

**AN ORDINANCE AMENDING ARTICLE XI, OFFENSES
CONCERNING DRUGS, OF CHAPTER 210, OFFENSES,
RELATING TO MARIJUANA IN COMPLIANCE WITH
AMENDMENT 3 TO THE MISSOURI CONSTITUTION**

Whereas, on November 6, 2018, the voters of the State of Missouri approved Amendment 2 adding a new Article XIV, Section 1 to the Missouri Constitution entitled, “Right to Access Medical Marijuana”; and

Whereas, on November 8, 2022, the voters of the State of Missouri approved Amendment 3 to the Missouri Constitution revising Article XIV, Section 1 and adding a new Section 2 entitled, “Marijuana Legalization, Regulation, and Taxation” (“Amendment 3”); and

Whereas, Amendment 3 makes it legal under state law for persons at least twenty-one years old to cultivate, possess, and use marijuana in accordance with Amendment 3, the rules and regulations promulgated by the Department of Human Health and Senior Services of the State of Missouri (the “Department”), and local ordinance; and

Whereas, Amendment 3 also establishes specific penalties for use, possession, and cultivation of marijuana in violation of Amendment 3, the rules and regulations promulgated by the Department, and local ordinance; and

Whereas, despite Amendment 3, marijuana remains a “Schedule 1 Controlled Substance” pursuant to the Controlled Substances Act of the United States and remains illegal under federal law; and

Whereas, the City of Twin Oaks desires to amend its offenses and penalty regulations in accordance with Amendment 3 and any rules and regulations promulgated by the Department; and

Whereas, nothing in this Ordinance shall be interpreted as authorization for any illegal activity; and

Whereas, nothing in this Ordinance allows a person to possess, cultivate, grow, infuse, process, use, or distribute marijuana for any purpose other than to the extent authorized and limited by Amendment 3, the rules and regulations regarding marijuana issued by the Department, and local ordinance.

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

Section 1. Section 210.1800, Possession of Marijuana or Synthetic Cannabinoid, of Chapter 210, Offenses, is hereby amended by deleting [text] the following text:

Section 210.1800 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 and only to the extent as authorized by Chapter 579, RSMo., Chapter

195, RSMo., or Article XIV, ~~Section 4~~ of the Missouri Constitution including any and all rules and regulations promulgated by the Missouri Department of Health and Senior Services relating to legalized ~~medical~~ marijuana.

Section 2. Section 210.1810, Possession of a Controlled Substance, of Chapter 210, Offenses, is hereby amended by deleting [text] the following text:

Section 210.1810 Possession of a Controlled Substance.

A person commits the offense of possession of a controlled substance, as defined in Section 195.010, RSMo., if he or she knowingly possesses a controlled substance, except and only to the extent as authorized by Chapter 579, RSMo., Chapter 195, RSMo., or Article XIV, ~~Section 4~~ of the Missouri Constitution including any and all rules and regulations promulgated by the Missouri Department of Health and Senior Services relating to legalized ~~medical~~ marijuana.

Section 3. Section 210.1830, Unlawful Possession of Drug Paraphernalia, of Chapter 210, Offenses, is hereby amended by deleting [text] the following text:

Section 210.1830 Unlawful Possession of Drug Paraphernalia.

Except and only to the extent as authorized by Article XIV, ~~Section 4~~ of the Missouri Constitution including any and all rules and regulations promulgated by the Missouri Department of Health and Senior Services relating to legalized ~~medical~~ marijuana, 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, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, administer, or otherwise introduce into the human body, a controlled substance or an imitation controlled substance in violation of Chapter 579, RSMo., or Chapter 195, RSMo.

Section 4. Chapter 210, Offenses, is hereby amended by enacting a new Section 210.1870 to read as follows:

Section 210.1870 Public Use of Marijuana Prohibited; Marijuana-related Penalties.

