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**ALDERWOMAN SIMS**                                      **ALDERMAN WEGGE**  
**ALDERMAN GOULD**                                      **ALDERMAN LOCHMOELLER**  
**ALDERMAN ERGER**                                      **ALDERWOMAN HARTER**

**AN ORDINANCE AMENDING CHAPTER 215 AND CHAPTER 225 OF THE BRENTWOOD CITY CODE RELATING TO SMOKING.**

**WHEREAS**, the Mayor and Board of Aldermen wish to promote the health, safety and welfare of the citizens of the City of Brentwood by decreasing exposure to second hand smoke; and

**WHEREAS**, this amendment to the Brentwood City Code was considered by the Public Works Committee and recommended for approval by the Board of Aldermen;

**NOW, THEREFORE BE IT ORDAINED**, by the Board of Aldermen of the City of Brentwood, Missouri, as follows:

**SECTION 1:** Sections 215.1820, 215.1830 and 215.1840 of Article XIV of Chapter 215 of the Code of Ordinances of the City of Brentwood, Missouri, are hereby repealed and five new Sections, initially to be designated as Sections 215.1820, 215.1830, 215.1840, 215.1841 and 215.1845, are hereby enacted in lieu thereof, to read as follows:

<b>CHAPTER 215</b>	<b>OFFENSES</b>
<b>ARTICLE XIV</b>	<b>CLEAN AIR ACT – SMOKING PROHIBITED</b>
<b>SECTION 215.1820</b>	<b>PURPOSE</b>

- A. The purpose of this article is to:
  1. Promote the health, safety and welfare of the citizens of the City of Brentwood by decreasing exposure to secondhand smoke; and
  2. Create tobacco-smoke and vapor-product-free environments for citizens and workers through regulation in public places within the City and the workplace.

**SECTION 215.1820                      DEFINITIONS**

The following words, terms and phrases, when used in this Article, shall be construed as defined in this section.

**ALTERNATE NICOTINE PRODUCT**

Any non-combustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. Alternative nicotine product does not include any vapor product, tobacco or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

BAR

An establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail lounges and cabarets.

CODE ENFORCEMENT OFFICER

The Fire Marshal or his or her designee.

EMPLOYEE

Any person who performs services for an employer, with or without compensation.

EMPLOYER

A person, partnership, association, corporation, trust, or other organized group of individuals, including the City or any agency thereof, which utilizes the services of one (1) or more employees.

ENCLOSED

A space bound on all sides by walls or windows continuous from the floor to the ceiling and enclosed by doors, including, but not limited to, lobbies, offices, rooms, all space therein screened by partitions, which do not extend to the ceiling or are not solid, office landscaping or similar structures, and hallways.

PLACE OF EMPLOYMENT

Any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference rooms and classrooms, employee cafeterias and hallways. A private residence is not a place of employment unless it is used as a child care, adult day-care or health-care facility.

PUBLIC PLACE

Any enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, banks, educational facilities, health facilities, laundering facilities, public transportation facilities, reception areas, production and marketing establishments, retail service establishments, retail stores, theaters and waiting rooms.

RESTAURANT

An eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers

at no cost or for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include an attached bar.

**SMOKING**

(a) Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or other tobacco product, or (b) inhaling, exhaling, or burning any vapor product.

**TOBACCO PRODUCTS**

Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigar, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

**VAPOR PRODUCTS**

Any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. Vapor product includes any electronic cigarette, electronic cigar, electronic cigarillo, electric pipe, or similar product or device and any other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include any alternative nicotine product or tobacco product.

**SECITON 215.1840                    PROHIBITION OF SMOKING IN ALL ENCLOSED PLACES OF EMPLOYMENT AND ALL ENCLOSED PUBLIC PLACES**

- A. Smoking shall be prohibited in all enclosed places of employment within the City of Brentwood.
- B. Smoking shall be prohibited enclosed public places within the City of Brentwood, including but not limited to the following enclosed places:
  - 1. Elevators;
  - 2. Restrooms;
  - 3. Libraries, educational facilities, child-care and adult day-care facilities, museums, auditoriums, aquariums and art galleries;
  - 4. Any health-care facility, health clinic or ambulatory care facilities, including but

not limited go laboratories associated with the rendition of health care treatment, hospitals, nursing homes, doctors' offices and dentists' offices;

