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**AN ORDINANCE TO AMEND SECTION 410.010 DEFINITIONS,  
SECTION 410.110 "C-1" COMMUNITY COMMERCIAL DISTRICT,  
AND SECTION 410.115 "C-2" GENERAL COMMERCIAL DISTRICT  
REGARDING MARIJUANA FACILITIES AND REPEAL CHAPTER 628  
OF ORDINANCES OF THE CITY OF HERCULANEUM 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**, on July 10, 2023 the Planning and Zoning Commission considered the following amendment to the ordinances of the City and recommended approval of the same; 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. The definitions within Section 410.010 "Definitions" is hereby amended to add the following definitions related to marijuana:

Section 410.010. Definitions

Unless otherwise expressly stated, the following words and phrases shall be construed throughout this Chapter to have the meaning herein indicated.

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**COMPREHENSIVE (MARIJUANA) FACILITY**

A comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility, or a comprehensive marijuana-infused product manufacturing facility, as provided for in the Missouri State Constitution.

**COMPREHENSIVE MARIJUANA CULTIVATION FACILITY**

A facility licensed by the State of Missouri to acquire, cultivate, process, package, store on site or off site. transport to or from, and sell medical and nonmedical marijuana, marijuana seeds, marijuana vegetative cuttings (also known as "clones") to a medical facility, comprehensive facility, or marijuana testing facility, as provided for in the Missouri State Constitution.

**COMPREHENSIVE MARIJUANA DISPENSARY FACILITY**

A facility licensed by the State of Missouri to acquire, process, package, store on site or off site, sell, transport to or from, and deliver medical and non-medical marijuana, marijuana seeds, marijuana vegetative cuttings (also known as "clones"), marijuana-infused products and drug paraphernalia used to administer marijuana, as provided for in the Missouri State Constitution.

#### COMPREHENSIVE MARIJUANA-INFUSED PRODUCTS MANUFACTURING FACILITY

A facility licensed by the State of Missouri to acquire, process, package, store, manufacture, transport to or from a medical facility, comprehensive facility, or marijuana testing facility, and sell marijuana-infused products to marijuana dispensary facilities, marijuana testing facilities, or other marijuana-infused products manufacturing facilities, as provided for in the Missouri State Constitution.

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#### MARIJUANA FACILITY

A comprehensive facility, as defined in this Chapter, as provided for in the Missouri State Constitution, a marijuana testing facility, a microbusiness wholesale facility, microbusiness dispensary facility, or any other type of marijuana-related facility or business licensed or certified by the State of Missouri pursuant to the Missouri State Constitution, but shall not include a medical (marijuana) facility, as defined in this Chapter.

#### MARIJUANA MICROBUSINESS FACILITY

A facility licensed by the State of Missouri as a microbusiness dispensary facility or microbusiness wholesale facility, as defined in this Chapter.

#### MARIJUANA or MARIHUANA

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 seed thereof and 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.

#### MARIJUANA TESTING FACILITY

A facility certified by the State of Missouri, to acquire, test, certify, and transport marijuana, including those originally licensed as a medical marijuana testing facility.

#### MARIJUANA-INFUSED PRODUCTS

Any product that is 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 pre-rolls, as provided for by the Missouri State Constitution.

#### MEDICAL (MARIJUANA) FACILITY

Any medical marijuana cultivation facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility, as defined in this Chapter and, as provided for by the Missouri State Constitution.

#### MEDICAL MARIJUANA CULTIVATION FACILITY

Any facility licensed by the State of Missouri to acquire, cultivate, process, package, store on site or off site, transport to or from, and sell marijuana, marijuana seeds, and marijuana vegetative cuttings (also known as "clones") to a medical dispensary facility, medical marijuana testing facility, medical marijuana cultivation facility, or to a medical marijuana-infused product manufacturing facility. A medical marijuana cultivation facility's authority to process marijuana shall include the production and sale of pre-rolls, but shall not include the manufacture of marijuana-infused products.

#### MEDICAL MARIJUANA CULTIVATION FACILITY, INDOOR

Any medical marijuana cultivation facility, as defined herein, where the cultivation of marijuana occurs within an enclosed structure.

