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Filed: 03-28-23

Sponsored by: Lear

First Reading: _____

Second Reading: _____

COUNCIL BILL 2023-081

GENERAL ORDINANCE _____

AN ORDINANCE

1 AMENDING the Springfield City Code, Chapter 78, 'Offenses and Miscellaneous
2 Provisions,' Article VI, 'Offenses Against Public Health and Safety,'
3 by amending Section 78-260, 'Possession of narcotics
4 paraphernalia;' amending Section 78-261, "Possession of thirty-five
5 grams or less of marijuana;' enacting Section 78-262, 'Public
6 consumption of marijuana;' enacting Section 78-263, 'Consumption
7 of marijuana in a motor vehicle;' and enacting Section 78-268,
8 'Marijuana accessories,' to regulate the possession and
9 consumption of marijuana following recent amendments to the
10 Missouri Constitution.
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13 WHEREAS, on November 8, 2022, the electors of the State of Missouri approved
14 Amendment 3 to the Missouri Constitution, enacting Section 2 of Article XIV of the
15 Missouri Constitution legalizing the recreational use of marijuana within the State; and
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17 WHEREAS, the newly enacted Section 2 of Article XIV authorizes the City of
18 Springfield, Missouri to impose, by ordinance, certain limitations regarding marijuana
19 within the City's jurisdiction; and
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21 WHEREAS, to ensure the safety and well-being of its citizens, the Springfield
22 City Council desires to amend its City Code provisions to impose certain limitations
23 regarding marijuana within its City limits.
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25 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
26 SPRINGFIELD, MISSOURI, as follows, that:
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28 NOTE: **Bolded** language is being added and ~~stricken~~ language is being deleted.
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30 Section 1 – Springfield City Code, Chapter 78, 'Offenses and Miscellaneous
31 Provisions,' Article VI, 'Offenses Against Public Health and Safety,' Section 78-261 is
32 hereby amended as follows:
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34 Section 78-261 – Possession of ~~thirty-five grams or less~~ of marijuana.
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36 **1. Possession of marijuana by persons under twenty-one years of age.**

37 a. No person under twenty-one years of age shall possess marijuana.

38 b. This subsection shall not apply to any qualifying patient in
39 possession of a qualifying patient identification card issued by the
40 Department of Health and Senior Services.

41 c. Any person who violates this subsection shall be subject to a civil
42 penalty not to exceed one hundred dollars and forfeiture of the
43 marijuana, unless such individual is determined to be in possession
44 of more than three ounces of dry, unprocessed marijuana or its
45 equivalent, in which case the individual shall be subject to a civil
46 penalty not to exceed two hundred and fifty dollars and forfeiture of
47 the marijuana.

48 d. Any person who is subject to a civil penalty pursuant to this
49 subsection but is determined to be in possession of three ounces or
50 less of marijuana shall be provided the option of attending up to
51 four hours of drug education or counseling in lieu of payment of the
52 penalty. Any person who is subject to a civil penalty pursuant to
53 this subsection but is determined to be in possession of more than
54 three ounces of marijuana shall be provided the option of attending
55 up to eight hours of drug education or counseling in lieu of payment
56 of the penalty. Any such person shall still be subject to forfeiture of
57 the marijuana.

58 e. Any person who is assessed a civil penalty or fine under this
59 subsection may perform community service in lieu of payment. The
60 rate of pay-down associated with this service option will be the
61 greater of \$15 per hour or the minimum wage in effect at the time of
62 judgment.

63 **2. Possession of marijuana by persons twenty-one years of age and older.**

64 a. No person who is twenty-one years of age or older shall possess in
65 excess of three ounces of dried, unprocessed marijuana, or its
66 equivalent.

67 b. This subsection shall not apply to any person who is registered with
68 the Department of Health and Senior Services for the cultivation of
69 marijuana plants, provided any amount of marijuana in excess of
70 three ounces is kept at one private residence in a locked space.

71 c. No person who is registered with the Department of Health and
72 Senior Services for the cultivation of marijuana shall possess
73 marijuana plants in excess of the limits set forth in Article XIV,
74 Section 2 of the Missouri Constitution.

