

BILL NO. 23-022

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI BY REPEALING, ARTICLE VIII, CONTROLLED SUBSTANCES OF CHAPTER 17, OFFENSES, AND ENACTING IN LIEU THEREOF A NEW ARTICLE VIII, CONTROLLED SUBSTANCES OF CHAPTER 17. OFFENSES AND FUTHER AMENDING SECTION 11-1 JURISDICTION OF ARTICLE I, IN GENERAL OF CHAPTER 11, COURT, DEALING GENERALLY WITH ADULT USE MARIJUANA.

WHEREAS, on November 8, 2022, the voters of the State of Missouri approved Constitutional Amendment 3, legalizing adult use marijuana in the State; and,

WHEREAS, the recent changes to State Constitution related to adult use marijuana require amending the City's Code of Ordinances of the City of Lee's Summit, Missouri; and,

WHEREAS, it is the desire of the City Council to continue to regulate the use and possession of marijuana to the extent allowed by Article XIV of the Missouri Constitution

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That Article VIII, Controlled Substances of Chapter 17, Offenses, of the Code of Ordinances of the City of Lee's Summit, Missouri, be and hereby is repealed and a new Article VIII Controlled Substances is hereby enacted to read as follows:

"ARTICLE VIII. CONTROLLED SUBSTANCES"

Division 1. Generally

Sec. 17-236. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Administer shall mean the same as the term is defined in RSMo 195.010, as amended, which is to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

- A. A practitioner (or, in his presence, by his authorized agent); or
- B. The patient or research subject at the direction and in the presence of the practitioner.

Close proximity shall mean within five hundred (500) feet on a straight line commencing at the property lines nearest to each other.

Comprehensive Facility shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, a comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility, or a comprehensive marijuana-infused products manufacturing facility.

Comprehensive Marijuana Cultivation Facility shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, a facility licensed by the department to acquire, cultivate, process, package, store on site or off site, transport to or from, and sell

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marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones) to a medical facility, comprehensive facility, or marijuana testing facility. A comprehensive marijuana cultivation facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana. A comprehensive marijuana cultivation facility's authority to process marijuana shall include the creation of prerolls, but shall not include the manufacture of marijuana-infused products.

Comprehensive Marijuana Dispensary Facility shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, a facility licensed by the department to acquire, process, package, store on site or off site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient or primary caregiver, as those terms are defined in section 1 of this Article, or to a consumer, anywhere on the licensed property or to any address as directed by the patient, primary caregiver, or consumer and consistent with the limitations of this Article and as otherwise allowed by law, to a comprehensive facility, a marijuana testing facility, or a medical facility. Comprehensive dispensary facilities may receive transaction orders at the dispensary directly from the consumer in person, by phone, or via the internet, including from a third party. A comprehensive marijuana dispensary facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana but shall collect all appropriate tangible personal property sales tax for each sale, as set forth in this Article and provided for by general or local law. A comprehensive marijuana dispensary facility's authority to process marijuana shall include the creation of prerolls.

Comprehensive Marijuana-Infused Products Manufacturing Facility shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, a facility licensed by the department to acquire, process, package, store, manufacture, transport to or from a medical facility, comprehensive facility, or marijuana testing facility, and sell marijuana-infused products, prerolls, and infused prerolls to a marijuana dispensary facility, a marijuana testing facility, or another marijuana-infused products manufacturing facility. A comprehensive marijuana-infused products manufacturing facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana.

Controlled substance shall mean the same as the term is defined in RSMo 195.010, as amended, which is any drug, substance or immediate precursor in Schedules I through V listed in RSMo. ch. 195.

Controlled substance analogue shall mean the same as the term is defined in RSMo 195.010, as amended, which is a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

- A. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or
- B. With respect to a particular individual, which that individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II. The term does not include a controlled substance; any substance for which there is an approved new drug application; any substance for which an exemption is in effect for investigational use, for a particular person, under Section 505 of the federal Food,

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Drug and Cosmetic Act (21 U.S.C. Section 355), as amended, to the extent conduct with respect to the substance is pursuant to the exemption; or any substance to the extent not intended for human consumption before such an exemption takes effect with respect to the substance.

Deliver or *delivery* shall mean the same as the term is defined in RSMo 195.010, as amended, which is the actual, constructive or attempted transfer from one (1) person to another of drug paraphernalia or of a controlled substance, or an imitation controlled substance whether or not there is an agency relationship, and includes a sale.

Department shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, which is the department of health and senior services, or its successor agency.

Dispense shall mean the same as the term is defined in RSMo 195.010, as amended, which is to deliver a narcotic or controlled dangerous drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for such delivery.

Distribute shall mean the same as the term is defined in RSMo 195.010, as amended, which is to deliver other than by administering or dispensing a drug or controlled substance.

Drug shall mean the same as the term is defined in RSMo 195.010, as amended, which is:

- A. Substances recognized as drugs in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States or Official National Formulary, or any supplement of any of them; or
- B. Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals; or
- C. Substances, other than food, intended to affect the structure or any function of the body of humans or animals; or
- D. Substances intended for use as a component of any article specified in this definition. It does not include devices or their components, parts or accessories.

Drug paraphernalia shall mean the same as the term is defined in RSMo 195.010, as amended, which is:

- A. All equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance or an imitation controlled substance in violation of this article. It includes, but is not limited to:
 1. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
 2. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances or imitation controlled substances;

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3. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance or imitation controlled substance;
4. Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances or imitation controlled substances;
5. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances or imitation controlled substances;
6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances or imitation controlled substances;
7. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
8. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances or imitation controlled substances;
9. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances or imitation controlled substances;
10. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or imitation controlled substances;
11. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances or imitation controlled substances into the human body;
12. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - b. Water pipes;
 - c. Carburetion tubes and devices;
 - d. Smoking and carburetion masks;
 - e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
 - f. Miniature spoons or cocaine vials;
 - g. Chamber pipes;
 - h. Carburetor pipes;
 - i. Electric pipes;
 - j. Air-driven pipes;

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- k. Chillums;
 - l. Bongs;
 - m. Ice pipes or chillers.
13. Substances used, intended for use, or designed for use in the manufacture of a controlled substance;
- B. In determining whether an object, product, substance or material is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:
- 1. Statements by an owner or by anyone in control of the object concerning its use;
 - 2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance or imitation controlled substance;
 - 3. The proximity of the object, in time and space, to a direct violation of this article;
 - 4. The proximity of the object to controlled substances or imitation controlled substances;
 - 5. The existence of any residue of controlled substances or imitation controlled substances on the object;
 - 6. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons who he knows, or reasonably should know, intend to use the object to facilitate a violation of this article; the innocence of an owner, or of anyone in control of the object as to a direct violation of this article, shall not prevent a finding that the object is intended for use as drug paraphernalia;
 - 7. Instructions, oral or written, provided with the object concerning its use;
 - 8. Descriptive materials accompanying the object which explain or depict its use;
 - 9. National and local advertising concerning its use;
 - 10. The manner in which the object is displayed for sale;
 - 11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or released items to the community, such as a licensed distributor or dealer of tobacco products;
 - 12. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
 - 13. The existence and scope of legitimate uses for the object in the community;
 - 14. Expert testimony concerning its use;
 - 15. The quantity, form or packaging of the product, substance or material in relation to the quantity, form or packaging associated with any legitimate use for the product, substance or material.

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Flowering plant shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, which is a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

Infused preroll shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, which is a consumable or smokable marijuana product, generally consisting of: (1) a wrap or paper, (2) dried flower, buds, and/or plant material, and (3) a concentrate, oil or other type of marijuana extract, either within or on the surface of the product, infused prerolls may or may not include a filter or crutch at the base of the product.