#### MEDICAL MARIJUANA CULTIVATION FACILITY, OUTDOOR

Any medical marijuana cultivation facility, as defined herein, where the cultivation of marijuana occurs outside of an enclosed structure.

#### MEDICAL MARIJUANA DISPENSARY FACILITY

A facility licensed by the State of Missouri to acquire, process, package, store on site or off site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (also known as "clones") marijuana-infused products and drug paraphernalia used to administer marijuana as provided for in this Chapter to a qualifying patient, a primary caregiver, anywhere on the licensed property or to any address as directed by the patient or primary caregiver, so long as the address is a location allowing for the legal possession of marijuana, another medical marijuana dispensary facility, a marijuana testing facility, a medical marijuana cultivation facility, or a medical marijuana-infused projects manufacturing facility. Dispensary facilities may receive transaction orders at the dispensary in person, by phone, or via the Internet, including from a third party. A medical marijuana dispensary facility's authority to process marijuana shall include the production and sale of pre-rolls, as defined in the State of Missouri Constitution, but shall not include the manufacture of marijuana-infused products.

#### MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING FACILITY

A facility licensed by the State of Missouri, to acquire, process, package, store on site or off site, manufacture, transport to or from, and sell marijuana-infused products to a medical marijuana dispensary facility, a marijuana test facility, or to another medical marijuana-infused products manufacturing facility.

#### MEDICAL MARIJUANA-RELATED ENTITIES

Any establishment operating or transacting business as a medical marijuana dispensary facility, medical marijuana cultivation facility, medical (marijuana) facility, medical marijuana-infused product manufacturing facility, marijuana testing facility, or other medical marijuana-related entity, as provided for by the Missouri State Constitution.

#### MICROBUSINESS DISPENSARY FACILITY

A facility licensed by the State of Missouri to acquire, process, package, store on site or off site, sell, transport to or from, and deliver medical and non-medical marijuana, marijuana seeds, marijuana vegetative cuttings (also known as "clones"), marijuana-infused products, and drug paraphernalia used to administer marijuana, as provided for by the Missouri State Constitution.

**MICROBUSINESS WHOLESALE FACILITY**

A facility licensed by the State of Missouri to acquire, cultivate, process, package, store on site or off site, manufacture, transport to or from, deliver, and sell medical and non-marijuana, marijuana seeds, marijuana vegetative cuttings (also known as "clones"), and marijuana-infused products to a microbusiness dispensary facility, other microbusiness wholesale facility, or marijuana testing facility, as provided for by the Missouri State Constitution.

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SECTION 2. Section 410.110 entitled "C-1' Community Commercial District" is hereby amended to read as follows:

**Section 410.110 "C-1" Community Commercial District**

*A. Permitted Primary Uses.*

1. Retail business establishments limited to the following:

a. Hardware, paint, glass and wallpaper stores.

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u. Motel-hotels.

v. Medical Marijuana Dispensary.

w. Comprehensive Marijuana Dispensary Facilities.

x. Microbusiness Dispensary Facilities.

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SECTION 3. Section 410.115 entitled "C-2' General Commercial District" is hereby amended to read as follows:

**Section 410.115 "C-2" General Commercial District**

*A. Permitted Primary Uses.*

1. All uses permitted within the "C-1" Community Commercial District.

2. Retail business establishments limited to the following:

a. Lumber and building supply centers.

3. Personal service establishments limited to the following:

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SECTION 4. Section 410.160 "Regulations Applicable to All Zones" is hereby amended to add a new subsection L. Marijuana-Related Entities:

Section 410.160. Regulations Applicable to All Zones

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L. Marijuana-Related Entities

1. Medical Marijuana-Related Entities, Medical (Marijuana) Facilities, And Marijuana Facilities. Medical marijuana-related entities, medical (marijuana) facilities, and marijuana facilities, as defined in this Chapter, shall meet the following standards in addition to all other zoning requirements in order to operate within the City of Herculaneum:

a. No person shall cause or permit the establishment of a medical marijuana dispensary facility, comprehensive marijuana dispensary facility, or microbusiness dispensary facility where such facility is within one thousand (1,000) feet of a parcel of land which is used primarily for any of the following protected uses:

- 1) Churches;
- 2) Elementary or secondary schools; and
- 3) Daycares.

