

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AMENDING CHAPTER 210 OFFENSES SECTION 210.1800 POSSESSION OF MARIJUANA, SECTION 210.1810 POSSESSION OF A CONTROLLED SUBSTANCE, SECTION 210.1830 UNLAWFUL POSSESSION OF DRUG PARAPHERNALIA, AND CREATING A NEW SECTION 210.1880 HASHISH AND SYNTHETIC CANNABINOIDS OF THE CITY CODE FOR VARIOUS PURPOSES AS SET FORTH.

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

Section 1. Within the City Code there are hereby enacted new Sections with material repealed and replacing set forth below with new material set out in **RED** and deleted material struck as follows:

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 as authorized by Chapter 579 or Chapter 195, RSMo.~~

- A. The definitions used in Sections 210.1800 through 210.1830 shall be the same as used in Article XIV Section 2 of the Missouri Constitution.
- B. Offenses Involving Persons Under 21. It shall be unlawful to:
 - 1. Deliver or distribute marijuana or marijuana accessories, with or without consideration, to a person younger than twenty-one years of age;
 - 2. Purchase, possess, use, or transport marijuana or marijuana accessories by a person younger than twenty-one years of age;
 - 3. Consume marijuana by a person younger than twenty-one years of age;
- C. Offenses Involving Vehicles. It shall be unlawful to:
 - 1. 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. Conviction under this subsection shall require evidence that the person was in fact under the influence of marijuana at the time the person was in physical control of the motorized form of transport and not rely solely on the presence of tetrahydrocannabinol (THC) or THC metabolites, or a combination thereof, in the person's system;
 - 2. Consume marijuana while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;
 - 3. Smoke marijuana within a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;
- D. Offenses Involving Public Places and Public Safety. It shall be unlawful to:
 - 1. Possess, consume, smoke, or burn marijuana or possess marijuana accessories on the grounds of a playground, public or private preschool or daycare facility, elementary or secondary school, institution of higher education, or in a school bus or other vehicle transporting children on behalf of any of the foregoing entities;
 - 2. Possess, consume, smoke, or burn marijuana or possess marijuana accessories on

- the grounds of any correctional facility;
3. Possess, consume, smoke, or burn marijuana or possess marijuana accessories inside any courtroom or any secure area of City Hall, including but not limited to city offices and the Police Department;
 4. Possess, consume, smoke, or burn marijuana in or on any property where the owner or other person in rightful control of said property (such as a lessee) elects to prohibit any or all of the above acts (i.e. prohibiting smoking but not possession), and posts prominent notice advising the public that marijuana may not be so used on the premises;
 5. Smoke or burn marijuana on the grounds of any City-owned property, including but not limited to all parks, airports, buildings, parking lots, public works facilities, and City Hall;
 6. Smoke or burn marijuana upon any public highway, street, sidewalk, alley, or right-of-way unless such place is expressly authorized for such use by the Board of Aldermen;
 7. Smoke or burn marijuana in a location where smoking tobacco is prohibited, whether by law or by the owner or other person in rightful control of said location (such as a lessee);
 8. Undertake any task while under the influence of marijuana, if doing so would constitute negligence, recklessness, or professional malpractice or would endanger persons or property;
- E. Offenses Involving Growing, Manufacturing, and Licensing. It shall be unlawful to:
1. Perform solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol, unless licensed for this activity by the State of Missouri;
 2. Cultivate flowering marijuana plants, nonflowering marijuana plants (over fourteen inches tall), or clones for private use without a valid Missouri private cultivation registration card authorizing such cultivation;
 3. Cultivate flowering marijuana plants, nonflowering marijuana plants (over fourteen inches tall), or clones (plants under fourteen inches tall) for private use in excess of the amounts permitted authorized by a valid Missouri private cultivation registration card;
 4. Keep twelve or more flowering marijuana plants, twelve or more nonflowering marijuana plants (over fourteen inches tall), or twelve or more clones (plants under fourteen inches tall) in or on the grounds of a private residence at one time;
 5. Keep in, or on, the grounds of a private residence an excess of three ounces of marijuana produced by privately cultivated plants, in an unlocked space, or that is visible by normal, unaided vision from a public place;
 6. Purchase, possess, consume, use, ingest, inhale, process, transport, deliver without consideration, or distribute without consideration dried, unprocessed marijuana, or its equivalent in excess of three ounces except as may be permitted by a person validly licensed by the State of Missouri to do so.
 7. Cultivate marijuana plants that are visible by normal, unaided vision from a public place.
 8. Violate the terms of any marijuana license issued by the State of Missouri.
 9. Conduct any activities or engage in any conduct involving or relating to marijuana that requires a license from the State of Missouri without a valid license for such conduct or activity.
- F. Violations of this Section shall be punishable under Section 100.190 of this Code,

subject to the limits contained in Article XIV of the Missouri Constitution.