Imitation controlled substance shall mean the same as the term is defined in RSMo 195.010, as amended, which is:

- A. A substance that is not a controlled substance, which by dosage, unit appearance (including color, shape, size and markings), or by representations made, would lead a reasonable person to believe that it is a controlled substance. In determining whether a substance is an imitation controlled substance, the court or other authority concerned should consider, in addition to all other logically relevant factors, the following:
 1. Whether the substance was approved by the federal Food and Drug Administration for over-the-counter (nonprescription or non-legend) sales and was sold in the federal Food and Drug Administration package, with the federal Food and Drug Administration approval labeling information;
 2. Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;
 3. Whether the substance is packaged in a manner normally used for illicit controlled substances;
 4. Prior convictions, if any, of an owner or anyone in control of the object, under state or federal law related to controlled substances or fraud;
 5. The proximity of the substances to controlled substances;
 6. Whether the consideration tendered in exchange for the non-controlled substance substantially exceeds the reasonable value of the substance considering the actual chemical composition of the substance and, where applicable, the price at which over-the-counter substances of like chemical composition sell.
- B. An imitation controlled substance does not include a placebo or registered investigational drug either of which was manufactured, distributed, possessed or delivered in the ordinary course of professional practice and research.

License or licensed shall refer to persons required to obtain annual registration as issued by the State Division of Health as provided by RSMo 195.030, as amended.

Manufacture shall mean the same as the term is defined in RSMo 195.010, as amended, which is the production, preparation, propagation, compounding, or processing of drug paraphernalia or a controlled substance or an imitation controlled substance either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not

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include the preparation or compounding of a controlled substance or an imitation controlled substance or the preparation, compounding, packaging or labeling of a narcotic or dangerous drug:

- A. By a practitioner as an incident to his administering or dispensing of a controlled substance or an imitation controlled substance in the course of his professional practice; or
- B. By a practitioner or by his authorized agent under his supervision, for the purpose of or as an incident to research, teaching or chemical analysis and not for sale.

Marijuana or *marihuana* shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, which is 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" or "marihuana" do not include industrial hemp, as defined by Missouri statute, or commodities or products manufactured from industrial hemp.

Marijuana accessories shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in plating, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repacking, storing, containing, ingesting, inhaling, or otherwise introducing marijuana into the human body.

Marijuana Business Facility means any facility licensed by the Department of Health and Senior Services under the authority granted by Article XIV of the Constitution of the State of Missouri and shall include any medical marijuana facility and any marijuana facility as defined in Article XIV of the Constitution, as amended. A marijuana business facility shall include a comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility, marijuana testing facility, comprehensive marijuana-infused products manufacturing facility, microbusiness wholesale facility, microbusiness dispensary facility, a comprehensive marijuana transportation facility, a medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, medical marijuana testing facility, medical marijuana transportation facility, or any other type of marijuana-related facility or business licensed or certified by the department pursuant to this Article XIV of the Missouri Constitution, as amended.

Marijuana Facility shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, a comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility, marijuana testing facility comprehensive marijuana-infused products manufacturing facility, microbusiness wholesale facility, microbusiness dispensary facility, or any other type of marijuana-related facility or business licensed or certified by the department pursuant to this section, but shall not include a medical facility licensed under Section 1 of Article XIV of the Missouri Constitution.

Marijuana-infused products shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, which is products that are infused, dipped, coated, sprayed, or mixed with marijuana or an extract thereof, including, but not limited to, products that are able to be vaporized or smoked, edible products, ingestible products, topical products, suppositories, and infused prerolls. *Marijuana Microbusiness Facility* shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, a facility licensed by the

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department as a microbusiness dispensary facility or microbusiness wholesale facility, as defined in this section.

Marijuana dispensary facility shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, which is a facility licensed by the department to acquire, process, package, store on site or off site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a consumer, qualifying patient, as that term is defined in section 1 of Article XIV of the Missouri Constitution, or primary caregiver, as that term is defined in section 1 of Article XIV of the Missouri Constitution, anywhere on the licensed property or to any address as directed by the consumer, qualifying patient, or primary caregiver and, consistent with the limitations of Article XIV of the Missouri Constitution and as otherwise allowed by law, a microbusiness wholesale facility, or a marijuana testing facility, Microbusiness dispensary facilities may receive transaction orders at the dispensary directly from the consumer in person, by phone or via the internet, including from a third party. A microbusiness dispensary facility's authority to process marijuana shall include the creation of prerolls.

Marijuana Testing Facility shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, which is a facility certified by the department to acquire, test, certify, and transport marijuana, including those originally certified as a medical marijuana testing facility.

Medical marijuana cultivation facility shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, which is a facility licensed by the department to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility.

Medical marijuana dispensary facility shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, which is a facility licensed by the department to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, or a medical marijuana-infused products manufacturing facility.

Medical marijuana facility shall mean a medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, medical marijuana testing facility, medical marijuana transportation facility, and any facility that contains ones of these uses.

Medical marijuana-infused products manufacturing facility shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, which is a facility licensed by the department to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

Medical marijuana testing facility shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, which is a facility certified by the department to acquire, test, certify, and transport marijuana.

Medical marijuana transportation facility shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, which is a facility certified by the

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department to transport marijuana to a qualifying patient, a primary caregiver, a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a medical marijuana testing facility, or another medical marijuana-transportation facility.

Microbusiness Dispensary Facility shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, a facility licensed by the department to acquire, process, package, store on site or offsite, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a consumer, qualifying patient as that term is defined in section I of this Article, or primary caregiver, as that term is defined in section 1 of this Article, anywhere on the licensed property or to any address as directed by the consumer, qualifying patient, or primary caregiver and, consistent with the limitations of this Article and as otherwise allowed by law, a microbusiness wholesale facility, or a marijuana testing facility. Microbusiness dispensary facilities may receive transaction orders at the dispensary directly from the consumer in person, by phone, or via the internet, including from a third party. A microbusiness dispensary facility's authority to process marijuana shall include the creation of prerolls.

Microbusiness Wholesale Facility shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, which is a facility licensed by the department to acquire, cultivate, process, package, store on site or off site, manufacture, transport to or from, deliver, and sell marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), and marijuana infused products to a microbusiness dispensary facility, other microbusiness wholesale facility, or marijuana testing facility. A microbusiness wholesale facility may cultivate up to 250 flowering marijuana plants at any given time. A microbusiness wholesale facility's authority to process marijuana shall include the creation of prerolls and infused prerolls.

Minor shall mean any person who has not attained eighteen (18) years of age.

Pharmacist shall mean the same as the term is defined in RSMo 195.010, as amended, which is a licensed pharmacist as defined by the laws of Missouri, and where the context so requires, the owner of a store or other place of business where controlled substances are compounded or dispensed by a licensed pharmacist; but nothing in this article shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right or privilege that is not granted to him by the pharmacy laws of Missouri.

Place of display shall mean any museum, library, school or other similar public place upon which business is not transacted for a profit.

Possessed or possessing a controlled substance shall mean a person, with the knowledge of the presence and nature of a substance, has actual or constructive possession of the substance. A person has actual possession if he has the substance on his person or within easy reach and convenient control. A person who, although not in actual possession, has the power and the intention at a given time to exercise dominion or control over the substance either directly or through another person or persons is in constructive possession of it. Possession may also be sole or joint. If one (1) person alone has possession of a substance, possession is sole. If two (2) or more persons share possession of a substance, possession is joint.

Practitioner shall mean the same as the term is defined in RSMo 195.010, as amended, which is a physician, dentist, podiatrist, veterinarian, scientific investigator, pharmacy, hospital

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or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer or to use in teaching or chemical analysis a controlled substance in the course of professional practice or research in this State, or a pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this State.

Premises shall mean a business establishment, and the structure of which it is a part, facilities and appurtenances therein and grounds, areas and facilities held out for the use of patrons.

Premises open to minors shall mean any business establishment which sells its wares or merchandise to minors or which permits minors to enter into its place of business.

Preroll shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, which is a consumable or smokable marijuana product, generally consisting of: (1) a wrap or paper and (2) dried flower, buds, and/or plant material. Prerolls may or may not include a filter or crutch at the base of the product.

Prescription shall mean a written order and, in cases of emergency, a telephone order issued by a practitioner in good faith in the course of his professional practice to a pharmacist for a drug for a particular patient which specifies the date of its issue, the name and address of the patient (and, if such drug is prescribed for an animal, the species of such animal), the name and quantity of the drug prescribed, the directions for use of such drug, and the signature of such practitioner.

