juvenile detention or correctional institution, prison or jail shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
4. Any courthouse solely occupied by the Circuit, Appellate or Supreme Court, or any courtrooms, administrative offices, libraries or other rooms of any such court whether or not such court solely occupies the building in question. This Subsection shall also include, but not be limited to, any juvenile, family, drug or other court offices, any room or office wherein any of the courts or offices listed in this Subsection are temporarily conducting any business within the jurisdiction of such courts or offices, and such other locations in such manner as may be specified by Supreme Court Rule pursuant to Subdivision (6) of Subsection (1) of Section 571.107, RSMo. Nothing in this Subsection shall preclude those persons listed in Subsection **(B)(1)** of Section **210.840** while within their jurisdiction and on duty, those persons listed in Subsections **(B)(2)**, (4) and (10) of Section **210.840**, or such other persons who serve in a law enforcement capacity for a court as may be specified by Supreme Court Rule pursuant to Subdivision (6) of Subsection (1) of Section 571.107, RSMo., from carrying a concealed firearm within any of the areas described in this Subsection. Possession of a firearm in a vehicle on the premises of any of the areas listed in this Subsection shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
5. Any meeting of the Chesterfield City Council, except that nothing in this Subsection shall preclude a member of the City Council holding a valid concealed carry permit or endorsement from carrying a

concealed firearm at a meeting of the City Council of which he/she is a member. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

6. Any building owned, leased or controlled by the City of Chesterfield identified by signs posted at the entrance to the building. This Subsection shall not apply to any building used for public housing by private persons, highways or rest areas, firing ranges, and private dwellings owned, leased, or controlled by the City of Chesterfield. Persons violating this Subsection may be denied entrance to the building, ordered to leave the building and, if employees of the City, be subjected to disciplinary measures for violation;
7. Any establishment licensed to dispense intoxicating liquor for consumption on the premises, which portion is primarily devoted to that purpose, without the consent of the owner or manager. The provisions of this Subsection shall not apply to the licensee of said establishment. The provisions of this Subsection shall not apply to any bona fide restaurant open to the general public having dining facilities for not less than fifty (50) persons and that receives at least fifty-one percent (51%) of its gross annual income from the dining facilities by the sale of food. This Subsection does not prohibit the possession of a firearm in a vehicle on the premises of the establishment and shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. Nothing in this Subsection authorizes any individual who has been issued a concealed carry permit or endorsement to possess any firearm while intoxicated;
8. Any area of an airport to which access is controlled by the inspection of persons and property. Possession of a firearm in a vehicle on the premises of the airport shall not be a violation so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
9. Any place where the carrying of a firearm is prohibited by Federal law;

- 10.** Any higher education institution or elementary or secondary school facility without the consent of the Governing Body of the higher education institution or a school official or the district school board, unless the person with the concealed carry endorsement or permit is a teacher or administrator of an elementary or secondary school who has been designated by his/her school district as a school protection officer and is carrying a firearm in a school within that district, in which case no consent is required. Possession of a firearm in a vehicle on the premises of any higher education institution or elementary or secondary school facility shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
- 11.** Any portion of a building used as a child care facility without the consent of the manager. Nothing in this Subsection shall prevent the operator of a child care facility in a family home from owning or possessing a firearm or a concealed carry permit or endorsement;
- 12.** Any riverboat gambling operation accessible by the public without the consent of the owner or manager pursuant to rules promulgated by the Gaming Commission. Possession of a firearm in a vehicle on the premises of a riverboat gambling operation shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
- 13.** Any gated area of an amusement park. Possession of a firearm in a vehicle on the premises of the amusement park shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
- 14.** Any church or other place of religious worship without the consent of the minister or person or persons representing the religious organization that exercises control over the place of religious worship. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
- 15.** Any private property whose owner has posted the premises as being off-limits to concealed firearms by means of one (1) or more signs

displayed in a conspicuous place of a minimum size of eleven (11) inches by fourteen (14) inches with the writing thereon in letters of not less than one (1) inch. The owner, business or commercial lessee, manager of a private business enterprise, or any other organization, entity or person may prohibit persons holding a concealed carry permit or endorsement from carrying concealed firearms on the premises and may prohibit employees, not authorized by the employer, holding a concealed carry permit or endorsement from carrying concealed firearms on the property of the employer. If the building or the premises are open to the public, the employer of the business enterprise shall post signs on or about the premises if carrying a concealed firearm is prohibited. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. An employer may prohibit employees or other persons holding a concealed carry permit or endorsement from carrying a concealed firearm in vehicles owned by the employer;

