

AN ORDINANCE amending Chapter 215 – Offenses and Miscellaneous Provisions, Article XIII – Offenses Concerning Drugs and Alcohol, by changing offenses related to marijuana as a result of November 8, 2022 general election ballot measure Amendment 3.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEOSHO, MISSOURI, as follows:

Section 1. That Chapter 215 – Offenses and Miscellaneous Provisions, Article XIII – Offenses Concerning Drugs and Alcohol is amended by enacting a new Section 215.700 – Possession and use of marijuana as follows:

“Section 215.700 – Possession and use of marijuana.

A. Public Consumption; Smoking.

1. No person shall consume marijuana in a public place.
2. No person shall smoke marijuana in a public place.
3. No person shall smoke marijuana in any place the smoking of tobacco is prohibited.
4. For purposes of this section, a public place means any public or private property, or portion thereof, that is open to the general public, including but not limited to, sidewalks, streets, bridges, parks, schools, and businesses.

a. “Public place” shall not include:

1. The residence of the person smoking or consuming marijuana or the residence of another person when the person in control of the property has consented to the smoking or consumption of marijuana; or
 2. Any area licensed for such activity by the City.
5. Violation of Section 82-196.A.2 shall be punishable by a fine not to exceed One Hundred Dollars (\$100.00).

B. Sale to Persons Under Twenty-One

1. No person shall deliver to, transfer to, or sell to persons under twenty-one years of age marijuana or marijuana accessories.
2. For purposes of this Chapter, "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.

C. Possession by Persons Under Twenty-One, Three Ounces or Less.

1. Except as provided by Article XIV of the Missouri Constitution, no person under twenty-one years of age may possess, use, ingest, inhale, transport, deliver, or distribute marijuana or marijuana accessories.
2. For offenses involving three ounces or less of marijuana, and no monetary consideration, violation of this Section shall be punishable by a fine not to exceed One Hundred Dollars (\$100.00). Any such person shall be provided the option of attending up to four hours of drug education or counseling in lieu of the fine.

D. Possession; Less than Twice the Legal Limit.

1. A person who possesses not more than twice the amount of marijuana allowed pursuant to Mo. Const., Article XIV, produces not more than twice the amount of marijuana allowed pursuant to Mo. Const., Article XIV, delivers without receiving any consideration or remuneration to a person who is at least twenty-one years of age not more than twice the amount of marijuana allowed by Mo. Const., Article XIV, or possesses with intent to deliver not more than twice the amount of marijuana allowed by Mo. Const., Article XIV:
 - a. For a first violation, is subject to a fine not exceeding two hundred and fifty dollars and forfeiture of the marijuana.
 - b. For a second and subsequent violations, is subject to a fine not exceeding five hundred dollars and forfeiture of the marijuana.
 - c. A person under twenty-one years of age is subject to a civil penalty not to exceed two hundred and fifty dollars. Any such person shall be provided the option of attending up to eight hours of drug education or counseling in lieu of the fine.
 - d. In lieu of payment, penalties under this subsection may be satisfied by the performance of community service. The rate of pay-down associated with said service option will be the greater of \$15 or the minimum wage in effect at the time of judgment.

E. Motor Vehicle Offenses.

1. It shall be unlawful for any person to:
 - a. 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. Notwithstanding the foregoing, a conviction of a person who is at least twenty-one years of age for any applicable offenses 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 solely on the presence of tetrahydrocannabinol (THC) or THC metabolites, or a combination thereof, in the person's system.

- b. 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.
- c. Smoke marijuana within a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated.

F. Possession or consumption on Certain Property; Prohibited.

No person shall possess or consume marijuana or possess marijuana accessories on the grounds of a public or private preschool, elementary or secondary school, institution of higher education, in a school bus, or on the grounds of any correction facility.

G. Illegal Growing.

1. The following acts by a person are unlawful:

- a. Illegal Growing. Possessing, transporting, planting, cultivating, harvesting, drying, processing, or manufacturing i) more than six (6) flowering marijuana plants, ii) more than six (6) nonflowering marijuana plants, iii) more than six (6) clones, or iv) any lesser number of such plants or clones if the person is not registered with the department of health and senior services for cultivation of marijuana plants pursuant to Article XIV, Section 2.4(24).
- b. Illegal Growing; Registered Cultivator. A person registered with the department of health and senior services pursuant to Article XIV, Section 2.4(24) for cultivation of marijuana plants within the limits of Article XIV, Section 2.10(1)(b) shall not keep the plants and any marijuana produced by the plants in excess of three ounces at more than one private residence, or in an unlocked space, or in a manner in which they are visible by normal, unaided vision from a public place; and further, shall not keep more than twice the number of allowable plants under Article XIV, Section 2.10(1)(b) in or on the grounds of a private residence at one time.
- c. Illegal Growing; Visibility; Unregistered Cultivator. A person who is not registered pursuant to Article XIV, Section 2.4(24) and who cultivates marijuana plants that are visible by normal, unaided vision from a public place.
- d. Illegal Growing; Unsecured; Unregistered Cultivator. A person who is not

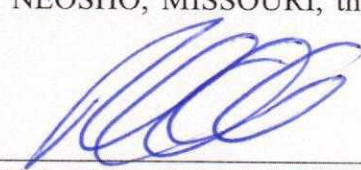
registered pursuant to Article XIV, Section 2.4(24) and who cultivates marijuana plants that are not kept in a locked space.

2. Penalties.

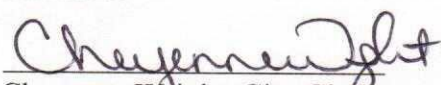
- a. A person who cultivates marijuana plants that are visible by normal, unaided vision from a public place is subject to a civil penalty not exceeding two hundred and fifty dollars and forfeiture of the marijuana.
- b. A person who cultivates marijuana plants that are not kept in a locked space is subject to a civil penalty not exceeding two hundred and fifty dollars and forfeiture of the marijuana.

Section 2. That this Ordinance shall be in full force and effect from and after its passage.

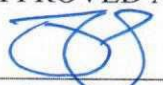
PASSED BY THE COUNCIL OF THE CITY OF NEOSHO, MISSOURI, this 20th day of June, 2023, by a vote of 6-yes.
0-no


Richard Davidson, Mayor

ATTEST:


Cheyenne Wright, City Clerk

APPROVED AS TO FORM:


Jordan L. Paul, City Attorney

