

AN ORDINANCE OF THE CITY OF WEST PLAINS, MISSOURI TO ADD THE FOLLOWING SECTION TO THE CITY CODE:

CHAPTER 28, OFFENSES, ARTICLE III – OFFENSES AGAINST PUBLIC HEALTH AND SAFETY, SECTION 28-84 POSSESSION OF MARIJUANA, SECTION 28-85 PUBLIC CONSUMPTION OF MARIJUANA, SECTION 28-86 CONSUMPTION OF MARIJUANA IN A MOTOR VEHICLE, AND SECTION 28-87 MARIJUANA ACCESSORIES.

WHEREAS, it has been determined by the City Council of West Plains, Missouri, that the safety and welfare of the residents of the City of West Plains will be promoted by adding the above sections to the existing City Code of West Plains, Missouri, and

WHEREAS, it is necessary to enact an ordinance adding the above sections to the existing City Code of West Plains, Missouri, to promote the safety and welfare of the residents of the City of West Plains, Missouri.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST PLAINS, MISSOURI, THAT THE FOLLOWING SECTIONS BE ADDED TO THE CITY CODE AS FOLLOWS:

Chapter 28 - OFFENSES

Article III - OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

Sec. 28 - 84. - Possession of Marijuana

- (a) Possession of marijuana by persons under 21 years of age.
 - (1) No person under 21 years of age shall possess marijuana.
 - (2) 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.
 - (3) Any person who violates this subsection shall be subject to a civil penalty not to exceed \$100.00 and forfeiture of the marijuana, unless such individual is determined to be in possession of more than three ounces of dry, unprocessed marijuana or its equivalent, in which case the individual shall be subject to a civil penalty not to exceed \$250.00 and forfeiture of the marijuana.
 - (4) Any person who is subject to a civil penalty pursuant to this subsection but is determined to be in possession of three ounces or less of marijuana shall be provided the option of attending up to four hours of drug education or counseling in lieu of payment of the penalty. Any person who is subject to a civil penalty pursuant to this subsection but is

determined to be in possession of more than three ounces of marijuana shall be provided the option of attending up to eight hours of drug education or counseling in lieu of payment of the penalty. Any such person shall still be subject to forfeiture of marijuana.

(5) 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 \$15.00 per hour or the minimum wage in effect at the time of judgment.

(b) Possession of marijuana by persons 21 years of age and older.

(1) No person who is 21 years of age or older shall possess in excess of three ounces of dried, unprocessed marijuana, or its equivalent.

(2) This subsection shall not apply to any person who is registered with the department of health and senior services for the cultivation of marijuana plants, provided any amount of marijuana in excess of three ounces is kept at one private residence in a locked space.

(3) No person who is registered with the department of health and senior services for the cultivation of marijuana shall possess marijuana plants in excess of the limits set forth in Article XIV, Section 2 of the Missouri Constitution.

(4) This subsection shall not apply to any qualifying patient or primary caregiver in possession of a qualifying patient or primary caregiver identification card and in possession of marijuana within the limits established by the department of health and senior services.

(5) Any person who violates this subsection shall be subject to:

a. For a first violation, a civil penalty not to exceed \$250.00 and forfeiture of the marijuana.

b. For a second violation, a civil penalty not to exceed \$500.00 and forfeiture of the marijuana.

c. For a third violation, a fine not to exceed \$500.00 and forfeiture of the marijuana.

(6) 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 \$15.00 per hour or the minimum wage in effect at the time of judgment.

(c) Possession of marijuana in schools or correctional facilities prohibited.

(1) No person shall possess or consume marijuana 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.

(2) 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.

(3) Any violation of this subsection shall be punished as provided by Section 28 – 84(d) below.

(d) General penalty; continuing Violations

(1) Notwithstanding the provisions of any other ordinance of the city or provision of this Code to the contrary, whenever in this Code or any other ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided therefor, the violation of any such provision of this Code or other ordinances of the city shall be punished by a fine of not more than \$500.00 or by imprisonment in jail for a period not exceeding 90 days, or both such fine and imprisonment.

(2) Every day any violation of this Code or any other ordinance of the city shall continue, such violation shall constitute a separate offense.

(3) In no event shall any person be imprisoned for a period of more than 90 days for a violation of this Code or any other ordinance of the city, whether such imprisonment shall be because of sentence of imprisonment or because of failure to pay a fine imposed, or because of both such a sentence and failure to pay a fine imposed.