5. Any place of entertainment or recreation, including but not limited to gymnasiums, theaters, concert halls, bingo halls, billiard halls, bowling alleys, arenas, health spas, swimming pools and roller and ice skating rinks;
6. Any place used for exhibiting a motion picture, stage drama, lecture, musical recital, or other performance;
7. Shopping malls or retail establishments;
8. Bars;
9. Restaurants;
10. Convenience facilities;
11. All public areas and waiting rooms of public transportation facilities, including but not limited to bus and train facilities;
12. All facilities, buildings, and all vehicles owned, leased or operated by the City of Brentwood;
13. Rooms in which meetings or hearings open to the public are held, except where such meetings or hearings are in a private residence; and
14. Any vehicle of public transportation, including, but not limited to, buses, limousines for hire and taxicabs;

**SECITON 215.1841                      PROHIBITION OF SMOKING ON CITY PROPERTY**

- A. Smoking in any form, including, but not limited to, the possession of lighted or heated cigarettes, cigars, pipes or other tobacco products, is prohibited on any property or premises owned or leased for use by the City of Brentwood, including buildings, grounds, parks, playgrounds, sports arenas and facilities, playing fields, trails, parking lots and parking structures.
- B. The prohibitions of this section shall not apply to:
  1. Streets, alleys, rights-of-way and sidewalks other than sidewalks and pedestrian paths in parks, provided however, that the City Administrator may suspend this exception and order that the smoking prohibition be applied to streets, alleys, sidewalks and other public ways where community events, fairs, festivals, neighborhood events and similar public gatherings are being held during the event could reasonably be expected to enhance attendance, participation or enjoyment of the event, or that such a prohibition could make cleaning City property after the event less burdensome by reducing litter at the event site; and

- 2. Property, buildings or parts of buildings owned by the City but leased to private parties; and
- 3. Areas on City property designated by the City Administrator for smoking to accommodate employees and visitors, if such areas are so designated from time to time; and
- 4. Areas of park property designated by the City Administrator for smoking purpose in association with special events, if requested by the sponsor thereof.

Provided, however, that smoking shall not be allowed in any location exempted from application of the prohibition of this Section if such location comes within the prohibitions or restrictions specified under other applicable regulations. Specifically, nothing in this Section shall be construed or applied so as to conflict with or limit in any way the provisions of the City’s general smoking prohibitions in Section 215.1840, any City personnel or workplace regulations or standards, or any lease entered into by the City as lessor which may contain a smoking prohibition.

**SECITON 215.1845                    RESTRICTIONS ON THE SMOKING OF MARIJUANA**

A.     Definitions. The definitions set forth in Section 215.1840 and 215.1841 above, shall also apply to such terms when used in this Section with the exception of the term “Smoking,” which when used in this Section shall mean: inhaling, exhaling, burning or carrying any lighted or heated cigar, cigarette, pipe, preroll, or device which contains marijuana in any manner, form, or amount, as well as any marijuana-infused product.

B.     Additional Definitions. The following words, terms, and phrases, when used in this Section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

**MARIJUANA OR MARIHUANA**

Cannabis indica, Cannabis sativa, 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” or “Marihuana” do not include industrial hemp, as defined by Missouri Statute, or commodities or products manufactured by industrial hemp.

**MARIJUANA-INFUSED PRODUCTS**

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.

C.     Marijuana shall not be smoked in any place where the smoking of tobacco is prohibited pursuant to Sections 215.1840 and 215.1841 of this Chapter.

D. Marijuana and marijuana infused products shall not be smoked or consumed in any form by any person operating or in physical control of any motor vehicle or other motorized form of transportation in the City.

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

F. A person who violates this Section shall be subject to a civil penalty not exceeding one hundred dollars (\$100.00)

**SECTION 2:** Section 225.040 of Chapter 225 of the Code of Ordinances of the City of Brentwood, Missouri, is hereby repealed and a new Section 225.040 is hereby enacted in lieu thereof to read as follows:

**CHAPTER 225**

**PARKS AND RECREATION**

**SECITON 225.040**

**RESTRICTIONS ON USE OF PARKS**

A. Injuring Trees, Shrubbyery, Natural Life and Other Property Prohibited. It shall be unlawful for any person to disfigure, damage or in any way injure or destroy, either in part or in whole, or carry away any tree, shrub, plant, flower, stone, or stone work, bench, chair set, stand, structure, fence or property, fish or animal, or anything belonging to or kept therein; or to excavate, dig into or disturb any park property or remove any item from on or beneath the surface of the land within any park or City property; or to post or affix or inscribe any handbill, poster, card, device, or inscription to or on any tree, fence, or structure, within the park. No one may plant, affix or mount any item in a park without the express written consent of the Director of Parks and Recreation.

B. Hunting Prohibited. No person shall pursue, trap or kill any wildlife in any manner on park land. Firearms, guns or weapons of any kind are strictly prohibited on park land.

C. Operation Of Motor Vehicle Prohibited. Motor vehicles are prohibited on park land and trails with the exception of park service and emergency vehicles. Motor vehicles are allowed on parking lots and roadways only.

D. Parking In Designated Areas Only. No person shall park any vehicle in an area not designated for that purpose.

E. Possession Of Alcohol. Notwithstanding anything provided in Section 600.040(A) of this Code, no person shall be allowed to bring any intoxicating liquors, as defined in Section 600.030 of this Code, into the Brentwood Recreation Complex without the approval from the Director of Parks and Recreation and his/her designee.

F. Location of Fires. Fires may be built only in barbecue grills provided by the City and must be extinguished before leaving the park.

G. Disposal of Trash. Trash, rubbish and debris of all kinds shall be deposited in the containers provided for that purpose. All areas shall be left in a clean and orderly condition. Dumping or depositing trash, rubbish or debris in or on any part of park land or facilities other than in the receptacles provided is strictly prohibited.

H. Glass Containers Prohibited. Glass containers of any type with a capacity of less than twenty-five and three-tenths (25.3) ounces (750 milliliters) are not permitted in any park.

I. Animals. No person shall bring onto park land a dog or other domestic animal unless such animals are at all times restrained on a leash. No leash on which a dog or other animal is tethered or restrained shall be of greater than six (6) feet. In addition, any person bringing a domestic animal into the park shall have with him or her an instrument and container to remove from the park any wastes deposited by his or her animal. No person shall allow a dog or other domesticated animal into any waters or waterways in the park for any purposes. No person shall permit the running of a dog at large. Domestic animals are prohibited in and around all playgrounds located on park grounds, and restrooms except for Seeing Eye dogs. No vicious animal of any kind shall be brought onto park land at any time even though restrained as described above.

J. Solicitations Prohibited. Solicitation of any business or services is prohibited. No person, firm, or corporation is permitted to offer or advertise merchandise or other goods for sale or hire. The maintaining of a concession or the use of any park facility, building, trail, road, or other park property for commercial purposes is prohibited except upon written consent and approval of the Director of Parks and Recreation.

K. Smoking. Smoking, as defined in Section 215.1830, including, but not limited to, the possession of lighted or heated cigarettes, cigars, pipes, and marijuana in any form, is prohibited on any property or premises owned or leased for use by the City of Brentwood, including buildings, grounds, parks, playgrounds, sports arenas and facilities, playing fields, trails, parking lots and parking structure.

L. Skateboarding. Skateboarding is prohibited upon or about the park stairs or railings and within or upon all pavilions or decks and the railings or furnishings contained incorporated therein.

**SECTION 3:** This Chapter, Article, Division and/or Section assignments designated in the Ordinance may be revised and altered by the codification company servicing the City's Code of Ordinances upon supplementation of such code if, in the discretion of the editor, an alternative designation would be more reasonable. In adjusting such designations, the editor may also change other designations, the editor may also change the designations and numerical assignment of code sections to accommodate such changes.

**SECTION 4:** It is hereby declared to be the intention of the Board of Aldermen that the sections, paragraphs, sentences, clauses, phrases and words of this ordinance are severable,

and if any section, paragraph, sentence, clause, phrase or word(s) of this ordinance shall be declared unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, phrases and words or 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 portion of the ordinance.


**SECTION 5:** This Ordinance shall be in full force and effect from and after the date of its passage and approval according to law.

**PASSED BY THE BOARD OF ALDERMEN THIS 20<sup>TH</sup> DAY OF MAY 2024.**

  
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David A. Dimmitt, Presiding Officer

ATTEST:  
  
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Kelle Silvey, Deputy City Clerk

**APPROVED BY THE MAYOR THIS 20<sup>TH</sup> DAY OF MAY 2024**

  
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David A. Dimmitt, Mayor

ATTEST:  
  
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Kelle Silvey, Deputy City Clerk

1<sup>st</sup> Reading: May 20, 2024  
2<sup>nd</sup> Reading: May 20, 2024