16. Any sports arena or stadium with a seating capacity of five thousand (5,000) or more. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
17. Any hospital accessible by the public. Possession of a firearm in a vehicle on the premises of a hospital shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

B. Any person violating any of the provisions of Subsection **(A)** of this Section shall be punished as follows:

1. Carrying of a firearm in a location specified in subdivisions (1) to (17) of subsection A of this section by any individual who holds a concealed carry permit issued pursuant to sections 571.101 to 571.121, or a concealed carry endorsement issued prior to August 28, 2013, shall not be a criminal act but may subject the person to denial to the premises or removal from the premises. If such person refuses to leave the premises and a peace officer is summoned, such

person may be issued a citation for an amount not to exceed one hundred dollars for the first offense. If a second citation for a similar violation occurs within a six-month period, such person shall be fined an amount not to exceed two hundred dollars. If a third citation for a similar violation is issued within one year of the first citation, such person shall be fined an amount not to exceed five hundred dollars. Upon conviction of charges arising from a citation issued pursuant to this subsection, the court shall notify the sheriff of the county which issued the concealed carry permit, or, if the person is a holder of a concealed carry endorsement issued prior to August 28, 2013, the court shall notify the sheriff of the county which issued the certificate of qualification for a concealed carry endorsement and the department of revenue.

2. Carrying of a firearm in a location specified in subdivisions (1) to (17) of subsection A of this section by any individual who does not hold a concealed carry permit issued pursuant to sections 571.101 to 571.121, or a concealed carry endorsement issued prior to August 28, 2013, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for a period not to exceed three (3) months, or by both such fine and imprisonment, as provided in Section **100.080** of this Code of Ordinances.

~~1. If the violator holds a concealed carry permit or endorsement issued pursuant to State law, the violator may be subject to denial to the premises or removal from the premises. If such person refuses to leave the premises and a Peace Officer is summoned, such person may be issued a citation for an amount not to exceed one hundred dollars (\$100.00) for the first offense. If a second citation for a similar violation occurs within a six-month period, such person shall be fined an amount not to exceed two hundred dollars (\$200.00). If a third citation for a similar violation is issued within one (1) year of the first citation, such person shall be fined an amount not to exceed five hundred dollars (\$500.00). Upon conviction of charges arising from a citation issued pursuant to this Section, the court shall notify the Sheriff of the County which issued the concealed carry permit, or, if the person is a holder of a concealed carry endorsement issued prior to August 28, 2013, the court shall notify the Sheriff of the County which issued the~~

~~certificate of qualification for a concealed carry permit or endorsement and the Department of Revenue.~~

~~2. If the violator does not hold a current valid concealed carry permit or endorsement issued pursuant to State law, upon conviction of a charge of violating this Section the defendant shall be punished as provided in Section **100.080** of this Code of Ordinances.~~

~~3. Employees of the City of Chesterfield may, in addition to any other punishment hereby, be subject to disciplinary action.~~

C. ~~It shall be a violation of this Section, punishable by a citation for an amount not to exceed thirty five dollars (\$35.00), for any person issued a concealed carry permit or endorsement pursuant to State law to fail to carry the concealed carry permit or endorsement at all times the person is carrying a concealed firearm, or to fail to display the concealed carry permit or endorsement upon the request of any Peace Officer. Any person issued a concealed carry permit pursuant to sections 571.101 to 571.121, or a concealed carry endorsement issued prior to August 28, 2013, shall carry the concealed carry permit or endorsement at all times the person is carrying a concealed firearm and shall display the concealed carry permit and a state or federal government-issued photo identification or the endorsement or permit upon the request of any peace officer. Failure to comply with this subsection shall not be a criminal offense but the concealed carry permit or endorsement holder may be issued a citation for an amount not to exceed thirty-five dollars.~~

Section II: Section 210.910 of the City of Chesterfield Municipal Code shall be amended as set forth below, with language to be added underlined and language to be deleted ~~stricken~~:

Section 210.910 **Open Display Of Firearm Permitted, When.**

A. Open carrying of a firearm shall be prohibited within the City limits except by:

1. ~~any law enforcement officer~~ Any person who has a valid concealed carry endorsement issued prior to August 28, 2013, or a valid concealed carry permit who is lawfully carrying a firearm in a concealed manner, may briefly and openly display the firearm to the

ordinary sight of another person, unless the firearm is intentionally displayed in an angry or threatening manner, not in necessary self-defense, and as permitted by RSMo 252.243.

