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**AN ORDINANCE TO AMEND SECTION 340.190 DRIVING WHILE IN AN INTOXICATED CONDITION AND SECTION 340.193 CONSUMPTION OF ALCOHOLIC BEVERAGE OR MARIJUANA WHILE OPERATING MOTOR VEHICLE PROHIBITED TO INCLUDE MARIJUANA TO THE CODE OF ORDINANCES OF THE CITY OF HERCULANEUM, MISSOURI AND ENTERING AN EFFECTIVE DATE THEREFORE**

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**WHEREAS**, the voters of the State of Missouri approved an amendment to the State Constitution legalizing certain possession, uses, production, distribution, sale and purchase of marijuana effective December 8, 2022; and

**WHEREAS**, the City desires to amend the existing Code of Ordinances regarding marijuana in accordance with the provisions of the State Constitution; and

**WHEREAS**, the City desires to protect the health and safety of the people of the City of Herculaneum by establishing reasonable regulations regarding marijuana consistent with the Missouri Constitution.

**NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED BY THE BOARD OF ALDERMEN OF THE CITY OF HERCULANEUM, MISSOURI, AS FOLLOWS:**

SECTION 1. Section 340.190 entitled "Driving While In An Intoxicated Condition" is hereby amended regarding marijuana to read as follows:

**Section 340.190      Driving While In An Intoxicated Condition**

A. A person commits the offense of driving while intoxicated if he or she operates a vehicle while in an intoxicated condition.

B. The term "operate" means physically driving or operating a motor vehicle.

C. A person is "intoxicated" or in an "intoxicated condition" when a person is under the influence of alcohol, a controlled substance, or drug, or any combination thereof, including marijuana.

D. Any case involving a person that has been convicted, found guilty, or pled guilty to two (2) or more previous intoxication-related traffic offenses as defined in Section 577.023, RSMo., or has had two (2) or more previous alcohol-related enforcement contacts as defined in Section 302.525, RSMo., shall be referred to the Circuit Court of Jefferson County in accordance with Section 479.170, RSMo.

SECTION 2. Section 340.193 entitled "Consumption of Alcoholic Beverage or Marijuana While Operating Motor Vehicle Prohibited" is hereby amended to read as follows:

**Section 340.193      Consumption of Alcoholic Beverage or Marijuana  
While Operating Motor Vehicle Prohibited**

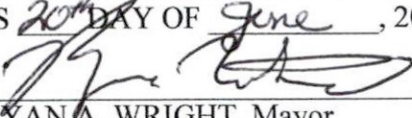
No person shall consume any alcoholic beverage or Marijuana while operating a motor vehicle within the City of Herculaneum.

SECTION 3. If any of the provisions of this ordinance or the application thereof to anyone or any circumstances is held in valid, the remainder of this ordinance and the application of such provisions to others or other circumstances shall not be affected thereby.

SECTION 4. This ordinances shall be codified.

SECTION 5. This ordinance shall be in full force and effect from and after the date of its passage.

READ (IN FULL TWO TIMES) (BY TITLE TWO TIMES, COPIES OF THE PROPOSED ORDINANCE HAVING BEEN MADE AVAILABLE FOR PUBLIC INSPECTION AT THE PLACE OF THE MEETING PRIOR TO THE TIME THE BILL WAS UNDER CONSIDERATION BY THE BOARD OF ALDERMAN) AND PASSED BY THE BOARD OF ALDERMAN OF THE CITY OF HERCULANEUM, MISSOURI, THIS 20<sup>th</sup> DAY OF June, 2023.

  
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RYAN A. WRIGHT, Mayor  
City of Herculaneum

ATTEST:

  
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LAURIE FERRETTI, City Clerk