75 d. This subsection shall not apply to any qualifying patient or primary
76 caregiver in possession of a qualifying patient or primary caregiver
77 identification card and in possession of marijuana within the limits
78 established by the Missouri Department of Health and Senior
79 Services.

- 80 e. Any person who violates this subsection shall be subject to:
81 i. For a first violation, a civil penalty not to exceed two hundred
82 and fifty dollars and forfeiture of the marijuana.
83 ii. For a second violation, a civil penalty not to exceed five
84 hundred dollars and forfeiture of the marijuana.
85 iii. For a third violation, a fine not to exceed one thousand
86 dollars and forfeiture of the marijuana.
87 f. Any person who is assessed a civil penalty or fine under this
88 subsection may perform community service in lieu of payment. The
89 rate of pay-down associated with this service option will be the
90 greater of \$15 per hour or the minimum wage in effect at the time of
91 judgment.
- 92 3. Possession of marijuana in schools or correctional facilities prohibited.
93 a. No person shall possess or consume marijuana on the grounds of
94 any public or private preschool, elementary or secondary school,
95 institution of higher education, in a school bus, or on the grounds
96 of any correctional facility.
97 b. This subsection shall not apply to any qualifying patient in
98 possession of a qualifying patient identification card issued by the
99 Department of Health and Senior Services.
100 c. Any violation of this subsection shall be punished as provided by
101 the provisions of section 1-7.
- 102 4. Delivery or distribution of marijuana to persons under twenty-one years of
103 age.
104 a. No person shall deliver or distribute marijuana, with or without
105 consideration, to a person younger than twenty-one years of age.
106 b. This subsection shall not apply to the delivery or distribution of
107 marijuana to any qualifying patient, as defined by Article XIV,
108 Section 1 of the Missouri Constitution, by any entity licensed by the
109 Missouri Department of Health and Senior Services for the
110 distribution of medical marijuana or by any parent or guardian of
111 the qualifying patient.
112 c. Any violation of this subsection shall be punished as provided by
113 the provisions of Section 1-7.
- 114 5. For purposes of this Section, the term “marijuana” shall have the same
115 definition found in Article XIV, Section 2 of the Missouri Constitution.
- 116 6. Subsections 1, 2, and 3 of this Section shall not apply to any individual
117 who is found to be in possession of more than twice the amount of
118 marijuana or more than twice the number of marijuana plants authorized
119 by Article XIV, Section 2 of the Missouri Constitution.

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121 Section 2 – Springfield City Code, Chapter 78, ‘Offenses and Miscellaneous
122 Provisions,’ Article VI, ‘Offenses Against Public Health and Safety,’ is amended by
123 creating a new Section 78-262 as follows:

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125 **Section 78-262 - Public consumption of marijuana.**

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1. Definitions:

- a. The term “public place” means any place to which the public or a substantial number of the public have access. The term “public place” includes, but is not limited to streets and highways, sidewalks, transportation facilities, places of amusement, parks, park properties, playgrounds, parking lots, and the common areas of public and private buildings and facilities.
- b. The term marijuana has the same definition as found in Article XIV, Section 2 of the Missouri Constitution.

- 2. No person shall consume marijuana in a public place or any vehicle parked in a public place.**
- 3. No person shall consume marijuana in such a manner that marijuana smoke or odor exits a residence or nonpublic place where consumption of marijuana is otherwise lawful. In a multifamily residence or similar dwelling, marijuana shall not be consumed in any common area.**
- 4. Any person who violates this section is subject to a civil penalty not to exceed one hundred dollars.**
- 5. Any person who is assessed a civil penalty under this section may perform community service in lieu of payment. The rate of pay-down associated with this service option will be the greater of \$15 per hour or the minimum wage in effect at the time of judgment.**

Section 3 – Springfield City Code, Chapter 78, ‘Offenses and Miscellaneous Provisions,’ Article VI, ‘Offenses Against Public Health and Safety,’ is amended by creating a new Section 78-263 as follows:

Section 78-263 – Consumption of marijuana in a motor vehicle.

