



INTRODUCED BY
ALDERMEN UTT, FINLEY, STALLMANN, ROACH, FLEMING, LEAHY, SIEGEL, BULLINGTON

AN ORDINANCE AMENDING CHAPTERS 15 AND 17 OF THE MUNICIPAL CODE REGARDING CONTROLLED SUBSTANCES TO ADDRESS MISSOURI CONSTITUTIONAL CHANGES CONCERNING RECREATIONAL MARIJUANA.

WHEREAS, City Code Chapters 15 and 17 establish violations related to controlled substances including marijuana; and

WHEREAS, the Missouri Constitution has been amended to permit use, possession, sale, transportation, manufacture and cultivation of recreational marijuana; and

WHEREAS, the City Code needs to be amended to conform to such constitutional change.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BALLWIN, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. Section 17-61 of the City Code of Ordinances regarding controlled substances is hereby amended, to read as follows:

Sec. 17-61. – Manufacture, possession, etc. of controlled and other substances.

(a) Definitions.

CONTROLLED SUBSTANCE

A drug, substance, or immediate precursor in Schedules I through V as defined in Chapter 195, RSMo., including marijuana.

INTOXICATED

Under the influence of alcohol, a controlled substance, or drug, or marijuana, or any combination thereof.

MARIJUANA OR MARIHUANA – *Cannabis indica*, *Cannabis sativa*, *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, but not industrial hemp as defined by Missouri statute, or commodities or products manufactured from industrial hemp.

MARIJUANA ACCESSORIES – any equipment, product, material, or combination of equipment, products, or materials, specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, or ingesting, inhaling or otherwise introducing marijuana into the human body.

MARIJUANA-INFUSED PRODUCTS – Products that are infused, dipped, coated, sprayed, or mixed with marijuana or an extract thereof, including but not limited to products that are able to be vaporized or smoked, edible products, ingestible products, topical products, suppositories, and infused prerolls.

(b) Possession of a Controlled Substance.

1. A person commits the offense of possession of a controlled substance if he or she knowingly possesses or delivers a controlled substance, except as allowed by Article XIV, Section 1 or Section 2 of the Missouri Constitution, or Chapter 195 or Chapter 579, RSMo. In any complaint, information, action or proceeding brought for the enforcement of this Section, it shall not be necessary to include any exception, excuse, proviso or exemption contained in this Code or Article XIV, Section 1 or Section 2 of the Missouri Constitution or Chapter 195 or Chapter 579, RSMo., and the burden of proof of any such exception, excuse, proviso or exemption shall be upon the defendant.

2. It is an offense to deliver or distribute marijuana or marijuana accessories, with or without consideration, to a person younger than twenty-one years of age.

3. A person who possesses, produces, delivers without receiving consideration or remuneration to another person who is at least 21 years of age, or possess with intent to deliver, not more than twice the amount of marijuana allowed pursuant to Article XIV, Section 2, subsection 10 of the Missouri Constitution shall thereby commit a violation and be subject to civil penalty and forfeiture of the marijuana as provided in Article XIV, Section 2, subsection 10(6) of the Missouri Constitution.

4. It is an offense for a person younger than twenty-one years of age to purchase, possess, use, consume, transport marijuana or marijuana accessories. A person who is under 21 years of age who possesses, uses, ingests, inhales, transports, delivers without consideration or distributes without consideration three ounces or less of marijuana, or possesses, delivers without consideration or distributes without consideration marijuana accessories in violation of Article XIV, Section 2, subsection 10 of the Missouri Constitution shall be subject to a civil penalty not to exceed \$100 and forfeiture of the marijuana. Any such person shall be provided the option of attending up to four hours of drug education or counseling in lieu of the civil penalty.

(c) Unlawful Marijuana Cultivation Practices.

A person who is not a Missouri licensed marijuana facility or medical facility commits the offense of unlawful marijuana cultivation practices if they cultivate marijuana plants in excess of the amount allowed by law or that are visible by normal, unaided vision from a public place or that are not kept in a locked space, and such person shall be subject to a civil penalty not exceeding \$250.00 and forfeiture of the marijuana.

Section 2. Chapter 17, Article III, Division 2, Sections 17-81 and 17-82 of the City Code of Ordinances are amended as follows:

Sec. 17-81 – Unlawful Possession of Drug Paraphernalia.

A person commits the offense of unlawful possession of drug paraphernalia if he or she knowingly uses or possesses with intent to use drug paraphernalia as defined by Chapter 195, RSMo., to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or an imitation controlled substance as defined by Chapter 195, RSMo., in violation of Chapter 195 or Chapter 579, RSMo. except as allowed by Article XIV, Section 1 or Section 2 of the Missouri Constitution.

Sec 17-82. Prohibited Acts.

1. It is an offense for any person to distribute, deliver, or sell, or possess or manufacture with intent to distribute, deliver or sell, drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or imitation controlled substance as defined by Chapter 195 RSMo, except as allowed by Chapter 195 or Chapter 579, RSMo. or Article XIV, Section 1 or Section 2 of the Missouri Constitution.

2. It is an offense for any person to possess or consume marijuana or to possess marijuana accessories on the grounds of a public or private preschool, elementary or secondary school, institution of higher education, or in a school bus.

Section 3. Chapter 15, Article IV, Division 1 of the City Code of Ordinances is amended by adding a new Section 15-110 thereto, as follows:

Sec. 15-110 – Definitions.

CONTROLLED SUBSTANCE

A drug, substance, or immediate precursor in Schedules I through V as defined in Chapter 195, RSMo., including marijuana.

INTOXICATED OR INTOXICATED CONDITION

A person is intoxicated or in an intoxicated condition when they are under the influence of alcohol, a controlled substance, or drug, or marijuana, or any combination thereof, or is otherwise “driving under the influence of alcohol or of a controlled substance” as defined in Section 302.700 RSMo.



MARIJUANA OR MARIHUANA – *Cannabis indica, Cannabis sativa, 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, but not industrial hemp as defined by Missouri statute, or commodities or products manufactured from industrial hemp.

MARIJUANA ACCESSORIES – any equipment, product, material, or combination of equipment, products, or materials, specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, or ingesting, inhaling or otherwise introducing marijuana into the human body.

MARIJUANA-INFUSED PRODUCTS – Products that are infused, dipped, coated, sprayed, or mixed with marijuana or an extract thereof, including but not limited to products that are able to be vaporized or smoked, edible products, ingestible products, topical products, suppositories, and infused prerolls.

Section 4. Section 15-112 of the City Code of Ordinances is amended by changing the title and adding new subsections (e) and (f) thereto, as follows:

Sec. 15-112 – Restrictions on Marijuana in Vehicles

(e) Marijuana shall not be consumed by any person operating or in physical control of any motor vehicle or other motorized form of transportation in the City. No person shall smoke marijuana within a motor vehicle or other motorized form of transportation while it is being operated within the City.

(f) Marijuana-infused products shall not be consumed by any person operating or in physical control of any motor vehicle or other motorized form of transportation in the City.

Section 5. This Ordinance shall take effect and be in full force from and after its passage and approval.

PASSED this _____ day of _____, 2023. _____
TIM POGUE, MAYOR

APPROVED this _____ day of _____, 2023. _____
TIM POGUE, MAYOR

ATTEST: _____
ERIC STERMAN, CITY ADMINISTRATOR