Amending Chapter 275, of the Revised Ordinances of the City of Springfield, 1986, as Amended, by Adding a New Article Iv Thereto Titled: Prohibiting the Manufacture, Sale, and Disposition of Synthetically Derived Cannabinoids and Synthetically Derived Cannabinoid Products

AMENDING CHAPTER 275, OF THE REVISED ORDINANCES OF THE CITY OF SPRINGFIELD, 1986, AS AMENDED, BY ADDING A NEW ARTICLE IV THERETO TITLED: PROHIBITING THE MANUFACTURE, SALE, AND DISPOSITION OF SYNTHETICALLY DERIVED CANNABINOIDS AND SYNTHETICALLY DERIVED CANNABINOID PRODUCTS

Chapter 275, of the Revised Ordinances of the City of Springfield, 1986, as amended, is hereby further amended by adding the following new Article IV thereto:

Article IV

PROHIBITING THE MANUFACTURE, SALE, AND DISTRIBUTION OF SYNTHETICALLY DERIVED CANNABINOIDS AND SYNTHETICALLY DERIVED CANNABINOID PRODUCTS

§ 275-12 Purpose and Preamble

WHEREAS, adult use marijuana is legal in the Commonwealth of Massachusetts and legal adult use marijuana products are comprehensively regulated by the Cannabis Control Commission; and

WHEREAS, tetrahydrocannabinol (“THC”) is the chemical responsible for most of marijuana’s psychological effects; and

WHEREAS, legal, adult-use marijuana can be distinguished from hemp because it contains more than 0.3 percent delta-9 THC concentration and hemp does not; and

WHEREAS, while the amount of delta-9 THC found naturally in legal adult use marijuana is sufficient to create psychological effects, hemp does not contain enough of a concentration of delta-9 THC to have any psychological effects; and

WHEREAS, other forms of THC such as delta-8 and delta-10 are isomers of delta-9 and are only naturally found in hemp in very small, trace amounts, which produce no psychoactive effect; and

WHEREAS, delta-8 and delta 10 THC can be synthetically derived from hemp within a laboratory, causing a significant increase in the concentration of psychoactive THC; and

WHEREAS, delta-8, delta-10 and similar synthetically derived cannabinoids are psychoactive and can result in serious negative side-effects and health impacts for people who use products containing them; and

WHEREAS, in Massachusetts, products containing delta-8, delta-10, and other synthetically derived cannabinoids are illegal according to the Massachusetts Department of Agriculture Resources and the Massachusetts General Laws; and

WHEREAS, although illegal, Synthetically Derived Cannabinoid Products are not currently regulated by any agencies or departments of the Federal Government or the Commonwealth of Massachusetts; and

WHEREAS, there are no lab testing standards or safety requirements in place for the manufacture, sale and distribution of Synthetically Derived Cannabinoid Products; and

WHERAS, Synthetically Derived Cannabinoid Products have been found to contain harmful chemicals, pesticides, mold, solvents, bacteria, additives, and heavy metals including lead and mercury; and

WHEREAS, many Synthetically Derived Cannabinoid Products are specifically marketed towards young adults and children and are easily available for purchase without any age or amount restrictions in gas stations, retail shops, bodegas, and various other businesses throughout the City of Springfield; and

NOW THEREFORE, the purpose of this Ordinance is to protect the health, welfare and safety of the public in the City of Springfield by prohibiting the manufacturing, sale, and distribution of Synthetically Derived Cannabinoids and Synthetically Derived Cannabinoid Products, authorizing the seizure and destruction of any Synthetically Derived Cannabinoid

Products and issuance of noncriminal civil disposition fines for prohibited actions.

§ 275-13 Definitions

The following definitions are applicable to the entire contents of this Ordinance (Chapter 275 Article IV):

“Synthetically Derived Cannabinoid” - Any cannabinoid that is altered to change the molecular structure or concentration of a natural cannabinoid derived from the plant Cannabis. Synthetically Derived Cannabinoids shall include but are not limited to isomers of delta-9 THC, such as delta-8 and delta-10.

“Synthetically Derived Cannabinoid Products” - Any product that contains Synthetically Derived Cannabinoids, including but not limited to delta-8 and delta-10.

“High THC Raw Hemp” - Raw Hemp that has been manipulated to artificially increase the levels of psychoactive THC cannabinoids in order to create psychological effects similar to legal adult use marijuana.