Primary caregiver shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, which is an individual twenty-one (21) years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this section or in other written notification to the department.

Production shall mean the same as the term is defined in RSMo 195.010, as amended, which includes the manufacture, planting, cultivation, growing or harvesting of drug paraphernalia, of a controlled substance or an imitation controlled substance.

Qualifying medical condition shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, which is the condition of, symptoms related to, or side-effects from the treatment of:

- A. Cancer;
- B. Epilepsy;
- C. Glaucoma;
- D. Intractable migraines unresponsive to other treatment;
- E. A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;
- F. Debilitating psychiatric disorders, including, but not limited to, posttraumatic stress disorder, if diagnosed by a state licensed psychiatrist;
- G. Human immunodeficiency virus or acquired immune deficiency syndrome;

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- H. A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;
- I. Any terminal illness; or
- J. In the professional judgment of a physician, any other chronic, debilitating or other medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory bowel disease, Crohn's disease, Huntington's disease, autism, neuropathies, sickle cell anemia, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

Qualifying patient shall mean the same as the term is defined in Article XIV of the Missouri Constitution, as amended, which is a Missouri resident diagnosed with at least one (1) qualifying medical condition.

School shall mean any public or private elementary, junior high or high school, or any college, junior college or university.

Synthetic cannabinoid shall mean the same as the term is defined in RSMo 195.010, as amended, which includes unless specifically excepted or unless listed in another schedule, any natural or synthetic material, compound, mixture, or preparation that contains any quantity of a substance that is a cannabinoid receptor agonist, including but not limited to any substance listed in RSMo Section 195.017.2(4)(II), and any analogues; homologues; isomers, whether optical, positional, or geometric; esters; ethers; salts; and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, or salts is possible within the specific chemical designation, however, it shall not include any approved pharmaceutical authorized by the United States Food and Drug Administration.

Warehouseman shall mean a person who, in the usual course of business, stores drugs for others, is lawfully entitled to possess them and who has no control over the disposition of such drugs except for the purpose of such storage.

Wholesaler shall mean the same as the term is defined in RSMo 195.010, as amended, which is a person who supplies drug paraphernalia or controlled substances or imitation controlled substances that he himself has not produced or prepared, on official written orders, but not a prescription.

DIVISION 2. CONTROLLED SUBSTANCES GENERALLY

Sec. 17-237. Use or possession for use of drug paraphernalia.

Except and only to the extent as authorized by Article XIV of the Missouri Constitution including any and all rules and regulations promulgated by the department relating to legalized medical marijuana or legalized adult use marijuana, it shall be unlawful for any person to knowingly use, or 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 introduce into the human body a controlled substance, or imitation controlled substance in violation of this article.

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Sec. 17-238. Possession of imitation controlled substances.

It shall be unlawful for any person to knowingly possess an imitation controlled substance.

Sec. 17-239. Possession of a controlled substance.

- A. No person shall knowingly possess a controlled substance, except and only to the extent as authorized by RSMo Ch. 579 or RSMo Ch. 195, as amended,
- B. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of this section, it shall not be necessary to include any exception, excuse, proviso, or exemption contained in: (i) this section, as amended, (ii) RSMo Ch. 579, as amended, or (iii) RSMo Ch. 195, as amended, and the burden of proof of any such exception, excuse, proviso or exemption shall be upon the defendant.

DIVISION 3. OFFENSES RELATED TO MARIJUANA

Sec. 17-242. Possession of marijuana.

