

BILL NO. 2023-14

ORDINANCE NO. _____

INTRODUCED BY _____

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF HERMANN, MISSOURI TO ADD A NEW CHAPTER 216 REGARDING PERSONAL USE MARIJUANA.

WHEREAS, on November 8, 2022, the electors of the State of Missouri approved Amendment 3 to the Missouri Constitution enacting Section 2 of Article XIV of the Missouri Constitution effective December 8, 2022; and

WHEREAS, the newly enacted article 14, specifically, Sections 1 and 2 of Article 14 of the Missouri Constitution, authorize the City of Hermann, Missouri to impose, by ordinance, certain limitations regarding marijuana within the City limits; and

WHEREAS, the Board of Aldermen has determined that the imposition of limitations regarding the use of marijuana within the City serves a legitimate public purpose and is in the best interest of the citizens of the City of Hermann Missouri.

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

SECTION ONE: Code Section 215.1800 *Possession of Marijuana or Synthetic Cannabinoid* of Article XI, *Offenses Concerning Drugs and Alcohol*, of Chapter 215, *Offenses* shall be revoked in its entirety and a new Section shall be substituted in lieu thereof, as follows:

Section 215.1800. *Possession of Marijuana or Synthetic Cannabinoid.* A person commits the offense of possession of marijuana or any synthetic cannabinoid, as both terms are defined in section 195.010, RSMo., if he or she knowingly possesses marijuana or any synthetic cannabinoid except as authorized by Chapter 216 of this Code or by Chapter 579 or Chapter 195, RSMo.

SECTION TWO: There shall be a new Chapter 216 added to the Code titled *Personal use of Marijuana*, as follows:

Chapter 216. Personal Use of Marijuana.

Section 216.010. *Allowed Uses of Marijuana.* Except as provided in this Section, the following acts by a person at least 21 years of age are not unlawful:

- A. Purchasing, possessing, consuming, using, ingesting, inhaling, processing, transporting or distributing without consideration 3 ounces or less of dried, unprocessed marijuana, or its equivalent.

- B. Possessing, transporting, planting, cultivating, harvesting, drying, processing, or manufacturing no more than six flowering marijuana plants, six non-flowering marijuana plants (over 18 inches tall), and six clones (plants under 14 inches tall) provided the person is registered with the Department of Health and Senior Services for the cultivation of marijuana plants, provided:
 - 1. The plants and any marijuana produced by the plants in excess of 3 ounces are kept at one private residence, are in a locked space, and are not visible by normal, unaided vision from a public place; and
 - 2. Not more than twice the number of allowable plants under this paragraph B are kept in or on the grounds of private residence at one time.
 - 3. Assisting another person who is at least 21 years of age and, or allowing property to be used for, any of the acts permitted by this section; and purchasing, possessing, using, delivering, distributing, manufacturing, transferring, or selling to persons 21 years of age or older marijuana accessories.

Section 216.020. *Unlawful Uses of Marijuana.*

- A. It shall be unlawful to deliver or distribute marijuana or marijuana accessories, with or without consideration, to a person younger than 21 years of age.
- B. It shall be unlawful to purchase, possess, use transport marijuana accessories, with or without consideration, to a person younger than 21 years of age.
- C. It shall be unlawful for person under the age of 21 years of age to possess, use, ingest, inhale, transport, deliver or distribute marijuana;
- D. It shall be unlawful for any individual to possess, deliver or distribute more than 3 ounces of marijuana by a single individual.
- E. It shall be unlawful for person to operate or be in physical control of any motor vehicle, train, aircraft, motorboat or other motorized form of transport while under the influence of marijuana. Notwithstanding the foregoing, a conviction of a person who is at least 21 years of age shall require evidence that the person was, in fact, under the influence of marijuana at the time the person was in physical control of motorized form transport and not solely on the presence of tetrahydrocannabinol THC or THC Venable lights, or combination thereof, in the person's systems.

It shall be unlawful to consume marijuana while operating or be being in physical control vehicle, train, aircraft, motorboat or other motorized form transport while it is being operated.
- F. It shall be unlawful to smoke marijuana in a motor vehicle, train, aircraft, motorboat, or other motorized form transport while it is being operated.

- G. It shall be unlawful to possess or consume marijuana on the grounds of any public or private preschool, elementary or secondary school, institution of higher education, and a school bus, or on the grounds of any correctional facility.
- H. It shall be unlawful to smoke marijuana in a location where smoking tobacco is prohibited.
- I. It shall be unlawful to consume marijuana in any commercial or public place.
- J. It shall be unlawful to consume marijuana in such a manner that marijuana smoke or odor exits a residence or nonpublic place where consumption of marijuana is otherwise lawful. In a multi family residence or similar dwelling, marijuana may not be administered in any common area.
- K. It shall be unlawful to undertake any task while under the influence of marijuana, if doing so would constitute negligence, recklessness or medical malpractice.
- L. It shall be unlawful to form solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or grade ethanol, unless licensed for the activity by the Department of Health and Senior Services.

Section 216.030. *Public Nuisance.*

- A. The smell or noxious odor emitted from smoking, consumption or cultivation of marijuana by a person shall be treated as a public nuisance.
- B. It shall be unlawful for any person or entity to cultivate 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 reasonable enjoyment of life and property.
- C. It shall be unlawful for any person, owner of parcel real property or person authorized to exercise control over a parcel of property to create, maintain, allow or suffer a public nuisance.

SECTION THREE: Any ordinances in conflict herewith are repealed.

SECTION FOUR: This ordinance shall be in full force and effect from and after its passage and adoption.

First Reading: _____ May 8, 2023 _____

Second Reading: _____

VOTE:

| Name | First Reading | | | Second Reading | | |
|-----------------------|---------------|-----|-----|----------------|-----|-----|
| | Aye | Nay | Abs | Aye | Nay | Abs |
| Alderman Ash Geers | | | | | | |
| Alderman Derek LeRoy | | | | | | |
| Alderman Jim Schirmer | | | | | | |
| Alderman Susan Lenger | | | | | | |

Passed and approved this ____ day of May, 2023.

BRUCE COX, Mayor

COREY ORR, City Clerk