

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AMENDING THE CODE OF ORDINANCES, BY ENACTING A NEW CHAPTER 250 ENTITLED "PRESCRIPTION DRUG MONITORING PROGRAM," CONSISTING OF SECTIONS 250.010 THROUGH 250.090, FOR THE PURPOSE OF CREATING A PROGRAM TO MONITOR THE PRESCRIBING AND DISPENSING OF SCHEDULE II THROUGH IV DRUGS IN THE CITY AND AUTHORIZING THE CITY ADMINISTRATOR TO COORDINATE SUCH A PROGRAM WITH OTHER JURISDICTIONS.

WHEREAS, there is an epidemic of dangerous addictions to drugs, including prescription drugs such as opioids, in our metropolitan area; and

WHEREAS, because Missouri is currently the only state without a prescription drug monitoring program, areas such as St. Louis City, St. Louis County and Jackson County, Missouri have passed laws to establish their own prescription drug monitoring programs; and

WHEREAS, a prescription drug monitoring program will be a vital tool to aid in the improvement of public health, particularly helping to reduce drug addiction and overdoses; and

WHEREAS, a prescription drug monitoring program approach will only be effective if the same registry system is used by all dispensers in the region; and

WHEREAS, St Louis County, Missouri has a program for consolidating and coordinating prescription drug monitoring services within the State of Missouri to maintain a combined prescription drug monitoring program; and

WHEREAS, this ordinance and agreement are authorized pursuant to state law specifically Sections 79.380 R.S.Mo. to secure the general health of the City and as an agreement between governments under Sections 70.220 and 70.230 R.S.Mo.

WHEREAS, the Board of Aldermen believes such a program will protect the public health and encourages consolidation and coordination with surrounding jurisdictions;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF OSAGE BEACH, MISSOURI AS FOLLOWS:

Section 1. That the Code of Ordinances is hereby Amended by enacting a new Chapter 250 entitled "Prescription Drug Monitoring Program," consisting of Sections 250.010 through 250.090, for the purpose of creating a City of Osage Beach, Missouri Prescription Drug Monitoring Program to monitor the prescribing and dispensing of Schedule II through IV drugs within the city, said article to read as follows:

CHAPTER 250 PRESCRIPTION DRUG MONITORING PROGRAM

Sec. 250.010. Establishment; Title.

There is hereby established a “City of Osage Beach, Missouri Prescription Drug Monitoring Program” referred to herein as a (“PDMP”).

Sec. 250.020. Definitions.

Controlled substance means a drug, substance, or immediate precursor in Schedules I through V as set out in Chapter 195 of the Revised Statutes of Missouri.

City Administrator means the City Administrator of the City Of Osage Beach or his or her designee.

Director means the Administrator to the St. Louis County PDMP Program.

Dispenser means a person who delivers a Schedule II, III, or IV controlled substance to a patient. Dispenser does not include, however: a) a hospital as defined in Section 197.020 of the Revised Statutes of Missouri that distributes such substances for the purpose of inpatient care or dispenses prescriptions for controlled substances at the time of discharge from such facility; b) a practitioner such as a nurse or a physician or other authorized person who administers such a substance; c) a wholesale distributor of a Schedule II, III, or IV controlled substance; or d) persons in the veterinary field licensed pursuant to Chapter 340 of the Revised Statutes of Missouri.

Patient means a person who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed. Patient does not include a hospice patient enrolled in a Medicare-certified hospice program who has controlled substances dispensed to him or her by such hospice program.

PDMP means Prescription Drug Monitoring Program.

Schedule II, III, or IV controlled substance means a controlled substance listed in Schedules II, III, or IV as set out in Chapter 195 of the Revised Statutes of Missouri or as set out in the Controlled Substances Act, 21 U.S.C. Section 812.

Sec. 250.030. Director Responsibilities; Rules and regulations; coordination with other jurisdictions.

- (a) The City Administrator shall coordinate and cooperate with St. Louis County to establish and maintain a PDMP for monitoring the prescribing and dispensing of all Schedule II, III, and IV controlled substances by professionals licensed to prescribe or dispense such substances in the City of Osage Beach, Missouri.

- (b) St. Louis County Health Department holds the contract with Apriss. The City of Osage Beach shall have a subscription to participate in the St. Louis County PDMP program.
- (c) This ordinance gives authority for St Louis County Health Department to receive information from the City of Osage Beach through the Apriss system.
- (d) Any PDMP shall operate so as to be consistent with federal law, such as laws or regulations concerning narcotics and laws regarding patient privacy.

Sec. 250.040. Reporting Required; Reportable information; Waivers; Extensions

(a) *Electronic reporting required.* Within seven business days of having dispensed a Schedule II, III, or IV controlled substance, a dispenser shall submit to the St Louis County PDMP program with which the City has a cooperating relationship information regarding such dispensing. The information shall be submitted electronically in a format required by the Director and in accordance with the transmission standards established by the American Society for Automation in Pharmacy or any of its successor organizations.

(b) *Report contents.* The information submitted for each dispensing shall, at minimum, include:

- (1) the pharmacy's Drug Enforcement (DEA) number;
- (2) the date of dispensation;
- (3) if the substance was dispensed via prescription;
- (4) the prescription number or other unique identifier;
- (5) whether the prescription is new or a refill;
- (6) the prescriber's DEA or National Provider Identifier (NPI) number;
- (7) the National Drug Code (NDC) of the drug dispensed;
- (8) the quantity and dosage of the drug dispensed; and
- (9) an identifier for the patient to whom the drug was dispensed, including but not limited to any one of the following:
 - a. the patient's driver's license number;
 - b. the patient's government-issued identification number;

- c. the patient's insurance cardholder identification number; or
- d. the patient's name, address, and date of birth.

