

Recreational Marijuana Procedures

205.1 PURPOSE

To establish policies and procedures relative to the Recreational Marijuana Law.

205.2 GENERAL INFORMATION

The law allows for the following:

1. Allows a person, 21 years of age or older to possess, use or consume, internally possess, purchase, transport, or process 2.5 ounces or less of marihuana, except that not more than 15 grams of marihuana may be in the form of marihuana concentrate.
2. Allows a person 21 and older to possess, store, and process not more than 10 ounces of marihuana produced by marihuana plants cultivated on the premises and cultivate not more than 12 marihuana plants for personal use, provided that no more than 12 marihuana plants are possessed, cultivated, or processed on the premises at once.
3. Allows a person to assist another person who is 21 years of age or older.
4. Allows a person to give away or otherwise transfer without remuneration up to 2.5 ounces of marihuana, except that not more than 15 grams of marihuana may be in the form of marihuana concentrate, to a person 21 years of age or older, as long as the transfer is not advertised or promoted to the public.

205.3 ENFORCEMENT PROCEDURE

205.3.1 CIVIL INFRACTION OFFENSES:

1. Any person under the age of 21 to possess, consume, purchase or otherwise obtain, cultivate, process, or transport marijuana.
2. Consuming marihuana in a public place or smoking marihuana where prohibited by the person who owns, occupies, or manages the property, except for purposes of this subdivision a public place does not include an area designated for consumption within a municipality that has authorized consumption in designated areas that are not accessible to persons under 21 years of age;
3. Cultivating marihuana plants if the plants are visible from a public place without the use of binoculars, aircraft, or other optical aids or outside of an enclosed area equipped with locks or other functioning security devices that restrict access to the area;
4. Possessing more than 2.5 ounces of marihuana within a person's place of residence unless the excess marihuana is stored in a container or area equipped with locks or

Kalamazoo Department of Public Safety

Public Safety Procedures Manual

Recreational Marijuana Procedures

other functioning security devices that restrict access to the contents of the container or area;

5. Possessing, cultivating, delivering without remuneration, or possessing with the intent to deliver up to twice the amount of allowed marijuana.

205.3.2 MISDEMEANOR OFFENSES (90-DAY):

1. Operate, navigate, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road vehicle, or motorboat while under the influence of marijuana;
2. Transfer of marijuana or marijuana accessories to a person under the age of 21;
3. Separation of plant resin by butane extraction or another method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of any residential structure;
4. Consuming marijuana while operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat, or smoking marijuana within the passenger area of a vehicle upon a public way;
5. Possessing marijuana accessories or possessing or consuming marijuana on the grounds of a public or private school where children attend classes in preschool programs, kindergarten programs, or grades 1 through 12, in a school bus, or on the grounds of any correctional facility;
6. Possessing **more than twice** the following amounts:
 - (a) 2.5 ounces on your person
 - (b) 15 grams of marijuana concentrate
 - (c) 10 ounces of marijuana within their residence
 - (d) 12 marijuana plants (total per premises)

205.3.3 FELONY OFFENSES

MCL 333.7401: Delivery of marijuana (need to show that there are remunerations) is still a 4 year felony. Simply possessing marijuana with the intent to distribute is not enough. Must prove that they had intent to sell it.

205.4 PROPERTY PROCEDURES

The following procedures should be followed when dealing with the seizure or safekeeping of recreational marijuana

Kalamazoo Department of Public Safety

Public Safety Procedures Manual

Recreational Marijuana Procedures

205.4.1 SAFEKEEPING

1. Officers should avoid taking marijuana that is legally possessed from arrestees whenever possible. As with other personal property, turn the marijuana over to someone else at the scene if the arrestee consents. Make sure that the person we turn the legal quantity of marijuana over to is at least 21 years old and document it in the report. The arrestee may also consent to leaving it secured in the vehicle or have it destroyed at the scene in their presence (i.e. flushed down the toilet).
2. If you have no other alternatives, tag it as safe keeping and secure it in the evidence room. Attach a completed bar code sticker and fill out a Form 151 authorizing the release to the owner. Write a report listing the **last known address of owner**.
3. Inform the owner that they must pick up the property within 90 days or the property will be destroyed. Only the owners may pick up the property in person and with a current ID.

205.4.2 EVIDENCE / ENFORCEMENT

1. If the marijuana offense is a civil infraction and the suspect is **over 21 years old**, do not seize the marijuana as evidence. Issue a citation under state statute and document the facts (such as why you believe the item is marijuana) in the note section of the citation or report. A field test is not necessary.
2. If the marijuana offense is a civil infraction and the suspect is **under 21 years old**, seize the marijuana as evidence and issue citation under state statute. Secure it in the evidence room. Attach a completed bar code sticker and fill out a Form 151 authorizing the destruction of the evidence to the property room.
3. If the marijuana offense is a misdemeanor, seize the marijuana as evidence.
 - (a) Complete offense report to include appearance ticket number written under state statute and entry of evidence into property section.
 - (b) Package evidence according to policy. Complete a Request for Lab Analysis Form.
 - (c) Command shall link cases indicating marijuana violation to CID.
 - (d) Officers shall not issue an appearance ticket on mixed drug cases.

Kalamazoo Department of Public Safety

Public Safety Procedures Manual

Recreational Marijuana Procedures

205.4.3 ENFORCEMENT ON SCHOOL PROPERTY

For amounts less than 2.5 ounces of marijuana on school property, the cases shall be handled as follows:

<u>Defendant</u>	<u>Action</u>
• Student of the School	Issue a civil infraction MCL 333.27965(3)(a)(1) (regardless of age)
• School Parent (present for student pickup or school event)	Take no action
• School Parent (if not there for reason listed above)	Submit for 2 year Misd. Charge (under MCL333.74104-D) MCL 333.27954(1)(h)
• Non Student/Non Parent age 18 and older)	Submit for 2 year Misd. Charge (under MCL333.74104-D) MCL 333.27954(1)(h)

If it is a PWID case then it is to be submitted as a felony charge to Juvenile Court and lab tested before they will issue charges.