Such distances referred to above shall be measured by the methodology established in the Missouri State Constitution.

b. No person shall cause or permit the establishment of a medical marijuana dispensary facility, comprehensive marijuana dispensary facility, or microbusiness dispensary facility where such facility is within one thousand (1,000) feet of an alcohol or drug abuse facility as defined by the State of Missouri, Chapter 631, RSMo.

Such distances referred to above shall be measured by the methodology established in Article XIV of the Missouri State Constitution. For the purposes of this measurement, alcohol or drug abuse facilities shall be subject to the proximity criteria for churches, elementary or secondary schools, and daycares.

c. No person shall cause or permit the establishment of an outdoor medical marijuana cultivation facility, or any outdoor cultivation associated with a comprehensive cultivation facility or microbusiness warehouse facility where such facility is within two hundred fifty (250) feet of a parcel of land which is used primarily for any of the following protected uses:

- 1) Churches;
- 2) Elementary or secondary schools; and
- 3) Daycares

Such distances referred to above shall be measured by the methodology established in the Missouri State Constitution for medical marijuana-related

entities facilities [herein referred to as medical (marijuana) facilities] and protected uses.

- d. Medical marijuana dispensary facilities, comprehensive marijuana dispensary facilities, and microbusiness dispensary facilities shall provide parking spaces in an amount not below fifteen (15) per one thousand (1,000) square feet gross floor area plus one (1) additional space for each employee on the maximum shift and one (1) space for each vehicle utilized in the day-to-day operation of the business.
- e. Nuisances. No medical marijuana-related entities, (marijuana) facility or marijuana facility, or marijuana microbusiness facility, as defined in this Chapter, shall emit an odor or in any way cause a public nuisance per Chapter 205 of this Code. Appropriate ventilation systems to prevent any odor of marijuana or fumes from leaving the premises or other changes to the facilities can be required if a public nuisance violation occurs.
- f. Any entity owning, controlling or leasing, acting as agent for, conducting, managing or operating any marijuana entity/facility shall comply with Article XIV of the Missouri Constitution, Chapter 95 of Title 19, Division 30 of the Missouri Code of State Regulations, and as provided for in this Chapter.
- g. No person under the age of eighteen (18) years old shall be allowed into a Marijuana Facility, except that a qualifying patient who is under the age of eighteen (18) years but who has been emancipated by a court order and a Qualifying Patient's parent or guardian may be allowed into a Marijuana Facility.
- h. It shall be unlawful to display in any street window or show window any Marijuana or Marijuana-Infused products.
- i. All edible Marijuana-Infused Products shall be sold in individual, child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All Marijuana and Marijuana-Infused Products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana", or a "Marijuana-Infused Product".
- j. Security requirements for any Marijuana Facility, include, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by Article XIV of the Missouri Constitution, Chapter 95 of Title 19, Division 30 of the Missouri Code of State Regulations, and as provided for in this Chapter. A Marijuana Facility shall notify the City of changes, alterations, or modifications of security.
- k. No entity shall dispose of Marijuana or Marijuana-Infused Products in an unsecured waste receptacle not in possession and control of the entity and designed to prohibit unauthorized access.

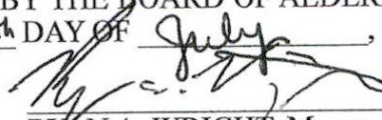
SECTION 5. Ordinance No. 09-2019 is, from the date of passage of this Ordinance, hereby rescinded and Chapter 628 shall be removed.

SECTION 6. 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 7. This ordinance shall be codified.

SECTION 8. 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 17<sup>th</sup> DAY OF July, 2023.

  
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RYAN A. WRIGHT, Mayor  
City of Herculaneum

ATTEST:

  
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LAURIE FERRETTI, City Clerk