- A. No person under the age of twenty-one years shall knowingly possess marijuana except as provided by Article XIV of the Missouri Constitution;
- B. A person at least twenty-one years of age may not purchase, possess, consume, use, ingest, inhale, process, transport, deliver without consideration, or distribute without consideration except as permitted under Article XIV of the Missouri Constitution, as amended, over three ounces of dried, unprocessed marijuana, or its equivalent;
- C. A person at least twenty-one years of age may not possess, transport, plant, cultivate, harvest, dry, process, or manufacture more than six flowering marijuana plants, six nonflowering marijuana plants (over fourteen inches tall), and six clones (plants under fourteen inches tall) in violation of Article XIV of the Missouri Constitution;
- D. A person may not purchase, possess, use, deliver, distribute, manufacture, transfer, or sell to persons under twenty-one years of age marijuana accessories, except as provided by Article XIV of the Missouri Constitution.;
- E. No person shall knowingly possess more than twice the amount of marijuana as authorized by Article XIV of the Missouri Constitution;
- F. The following may possess marijuana pursuant to Article XIV of the Missouri Constitution and its accompanying State regulations:
 - 1. A qualifying patient for the patient's own personal use, provided that a qualifying patient shall not possess more than four (4) ounces of dried, unprocessed marijuana in a thirty (30) day period, unless such patient is able to possess more than such limits pursuant to 19 CSR 30-095.030(5)(E), as amended, in which case such person shall not possess more than amount of marijuana the person's two (2) physicians have certified the person to possess;
 - 2. A primary caregiver for a qualifying patient(s), but only when transporting marijuana to a qualifying patient(s) or when accompanying a qualifying patient(s); and

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3. An owner or employee of a medical marijuana facility licensed by the State of Missouri while on the premises of said facility, or when transporting to a qualified patient's or primary caregiver's residence or another medical marijuana facility licensed by the State of Missouri;

G. In any complaint or information, and in any action or proceeding brought for the enforcement of any provision of any applicable statutory authority in the State of Missouri, it shall not be necessary to include any exception, excuse, proviso, or exemption of any applicable statutory authority in the State of Missouri, and the burden of proof of any such exception, excuse, proviso or exemption shall be upon the defendant.

Sec. 17-243. Failure to produce medical marijuana identification.

Any person under the age of twenty-one years old in possession of medical marijuana, including a marijuana-infused product, shall, immediately upon request of any law enforcement officer, produce a valid identification card issued by either the department or the respective equivalent identification card or authorization issued by another state or political subdivision of another state, authorizing the person to possess the amount of marijuana in such person's possession as provided by Article XIV of the Missouri Constitution, as amended. Any person who fails to produce such identification card as required by this section shall be guilty of the offense of failure to produce a medical marijuana identification card.

Sec. 17-244. Consumption of medical marijuana in public.

A. No person shall consume marijuana, including marijuana for medical use, in a public place.

B. As used in this section only, "public place" means the same as the term defined by applicable Missouri Regulations, as amended, which is any public or private property, or portion of public or private property, that is open to the general public, including, but not limited to, sidewalks, streets, bridges, parks, schools, and businesses. However, for purposes of designating a nonpublic place within a public place, the owner or entity with control of any such property may, but is not required to, provide one (1) or more enclosed, private spaces where one (1) qualifying patient and, if required by the owner or entity with control of any such property, a representative of such owner or entity, may congregate for the qualifying patient to consume medical marijuana. The qualifying patient may be accompanied by the family of the qualifying patient, the qualifying patient's primary caregiver, and/or the qualifying patient's physician. The owner or entity with control of any such property may provide such a space by individual request or designate such a space for ongoing use and may limit use of medical marijuana in that space to uses that do not produce smoke. Any such permission shall be given in writing and provided to the qualifying patient or publicly posted prior to a qualifying patient's use of medical marijuana in that space. "Public place" shall not include:

1. The residence of the person administering medical marijuana or the residence of another person when the person in control of that property has consented to the administering of marijuana; or
2. A licensed medical facility with the consent of the person or persons in charge of that facility.

Sec. 17-245. Cultivation of Marijuana

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It shall be unlawful for any person over the age of twenty-one to have the plants and any marijuana in excess of three ounces:

- A. Kept at one private residence visible by normal, unaided vision from a public place; or
- B. Kept in an unlocked space.

Sec. 17-246 - Consumption of adult use marijuana in public.

- A. No person shall consume adult use marijuana in a public place.
- B. As used in this section only, "public place" means the same as the term defined by applicable Missouri Regulation, as amended, which is any public or private property, or portion of public or private property, that is open to the general public, including, but not limited to, sidewalks, streets, bridges, parks, schools, and businesses. "Public place" shall not include:
 - 1. The residence of the person consuming adult use marijuana or the residence of another person when the person in control of that property has consented to the consumption of adult use marijuana; or
 - 2. An area licensed by the authorities having jurisdiction over the licensing and/or permitting of said activity.