- A. *Definition.* For the purposes of this Section, Marijuana shall mean: *Cannabis indica*, *Cannabis saliva*, and *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. "Marijuana" does not include industrial hemp as defined by Missouri statute, or commodities or products manufactured from industrial hemp.
- B. *Use in Certain Places Prohibited.* Where Twin Oaks Municipal Code makes it unlawful to smoke or otherwise use Marijuana in a certain form or place, a person who uses Marijuana in violation of such regulation shall be subject to a civil penalty of up to One Hundred Dollars (\$100.00).
- C. *Unlawful Visibility or Keeping of Marijuana.* Notwithstanding anything to the contrary, a person who cultivates Marijuana plants that are visible by normal, unaided vision from a public

place or cultivates Marijuana plants not kept in a locked space is subject to a civil penalty of up to Two Hundred and Fifty Dollars (\$250.00) and forfeiture of the Marijuana.

D. *Consumption while Driving, Smoking in Vehicle; Prohibited.*

1. 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.
2. No person shall smoke marijuana within a motor vehicle or other motorized form of transportation while it is being operated within the City.

A person who uses Marijuana in violation of the above shall be subject to a civil penalty of up to One Hundred Dollars (\$100.00).

E. *Unlawful use by a Person under Twenty-One.* Notwithstanding anything to the contrary, a person under Twenty-One (21) who possess, uses, ingests, inhales, transports, delivers without consideration, or distributes without consideration three (3) ounces or less of Marijuana, or possesses, delivers without consideration, or distributes without consideration Marijuana accessories, as defined by Article XIV of the Missouri Constitution, is subject to a civil penalty of up to One Hundred Dollars (\$100.00) and forfeiture of the Marijuana. Any such person shall be provided the option of attending up to four (4) hours of drug education or counseling in lieu of the fine.

F. *Unlawful Amount Penalty.* Notwithstanding anything to the contrary, a person who possesses, produces, delivers without receiving any consideration or remuneration to a person who is at least twenty-one (21) years or age, or possess with the intent to deliver an amount of Marijuana that is not more than twice the amount of Marijuana that person is authorized to possess by Article XIV of the Missouri Constitution shall be subject to a:

1. Civil penalty of up to Two Hundred and Fifty Dollars (\$250.00) for the first violation,
2. Civil penalty of up to Five Hundred Dollars (\$500.00) for the second violation, and
3. Civil penalty of up to a One Thousand Dollars (\$1,000.00) for the third and subsequent violations.

Provided a person under twenty-one (21) of age is subject to a civil penalty not to exceed Two Hundred and Fifty Dollars (\$250.00) with an option of attending up to eight (8) hours of drug education or counseling in lieu of the fine. In addition, the municipal judge may order that in lieu of payment, penalties under this Subsection may be satisfied by the performance of community service with the rate of pay-down associated with said service option the greater of \$15 or the minimum wage in effect.

Section 5. Section 220.020, Uses and Prohibitions, of Chapter 220, Park Regulations, is hereby amended by repealing subsection Q in its entirety and adopting a new subsection Q to read as follows:

Q. *Smoking.* Smoking is prohibited in Twin Oaks Park. For purposes of this Section, "smoking" shall mean the act of inhaling and exhaling the fumes of burning plant material, including but not limited to tobacco, marijuana (as defined in Section

210.1870), and hashish, whether smoked in a cigarette, rolling papers, cigar, pipe, or other paraphernalia.

Section 6. Section 220.020, Uses and Prohibitions, of Chapter 220, Park Regulations, is hereby amended by deleting [text] and adding [text] the following text from subsection U:

U. *Playground/Surface Area.* Skateboarding, high heels, cleats, and pets and smoking are prohibited.

Section 7. The portions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance are valid, unless the court finds the valid portions of this Ordinance are so essential and inseparably connected with and dependent upon the void portion that it cannot be presumed that the Board of Aldermen would have enacted the valid portions without the invalid ones, or unless the court finds that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

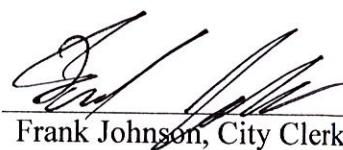
Section 8. This Ordinance shall be in full force and effect on and after its passage and approval by the Mayor.

PASSED AFTER HAVING BEEN READ IN FULL OR BY TITLE TWO TIMES PRIOR TO PASSAGE BY THE BOARD OF ALDERMEN OF THE CITY OF TWIN OAKS, MISSOURI, THIS 15th DAY OF FEBRUARY 2023.



Russ Fortune, Mayor

Attest:



Frank Johnson, City Clerk/Administrator