



Bill No. _____

Ordinance No. _____

INTRODUCED BY

ALDERMEN UTT, FINLEY, STALLMANN, ROACH, FLEMING, LEAHY, KERLAGON, BULLINGTON

AN ORDINANCE AMENDING CERTAIN PROVISIONS OF APPENDIX A TO ESTABLISH MEDICAL MARIJUANA LAND USES WITHIN THE CITY OF BALLWIN, MISSOURI.

WHEREAS, on November 6, 2018, a majority of the qualified voters of the State of Missouri approved the adoption of Amendment 2 to the Missouri Constitution, to enact Article XVI, Section 1, relating to access to medical marijuana, which became effective on December 6, 2018; and

WHEREAS, Amendment 2 permits cities to enact ordinances not in conflict therewith governing the time, place, and manner of operation of medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, and medical marijuana testing facilities; and

WHEREAS, the City of Ballwin wishes to regulate the location and operation of medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, and medical marijuana testing facilities to protect the health, safety, and welfare of the residents, businesses, and property owners in the City; and

WHEREAS, the general welfare, health, morals and safety of the citizens of this City will be promoted by enactment of this Chapter, and

WHEREAS, a Public Hearing was held on June 3, 2019 by the Planning and Zoning Commission regarding the proposed ordinance; and

WHEREAS, following the Public Hearing on June 3, 2019 by the Planning and Zoning Commission and after consideration of the request and testimony presented therein, the Planning and Zoning Commission recommended approval of the ordinance to the Board of Aldermen

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BALLWIN, MISSOURI, AS FOLLOWS:

Section 1. Section 1-2: Definitions of the Code of Ordinances of the City of Ballwin is hereby amended to read as follows: (those subsections not specifically set forth herein are not altered or amended in any way and, therefore, remain in full force and effect).

“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 plant and marijuana-infused products. “Marijuana” or “Marihuana” do not include industrial hemp containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of



one percent on a dry weight basis, or commodities or products manufactured from industrial hemp.

Marijuana-Infused Products, Products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

Medical Marijuana Cultivation Facility, A facility licensed by the Missouri Department of Health and Senior Services to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility.

Medical Marijuana Dispensary Facility, A facility licensed by the Missouri Department of Health and Senior Services to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, or a medical marijuana-infused products manufacturing facility.

Medical Marijuana-Infused Products Manufacturing Facility, A facility licensed by the Missouri Department of Health and Senior Services to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

Medical Marijuana Testing Facility, A facility certified by the Missouri Department of Health and Senior Services to acquire, test, certify, and transport marijuana.

Section 2. Appendix A, Article XIV, Section 1. of the Code of Ordinances of the City of Ballwin is hereby amended to read as follows: (those subsections not specifically set forth herein are not altered or amended in any way and, therefore, remain in full force and effect).

Section 1. – Generally

33. Medical Marijuana Cultivation Facility entirely within an enclosed building in the C-1, C-2, C-3 and the S-1 Zoning Districts.
34. Medical Marijuana-Infused Products Manufacturing Facility in the C-1, C-2, C-3 and the S-1 Zoning Districts.
35. Medical Marijuana Testing Facility in the C-1, C-2, C-3 and the S-1 Zoning Districts.
36. Medical Marijuana Dispensary Facility in the C-1, C-2, C-3 and the S-1 Zoning Districts.
37. Medical Marijuana Cultivation Facility (outside) in the Planned Overlay Zoning Districts.

Section 3. Appendix A, Article XIV of the Code of Ordinances of the City of Ballwin is hereby amended to add a new section 10 thereto, as follows:.

Section 10.- Medical Marijuana. The purpose of this division is to regulate the placement and licensing of facilities for the dispensing, selling, cultivating, manufacturing, storing, and testing of marijuana and marijuana-infused products, to the extent permitted by the Missouri Constitution, applicable statutes enacted by the General Assembly, and regulations promulgated by the Missouri Department of Health and Senior Services, and to protect the health, safety, and

welfare of the residents, businesses, and property owners in the City.

- A. No marijuana related use, activity or facility shall emit an odor or in any way cause a public nuisance per Chapter 29 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.
- B. No more than a total of three (3) Medical Marijuana Dispensary Facilities, Three (3) Medical Marijuana Cultivation Facilities and three (3) Medical Marijuana-Infused Products Manufacturing Facilities will be allowed within the City Limits.
- C. Each Medical Marijuana Cultivation Facility, Medical Marijuana-Infused Products Manufacturing Facility or Medical Marijuana Dispensary Facility shall be located on properties that meet the following distance requirements:
 - 1. No marijuana related uses shall be operated or maintained within three hundred (300) feet of any school, child day-care center or church.
 - 2. No marijuana related uses shall be operated or maintained within one thousand five hundred (1,500) feet of another marijuana related use except when marijuana sales represents less than 5% of the dollar volume of business in a state or federally licensed pharmacy. Marijuana related uses under the same ownership and on the same property are exempt from this requirement.
 - 3. The distances described in this section shall be computed by direct measurement from any building on land used for the above purposes to the nearest portion of the building housing the Medical Marijuana Cultivation Facility, Medical Marijuana Testing Facility, Medical Marijuana-Infused Products Manufacturing Facility or Medical Marijuana Dispensary Facility, using a straight line.
- D. The waiting area and the area of a Medical Marijuana Dispensary Facility where marijuana or marijuana-infused products are physically delivered to a qualifying patient or primary caregiver shall be separated by a solid wall and solid door so that persons in the waiting area are obstructed from observing the delivery of the marijuana or marijuana infused products to the qualifying patient or primary caregiver. No loitering will be permitted at any facility.
- E. No marijuana or marijuana-infused product shall be displayed so as to be visible through glass, windows, or doors by a person of normal visual acuity standing at the outside perimeter of a Facility.
- F. Paraphernalia as defined in section 215.610, excluding (1)f of the Revised Statutes of Missouri, as may be amended, may be lawfully sold at a Medical Marijuana Dispensary Facility. Such items may not be publicly displayed and may be sold, displayed and provided only to patients or primary caregivers of patients.
- G. The sale or consumption of alcohol within a Facility is prohibited.
- H. No person under the age of eighteen (18) shall be allowed in any portion of a Medical Marijuana Cultivation Facility, Medical Marijuana Testing Facility or Medical Marijuana-Infused Products Manufacturing Facility. The entrance to a Facility shall

be clearly and legibly posted with notice indicating that persons under the age of eighteen (18) are precluded from entering the premises.

