

AN ORDINANCE OF THE CITY COUNCIL AMENDING THE MUNICIPAL CODE OF THE CITY OF REPUBLIC, MISSOURI, TITLE II "PUBLIC HEALTH, SAFETY AND WELFARE", ARTICLE 215-XI "OFFENSES CONCERNING DRUGS AND ALCOHOL", CHAPTER 215 "OFFENSES", BY AMENDING SECTION 215.1800 "POSSESSION OR CONTROL OF A CONTROLLED SUBSTANCE", BY REPEALING SECTION 215.1801 "FAILURE TO PRODUCE MEDICAL MARIJUANA IDENTIFICATION" AND SECTION 215.1804 "MEDICAL MARIJUANA CULTIVATION", AND BY ADDING NEW SECTION 215.1805 "MARIJUANA CULTIVATION"

WHEREAS, the City of Republic, Missouri, ("City" or "Republic") is a municipal corporation and Charter City located in Greene County, Missouri, being duly created, organized, and existing under the laws of the State of Missouri; and

WHEREAS, the City routinely reviews its Municipal Code to ensure conformity with governing state and federal law, enhance clarity, and eliminate ambiguity, as well as to the further promote the City's mission, vision and values in the best interests of the City and its citizenship body as a whole; and

WHEREAS, the voters of the State of Missouri recently approved an amendment to the Missouri Constitution legalizing certain possession, consumption, distribution, production, purchase and sale of marijuana for 'adult use' (herein, "Amendment 3"), effective as of December 8, 2022; and

WHEREAS, the City has identified a need to amend the existing Municipal Code provisions on Offenses in order to ensure conformity with the provisions and purpose(s) of Amendment 3.

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

Section 1: Title II "Public Health, Safety and Welfare", Article 215-XI "Offenses Concerning Drugs and Alcohol", Chapter 215 "Offenses", is hereby amended by amending Section 215.1800 "Possession Or Control Of A Controlled Substance", by repealing Section 215.1801 "Failure to Produce Medical Marijuana Identification" and Section 215.1804 "Medical Marijuana Cultivation", and by adding new Section 215.1805 "Marijuana Cultivation" to read as follows:

215.1800 Unlawful Possession Or Control Of A Controlled Substance

A. Definitions. The following definitions shall apply to this Chapter:

- 1. The terms "marijuana", "infused preroll", "preroll", "marijuana infused products" "flowering plant", and any other term not specifically defined in this section that relates to adult use (non-medical) marijuana shall each have the definition set forth in Article XIV Section 2 of the Missouri Constitution and by the Missouri Department of Health and Senior Services (or its successor) in the Code of State Regulations regarding adult use (non-medical) marijuana.**
- 2. The terms medical marijuana, "medical marijuana facility", "qualifying patient", "primary caregiver", and any other term not specifically defined in this section that relates to medical marijuana shall each have the definition set forth in Article XIV Section 1 of the Missouri Constitution and by the Missouri Department of Health and**

Senior Services (or its successor) in the Code of State Regulations regarding medical marijuana.

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.

~~A.~~ **B. Controlled Substance Other than Marijuana, Infused Preroll, Preroll, or Marijuana-Infused Products.** A person commits the offense of unlawful possession or control of a controlled substance other than marijuana, infused preroll, preroll, or marijuana-infused products if he or she knowingly possesses ~~such a~~ controlled substance or ~~a~~ controlled substance analog as ~~these~~ terms are defined in Chapter 195, RSMo., except to the extent such possession or control is as authorized by Chapter 579 or Chapter 195, RSMo., ~~but excluding the possession of marijuana or any synthetic cannabinoid.~~

~~B.~~ **C. Marijuana, Infused Preroll, Preroll, or Marijuana-Infused Products.** A person commits the offense of unlawful possession or control of marijuana, infused preroll, preroll, or marijuana-infused products if such person: ~~is in possession of any amount of marijuana, marijuana-infused product, or synthetic cannabinoid:~~

1. Is under twenty one (21) years of age at the time of such possession or control; or
2. Possesses or controls an amount exceeding the equivalent of three (3) ounces of dried, unprocessed marijuana; or
3. Is in such possession or control while on the grounds of a City-owned property, City-owned park or City-owned building.
4. Is in such possession or control while on the grounds of a public or private preschool, elementary school or secondary school, or institution of higher education; or
5. Is in such possession or control while in a school bus; or
6. Is in such possession or control while on the grounds of a correctional facility.