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 as unless~~ otherwise authorized by Chapter 579, RSMo. or Chapter 195, RSMo. This Section shall not prohibit possession of marijuana as defined and permitted in Article XIV of the Missouri Constitution.

Section 210.1830 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, 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 in violation of Chapter 579, RSMo., or Chapter 195, RSMo., ~~unless explicitly~~ authorized by Article XIV of the Missouri Constitution.

Section 210.1880 Hashish and Synthetic Cannabinoids

- A. It shall be unlawful to possess, sell, distribute, lend, rent, lease, give, exchange, display for sale, or transfer the following substances in the following quantities:
 - 1. Hashish in the amount of 5 grams or less;
 - 2. Synthetic Cannabinoids;
 - 3. MDPV.
- B. It shall be an affirmative defense to any violation of subsection A if the possession, sale, distribution, or transfer, is in usual course of business or practice, or in the performance of their official duties by the following persons:
 - 1. Persons licensed under the provisions of RSMo. Chapters 330, 332, 334, 335, 338 and 340.
 - 2. Persons who procure controlled substances:
 - i. For handling by or under the supervision of persons employed by them, who are licensed under the provisions of RSMo. Chapters 330, 332, 334, 335, 338 and 340.
 - ii. For the purpose of lawful research, teaching or testing and not for resale.
 - 3. Hospitals and other institutions which procure controlled substances for lawful administration by persons described in Subsection A.
 - 4. Officers or employees or appropriate enforcement agencies of federal, state or local governments, pursuant to their duties in enforcing the provisions of this Chapter.
 - 5. Lawfully licensed manufacturers and wholesalers of controlled substances.
 - 6. Carriers and warehousemen lawfully handling or distributing lawful controlled substances or drugs.

C. Definitions

“MDPV” means any substance containing the following, regardless of whether the substance is marketed as bath salts or otherwise:

3.4-Methylenedioxyprovalerone;

Methylone;

Mephedrone;

4-methoxymethcathinone;

4-Fluoromethcathinone; or

3-Fluoromethcathinone;

MDPV is commonly known by a number of names including, but not limited to, White Rush, Cloud 9, Ivory Wave, Ocean, Charge, Plus, White Lightening, Scarface, Hurricane Charlie, red Dove or White Dove

"Synthetic cannabinoid" means any natural or synthetic material, compound, mixture, or preparation, whether described as tobacco, herbs, incense, "Spice," "K2" or any blend thereof, that contains any quantity of a substance that is a cannabinoid receptor agonist, including but not limited to any substance listed in RSMo. §195.017 .2(4)(II) and any analogues, homologues; isomers, whether optical, positional, or geometric; esters; ethers; salts; and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, or salts is possible within the specific chemical designation, including:

2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol (also known as CP47,497) and homologues;

(6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol(also known as HY-211 or Dexamabinol);

1-Pentyl-3-(1-naphthoyl)indole (also known as Jwh-018); or

Butyl-3-(1-naphthoyl)indole (also known as JWH-073).

Section 2. Severability

The chapters, sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or degree of any Court of any competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance since the same would have been enacted by the Board of Aldermen without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Section 3. Repeal of Ordinances not to affect liabilities, etc.

Whenever any part of this ordinance shall be repealed or modified, either expressly or by implication, by a subsequent ordinance, that part of the ordinance thus repealed or modified shall continue in force until the subsequent ordinance repealing or modifying the ordinance shall go into effect unless

therein otherwise expressly provided; but no suit, prosecution, proceeding, right, fine or penalty instituted, created, given, secured or accrued under this ordinance previous to its repeal shall not be affected, released or discharged but may be prosecuted, enjoined and recovered as fully as if this ordinance or provisions had continued in force, unless it shall be therein otherwise expressly provided.

Section 4. That this Ordinance shall be in full force and effect from and after the date of passage and approval of the Mayor.

READ FIRST TIME: June 1, 2023

READ SECOND TIME: June 15, 2023

I hereby certify that Ordinance No.23.39 was duly passed on June 15, 2023, by the Board of Aldermen of the City of Osage Beach. The votes thereon were as follows:

Ayes: 6

Nays: 0

Abstentions: 0

Absent: 0

This Ordinance is hereby transmitted to the Mayor for his signature.

June 15, 2023
Date

Tara Berreth
Tara Berreth, City Clerk

Approved as to form:

Cole Bradbury
Cole Bradbury, City Attorney

I hereby approve Ordinance No.23.39.

Michael Harmison
Michael Harmison, Mayor

June 15, 2023
Date

Tara Berreth
Tara Berreth, City Clerk