

TO: **Thomas Thomas, City Manager, City of Rock Island**

SUBJECT: Recommendation to Amend the Code of Ordinances:
Seatbelts, Possession of Cannabis 2.5-10 grams, Cell Phone

Number: 14-12
Date: 03/12/14

In an effort to improve the efficiency of adjudicating certain minor offenses and to ensure that violators are held accountable, it is recommended that the City of Rock Island adopt ordinances for the offenses of failure to wear a seatbelt, possession of cannabis between 2.5 to 10 grams of weight and the unlawful use of a cellular phone. Currently these offenses have to be charged under state statute and are adjudicated in the circuit court. Because of case volume and limited resources the adjudication process is sometimes forgone for these types of minor offenses. If adopted, these violations would instead be adjudicated in the Municipal Code Enforcement System (MUNICES) where they would be prosecuted by the City Attorney before the Code Hearing Officer. Doing this will help reduce some of the volume of cases in the circuit court without sacrificing the enforcement of laws that serve the health and safety interests of the public.

Because the cost of using MUNICES is calculated based on case volume this will translate to increased administrative cost. It is fully expected, however, that the fine revenue from successful prosecutions will offset the increased expense and will likely result in positive revenue for the City.

The following is proposed draft language to amend the Code of Ordinances and incorporate these offenses:

Chapter 10, Article I, Section 10-70, entitled "Driver and Passenger Required to Use Safety Belts, Exception and Penalty."

(a) Each driver and passenger of a motor vehicle operated on a street or highway within this City shall wear a properly adjusted and fastened seat safety belt. Each driver of a motor vehicle transporting a passenger who is unable, due to infirmity, illness, or age, to properly adjust and fasten a seat safety belt and is not exempted from wearing a seat safety belt under subsection (b) shall secure the passenger in a properly adjusted and fastened seat safety belt as required under this Section.

(b) Paragraph (a) shall not apply to any of the following:

- 1. A driver or passenger frequently stopping and leaving the vehicle or delivering property from the vehicle, if the speed of the vehicle between stops does not exceed 15 miles per hour.*
- 2. A driver or passenger possessing a written statement from a physician that such person is unable, for medical or physical reasons, to wear a seat safety belt.*

3. *A driver or passenger possessing an official certificate or license endorsement issued by the appropriate agency in another state or country indicating that the driver is unable for medical, physical, or other valid reasons to wear a seat safety belt.*
4. *A driver operating a motor vehicle in reverse.*
5. *A motor vehicle with a model year prior to 1965.*
6. *A motorcycle or motor driven cycle.*
7. *A moped.*
8. *A motor vehicle which is not required to be equipped with seat safety belts under federal law.*
9. *A motor vehicle operated by a rural letter carrier of the United States postal service while performing duties as a rural letter carrier.*
10. *A driver or passenger of an authorized emergency vehicle.*
11. *A back seat passenger of a taxicab.*

(c) Failure to wear a seat safety belt in violation of this Section shall not be considered evidence of negligence, shall not limit the liability of an insurer, and shall not diminish any recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle.

(d) A violation of this Section shall be a petty offense and subject to a fine not to exceed \$25. In the event a person is accused of a violation and does not wish to contest the allegation prior to the time a complaint is issued for the violation, then the person so accused may pay to the City a penalty in the sum of twenty five dollars (\$25.00) for and in full satisfaction of the violation.

(e) A law enforcement officer may not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because of a violation of this Section.

Chapter 10, Article I, Section 10-60.1, entitled "Possession Of more than 2.5 grams but not more than 10 grams of Cannabis" (*"Possession of Drug Paraphernalia" is currently 10-60.1; it shall be amended to 10-60.2*)

(a) It shall be a violation of this section for any person to knowingly possess more than 2.5 grams but not more than 10 grams of any substance containing cannabis.

(b) "Cannabis" includes marijuana, hashish and other substances which are identified as including any parts of the plant cannabis sativa, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of

extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake or the sterilized seed of such plant which is incapable of germination.

(c) The minimum fine for a violation of the provisions of this section shall be three hundred dollars (\$300.00). In the event a person is accused of a violation and does not wish to contest the allegation prior to the time a complaint is issued for the violation, then the person so accused may pay to the City a penalty in the sum of three hundred dollars (\$300.00) for and in full satisfaction of the violation.

Chapter 9, Article I, Section 9-9.2, entitled "Unlawful Use of Electronic Communication Devices"

(a) As used in this Section: "Electronic communication device" means an electronic device, including but not limited to a hand-held wireless telephone, hand-held personal digital assistant, or a portable or mobile computer, but does not include a global positioning system or navigation system or a device that is physically or electronically integrated into the motor vehicle.

(b) A person may not operate a motor vehicle on a roadway while using an electronic communication device.

(c) This Section does not apply to:

- 1. a law enforcement officer or operator of an emergency vehicle while performing his or her official duties;*
- 2. a driver using an electronic communication device for the sole purpose of reporting an emergency situation and continued communication with emergency personnel during the emergency situation;*
- 3. a driver using an electronic communication device in hands-free or voice-operated mode, which may include the use of a headset;*
- 4. a driver of a commercial motor vehicle reading a message displayed on a permanently installed communication device designed for a commercial motor vehicle with a screen that does not exceed 10 inches tall by 10 inches wide in size;*
- 5. a driver using an electronic communication device while parked on the shoulder of a roadway;*
- 6. a driver using an electronic communication device when the vehicle is stopped due to normal traffic being obstructed and the driver has the motor vehicle transmission in neutral or park;*
- 7. a driver using two-way or citizens band radio services;*
- 8. a driver using two-way mobile radio transmitters or receivers for licensees of the*

Federal Communications Commission in the amateur radio service;

9. *a driver using an electronic communication device by pressing a single button to initiate or terminate a voice communication; or*
10. *a driver using an electronic communication device capable of performing multiple functions, other than a hand-held wireless telephone or hand-held personal digital assistant (for example, a fleet management system, dispatching device, citizens band radio, or music player) for a purpose that is not otherwise prohibited by this Section.*

(d) A person who violates this Section shall be fined a maximum of \$75.00. In the event a person is accused of a violation and does not wish to contest the allegation prior to the time a complaint is issued for the violation, then the person so accused may pay to the City a penalty in the sum of seventy five dollar (\$75.00) for and in full satisfaction of the violation.

Chapter 10, Article VI, Section 10-107, entitled "Schedule of Ordinances and Penalties."

9-9.2	<i>Unlawful Use of Electronic Control Devices</i>	\$75.00
10-60.1	<i>Possession of 2.5 to 10 Grams of Cannabis</i>	\$300.00-\$750.00
10-60.2	<i>Possession of Drug Paraphernalia</i>	\$200.00-\$500.00
10-70	<i>Driver and Passenger Required to Use Safety Belts</i>	\$25.00

RECOMMENDATIONS:

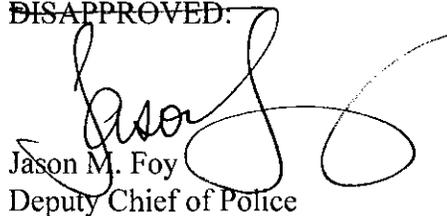
I recommend that the City consider the aforesaid draft ordinances for approval and amend the Code of Ordinances pursuant to review by the City Attorney.

Respectfully Submitted:



Agent Richard T. Landi
Office of Professional Standards

APPROVED:
~~DISAPPROVED:~~



Jason M. Foy
Deputy Chief of Police