Legislation Details (With Text)

File #:	Ord 23-40 **Version:** 3		
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		In control:	City Council
		Final action:	9/27/2023

Title: Amending Title XXIII Public Health Safety and Welfare of the Legislative Code to add Chapter 222, titled Smoking in City Parks and Certain Building Entrances Prohibited.

Sponsors: Chris Tolbert

Indexes:

Code sections:

Attachments: 1. Ord 23-40 Tolbert Amendment, 2. CM Jalali Amendment 1 - Youth Activity Areas, 3. CM Jalali Amendment 2 - Admin Citations, 4. Ord 23-40 Noecker Amendment to Tolbert Amendment, 5. Ord 23-40 Tolbert Amendment #2, 6. Ord 23-40 City Attorney's Office Amendment, 7. Public comments prior to 9.6.2023 public hearing, 8. Petition delivered during 9.6.2023 public hearing, 9. 9.7.2023 public comments, 10. 9.8.2023 public comments, 11. 9.11.2023 public comments, 12. 9.12.2023 public comments, 13. 9.13.2023 public comments, 14. 9.14.2023 public comments, 15. 9.24.2023 public comment

Date	Ver.	Action By	Action	Result
9/28/2023	3	Mayor's Office	Signed	
9/27/2023	3	City Council	Adopted	Pass
9/13/2023	1	City Council	Amended and Laid Over for Final Adoption	Pass
9/6/2023	1	City Council	Laid Over to Second Reading	Pass
8/16/2023	1	City Council	Laid Over to Second Reading	Pass

Amending Title XXIII Public Health Safety and Welfare of the Legislative Code to add Chapter 222, titled Smoking in City Parks and Certain Building Entrances Prohibited.

SECTION 1

~~WHEREAS, on May 30, 2023, Governor Tim Walz signed into law House File 100 relating to the possession, sale, and adult use of cannabis; and~~

~~WHEREAS, House File 100, Article 4, Section 15, allows that a local unit of government may adopt an ordinance establishing a petty misdemeanor offense for a person who unlawfully uses cannabis flower or cannabis products in a public place; and~~

~~WHEREAS, House File 100, Article 1, Section 74 declares that any use of cannabis which is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property is a nuisance; and~~

WHEREAS, Saint Paul has a vested interest to promote, protect, and improve the health of people, communities, and the environment; and

WHEREAS, The Centers for Disease Control and Prevention indicate secondhand marijuana smoke contains many of the same toxic and cancer-causing chemicals found in tobacco smoke and contains some of those

chemicals in higher amounts; and

WHEREAS, Saint Paul recognizes that the secondhand effect of smoking ~~tobacco and cannabis~~ in public places possess a threat to public health and safety; and

WHEREAS, Saint Paul has a commitment to protect community members younger than 21 years old from the exposure to ~~tobacco and cannabis~~ smoking; Now, therefore be it

RESOLVED, that the Council of the City of Saint Paul does hereby ordain:

SECTION 2

~~Saint Paul Legislative Code Title XXIII Public Health Safety and Welfare is amended to add Chapter 222, titled Smoking of Tobacco, Hemp and Cannabis Products in City Controlled Public Places Prohibited.~~

Title XXIII, Public Health Safety and Welfare is hereby amended to add Chapter 222, titled Smoking ~~of Tobacco, Cannabis, and Hemp Products~~ in City Parks and Certain Building Entrances Prohibited as follows:

Sec. 222.01 Definitions.

~~City Controlled Public Places. As used in this Section, City Controlled Public Places includes all areas contained within the City of Saint Paul's boundaries that are owned, leased, managed, rented, contracted, or otherwise controlled by the City of Saint Paul.~~
~~Smoking. Inhaling, exhaling, vaping or combustion of any cigar, joint, blunt, cigarette, pipe or any other similar article. Smoking includes possessing or carrying a lighted cigar, cigarette, pipe or any other lighted or heated product or electronic delivery device.~~

(1) *Designated smoking area* means an area where smoking would otherwise be prohibited under this Chapter but is allowed and clearly marked by a sign.