~~c. ———, except:~~

~~1. ——— A qualified patient in possession of a valid qualified patient identification card, in an amount no larger than allowed by the Missouri Department of Health and Senior Services (or its successor) for the patient's own personal use, as long as the marijuana was cultivated in the State of Missouri, and is completely contained in the original labeled package for sale or in the case of personal cultivation as defined in Article XIV Section 1 of the Missouri Constitution and by the Missouri Department of Health and Senior Services (or its successor) a sealed container,~~

~~2. ——— A caregiver of a qualified patient, or patients, in possession of a valid qualified caregiver card in an amount no larger than allowed by the Missouri Department of Health and Senior Services (or its successor) for the qualified patient or patient's own personal use, as long as the marijuana was cultivated in the State of Missouri, and is completely contained in the original labeled package for sale or in the case of personal cultivation as defined in Article XIV Section 1 of the Missouri Constitution and by the Missouri Department of Health and Senior Services (or its successor) a sealed container, but only when transporting~~

the medical marijuana directly to a qualified patient or when accompanying a qualified patient or patients, or

~~3. An owner or an employee of a medical marijuana facility within the enclosed building licensed as such by the City and the Missouri Department of Health and Senior Services (or its successor), or when delivering directly to a qualified patient's or caregiver's residence, if allowed by law, with a valid qualified patient identification card or a valid qualified caregiver card or another medical marijuana facility, as long as the marijuana was cultivated in the State of Missouri.~~

- 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, provision, or exemption contained in this Section, Chapter 579 RSMo., or Chapter 195, RSMo., and the burden of proof of any such exception, excuse, provision or exemption shall be upon the defendant.

~~215.1801 Failure To Produce Medical Marijuana Identification~~

~~Any person who in possession of medical marijuana or drug paraphernalia commonly used to consume 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 caregiver card, or a qualified patient cultivation. 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 fifty dollars (\$50.00).~~

~~215.1804 Medical Marijuana Cultivation~~

- ~~A. It shall be unlawful for any person to cultivate marijuana without a valid qualified patient cultivation card as issued by the Missouri Department of Health and Senior Services (or its successor).~~
- ~~B. It shall be unlawful for a person with a valid qualified patient cultivation card as issued by the Missouri Department of Health and Senior Services (or its successor) to:~~
- ~~1. Cultivate marijuana in an area not enclosed, locked, and equipped with security devices as prescribed by law or the Missouri Department of Health and Senior Services (or its successor).~~
 - ~~2. Cultivate marijuana in an amount greater than allowed by law or the Missouri Department of Health and Senior Services (or its successor).~~
 - ~~3. Cultivate without a State cultivation authorization clearly displayed within the enclosed cultivation area.~~
 - ~~4. Have the cultivation area fail to comply with adopted Building, Fire, and other Municipal Codes and/or fail to be properly ventilated so as not to create excessive heat, humidity, mold, hazardous atmosphere, or other related conditions.~~
 - ~~5. Fail to maintain the primary use of residential property where marijuana is cultivated in the home cultivation registration as a residence at all times, with legal and functioning cooking, eating, sleeping, and toilet facilities with proper ingress and egress. No room shall be used for cultivating marijuana where that activity will impair or prevent the primary uses of cooking, eating, sleeping, or toileting.~~

- ~~6. Extract resins from marijuana using dangerous materials or combustible gases without a valid medical marijuana-infused products manufacturing facility license issued by the Missouri Department of Health and Senior Services (or its successor).~~
- ~~7. Use lighting in the cultivation area that exceeds one thousand (1,000) watts per light. Use compressed gas products, including but not limited to carbon dioxide and butane, solvents, or ozone generators in the cultivation area.~~
- ~~8. To cultivate medical marijuana in such a manner that constitutes a public nuisance. A public nuisance may be deemed to exist if cultivating marijuana produces light, glare, heat, noise, odor, or vibration that is detrimental to public health, safety, or welfare, or interferes with the reasonable enjoyment of life and property.~~

215.1805 Marijuana Cultivation.

- A. It shall be unlawful for any person under twenty-one (21) years of age to cultivate marijuana.**
- B. It shall be unlawful for any person at least twenty-one (21) years of age or older to cultivate marijuana if:**
 - 1. Such person does not have a valid registration card for cultivation issued by the Missouri Department of Health and Senior Services (or its successor); or**
 - 2. Such marijuana is visible by normal, unaided vision from a public place; or**
 - 3. Such marijuana is not kept at one (1) private residence in a locked space; or**
 - 4. Such marijuana exceeds the maximum allowable amounts set forth in Article XIV Section 2 of the Missouri Constitution for flowering marijuana plants, non-flowering marijuana plants (over fourteen inches tall), and clones (under fourteen inches tall).**

EXPLANATION(S) - Matter in **bold underlined** text in the above is added language. Matter in ~~strikethrough~~ text in the above is deleted.

- Section 2:** All other Sections of the Municipal Code of the City of Republic, Missouri, not specifically referenced in this Ordinance shall remain unmodified and in full force and effect.
- Section 3:** All ordinances and parts of ordinances in conflict herewith are hereby repealed.
- Section 4:** The City Administrator or his/her designee, on behalf of the City, is authorized to take the necessary steps to execute this Ordinance.
- Section 5:** The WHEREAS clauses above are specifically incorporated herein by reference.
- Section 6:** The provisions of this Ordinance are severable, and if any provisions hereof are declared invalid, unconstitutional, or unenforceable, such determination shall not affect the validity of the remainder of this Ordinance.
- Section 7:** This Ordinance shall take effect and be in force from and after its passage as provided by law.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Republic, Missouri, this _____ day of _____, 2023.

Attest:

Matt Russell, Mayor

Laura Burbridge, City Clerk

Approved as to Form:



Megan McCullough, City Attorney

Final Passage and Vote: