



Board of Aldermen Request for Action

MEETING DATE: 2/21/2023

DEPARTMENT: Police Department

AGENDA ITEM: Bill No. 2974-23, Repealing Ordinance Section 100.220 and Replacing it with a New Ordinance Section 100.220 Regarding General Penalties. 2nd Reading

REQUESTED BOARD ACTION:

A motion to approve Bill No. 2974-23, to repeal ordinance section 100.220 regarding general penalties and enacting in its place new ordinance section 100.220 regarding general penalties. Second reading by title only.

SUMMARY:

With the passage of Amendment 3, regarding recreational marijuana, on November 8, 2022, the City's legal counsel has identified ordinances that need to be updated. Ordinance 100.220 is one of these ordinances.

PREVIOUS ACTION:

NA

POLICY ISSUE:

FINANCIAL CONSIDERATIONS:

N/A

ATTACHMENTS:

- | | |
|---|-----------------------------------|
| <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Contract |
| <input type="checkbox"/> Resolution | <input type="checkbox"/> Plans |
| <input type="checkbox"/> Staff Report | <input type="checkbox"/> Minutes |
| <input type="checkbox"/> Other: | |

**ORDINANCE REPEALING ORDINANCE SECTION 100.220 REGARDING GENERAL PENALTIES AND ENACTING IN ITS PLACE
NEW ORDINANCE SECTION 100.220 REGARDING GENERAL PENALTIES**

WHEREAS Section 100.220 - General Penalty currently reads as follows:

Section 100.220 General Penalty.

A. General Penalty.

1. Except as hereinafter provided, whenever in this Code or in any other ordinance of this City or in any rule, regulation, notice or order promulgated pursuant to such Code or other such ordinance of the City any act is prohibited or is made or declared to be unlawful or any offense or a misdemeanor, or whenever in such code or in such other City ordinance, rule, regulation, notice or order the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or of any other ordinance of the City or of any rule, regulation, notice or order promulgated pursuant to such Code or other City ordinance shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment for a period not exceeding ninety (90) days or by both such fine and imprisonment; provided that in any case wherein the penalty for an offense is fixed by any Statute of the State, the statutory penalty or an amount not to exceed the statutory maximum, and no other, shall be imposed for such offense, except that imprisonment may be made in the City Jail or workhouse instead of the County Jail.

2. Whenever any provision of the Missouri Constitution, Revised Statutes of Missouri or other Statute of the State limits the authority of the City to punish the violation of any particular provision of this Code or other City ordinance or rule, regulation, notice or order promulgated pursuant thereto a fine of less amount than that provided in this Section, then the violation of such particular provision in this Code or other City ordinance, rule regulation, notice or order shall be punished by the imposition of not more than the maximum fine or imprisonment so authorized, or by both such fine and imprisonment.

B. Continuing Violation. A separate offense shall be deemed committed upon each day during or on which a violation of this Code or any other City ordinance, rule, regulation, notice or order promulgated pursuant thereto, occurs, or continues, unless otherwise provided.

WHEREAS, in lieu of the adoption of Missouri Constitutional Amendment XIV, changes are needed to the Ordinances to address civil penalties authorized by and limited by such Amendment.

WHEREAS, changes need to be made to Section 100.220 to address and establish civil penalties.

WHEREAS the City of Smithville wishes to revise Section 100.220 to read as follows:

Section 100.220 General Penalty.

A. General Penalty.

1. Except as hereinafter provided, whenever in this Code or in any other ordinance of this City or in any rule, regulation, notice or order promulgated pursuant to such Code or other such ordinance of the City any act is prohibited or is made or declared to be unlawful or any offense or a misdemeanor, or whenever in such code or in such other City ordinance, rule, regulation, notice or order the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or of any other ordinance of the City or of any rule, regulation, notice or order promulgated pursuant to such Code or other City ordinance shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment for a period not exceeding ninety (90) days or by both such fine and imprisonment; provided that in any case wherein the penalty for an offense is fixed by any Statute of the State, the statutory penalty or an amount not to exceed the statutory maximum, and no other, shall be imposed for such offense, except that imprisonment may be made in the City Jail or workhouse instead of the County Jail.

2. Whenever any provision of the Missouri Constitution, Revised Statutes of Missouri or other Statute of the State limits the authority of the City to punish the violation of any particular provision of this Code or other City ordinance or rule, regulation, notice or order promulgated pursuant thereto a fine of less amount than that provided in this Section, then the violation of such particular provision in this Code or other City ordinance, rule regulation, notice or order shall be punished by the imposition of not more than the maximum fine or imprisonment or civil penalty so authorized, or by both such fine and imprisonment.

3. Regarding acts referenced in Missouri Constitutional Amendment XIV, penalties shall be civil penalties as authorized and limited by Amendment XIV.

B. Continuing Violation. A separate offense shall be deemed committed upon each day during or on which a violation of this Code or any other City ordinance, rule, regulation, notice or order promulgated pursuant thereto, occurs, or continues, unless otherwise provided.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF SMITHVILLE, MISSOURI AS FOLLOWS:

Effective Immediately Smithville City Ordinance Sections §100.220 regarding General Penalties is repealed, and new Sections 100.220 is adopted which shall read as follow:

Section 100.220 General Penalty.

A. General Penalty.

1. Except as hereinafter provided, whenever in this Code or in any other ordinance of this City or in any rule, regulation, notice or order promulgated pursuant to such Code or other such ordinance of the City any act is prohibited or is made or declared to be unlawful or any offense or a misdemeanor, or whenever in such code or in such other City ordinance, rule, regulation, notice or order the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or of any other ordinance of the City or of any rule, regulation, notice or order promulgated pursuant to such Code or other City ordinance shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment for a period not exceeding ninety (90) days or by both such fine and imprisonment; provided that in any case wherein the penalty for an offense is fixed by any Statute of the State, the statutory penalty or an amount not to exceed the statutory maximum, and no other, shall be imposed for such offense, except that imprisonment may be made in the City Jail or workhouse instead of the County Jail.

2. Whenever any provision of the Missouri Constitution, Revised Statutes of Missouri or other Statute of the State limits the authority of the City to punish the violation of any particular provision of this Code or other City ordinance or rule, regulation, notice or order promulgated pursuant thereto a fine of less amount than that provided in this Section, then the violation of such particular provision in this Code or other City ordinance, rule regulation, notice or order shall be punished by the imposition of not more than the maximum fine or imprisonment or civil penalty so authorized, or by both such fine and imprisonment.

3. Regarding acts referenced in Missouri Constitutional Amendment XIV, penalties shall be civil penalties as authorized and limited by Amendment XIV.

B. Continuing Violation. A separate offense shall be deemed committed upon each day during or on which a violation of this Code or any other City ordinance, rule, regulation, notice or order promulgated pursuant thereto, occurs, or continues, unless otherwise provided.

PASSED AND ADOPTED by the Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri, the 21st of February 2023.

Damien Boley, Mayor

ATTEST:

Linda Drummond, City Clerk

1st reading 02/07/2023

2nd reading 02/21/2023