

INTRODUCED BY: Alderman Thompson

**AN ORDINANCE APPROVING AMENDMENTS TO
CHAPTER 215, OFFENSES, OF THE MUNICIPAL CODE OF
THE CITY OF WARSON WOODS PERTAINING TO THE
LEGALIZATION OF MEDICAL MARIJUANA ONLY TO THE
EXTENT ALLOWED BY AND AS REQUIRED BY ARTICLE
XIV OF THE MISSOURI CONSTITUTION**

WHEREAS, on November 6, 2018, the voters of the State of Missouri approved Amendment 2 to the Missouri Constitution adding a new Article XIV, Section 1 to the Missouri Constitution titled, “Right to Access Medical Marijuana” (the "Amendment").

WHEREAS, the intent of Article XIV, Section 1 of the Missouri Constitution is to enable certain specified persons and legal entities who comply with the provisions of the Constitutional Amendment as well as all rules and regulations promulgated by the Department of Health and Senior Services of the State of Missouri (the "DHSS") to legally obtain, possess, cultivate, process, grow, use and distribute marijuana for medicinal purposes to the extent allowed by applicable law.

WHEREAS, despite the enactment of the Amendment, marijuana remains a “Schedule 1 Controlled Substance” pursuant to the Controlled Substances Act of the United States and remains illegal under Federal Law.

WHEREAS, despite the enactment of the Amendment, marijuana remains a controlled substance under Missouri law except where used strictly pursuant to the provisions of the Amendment as well as all rules and regulations promulgated by DHSS.

WHEREAS, nothing in this ordinance, nor any other act, statement, or activity of the City of Warson Woods (the “City”), nor any officers, employees or agents of the City acting in a ministerial or discretionary capacity on behalf of the City or acting in their official capacity as a City employee, in furtherance of and compliance with the Amendment and this ordinance shall be interpreted as authorization for any illegal activity, nor as any official policy of or statement by the City as to any illegal activity under state or federal law.

WHEREAS, any authorization given by this ordinance to any individual or legal business entity is only so given and is only so authorized to the extent allowed by the laws and policies of the State of Missouri and the United States of America.

WHEREAS, the City has a substantial interest in protecting the public health, safety, order, comfort, convenience and general welfare of the individual residents and businesses of the City.

WHEREAS, overarching principles of good government and proper planning require the City to provide for medical marijuana to the extent allowed by the Amendment.

WHEREAS, the existing Chapter 215, the Offenses Chapter of the Municipal Code of the City of Warson Woods, does not provide for legalized medical marijuana.

WHEREAS, the City desires to establish reasonable regulations providing for legalized medical marijuana and for possessing, cultivating, growing, using, administering, or distributing medical marijuana including the sale, purchase, and possession of paraphernalia related thereto so long as such activity falls within the confines of the Amendment including any rules and regulations promulgated by DHSS, and is not otherwise illegal pursuant to applicable law.

WHEREAS, nothing in this ordinance allows a person, business, or other legal entity to possess, cultivate, grow, infuse, process, use or distribute marijuana for any purpose other than for use as medical marijuana, and then only to the extent authorized and limited by the Amendment, and any rules and regulations regarding medical marijuana issued by DHSS.

WHEREAS, nothing in this ordinance allows a person, business, or other legal entity to create, cause, engage in, or maintain a public nuisance injurious to the public health, safety, order, comfort, convenience and general welfare of the residents of the City.

WHEREAS, nothing in the Amendment, rules and regulations promulgated by DHSS relating to medical marijuana, or this ordinance allows a person to smoke, use, ingest, or otherwise administer marijuana in a public place in the City or to operate any motor vehicle, aircraft, motor boat, or other dangerous device while under the influence of marijuana.

WHEREAS, nothing in the Amendment, rules and regulations promulgated by DHSS relating to medical marijuana, or this ordinance alters in any way the illegality of Synthetic Cannabinoids and the same shall continue to be regulated and prosecuted as described in State statute and Chapter 215 of the Municipal Code of the City of Warson Woods.

WHEREAS, the Board of Aldermen desires to protect the public health, safety, order, comfort, convenience and general welfare of the individual residents and businesses of the City and finds this ordinance necessary to safeguard the public health, safety, order, comfort, convenience and general welfare of the individual residents and businesses of the City by establishing reasonable regulations relating to legalized medical marijuana consistent with the Amendment.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF WARSON WOODS, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

SECTION 1. The recitals set forth above are hereby specifically incorporated herein by reference.

SECTION 2. Chapter 215, "Offenses," Article XI, "Offenses Concerning Drugs," Section 215.1800, "Possession of Marijuana or Synthetic Cannabinoid" is hereby repealed and replaced by a new Section 215.1800, also entitled "Possession of Marijuana or Synthetic Cannabinoid," to read as follows:

Section 215.1800 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 and only to the extent as authorized by Chapter 579, RSMo., or Chapter 195, RSMo., and Article XIV, Section 1 of the Missouri

Constitution including any and all rules and regulations promulgated by the Missouri Department of Health and Senior Services related to legalized medical marijuana.

SECTION 3. Chapter 215, "Offenses," Article XI, "Offenses Concerning Drugs," Section 215.1810, "Possession of a Controlled Substance" is hereby repealed and replaced by a new Section 215.1810, also entitled "Possession of a Controlled Substance," to read as follows:

Section 215.1810 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 and only to the extent as authorized by Chapter 579, RSMo., Chapter 195, RSMo., or Article XIV, Section 1 of the Missouri Constitution including any and all rules and regulations promulgated by the Missouri Department of Health and Senior Services related to medical marijuana.

SECTION 4. Chapter 215, "Offenses," Article XI, "Offenses Concerning Drugs," Section 215.1830, "Unlawful Possession of Drug Paraphernalia" is hereby repealed and replaced by a new Section 215.1830, also entitled "Unlawful Possession of Drug Paraphernalia," to read as follows:

Section 215.1830 Unlawful Possession of Drug Paraphernalia

Except and only to the extent as authorized by Article XIV, Section 1 of the Missouri Constitution including any and all rules and regulations promulgated by the Missouri Department of Health and Senior Services related to legalized medical marijuana, 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, administer, 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.

SECTION 5. Severability. The portions of this ordinance shall be severable. In the event that any portion of this ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this ordinance are valid, unless the court finds that the valid portions of this ordinance are so essential and inseparably connected with and dependent upon the void portion that it cannot be presumed that the Board of Aldermen would have enacted the valid portions without the invalid ones, or unless the court finds that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

SECTION 6. This ordinance shall be in full force and effect on and after its passage and approval by the Board of Aldermen and the Mayor.

THIS BILL PASSED AFTER HAVING BEEN READ IN FULL TWO TIMES PRIOR TO
PASSAGE BY THE BOARD OF ALDERMEN OF THE CITY OF WARSON WOODS,
MISSOURI, THIS 20th DAY OF AUGUST, 2019.

Laurance M. Howe, Mayor

ATTEST:

Kathy Mahany, City Clerk

APPROVED AS TO FORM:

Paul V. Rost, City Attorney