- 1. No person shall consume marijuana in any form while operating a motor vehicle.**
- 2. No occupant of a motor vehicle shall consume marijuana by smoking while the motor vehicle is being operated.**
- 3. Any violation of this section shall be punished as provided by the provisions of section 1-7.**

Section 4 – Springfield City Code, Chapter 78, ‘Offenses and Miscellaneous Provisions,’ Article VI, ‘Offenses Against Public Health and Safety,’ Section 78-260 is hereby amended as follows:

Section 78-260 – Possession of narcotics paraphernalia.

- 1. It is unlawful for any person to use, or to possess 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

172 introduce into the human body a controlled substance or an imitation
173 controlled substance.

174 2. "Drug paraphernalia", all equipment, products and materials of any kind
175 which are used, intended for use, or designed for use, in planting,
176 propagating, cultivating, growing, harvesting, manufacturing,
177 compounding, converting, producing, processing, preparing, storing,
178 containing, concealing, injecting, ingesting, inhaling, or otherwise
179 introducing into the human body a controlled substance or an imitation
180 controlled substance. It includes, but is not limited to:

181 (a) Kits used, intended for use, or designed for use in planting,
182 propagating, cultivating, growing or harvesting of any species of plant
183 which is a controlled substance or from which a controlled substance can
184 be derived;

185 (b) Kits used, intended for use, or designed for use in manufacturing,
186 compounding, converting, producing, processing, or preparing controlled
187 substances or imitation controlled substances;

188 (c) Isomerization devices used, intended for use, or designed for use in
189 increasing the potency of any species of plant which is a controlled
190 substance or an imitation controlled substance;

191 (d) Testing equipment used, intended for use, or designed for use in
192 identifying, or in analyzing the strength, effectiveness or purity of
193 controlled substances or imitation controlled substances;

194 (e) Scales and balances used, intended for use, or designed for use in
195 weighing or measuring controlled substances or imitation controlled
196 substances;

197 (f) Dilutents and adulterants, such as quinine hydrochloride, mannitol,
198 mannite, dextrose and lactose, used, intended for use, or designed for use
199 in cutting controlled substances or imitation controlled substances;

200 (g) Separation gins and sifters used, intended for use, or designed for
201 use in removing twigs and seeds from, or in otherwise cleaning or refining,
202 marijuana;

203 (h) Blenders, bowls, containers, spoons and mixing devices used,
204 intended for use, or designed for use in compounding controlled
205 substances or imitation controlled substances;

206 (i) Capsules, balloons, envelopes and other containers used, intended
207 for use, or designed for use in packaging small quantities of controlled
208 substances or imitation controlled substances;

209 (j) Containers and other objects used, intended for use, or designed for
210 use in storing or concealing controlled substances or imitation controlled
211 substances;

212 (k) Hypodermic syringes, needles and other objects used, intended for
213 use, or designed for use in parenterally injecting controlled substances or
214 imitation controlled substances into the human body;

215 (l) Objects used, intended for use, or designed for use in ingesting,
216 inhaling, or otherwise introducing ~~marijuana, cocaine, hashish, or hashish~~
217 oil into the human body, such as:

- 218 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic
- 219 pipes with or without screens, permanent screens, ~~hashish heads,~~
- 220 or punctured metal bowls;
- 221 b. Water pipes;
- 222 c. Carburetion tubes and devices;
- 223 d. Smoking and carburetion masks;
- 224 e. Roach clips meaning objects used to hold burning material,
- 225 ~~such as a marijuana cigarette,~~ that has become too small or too
- 226 short to be held in the hand;
- 227 f. Miniature cocaine spoons and cocaine vials;
- 228 g. Chamber pipes;
- 229 h. Carburetor pipes;
- 230 i. Electric pipes;
- 231 j. Air-driven pipes;
- 232 k. Chillums;
- 233 l. Bongos;
- 234 m. Ice pipes or chillers;

235 In determining whether an object is drug paraphernalia, a court or other authority
236 should consider, in addition to all other logically relevant factors, the following:

- 237 (a) Statements by an owner or by anyone in control of the object
- 238 concerning its use;
- 239 (b) Prior convictions, if any, of an owner, or of anyone in control of the
- 240 object, under any state or federal law relating to any controlled substance
- 241 or imitation controlled substance;
- 242 (c) The proximity of the object, in time and space, to a direct violation of
- 243 this section;
- 244 (d) The proximity of the object to controlled substances or imitation
- 245 controlled substances;
- 246 (e) The existence of any residue of controlled substances or imitation
- 247 controlled substances on the object;
- 248 (f) Direct or circumstantial evidence of the intent of an owner, or of
- 249 anyone in control of the object, to deliver it to persons who he knows, or
- 250 should reasonably know, intend to use the object to facilitate a violation of
- 251 this section;
- 252 (g) Instructions, oral or written, provided with the object concerning its
- 253 use;
- 254 (h) Descriptive materials accompanying the object which explain or depict
- 255 its use;
- 256 (i) National or local advertising concerning its use;
- 257 (j) The manner in which the object is displayed for sale;
- 258 (k) Whether the owner, or anyone in control of the object, is a legitimate
- 259 supplier of like or related items to the community, such as a licensed
- 260 distributor or dealer of tobacco products;
- 261 (l) Direct or circumstantial evidence of the ratio of sales of the object to
- 262 the total sales of the business enterprise;
- 263 (m) The existence and scope of legitimate uses for the object in the

community;

(n) Expert testimony concerning its use.

3. “Drug paraphernalia” shall not include any “marijuana accessories” as that term is defined by Article XIV, Section 2 of the Missouri Constitution.

Section 5 – Springfield City Code, Chapter 78, ‘Offenses and Miscellaneous Provisions,’ Article VI, ‘Offenses Against Public Health and Safety,’ is amended by creating a new Section 78-265 as follows:

Section 78-265 – Marijuana accessories.

- 1. For purposes of this section, the term “marijuana accessories” means any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marijuana into the human body.**
- 2. For purposes of this section, the term “marijuana” shall have the same definition found in Article XIV, Section 2 of the Missouri Constitution.**
- 3. Possession of marijuana accessories by persons under twenty-one years of age.**
 - a. No person under twenty-one years of age shall possess marijuana accessories.**
 - b. This subsection shall not apply to any qualifying patient in possession of a qualifying patient identification card issued by the Department of Health and Senior Services.**
 - c. Any person who violates this subsection shall be subject to a civil penalty not to exceed one hundred dollars and forfeiture of the marijuana.**
 - d. Any person who is subject to a civil penalty pursuant to this subsection shall be provided the option of attending up to four hours of drug education or counseling in lieu of payment of the penalty. Any such person shall still be subject to forfeiture of the marijuana.**
 - e. Any person who is assessed a civil penalty or fine under this subsection may perform community service in lieu of payment. The rate of pay-down associated with this service option will be the greater of \$15 per hour or the minimum wage in effect at the time of judgment.**
- 4. Possession of marijuana accessories in schools or correctional facilities prohibited.**
 - a. No person shall possess marijuana accessories on the grounds of any public or private preschool, elementary or secondary school, institution of higher education, in a school bus, or on the grounds of any correctional facility.**

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- b. Any violation of this subsection shall be punished as provided by the provisions of Section 1-7.
- 5. Delivery of marijuana accessories to persons under twenty-one years of age prohibited.
 - a. No person shall deliver or distribute marijuana accessories, with or without consideration, to a person younger than twenty-one years of age.
 - b. Any violation of this subsection shall be punished as provided by the provisions of Section 1-7.

Section 6 – Savings Clause. Nothing in this Ordinance shall be construed to affect any suit or proceeding now pending in any court or any rights acquired or liability nor any cause or causes of action occurred or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 7 – Severability Clause. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance. City Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

Section 8 – This Ordinance shall be in full force and effect from and after passage.

Passed at meeting: _____

Mayor

Attest: _____, City Clerk

Filed as Ordinance: _____

Approved as to form: *Carla*, Assistant City Attorney

Approved for Council action: *Jason C. Page*, City Manager