

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 12 ARTICLE 2 “CONTROLLED SUBSTANCES”
OF THE INDEPENDENCE CITY CODE.

WHEREAS, Article 2 of Chapter 12 of the Code of the City of Independence addresses controlled substances; and,

WHEREAS, the voters of the State of Missouri passed Amendment 3 to the Missouri Constitution, the Legalization of Recreational Use of Marijuana, on November 8, 2022; and,

WHEREAS, Amendment 3 went into effect 30 days after the date of passage; and,

WHEREAS, the City Council desires to amend 12.02.001-12.02.004 of the Code of the City of Independence to reflect the change in state law.

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

SECTION 1. Subsection 12.02.001 of the Independence City Code is hereby amended and the definitions to be inserted alphabetically and to read as follows:

FLOWERING PLANT means a marijuana plant from the time it exhibits the first sign of sexual maturity through harvest.

INFUSED PREROLL means a consumable or smokable marijuana product, generally consisting of: (1) a wrap or paper, (2) dried flower, buds, and/or plant material, and (3) a concentrate, oil, or other type of marijuana extract, either within or on the surface of the product. Infused prerolls may or may not include a filter or crutch at the base of the product.

MARIJUANA means all parts of the plant genus Cannabis, in any species or form thereof, including, but not limited to Cannabis Sativa L., Cannabis Indica, Cannabis Americanna, Cannabis Ruderalis, and Cannabis Gigantea, whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. Means Cannabis Sativa, Cannabis Indica, 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 manufactured from industrial hemp.

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

MARIJUANA INFUSED PRODUCTS means 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.

PREROLL means a consumable or smokable marijuana product, generally consisting of: (1) a wrap or paper, and (2) dried flower, buds, and/or plant material. Prerolls may or may not include a filter or crutch at the base of the product.

SECTION 2. Subsection 12.02.002(H) of the Independence City Code is hereby created to read as follows:

SEC. 12.02.002(H) Recreational Use of Marijuana

- 1) **Subject to the limitations in this subsection, the following acts by a person at least twenty-one (21) years of age shall not be unlawful:**

a) Purchasing, possessing, consuming, using, ingesting, inhaling, processing, transporting, delivering without consideration, or distributing without consideration three (3) ounces or less of dried, unprocessed marijuana, or its equivalent;

b) Possessing, transporting, planting, cultivating, harvesting, drying, processing, or manufacturing up to six (6) flowering marijuana plants, six (6) nonflowering marijuana plants (over 14 inches tall, and six (6) clones (plants under fourteen (14) inches tall) provided the person is registered with the DHSS (Department of Health and Senior Services) with the State of Missouri for cultivation of marijuana plants under this subsection, provided:

i)The plants and any marijuana produced by the plants in excess of three (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

ii)Not more than twice the number of allowable plants under paragraph (b) of this subsection are kept in or on the grounds of a private residence at one time.

c)Assisting another person who is at least twenty-one (21) years of age in, or allowing property to be used for, any of the acts permitted by this section;

d)Purchasing, possessing, using, delivering, distributing, manufacturing, transferring, or selling to persons twenty-one (21) years of age or older marijuana accessories.

2) **Penalties for violations of this subsection only:**

- a) **A person who, pursuant to this subsection, cultivates marijuana plants that are visible by normal, unaided vision from a public place is subject to a fine not exceeding \$250 dollars,**
- b) **A person who, pursuant to this subsection, cultivates marijuana plants that are not kept in a locked space is subject to a fine not exceeding \$250 dollars,**
- c) **A person who is under twenty-one (21) years of age who possesses, uses, ingests, 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 is subject to a fine not exceeding \$100 or 4-hours drug education or counseling in lieu of the fine,**
- d) **Subject to the limitations of this subsection, a person who possesses not more than twice the amount of marijuana allowed pursuant to this subsection, produces not more than twice the amount of marijuana allowed pursuant to this subsection, delivers without receiving any consideration or remuneration to a person who is at least twenty-one (21) of age not more than twice the amount of marijuana allowed by this subsection:**
 - i)For person twenty-one (21) years of age or older, a first violation, is subject to a fine not exceeding \$250 dollars;**
 - ii)For person twenty-one (21) years of age or older, a second, third, and subsequent violation is subject to a fine not exceeding \$500 dollars;**
 - iii)For a person who is under twenty-one (21) years of age, a violation is subject to a fine not exceeding \$250 dollars or 8 hours drug education or counseling in lieu of the fine.**

SECTION 3. Subsection 12.02.003 of the Independence City Code is hereby amended to read as follows:

SEC. 12.02.003 Possession of drug paraphernalia

Except for the exception found in 12.02.002(H)(1)(d) of the Code of the City of Independence specific to marijuana accessories, it is unlawful for any person to use, or to possess drug paraphernalia as defined in this article.

SECTION 4. Subsection 12.02.004 of the Independence City Code is hereby amended to read as follows:

SEC. 12.02.004 Manufacture or delivery of drug paraphernalia

Except for the exceptions found in 12.02.002(H)(1)(d) of the Code of the City of Independence specific to marijuana accessories, it is unlawful for any person to deliver, possess with intent to deliver, or manufacture, with intent to deliver, drug paraphernalia as defined in this article, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or imitation controlled substance.

SECTION 5. That all other parts and provisions of the City Code remain in full force and effect unless previously or subsequently amended or repealed.

PASSED THIS _____ DAY OF _____, 2023, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

City Clerk

APPROVED - FORM AND LEGALITY:

City Counselor

REVIEWED BY:

City Manager

NOTE: Words struck through are being removed by this ordinance and words underscored and bolded are being added by this ordinance.