

BILL NO. 2327

ORDINANCE NO. 2327

AN ORDINANCE AMENDING ARTICLE VI, DRUG REGULATIONS, OF CHAPTER 62, OFFENSES AND MISCELLANEOUS PROVISIONS OF THE CODE OF ORDINANCES OF THE CITY OF LADUE, ST. LOUIS COUNTY, MISSOURI IN COMPLIANCE WITH AMENDMENT 3 TO THE MISSOURI CONSTITUTION

WHEREAS, on November 6, 2018, the voters of the State of Missouri approved Amendment 2 adding a new Article XIV, Section 1 to the Missouri Constitution entitled, "Right to Access Medical Marijuana"; and

WHEREAS, on November 8, 2022, the voters of the State of Missouri approved Amendment 3 to the Missouri Constitution revising Article XIV, Section 1 and adding a new Section 2 entitled, "Marijuana Legalization, Regulation, and Taxation" ("Amendment 3"); and

WHEREAS, Amendment 3 makes it legal under state law for persons at least twenty-one years old to cultivate, possess, and use marijuana in accordance with Amendment 3, the rules and regulations promulgated by the Department of Human Health and Senior Services of the State of Missouri (the "Department"), and local ordinance; and

WHEREAS, Amendment 3 also establishes specific penalties for use, possession, and cultivation of marijuana in violation of Amendment 3, the rules and regulations promulgated by the Department, and local ordinance; and

WHEREAS, despite Amendment 3, marijuana remains a "Schedule 1 Controlled Substance" pursuant to the Controlled Substances Act of the United States and remains illegal under federal law; and

WHEREAS, the City desires to amend its offenses and penalty regulations in accordance with Amendment 3 and any rules and regulations promulgated by the Department; and

WHEREAS, nothing in this Ordinance shall be interpreted as authorization for any illegal activity; and

WHEREAS, nothing in this Ordinance allows a person to possess, cultivate, grow, infuse, process, use, or distribute marijuana for any purpose other than to the extent authorized and limited by Amendment 3, the rules and regulations regarding marijuana issued by the Department, and local ordinance; and

WHEREAS, this bill has been made available for public inspection prior to its consideration by the City Council and read by title two times in open meeting prior to passage.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LADUE, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. Section 62-179, Prohibited Acts, of Article VI, Drug Regulations, of Chapter 62,

Offenses and Miscellaneous Provisions, is hereby amended by repealing the crossed through language to read as follows:

Sec. 62-179. - Prohibited acts.

It is unlawful for any person to manufacture, possess, have under his/her control, sell, use, administer, ingest, dispense, distribute, or compound any controlled substance or imitation controlled substance as listed in and regulated by RSMo ch. 195 except and only to the extent as authorized by Article XIV, ~~Section 4~~ of the Missouri Constitution including any and all rules and regulations promulgated by the Missouri Department of Health and Senior Services relating to legalized ~~medical~~ marijuana, and except and only to the extent as authorized by RSMo ch. 195 or ch. 579.

Section 2. Section 62-180, Unlawful use, possession, delivery, or manufacture of drug paraphernalia and devices, of Article VI, Drug Regulations, of Chapter 62, Offenses and Miscellaneous Provisions, is hereby amended by repealing the crossed through language to read as follows:

Sec. 62-180. - Unlawful use, possession, delivery, or manufacture of drug paraphernalia and devices.

It is unlawful for any person to use, possess with intent to use, sell, deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, or any devices for use of contraband or controlled substances to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, administer, or otherwise introduce into the human body a controlled substance or an imitation controlled substance as listed in RSMo ch. 195, except and only to the extent as authorized by Article XIV, ~~Section 4~~ of the Missouri Constitution including any and all rules and regulations promulgated by the Missouri Department of Health and Senior Services relating to legalized ~~medical~~ marijuana.

Section 3. Section 62-184, Smoking in eating and drinking establishments, of Article VI, Drug Regulations, of Chapter 62, Offenses and Miscellaneous Provisions, is hereby amended by adding the underlined text to read as follows:

Sec. 62-184. - Smoking in eating and drinking establishments.

(a) Smoking tobacco is prohibited in every establishment open to the public as a restaurant, coffee shop, cafeteria, short-order establishment serving food or food and drink, and in bars and taverns or other establishments serving alcoholic beverages whose occupied capacity is more than 40 customers, excluding from the calculation of capacity any portion of such facility which is located outdoors.

