

	City of Lee's Summit Department: Law Department Memorandum	
	To:	Mayor Baird and City Councilmembers
	From:	Brian W. Head, City Attorney
	Date:	December 13, 2022
	Re:	Update on Amendment 3 Ordinance Changes and Potential ballot issue.

Mayor Baird and Members of the City Council, as we have previously discussed, the law department has identified a number of code provisions that will require change in order to be fully compliant with the recently passed Constitutional Amendment 3. This Amendment legalized adult-use, non-medical marijuana for Missouri Residents. Additionally, the Amendment authorizes a sales tax up to 3% on the sale of adult marijuana subject to a vote of the citizens of the City. Below, we will provide a quick overview of the various portions of the code of ordinances that require change and have included a rough draft ballot ordinance for your information.

1. **Amendments to the penalty provision of the code found in section 1-13.** The Constitutional Amendment adds a number of new penalties for various types of violations. These include penalties for possession of an amount in excess of the authorized amount, possession by a person under age, keeping of plants in an unlocked place etc. This will generate one ordinance.

2. **Amendments to Chapter 17. Offenses.** Several members of the law department including the City Prosecutor have worked with the Police Department to identify all of the areas that required change. Our goal, as always, is to ensure that law enforcement has all the necessary tools to continue protecting the citizens of Lee's Summit, as well as be prepared with issues they may encounter in the form of citizen disputes arising from the enactment of this Constitutional Amendment. In order to fully comply with the new Amendment, we must make significant revisions to Articles VIII, X, and XI of the City Ordinances. We anticipate that these changes will result in three separate ordinances.
 - a. First, we will address the changes necessary for Article VIII. It is necessary to add "personal use marijuana" to the ordinances previously enacted related to "medical marijuana." We also have determined that Lee's Summit did not previously have an ordinance controlling the distribution of controlled substances, so one has been drafted. This ordinance will include the distribution of marijuana to individuals under the age of twenty-one (21), as well as other controlled substances. Furthermore, we must edit the ordinances regarding the disposal of marijuana and marijuana infused products, as well as the consumption of medical marijuana. Due to the new definition of "marijuana accessories," which were formerly viewed as drug paraphernalia used in conjunction with all controlled substances, the ordinance regarding paraphernalia requires revision. Furthermore, we have drafted new provisions to handle the age restrictions on possession of "marijuana accessories," i.e. a person less than twenty-one (21) years of age. Edits to the Manufacturing of Drug Paraphernalia are required to include and differentiate Marijuana Accessories. Finally, this article includes all of the new

definitions that must be included to deal with all of the various new types of businesses. It is our intention to make this article the container for the vast majority of the marijuana related definitions that will be referred to in the ordinances dealing with the subject.

- b. Second, we will address Article X. In this article we will amend the definitions of smoking and public place. Furthermore, we will need to revise where smoking in public may and may not occur, including places of employment. We also will revise where smoking is not regulated, posting of signs for “no smoking” and what products are covered in those restrictions. At the request of the Parks Administrator, we are currently working to add park property to the list of public places where smoking may not occur, except with special permission of the Parks Administrator.
 - c. Third, we will address Article XI. Article XI address vaping, which requires us to include “non-tobacco” products into the definition and restrictions. Our desire is to make sure that it would not become permissible to vape marijuana in public, simply because marijuana was not previously included in the definition of “tobacco related products.”
3. **Business Licenses.** The business license provisions can be found in Chapter 28, Article II, Division 8. Currently, the code addresses medical marijuana businesses but in order to provide regulation of the new business types, they must be added. Specifically, the regulations for both medical and adult use marijuana facilities have been combined and will be treated the same for licensing purposes. However, the new amendment creates two entirely new types of businesses know as the microbusiness dispensary facility and the microbusiness wholesale facility. These two business types should be added to the code and treated like other marijuana related businesses. At present, the hours of operation for dispensaries are included in the UDO. Our intention would be to remove the hours of operation from the UDO and place them in this ordinance. We anticipate that this will generate one additional ordinance.
4. **UDO Amendments.** We are continuing to work with Planning and Zoning to fully identify and draft amendments to the Unified Development Ordinance that will require amendment. The changes necessary to accommodate Amendment 3 are focused on new uses and definitions related to recreational marijuana. There are three areas of the ordinance that will have to be edited; Article 15 Definitions, Article 6 Use Standards and Article 8 Site Standards. Our approach with the definitions is to pull the language from Amendment 3 directly. The use standards require siting new uses. Our strategy is to place the recreational marijuana uses in the same zones as their medical marijuana counterparts. For instance, Amendment 3 has Comprehensive Marijuana Dispensary and staff is recommending that this new use be placed in the same zones as our medical marijuana dispensaries. The buffer requirement from schools, churches and daycare of 1,000 feet is still required and will control where marijuana uses are placed. Our Crime Prevention through Environmental Design (CPTED) section needs to be updated to add staff review for the recreational uses as well. CPTED looks at things like site layout and lighting to prevent crime. One example is to remove dark areas where criminals could hide to ambush customers. We anticipate at least three ordinances related to the UDO will need to come forward.
5. **Ballot Ordinance for 3% tax.** Amendment 3 provides authorization for cities to propose a 3% sales tax on the retail sale of adult use marijuana sold in the City. This authorization is in addition to all other sales taxes. A sample draft ballot is attached to this memorandum.

Finally, as you can see there has been considerable time and resources spent on identifying issues and drafting ordinances to provide a framework for marijuana businesses as it becomes legal following the passage of Amendment 3. At this time we anticipate that we will bring forward as many as nine separate ordinances related to marijuana including a proposed ballot for a 3% sales tax. These will be introduced fully at the CEDC meeting on January 11, 2023. As always, if you have any questions please feel free to contact me. Thank you.