2. Open carrying of a firearm, other than in those locations enumerated in Section 210.900, shall not be prohibited for any person with a valid concealed carry endorsement or permit, so long as such endorsement or permit is in said persons possession. Any person open carrying a firearm shall display his or her concealed carry endorsement or permit upon demand of a law enforcement officer.
3. All state, county and municipal peace officers who have completed the training required by the police officer standards and training commission pursuant to RSMo 17 590.030 to 590.050 and who possess the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, whether such officers are on or off duty, and whether such officers are within or outside of the law enforcement agency's jurisdiction, or all qualified retired peace officers, as defined in RSMo 571.030.12, and who carry the identification defined in RSMo 571.030.13, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
4. Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;
5. Members of the armed forces or national guard while performing their official duty;
6. Those persons vested by article V, section 1 of the Constitution of Missouri with the judicial power of the state and those persons vested by article III of the Constitution of the United States with the judicial power of the United States, the members of the federal judiciary;
7. Any person whose bona fide duty is to execute process, civil or criminal;

- 8.** Any federal probation officer or federal flight deck officer as defined under the federal flight deck officer program, 49 U.S.C. Section 44921, regardless of whether such officers are on duty, or within the law enforcement agency's jurisdiction;
- 9.** Any state probation or parole officer, including supervisors and members of the board of probation and parole;
- 10.** Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the Missouri department of public safety under RSMo 590.750;
- 11.** Any coroner, deputy coroner, medical examiner, or assistant medical examiner;
- 12.** Any municipal or county prosecuting attorney or assistant prosecuting attorney; circuit attorney or assistant circuit attorney; municipal, associate, or circuit judge; or any person appointed by a court to be a special prosecutor who has completed the firearms safety training course required under RSMo 571.111.2;
- 13.** Any member of a fire department or fire protection district who is employed on a full time basis as a fire investigator and who has a valid Missouri concealed carry endorsement issued prior to August 28, 2013, or a valid concealed carry permit issued under RSMo 571.101 to 571.121, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties; and
- 14.** Upon the written approval of the governing body of a fire department or fire protection district, any paid fire department or fire protection district member who is employed on a full-time basis and who has a valid Missouri concealed carry endorsement issued prior to August 28, 2013, or a valid concealed carry, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties.
- 15.** Any persons who are engaged in a lawful act of defense pursuant to RSMo 563.031.

D. Any person who violates this section may be issued a citation for an amount not to exceed thirty-five dollars.

Section III: Section 220.150 of the City of Chesterfield Municipal Code shall be amended as set forth below, with language to be added underlined and language to be deleted ~~stricken~~:

Section 220.150 **Weapons Prohibited.**

No person shall carry or have in his/her possession any ~~firearm~~, air pistol, air rifle, bow and arrow or any other instrument capable of launching or firing any projectile or noxious substance, whether propelled by ~~gunpowder~~, gas, air, spring, or any other means, while within any park, facility, trail area, roadway, driveway, or other public place of the Department. This Section shall not apply to any Law Enforcement Officer authorized by law to carry a weapon within the parks, facilities and/or trail areas. This shall not apply to firearms, which are defined as any weapon that is designed or adapted to expel a projectile by the action of an explosive.

Section IV: This ordinance shall be codified within the Municipal Code of the City of Chesterfield.

Section V: This ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this ____ day of _____, 2023.

Presiding Officer

Bob Nation, Mayor

ATTEST:

Vickie McGownd

FIRST READING HELD:

MEMORANDUM

Privileged and Confidential Communication

TO: Chesterfield City Administrator

FROM: The Graville Law Firm

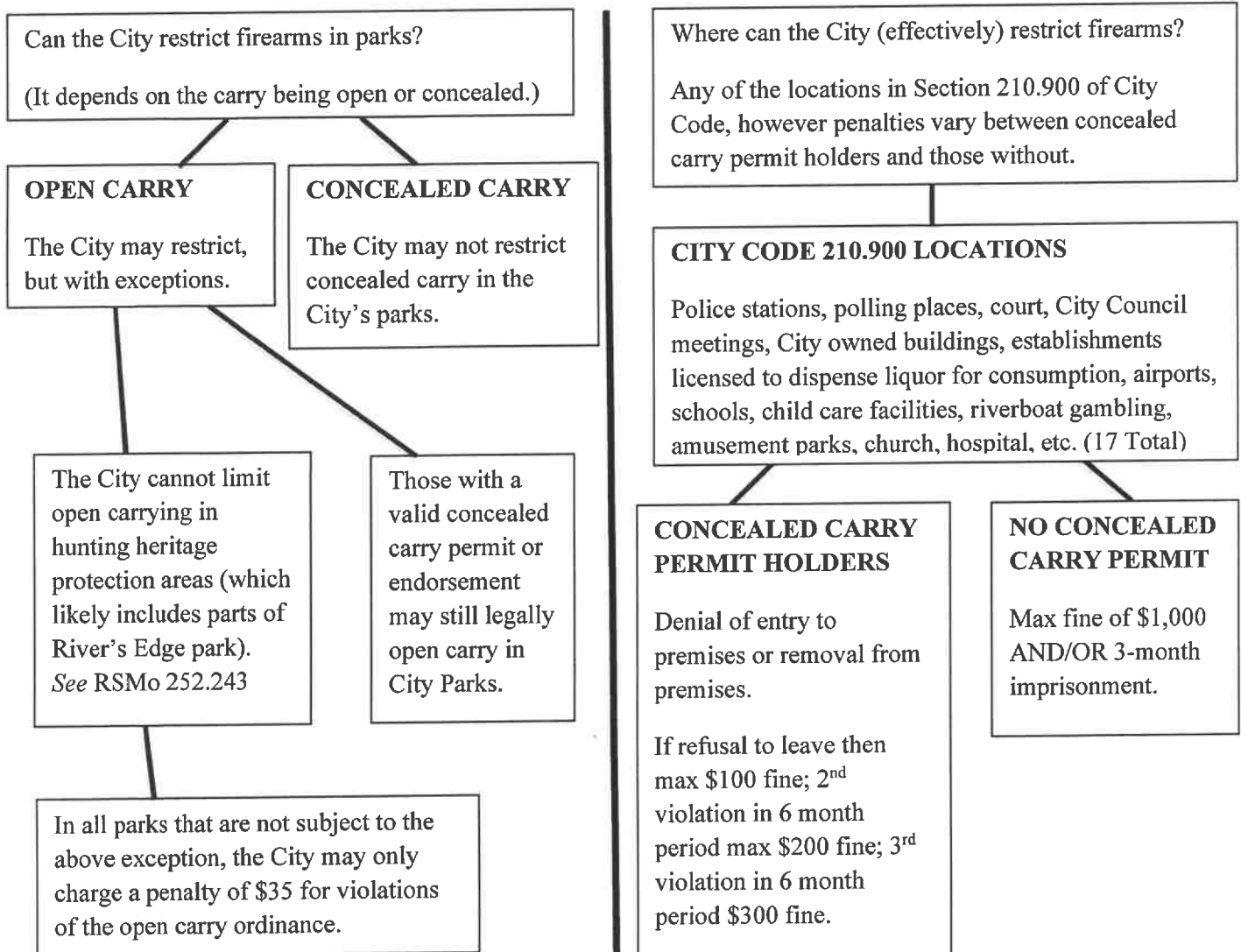
DATE: September 6, 2023

RE: FIREARMS IN PARKS – CITY REGULATIONS



Introduction

This memorandum is in response to a question regarding the City of Chesterfield's authority to restrict carrying a firearm in City parks. Generally, the city can regulate openly carrying firearms in parks; however, there are exceptions. A flowchart showing the City's ability to regulate open carrying of firearms in City parks is included below. Additionally, as our review identified other necessary updates to the City Code, a chart related to Section 210.900 has also been included.



Required Update to Chesterfield Ordinance Section 210.900

As currently written, City Code Section 210.900 applies only to concealed firearms. This leaves a question as to how openly carried firearms are treated in the 17 enumerated locations found in RSMo 571.215. This issue has been previously litigated in other jurisdictions, including in *Zoological Park Subdistrict of the Metropolitan Park Museum District v. Jeffrey K. Smith*, and, to avoid confusion, the City should amend Subsection (A) to explicitly include a prohibition of firearms that are openly carried from each of the 17 enumerated locations.

We are also recommending modifications to Subsection (B) of Section 210.900 to include language which mirrors state statutes instead of just being substantially similar. This change is required to comply with the State's preemption statute, which requires the City to have regulations which *exactly* conform with State statutes. Additionally, it is our recommendation to strike subdivision (3) in its entirety, as this provision is not in State statutes and preemption prevents the City from adopting this regulation.

Similar to the issues discussed above regarding Subsection (B), it is our recommendation to amend the language of Subsection (C) of Section 210.900 to mirror current State statutes.