(1) This prohibition shall not apply to any such establishment maintaining a contiguous nonsmoking area of not less than 40 percent of the seating capacity in which customers are being served, excluding from said calculations any portion of such facility which is located outdoors.

(2) At the request of a patron, the patron shall be seated in a nonsmoking area if a seat is available.

(3) This prohibition shall not apply to any rooms which are being used for the purposes described herein for private functions, but only while any such room is used for such private functions.

(b) Notwithstanding the provisions of this section, any owner or person in charge of a business establishment governed by this section may designate the facility as a nonsmoking area in its entirety.

(c) This section applies only to areas where food or drink is consumed on the premises and this section is not applicable to private clubs or other private facilities.

Section 4. Article VI, Drug Regulations, of Chapter 62, Offenses and Miscellaneous Provisions, is hereby amended by enacting a new Section to read as follows:

Section 62.185. - Public Use of Marijuana Prohibited; Marijuana Penalties.

(a) Definition. For the purposes of this Section, Marijuana shall mean: *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the marijuana plant and marijuana-infused products. "Marijuana" does not include industrial hemp as defined by Missouri statute, or commodities or products manufactured from industrial hemp.

(b) Use in Public Place Prohibited. It shall be unlawful to use Marijuana in a public place.

(c) Unlawful Visibility or Keeping of Marijuana. Notwithstanding Section 1-9 of this Code, a person who cultivates Marijuana plants that are visible by normal, unaided vision from a public place or cultivates Marijuana plants not kept in a locked space is subject to a civil penalty of up to Two Hundred and Fifty Dollars (\$250.00) and forfeiture of the Marijuana.

(d) Unlawful Use Penalty. Notwithstanding Section 1-9 of this Code, a person who uses Marijuana in a public place shall be subject to a civil penalty of up to One Hundred Dollars (\$100.00).

(e) Unlawful use by a Person under Twenty-One. Notwithstanding Section 1-9 of this Code, a person under Twenty-One (21) who possess, uses, ingests, inhales, transports, delivers without consideration, or distributes without consideration three (3) ounces or less of Marijuana, or possesses, delivers without consideration, or distributes without consideration Marijuana accessories, as defined by Article XIV, is subject to a civil penalty of up to One Hundred Dollars (\$100.00) and forfeiture of the Marijuana. Any such person shall be provided the option of attending up to four (4) hours of drug education or counseling in lieu of the fine.

(f) Unlawful Amount Penalty. Notwithstanding Section 1-9 of this Code, a person who possesses, produces, delivers without receiving any consideration or remuneration

to a person who is at least twenty-one (21) years or age, or possess with the intent to deliver an amount of Marijuana that is not more than twice the amount of Marijuana that person is authorized to possess by Article XIV of the Missouri Constitution shall be subject to:

- (1) a civil penalty of up to Two Hundred and Fifty Dollars (\$250.00) for the first violation,
- (2) a civil penalty of up to Five Hundred Dollars (\$500.00) for the second violation, and
- (3) a civil penalty of up to a One Thousand Dollars (\$1,000.00) for the third and subsequent violations.

Provided a person under twenty-one (21) of age is subject to a civil penalty not to exceed Two Hundred and Fifty Dollars (\$250.00) with an option of attending up to eight (8) hours of drug education or counseling in lieu of the fine. In addition, the municipal judge may order that in lieu of payment, penalties under this Subsection may be satisfied by the performance of community service with the rate of pay-down associated with said service option the greater of \$15 or the minimum wage in effect.

Section 5. The portions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance are valid, unless the court finds that the valid portions of this Ordinance are so essential and inseparably connected with and dependent upon the void portion that it cannot be presumed that the City Council would have enacted the valid portions without the invalid ones, or unless the court finds that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

Section 6. This Ordinance shall take effect and be in force from and after its passage and approval by the Mayor.

PASSED THIS 21st DAY OF February 2023.

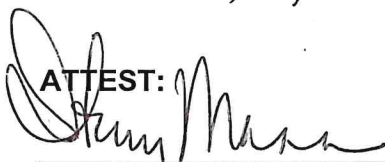


President, City Council

APPROVED AND ADOPTED THIS 21st DAY OF February 2023.



Nancy Spewak, Mayor

ATTEST:


Stacey Mann, City Clerk