BILL NO. 1550 AS AMENDED

ORDINANCE NO. 1508-19

AN ORDINANCE OF THE CITY OF FULTON AMENDING CHAPTER 78, BY ENACTING THEREOF FIVE NEW SECTIONS, REPEALING SECTION 110-66 AND ENACTING IN LIEU THEREOF ONE NEW SECTION, ALL REGARDING MARIJUANA AND MEDICAL MARIJUANA.

WHEREAS, the voters of Missouri have amended our State Constitution by adding Article XVI pertaining to medical marijuana; and

WHEREAS, it is necessary to amend the ordinances of this City to conform to the provisions of the Constitution; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULTON, MISSOURI AS FOLLOWS:

SECTION 1: Chapter 78 of the Code of the City of Fulton is hereby amended enacting five new sections to read as follows:

Article VI Controlled Substances

78.150 Possession or Control of A Controlled Substance, Penalty.

A. A person commits the offense of possession of a controlled substance if he or she knowingly possesses a controlled substance or controlled substance analog, as those terms are defined in section 195.010 RSMo, except as authorized by Chapter 579 RSMo, or Chapter 195, RSMo, but excluding the possession of marijuana or any synthetic cannabinoid.

B. A person commits the offense of possession of marijuana if such person is in possession of any amount of marijuana or synthetic cannabinoid, except:

1. A Qualified Patient for the patient’s own personal use, in an amount no larger than the law allows in the original packaging, or

2. A Caretaker of a Qualified patient, or patients, but only when transporting the Medical Marijuana to a Qualified Patient or when accompanying a Qualified Patient or patients and the medical marijuana is in the original packaging, or

3. An owner or an employee of a Medical Marijuana Facility within the enclosed building licensed as such, or when delivering directly to another Medical Marijuana Facility.

4. If a person has been authorized to cultivate marijuana for personal use, in lieu of keeping the marijuana in the original packaging as required in this section, the person shall keep the marijuana, when not on property under the person’s control, in a container clearly marked with the patient’s name and shall keep his or her cultivation card, issued by the State, on his or her person while possessing such marijuana.
C. Definitions, as used in this chapter:

1. The terms ‘marijuana,’ ‘Marijuana Infused Products,’ ‘Medical Marijuana,’ ‘Medical Marijuana Facility,’ ‘Qualified Patient,’ and Caretaker of a Qualified Patient’ shall have the definition set forth in Article XVI Section 1 of the Missouri Constitution.

2. The term ‘directly’ shall mean the shortest possible practicable route from the Medical Marijuana Facility to the permitted destination or destinations, without any voluntary detours or additional stops.

D. 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 this Section, Chapter 579 RSMo, or Chapter 195, RSMo., and the burden of proof of any such exception, excuse, proviso or exemption shall be upon the defendant.

78.155 Failure to Produce Medical Marijuana Identification

Any person who in possession of medical marijuana shall, immediately upon the request of any law enforcement officer, produce a valid permit issued by the Missouri Department of Health and Senior Services (or its successor) for such possession including, but not limited to, a Qualified Patient Identification Card, a Qualified Caretaker Card, or a similar card issued by another state. Any person who fails to produce such a permit upon request shall be guilty of the offense of failure to produce a medical marijuana permit. Conviction of this offense shall be punishable by a fine not to exceed one hundred dollars ($100.00).

78.160 Possession of Marijuana Not in the Original Packaging

Any person, otherwise lawfully authorized to possess medical marijuana, who shall possess such marijuana on real property not under his or her control without such marijuana being properly packaged as required in § 78.960(B) shall be guilty of an ordinance violation punishable by a fine of not more than one hundred dollars ($100.00).

78. 165 Consumption of Medical Marijuana in Public.

A. No person shall administer medical marijuana in public.

B. As used in this section, the word ‘administer’ shall have the definition set forth in Article XVI Section 1 of the Missouri Constitution.

C. As used in this section, the phrase ‘in public’ shall mean any place other than:

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.
78.170 Disposal of Medical Marijuana

No person shall dispose of Marijuana or Marijuana-Infused products in an unsecured waste receptacle not in possession and control of the Licensee and designed to prohibit unauthorized access.

SECTION 2: Chapter 110 of the City code is hereby amended by repealing section 110-66 and by adding one new section in lieu thereof to read as follows:

Section 110.66 Driving While Intoxicated or Drugged.

A person commits the offense of "driving while intoxicated" if he operates a motor vehicle while in an intoxicated or drugged condition including under the influence of any amount of marijuana.

SECTION 3: This ordinance shall be in full force and effect from and after the date of its passage and approval.

SECTION 4: The provisions of this ordinance are severable and if any provision hereof is declared invalid, unconstitutional or unenforceable, such determination shall not affect the validity of the remainder of this ordinance.

SECTION 5: That the City of Fulton hereby authorizes its codifier, Municipal Code Corporation and its editors to edit and adjust the section numbers contained herein to join uniformly with the layout of the Code of the City of Fulton.

READ THREE TIMES AND PASSED THIS _____ DAY OF ____________________, 2019.

__________________________________________
Lowe Cannell
President of the Council

APPROVED THIS _____ DAY OF ____________________, 2019.

__________________________________________
Lowe Cannell
Mayor

ATTEST:

__________________________________________
Courtney L. Crowson, CMC/MRCC
City Clerk
Reading: Motion/Reader: Second/Advancement:

First:        Pace-Snook, Moore       Date: 07-09-2019
^ Six members in favor. One (Shiverdecker) abstaining. One (Braun) absent.

Second:      Pace-Snook, Braun      Date: 07-23-2019
^ Seven members in favor. One (Shiverdecker) abstaining.

Third:       Pace-Snook, Moore      Date: 08-13-2019
^ Seven members in favor. One (Shiverdecker) abstaining.

FINAL PASSAGE ROLL CALL: Simmons, YES; Stone, YES; Braun, YES; Moore, YES; Pace-Snook, YES; Rehklau, YES; Sebacher, YES. Abstaining: Shiverdecker.