(2) *Park* means and includes all the public grounds, trails, and squares maintained as pleasure grounds and designated recreation areas by the City of Saint Paul.

(3) *Place of employment* means as defined in Minn. Stat. Section 144.413, subd. 1b, as amended from time to time.

(4) *Public place* means as defined in Minn. Stat. Section 144.413, subd. 2, as amended from time to time.

(5) *Smoking* means inhaling, exhaling, vaping or combustion of any cigar, joint, blunt, cigarette, pipe or any other similar article. Smoking includes possessing or carrying a lighted cigar, cigarette, pipe or any other lighted or heated product or electronic delivery device.

~~Sec. 222.02. Smoking of Tobacco, Hemp and Cannabis in City Controlled Public Places Prohibited.~~

Sec. 222.02 Smoking ~~of Tobacco, Cannabis, and Hemp~~ in City Parks and Certain Business Entrances Prohibited

~~It is unlawful to smoke tobacco as defined in Minn. Stat. Section 609.685, cannabis flower, cannabis products, and hemp-derived consumer products, as defined in Minn. Stat. Section 342.01, in any City Controlled Public Place in the City of Saint Paul.~~

(1) It is unlawful to smoke ~~tobacco as defined in Minn. Stat. Section 609.685, cannabis flower, cannabis~~

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~~products, and hemp-derived consumer products as defined in Minn. Stat. Section 342.01,~~ in any Park within the City of Saint Paul.

(2) It is unlawful to smoke ~~tobacco as defined in Minn. Stat. Section 609.685, adult-use cannabis flower, adult-use cannabis products, and hemp-derived consumer products as defined in Minn. Stat. Section 342.01,~~ within twenty-five (25) feet of entrances, exits, windows, and ventilation intakes of public places and places of employment within the City of Saint Paul~~.~~

~~Sec. 222.03. Penalty.~~

~~Violation of this Section is a petty misdemeanor.~~

Sec. 222.03 Exceptions

The prohibitions in Sec. 222.02 do not apply to the following places or situations:

(1) Within designated smoking areas in Parks as determined by the Director of the Department of Parks and Recreation and clearly marked with a sign.

(2) Use of tobacco as part of an American Indian cultural practice or a lawfully recognized religious, spiritual, or cultural ceremony or practice. Sacred, traditional use of tobacco for prayer, ceremony, and memorial is allowed.

(3) Within areas where smoking is prohibited under Sec. 222.02 subdivision 2 that are not immediately next to a building entrance, and that the owner or proprietor of a public or private building has determined to be a designated smoking area and clearly marked with a sign.

Sec. 222.04. ~~Penalty.~~ Enforcement

~~Violation of this Chapter is a petty misdemeanor.~~

Violation of this Chapter will be enforced through education and requesting voluntary compliance. Where appropriate, the preferred method of enforcement will be a request for voluntary compliance. Any person who violates this Ordinance will be reminded of its requirements and asked to immediately stop smoking or using commercial tobacco products.
After a request for voluntary compliance, ~~violation of this Chapter is a petty misdemeanor.~~ whenever any person authorized to issue administrative citations for the violation of law, discovers a violation of this ordinance, an administrative citation may be issued to the person alleged to have committed the violation. The administrative citation will be issued to the person charged with the violation, or in the case of a corporation or municipality, to any officer or agent authorized to accept such issuance.

Sec. 222.05. Severability

If any section, clause, provision, or portion of this ordinance, or the application thereof, is determined to be invalid or unconstitutional by a court of competent jurisdiction, that section, clause, provision, or portion shall be deemed severed from this ordinance, and such determination shall not affect the validity of the remainder of the ordinance.

SECTION 3

This Ordinance shall take effect and be in force thirty (30) days following passage, approval, and publication.

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