

BILL NO: 9742

ORDINANCE NO: 9742

AN ORDINANCE ADOPTING ARTICLE III TO CHAPTER 20 OF THE CITY CODE PROVIDING FOR NO SMOKING OF MARIJUANA IN A PUBLIC PLACE OR MEETING.

WHEREAS, on November 8, 2022, Missouri voters passed Amendment 3 which amended the state constitution to provide for the use of recreational marijuana; and

WHEREAS, Article XIV, Section 2.5(6) of the state constitution now provides that local political subdivisions may enact ordinances not in conflict with the constitution governing the time and place where marijuana may be consumed, used or smoked in public areas within the locality; and

WHEREAS, the Moberly City Council has determined that smoking marijuana in public places should be regulated to safeguard citizens who do not wish to be exposed to marijuana smoke; and

WHEREAS, the Moberly City Council hereby adopts this ordinance to prohibit smoking marijuana in public places or meetings.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOBERLY, MISSOURI TO WIT:

SECTION ONE: Chapter 20 of the City Code is hereby amended by the adoption of Article III to prohibit smoking marijuana in public places and meetings as follows:

Chapter 20 – HEALTH AND SOCIAL SERVICES

ARTICLE III. – NO MARIJUANA SMOKING IN PUBLIC

Sec. 20-40. – Definitions. As used in sections 20-40 to 20-44, the following terms mean:

(1) “*Marijuana*” means *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,

(2) “*Other person in charge*”, the agent of the proprietor authorized to give administrative directions to and general supervision of the activities within the public place, work place or public meeting at any given time;

(3) “*Proprietor*”, the party who ultimately controls, governs or directs the activities within the public place, work place or public meeting, regardless of whether he is the owner or lessor of such place or site. The term does not mean the owner of the property unless he ultimately controls, governs or directs the activities within the public place or public meeting. The term “proprietor” shall apply to a corporation as well as an individual;

(4) “*Public meeting*”, a gathering in person of members of a governmental body, whether an open or closed session, as defined in chapter 610;

(5) “*Public place*”, any area used by the general public or serving as a place of work including, but not limited to:

- (a) Any retail or commercial establishments.
 - (b) Health care facilities, health clinics or ambulatory care facilities including, but not limited to, laboratories associated with health care treatment, hospitals, nursing homes, physicians’ offices and dentists’ offices;
 - (c) Any vehicle used for public transportation including, but not limited to, buses, taxicabs and limousines for hire;
 - (d) Rest rooms;
 - (e) Elevators;
 - (f) Libraries, educational facilities, day care facilities, museums, auditoriums and art galleries;
 - (g) All public areas and waiting rooms of public transportation facilities including, but not limited to, bus and airport facilities.
 - (h) Any enclosed place used for entertainment or recreation including, but not limited to, gymnasiums, theater lobbies, concert halls, arenas and swimming pools;
 - (i) Any other enclosed indoor areas used by the general public including, but not limited to, corridors and shopping malls;
 - (j) any public park, public street, avenue or alley, any sidewalk or street crossing.
- (6) “*Smoking*”, possession of burning marijuana in any form or other smoking equipment.

Sec. 20-41 – Persons not to smoke in public places or meetings. A person shall not consume, use or smoke marijuana in a public place or in a public meeting.

Sec. 20-42 – Areas not considered public places. The following areas are not considered a public place:

- (1) An entire room or hall which is used for private social functions, provided that the seating arrangements are under the control of the sponsor of the function and not of the proprietor or other person in charge;
- (2) Performers on the stage, provided that the smoking of marijuana is part of the production; and
- (3) Private residences; and
- (4) Any area licensed by the Missouri Department of Health and Senior Services (“DHSS”) for the use of medical marijuana, including owners or entities in control of a public place which under DHSS rules choose to make a non-public place available where qualifying medical marijuana patients may consume medical marijuana. Such non-public place must meet all requirements of DHSS for an enclosed private space.

Sec. 20-43 – Person in control of public places or public meetings, duties. The person having custody or control of a public place or public meeting shall:

(1) Make reasonable efforts to prevent smoking in the public place or public meeting by posting appropriate signs indicating no marijuana smoking. These signs shall be placed at a height and location easily seen by a person entering the public place or public meeting and not obscured in any way;

(2) Make a reasonable request of persons smoking to leave the public place or public meeting.

Sec. 20-44 – Violators. The following persons shall be guilty of a violation of this Article:


(1) A person who smokes marijuana in those areas where smoking is prohibited pursuant to the provisions of sections 40-20 to 40-43;

(2) A proprietor or other person in charge of a public place or public meeting who permits, causes, suffers or allows a person to smoke marijuana in those areas where smoking is prohibited pursuant to sections 40-20 to 40-43;

(3) Persons found guilty of violating this Article shall pay a civil penalty not exceeding \$100.00.

SECTION TWO: This Ordinance shall take effect immediately upon passage by the Moberly City Council.

PASSED AND ADOPTED by the Council of the City of Moberly, Missouri, this ^{21st}~~20th~~ day of February, 2023.



Presiding Officer at Meeting

ATTEST:



Shannon Hance, MRCC, City Clerk