Required Updates to Chesterfield Ordinance Section 210.910

It is our recommendation to strike the language referring to any person who has a valid concealed carry endorsement or permit. The constitutional carry amendment allows for the lawful concealment of a weapon with or without a concealed carry endorsement or permit, thus making this section invalid as currently written. However, once this language is struck from the Section, the City should be aware that this change alone does not prevent the open carrying of a firearm since the section currently only applies to "carrying a firearm in a concealed manner".

Additionally, we are recommending the City amend Section 210.910 to incorporate the State required exemption to open display pursuant to RSMo 252.243. RSMo 252.243, known as the "Hunting Heritage Protection Areas Act", creates an exception for open carrying in the "one hundred-year flood plain of the Missouri River and all land located within the one hundred-year flood plain of the Mississippi River." Portions of the City fall into the protected areas as established in RSMo 252.243, such as part of Rivers Edge Park, and any open carry regulation would not be enforceable in those locations.

Optional Update to Chesterfield Ordinance Section 210.910

As the City is permitted to regulate the open carry of firearms, the City may wish to amend its code to prevent open carrying in light of "constitutional carry." As discussed below, the City's current weapon prohibition in parks is overbroad as the City cannot prohibit concealed carry in the City's parks or the open carry of weapons in public parks by those with a concealed carry permit/endorsement. The City has broad authority to regulate open carry but may wish to just prohibit open carrying in public parks. Other jurisdictions, including the City of St. Louis, have chosen to create broad prohibitions on open carry. The City's previous ordinance contained a broad prohibition on the open display of firearms, so the current draft contains a similarly broad prohibition on the open carrying of a firearm. Once the City provides direction on the level of restriction on the open carrying of firearms, this section can be edited to reflect the same.

Required Update to Chesterfield Ordinance Section 220.150

While the City is authorized to prohibit open carrying in parks, notwithstanding RSMo 252.243, the City cannot prohibit concealed carry in parks. The City is preempted by the State on the issue of prohibiting concealed carry in parks. This amendment is required to comply with State statutes.

Conclusion

Following the constitutional carry amendment and litigation regarding firearm regulations in recent years, the aforementioned changes are recommended based on the current state of the law. While no challenges to the City's code have been made, the proposed updates bring clarity to the City of Chesterfield's ordinances in light of current state statutes and the Missouri Constitution.

The Chesterfield Police Department is dedicated to providing a safe environment and to protecting its citizens and businesses from criminal activity. This endeavor, however, is not one which can be shouldered by law enforcement alone. We acknowledge the need for cooperation within the community which we serve. We believe a strong partnership with the retailers within the city is the foundation for achieving this success.

Like many cities across the country Chesterfield is experiencing an increase in property related crimes such as shoplifting. These crimes are frustrating not only to retailers and law enforcement, but also to residents and those visiting our city. I am reaching out to you to seek your help and to reiterate our commitment to making Chesterfield a safe and desirable place to shop and do business.

We are working to achieve this by having dedicated an 8-officer Police Special Enforcement Unit (SEU) designed to combat retail crime. These officers are highly trained at preventing, investigating, and apprehending those who prey on our retailers and citizens. But, as mentioned earlier, we cannot achieve success on our own. Therefore, we are asking for a commitment from you to assist us in accomplishing these goals.

It is our belief that prevention is the biggest deterrent to theft. We therefore, ask that you contact our department when criminal activity is occurring or immediately thereafter. Too many times our officers are responding to take a report of a theft which occurred days or even weeks prior. We believe one of the best deterrents to crime is to have officers highly visible and on patrol. This practice of delayed reporting is counterproductive to our cause. Therefore, we will be making procedural changes to increase our ability to provide the most effective service. To that end, we will no longer be dispatching an officer to take a delayed larceny report. Instead, we will provide a document which can be completed at your convenience and emailed to our police department. This document will also be available in a fillable format on our website. A follow-up investigation will be conducted if there is sufficient evidence provided.

The purpose of a police report is to document and investigate possible criminal activity, which then is presented to a prosecutor for criminal prosecution in a court of law. Therefore, we will no longer take police reports if the retailer is unwilling to prosecute. Instead, we will provide you with a Call for Service Number (CSN). A CSN documents the nature of the call and that an officer responded.

These procedural changes will allow our officers to spend more time providing preventative patrols and for officers to investigate thefts from retailers who are interested in prosecuting offenders.

We are committed and willing to do what's necessary to ensure success. We look forward to partnering with our retailers to ensure Chesterfield remains the most desirable shopping destination in the country. SEU officers along with the Police Community Affairs Division are available to assist you with training, and/or target hardening techniques. The safety of your team and customers are our first and foremost priority. By working together, we can make a difference.