(c) *Waiver of electronic requirement.* The Director is authorized to issue a waiver of the electronic transmission requirement to a dispenser demonstrably unable to comply with the requirement. A waiver shall expire one year from the date of its issuance. Required information submitted under a waiver shall be submitted within the same time frame as is required herein for electronic transmission.

(d) *Application for waiver timing.* The Director shall make a decision concerning an application for a waiver or extension within three business days of receipt thereof. An applicant for a waiver or extension who has been aggrieved by a decision of the Director may appeal the decision according to law within three business days of the Director's decision.

(e) *Extensions of time.* In the event unforeseen circumstances temporarily prevent a dispenser (who has not received a waiver of the electronic submission requirement) from transmitting dispensation information electronically, the dispenser may, upon application to the Director, receive an extension of up to 10 business days in which to submit the required dispensation information by electronic transmission. The Director may renew such extensions upon a showing of need by the dispenser when the Director finds such an extension is warranted.

Sec. 250.050. Dispensation information to be closed pursuant to law.

(a) Except when provided to persons or agencies authorized by this Article to receive such information, dispensation information submitted to the Director is confidential, considered a closed record and not subject to public disclosure except as provided by law. No person shall provide such information to any person or agency not authorized by this Article or the Director to receive it. A request for dispensation information made under Chapter 610 of the Revised Statutes of Missouri shall be referred to the City Attorney to ensure compliance with this Article.

(b) The Director shall develop and maintain procedures to ensure that the privacy and confidentiality of patients and personal information collected, recorded, transmitted, and maintained are not disclosed to persons not authorized to receive dispensation information.

Sec. 250.060. Persons authorized to receive dispensation information.

(a) Upon a duly-made request, the Director may provide dispensation information and other data compiled in connection with a PDMP only to the following:

- (1) persons, whether in or out of the State of Missouri, who are authorized to prescribe or dispense controlled substances, if the requesting person demonstrates that the

request is made for the purpose of providing medical or pharmaceutical care for a patient;

- (2) persons who request their own dispensation information in accordance with law;
- (3) the Missouri State Board of Pharmacy;
- (4) any state board charged with regulating a professional authorized to prescribe or dispense controlled substances, and which has duly requested the information or data in the course of a current and open investigation into the acts of a specific professional under the jurisdiction of the state board. Only information related to the subject professional shall be provided by the Director;
- (5) local, state, and federal law enforcement or prosecutorial officials, both in or outside of Missouri, who are engaged in the administration, investigation, or enforcement of laws governing prescription drugs, based on a specific case and under a subpoena issued pursuant to court order;
- (6) The MO HealthNet division of the Missouri Department of Social Services regarding MO HealthNet program recipients; or
- (7) A judge or other judicial officer under a subpoena issued pursuant to court order.

(b) *Statistics and Education.* The Director may provide dispensation information and data to public or private entities for statistical or education purposes after having de-identified such information in a manner reasonably thought to be unusable to identify individual persons.

Sec. 250.070. Unauthorized access to dispensation information prohibited; compliance required.

(a) Absent lawful authority, no person shall knowingly access or disclose prescription or dispensation information maintained by the Director pursuant to the PDMP, or knowingly violate any other provision of the PDMP.

(b) No person shall violate any provision of this Article.

Sec. 250.080. Pharmacists or prescribers not required to obtain information from Director.

Nothing in this Article shall be construed or interpreted to require a pharmacist or prescriber to obtain dispensation information possessed or maintained by the St. Louis, Missouri Health Department or a consolidated PDMP.

Sec. 250.090. Penalties.

Any person convicted of violating this section shall be punished by a fine of up to \$500 per violation, up to 90 days in jail per violation, or both.

Section 2. The Mayor is authorized and directed to execute on behalf of the city a User Agreement with St. Louis County to connect the City’s program with the program adopted by St. Louis County pursuant to St. Louis County ordinance 26.352.2016 and to seek inclusion in that program to coordinate the consolidation of a prescription drug monitoring program for the purpose of creating a more effective program.

Section 3. Severability

The chapters, sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or degree of any Court of any competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance since the same would have been enacted by the Board of Aldermen without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Section 4. Repeal of Ordinances not to affect liabilities, etc.

Whenever any part of this ordinance shall be repealed or modified, either expressly or by implication, by a subsequent ordinance, that part of the ordinance thus repealed or modified shall continue in force until the subsequent ordinance repealing or modifying the ordinance shall go into effect unless therein otherwise expressly provided; but no suit, prosecution, proceeding, right, fine or penalty instituted, created, given, secured or accrued under this ordinance previous to its repeal shall not be affected, released or discharged but may be prosecuted, enjoined and recovered as fully as if this ordinance or provisions had continued in force, unless it shall be therein otherwise expressly provided.

Section 5. That this Ordinance shall be in full force and effect from and after the date of passage and approval of the Mayor.

READ FIRST TIME: July 5, 2018 READ SECOND TIME: July 19, 2018

I hereby certify that Ordinance No.18.35 was duly passed on July 19, 2018, by the Board of Aldermen of the City of Osage Beach. The votes thereon were as follows:


Ayes:	4	Nays:	2
Abstentions:	0	Absent:	0

This Ordinance is hereby transmitted to the Mayor for his signature.

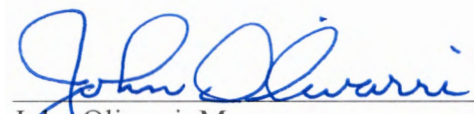
July 20, 2018
Date


Cynthia Lambert, City Clerk

Approved as to form:


Edward B. Rucker, City Attorney

I hereby approve Ordinance No.18 35.


John Olivarri, Mayor

July 23, 2018
Date


Cynthia Lambert, City Clerk