- I. A Medical Marijuana Dispensary Facility shall not dispense more than four (4) ounces of a usable form of medical marijuana per patient in a thirty day period, except as otherwise allowed by law [Art. 2, sec 3(13)]. All marijuana sold or otherwise distributed shall be in a sealed container. Such packaging shall have a label that indicates the quantity and advises the purchaser that the marijuana is intended for use solely by the patient, and that any resale or redistribution to any third person is a criminal violation.
- J. The consumption, inhalation or other personal use of marijuana or medical marijuana-infused products on or within the premises of a Medical Marijuana Cultivation Facility, Medical Marijuana Testing Facility, Medical Marijuana-Infused Products Manufacturing Facility or Medical Marijuana Dispensary Facility is prohibited, except that a Medical Marijuana Testing Facility may consume marijuana during the testing process and only as the consumption relates to the testing process.
- K. Dispensaries can be on the same property as a cultivation facility, a Medical Marijuana-Infused Products Manufacturing Facility or a Medical Marijuana Testing Facility but are not permitted to be within the same building as any other marijuana related use.
- L. Security Plans. Medical Marijuana Cultivation Facility, Medical Marijuana Testing Facility, Medical Marijuana-Infused Products Manufacturing Facility or Medical Marijuana Dispensary Facility shall provide adequate security on the premises including, but not limited to, the following:
 1. Surveillance. Security surveillance cameras installed to monitor each entrance to the Facility along with the interior and exterior of the premises to discourage and to facilitate the reporting and investigation of criminal acts and nuisance activities occurring at the premises. Security video shall be preserved for at least ninety (90) days, and be made available to law enforcement officers upon demand.
 2. Inventory. All salable inventory of marijuana must be kept and stored in a secured, locked manner.
 3. Safe. A locking safe or secure vault permanently affixed or built into the premises to store any currency on site.
 4. Alarm System. Professionally monitored robbery alarm and burglary alarm systems shall be installed and maintained in good working condition within the Facility at all times.
 5. Emergency Contact. Each Facility shall provide the chief of police with the name, cellular telephone number, electronic mail address, and facsimile number of an on-site Facility employee to whom the City may provide notice of any operating problems associated with the Facility. It shall be the responsibility of the Licensee to keep up to date the contact information of the Facility employee.
- M. Operating Plans. As a condition of processing of a business license application, a Facility operator shall provide at the time of filing the business license application a detailed operations plan and, upon issuance of a license, shall operate the Facility in accordance with the plan. Such plan shall include:

1. Floor Plan. A plan showing the layout of the Facility and the principal uses of the floor area depicted. A Medical Marijuana Dispensary Facility shall have a lobby waiting area at the entrance to the center to receive clients, and a separate and secure designated area for dispensing medical marijuana to qualified patients or designated primary caregivers. The primary entrance of any stand-alone facility shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways. All storage areas shall be shown and labeled.
2. Odor Controls. A Facility shall provide a plan for the mitigation and control of odors and other environmental impacts which may emanate from a Facility. Such plan shall describe the ventilation system for the premises. Appropriate ventilation systems to prevent any odor of marijuana or fumes from leaving the premises of a Facility or other changes to a Facility may be required to abate a public nuisance.

N. Signage.

1. A sign for a medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall comply with the requirements of Chapter 22 of this Code, or any ordinance enacted hereafter regulating signs.
2. A sign for a medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall be located on the same premises as the facility.

O. Each Facility shall provide off-street parking and comply with all parking regulations for the zoning district in which the Facility is located.

P. Each Facility shall at all times possess a current City business license. By obtaining a City business license, the Facility Licensee irrevocably consents to the immediate closure and cessation of operation of the Facility in addition to all other penalties or remedies available by law for the failure to possess a current City business license.

Q. It shall be unlawful for any person to distribute, transmit, give, dispense or otherwise provide medical marijuana as a home occupation.

R. No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall be operated within the City without a valid license issued by the Missouri Department of Health and Senior Services. No marijuana or marijuana-infused products shall be acquired, certified, cultivated, delivered, manufactured, processed, sold, stored, tested, or transported within the City, except by persons or entities licensed for such purposes by the Missouri Department of Health and Senior Services.

S. Application Review Process:

1. Site review permit. This preliminary permit reviews the proposed



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marijuana related use for compliance with the City's zoning and location standards prior to issuance of State license. A draft of proposed security and floor plans should also be provided. Site review approval shall expire, and be of no effect, one (1) year after the date of issuance thereof. Site review and approval shall be conducted administratively.

2. Business license. Once State licensing has been received, the business license shall include all relevant State approvals and approved operating plans and security plans.

Section 4. This ordinance shall take effect and be in full force from and after its passage and approval.

PASSED this ____ day of _____, 2019.

TIM POGUE, MAYOR

APPROVED this ____ day of _____, 2019.

TIM POGUE, MAYOR

ATTEST: _____
ROBERT KUNTZ, CITY ADMINISTRATOR