§ 275-14 Application

(i) No person, business entity or corporate entity shall be allowed within the City of Springfield to manufacture, sell or distribute a.) Synthetically Derived Cannabinoids, b.) Synthetically Derived Cannabinoid Products, c.) High THC Raw Hemp, d.) any products claiming to contain any Synthetically Derived Cannabinoids, or e.) any food products that fail to disclose the active ingredients on the package, fail to include a cannabinoid profile on the package where cannabinoids are present, or fail to contain the required information panel set forth in 21 CFR 101.2, specifically including, but not limited to, products that can be smoked, sprayed, topically applied, or ingested.

(ii) In furtherance of 105 CMR 590, no person, business entity or corporate entity shall be allowed to

manufacture, sell or distribute any food products containing or claiming to contain THC or any products containing or claiming to contain THC that do not state “less than 0.3% THC” on the packaging within the City of Springfield unless said products are approved through appropriate licensure from the Massachusetts Cannabis Control Commission, as authorized under the Massachusetts General Laws.

(iii) In furtherance of 105 CMR 665.005, no person, business entity or corporate entity shall be allowed to manufacture, sell or distribute flavored vaping or smoking products containing or claiming to contain Synthetically Derived Cannabinoids within the City of Springfield.

(iv) In furtherance of M.G.L. c. 128 § 117(c), no person, business entity or corporate entity shall be allowed to manufacture, sell or distribute any Synthetically Derived Cannabinoid Product or High THC Raw Hemp making therapeutic and/or medicinal claims on the label, unless approved by the Federal Food and Drug Administration and no person, business entity or corporate entity shall be allowed to manufacture, sell or distribute unprocessed, processed, or Raw Hemp meant for end use by a consumer unless approved through appropriate licensure by the Cannabis Control Commission.

(v) No owner of real property located within the City of Springfield who rents said property to a tenant for commercial purposes shall knowingly allow use of said property in violation of §275-14 (i)-(iv).

(vi) Each incident of the manufacturing, sale or distribution of a Synthetically Derived Cannabinoid, a Synthetically Derived Cannabinoid Product, High THC Raw Hemp, a food product containing THC without the appropriate license from the Massachusetts Cannabis Control Commission, or a product in violation of §275-14 (i) through (iv) within the City of Springfield shall constitute a separate offense under this Chapter, and shall each be subject to the penalty and enforcement provisions of § 275-15. A violation of this Ordinance for the sale or distribution of a

product containing more than one unit within a single package shall be treated as one offense per incident.

§ 275-15 Penalties and Enforcement.

(i) The penalty for a violation of this Ordinance (Chapter 275 Article IV) shall be three hundred dollars ($300) for each offense, and shall also include confiscation of all involved products by the City of Springfield through its Health and Human Services Department and/or its Police Department.

(ii) Penalties for violations of this Ordinance (Chapter 275 Article IV) may be lawfully enforced through any and all appropriate means under the law or in equity including but not limited to non-criminal disposition pursuant to M.G.L. c. 40, § 21D, by the City of Springfield's Commissioner of Public Health and his/her designated agents, and by the Springfield police Superintendent and his/her agents or any police officer. Appeals for violations of this Ordinance (Chapter 275 Article IV) may be undertaken in accordance with M.G.L. c. 40 § 21D.

(iii) Penalties for violation of this Ordinance (Chapter 275 Article IV) shall be eligible for conversion to municipal charges liens as a general ordinance of the City under Chapter 42 Article IV § 42-16 through §42-21, and in accordance with M.G.L. c. 40 § 58.

(iv) The Collector of the City shall include unpaid, outstanding charges for violations of this Ordinance (Chapter 275 Article IV) as part of any lists submitted to City Departments, Boards and Commissions under City Ordinance Chapter 229 § 229-2.

(v) Enforcement by injunction. Where a person, business entity or corporate entity commits more than three (3) offenses under this Ordinance (Chapter 275 Article IV) in any calendar year, the City may, in addition to any other remedy provided herein or in place thereof, seek an immediate injunction to prevent the continued violation of this Ordinance (Chapter 275 Article IV)

through an appropriate proceeding instituted in a court of competent jurisdiction.

§ 275-16 Severability.

In the event that any section, subsection or clause of this Ordinance (Chapter 275 Article IV) is found to be unconstitutional, or otherwise unlawful by order a court of competent jurisdiction in the Commonwealth of Massachusetts, the validity of the remaining sections, subsections and clauses shall not be impacted or invalidated and shall continue in full force and effect.

In the event that the General Court of the Commonwealth of Massachusetts enacts comprehensive legislation on this subject matter subsequent to the enactment of this Ordinance, then this Ordinance shall be interpreted as working in harmony with the Massachusetts General Laws. Any provisions of this Ordinance that are deemed in sharp conflict with any Massachusetts General Law shall be rendered moot and shall be removed via amendment to this Ordinance.