Sec. 17-247 Use or possession for use of marijuana accessories

Except and only to the extent as authorized by Article XIV of the Missouri Constitution, as amended, including any and all rules and regulations promulgated by the department relating to legalized medical marijuana or legalized adult use marijuana, it shall be unlawful for any person under twenty-one years of age to knowingly use, or possess with intent to use, marijuana accessories to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body marijuana, or imitation marijuana in violation of this article, other than medical marijuana as allowed under Article XIV of the Missouri Constitution.

Sec. 17-248 - Penalties specific to certain marijuana offenses

The penalty for marijuana offenses shall be punishable as follows:

- A. A person who cultivates marijuana plants that are visible by normal, unaided vision from a public place is subject to a civil penalty not exceeding two hundred and fifty dollars and forfeiture of the marijuana, as authorized under Article XIV of the Missouri Constitution, as amended.
- B. A person who cultivates marijuana plants that are not kept in a locked space is subject to a civil penalty not exceeding two hundred and fifty dollars and forfeiture of the marijuana, as authorized under Article XIV of the Missouri Constitution, as amended.

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- C. A person who smokes marijuana in a public place is subject to a civil penalty not exceeding one hundred dollars, as authorized under Article XIV of the Missouri Constitution, as amended.
- D. A person who is under twenty-one years of age who possesses, uses, ingests, inhales, transports, delivers or distributes marijuana, or possesses, delivers or distributes marijuana accessories is subject to a civil penalty not to exceed one hundred dollars and forfeiture of the marijuana. Any such person shall be provided the option of attending up to four hours of drug education or counseling in lieu of the fine, as authorized under Article XIV of the Missouri Constitution, as amended.
- E. A person who possesses or produces, delivers without receiving any consideration or remuneration, or possesses with intent to deliver not more than twice the amount of marijuana to a person who is at least twenty-one years of age, as authorized under Article XIV of the Missouri Constitution, as amended:
 - (i) For a first violation, is subject to a civil infraction punishable by a civil penalty not exceeding two hundred and fifty dollars and forfeiture of the marijuana;
 - (ii) For a second violation, is subject to a civil infraction punishable by a civil penalty not exceeding five hundred dollars and forfeiture of the marijuana;
 - (iii) For a third or subsequent violation, is subject to a violation punishable by a fine not exceeding one-thousand dollars and forfeiture of the marijuana;
 - (iv) For a person under twenty-one years of age is subject to a civil penalty not to exceed two hundred and fifty dollars. Any such person shall be provided the option of attending up to eight hours of drug education or counseling in lieu of the fine; and
 - (v) In lieu of payment, penalties under this subsection may be satisfied by the performance of community service. The rate of pay-down associated with said service option will be the greater of \$15 or the minimum wage in effect at the time of judgment.

SECTION 2. That Section 11-1 of Article I of Chapter 11, Court, of the Code of Ordinances of the City of Lee's Summit, Missouri, is hereby amended to read as follow:

“Sec. 11-1. Jurisdiction.

The Municipal Court shall have jurisdiction to hear and determine all cases involving alleged violations of this Code and other ordinances of the City, and to assess punishment, by fine or incarceration, as provided in this Code and as provided in other ordinances of the City. The Municipal Court shall further have the jurisdiction to hear, adjudicate, and enforce any judgment on any penalty authorized under Article XIV of the Missouri Constitution.”

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SECTION 3. That it is the intention of the City Council and is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Lee's Summit, Missouri, and the sections of this Ordinance and the Code of Ordinances may be renumbered as appropriate to accomplish such intention.

SECTION 4. That this ordinance shall be in full force and effect from and after the date of its passage, adoption, and approval by the Mayor.

SECTION 5. Should any section, sentence, or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences, or clauses.

PASSED by the City Council of the City of Lee's Summit, Missouri, this _____ day of _____, 2023.

Mayor *William A. Baird*

ATTEST:

City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this ____ day of _____, 2023.

Mayor *William A. Baird*

ATTEST:

City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

City Attorney *Brian W. Head*