(e) Delivery or distribution of marijuana to persons under 21 years of age.

(1) No person shall deliver or distribute marijuana, with or without consideration, to a person younger than 21 years of age.

(2) This subsection shall not apply to the delivery or distribution of marijuana to any qualifying patient, as defined by Article XIV, Section 1 of the Missouri Constitution, by any entity licensed by the department of health and senior services for the distribution of medical marijuana or by any parent or guardian of the qualifying patient.

(3) Any violation of this subsection shall be punished as provided by (d) above.

(f) For purposes of this Section, the term "marijuana" shall have the same definition found in Article XIV, Section 2 of the Missouri Constitution.

(g) Subsections (a), (b), and (c). of this section shall not apply to any individual who is found to be in possession of more than twice the amount of marijuana or more than twice the number of marijuana plants authorized by Article XIV, Section 2 of the Missouri Constitution.

Sec. 28 - 85. - Public Consumption of Marijuana

(a) Definitions.

(1) 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.

(2) The term marijuana has the same definition as found in Article XIV, Section 2 of the Missouri Constitution.

(b) No person shall consume marijuana in a public place, or any vehicle parked in a public place.

(c) 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.

(d) Any person who violates this section is subject to a civil penalty not to exceed \$100.00.

(e) 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 \$15.00 per hour or the minimum wage in effect at the time of judgment.

Sec. 28 - 86. - Consumption of Marijuana in a Motor Vehicle.

(a) No person shall consume marijuana in any form while operating a motor vehicle.

(b) No occupant of a motor vehicle shall consume marijuana by smoking while the motor vehicle is being operated.

(c) Any violation of this section shall be punished as provided by Section 28-84 (d).

(1) Notwithstanding the provisions of any other ordinance of the city or provision of this Code to the contrary, whenever in this Code or any other ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided therefor, the violation of any such provision of this Code or other ordinances of the city shall be punished by a fine of not more than \$500.00 or by imprisonment in jail for a period not exceeding 90 days, or both such fine and imprisonment.

(2) Every day any violation of this Code or any other ordinance of the city shall continue, such violation shall constitute a separate offense.

(3) In no event shall any person be imprisoned for a period of more than 90 days for a violation of this Code or any other ordinance of the city, whether such imprisonment shall be because of sentence of imprisonment or because of failure to pay a fine imposed, or because of both such a sentence and failure to pay a fine imposed.

Sec. 28 – Marijuana Accessories.

(a) 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.

(b) For purposes of this section, the term "marijuana" shall have the same definition found in Article XIV, Section 2 of the Missouri Constitution.

(c) Possession of marijuana accessories by persons under 21 years of age.

(1) No person under 21 years of age shall possess marijuana accessories.

(2) 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.

(3) Any person who violates this subsection shall be subject to a civil penalty not to exceed \$100.00 and forfeiture of the marijuana.

(4) 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 marijuana.

(5) 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 \$15.00 per hour or the minimum wage in effect at the time of judgment.

(d) Possession of marijuana accessories in schools or correctional facilities prohibited.

(1) 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.

(2) Any violation of this subsection shall be punished as provided by Section 28-84(d).

a. Notwithstanding the provisions of any other ordinance of the city or provision of this Code to the contrary, whenever in this Code or any other ordinance of the city an

act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided therefor, the violation of any such provision of this Code or other ordinances of the city shall be punished by a fine of not more than \$500.00 or by imprisonment in jail for a period not exceeding 90 days, or both such fine and imprisonment.

b. Every day any violation of this Code or any other ordinance of the city shall continue, such violation shall constitute a separate offense.

c. In no event shall any person be imprisoned for a period of more than 90 days for a violation of this Code or any other ordinance of the city, whether such imprisonment shall be because of sentence of imprisonment or because of failure to pay a fine imposed, or because of both such a sentence and failure to pay a fine imposed.

(e) Delivery of marijuana accessories to persons under 21 years of age prohibited.

(1) No person shall deliver or distribute marijuana accessories, with or without consideration, to a person younger than 21 years of age.

(2) Any violation of this subsection shall be punished as provided by Section 28-84(d).

This Ordinance shall be in full force and in effect after the date of its passage and approval.

PASSED AND APPROVED THIS 16th DAY OF November, 2023.

CITY OF WEST PLAINS, MISSOURI


MICHAEL TOPLIFF, MAYOR

ATTEST:


ALLISON SKINNER, CITY CLERK