

Introduced by: Council Present

AN ORDINANCE AMENDING CHAPTER 400 RELATING TO MEDICAL MARIJUANA AND RELATED USES

WHEREAS, medical marijuana uses are licensed and regulated by the State of Missouri; and

WHEREAS, on February 13, 2019 the Planning Commission reviewed and considered the proposed amendments to C2-C3, AD, AD-2, and M-1 of the Zoning Code; and

WHEREAS, the Planning Commission has recommended approval of the proposed amendments; and

WHEREAS, the City Council has reviewed the recommendation of the Planning Commission and held a Public Hearing, on March 4, 2019, determining that the proposed amendments are appropriate.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BERKELEY, MISSOURI, AS FOLLOWS:

Section 1. Section 400.020 Definitions, of Chapter 400, Zoning, of the Berkeley Municipal Code is hereby amended to include the following new definition:

Medical Marijuana Dispensary: A facility licensed by the State of Missouri to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana for medical purposes 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.

Section 2. The following zoning districts shall be amended; C2-C3, AD, AD-2, and M-1, regulating Medical Marijuana Dispensaries, i.e., retail sales, manufacturing, testing facilities, and related uses under the Special Use Process, Berkeley Code 400.530

Section 3. The Annual License Fees shall be established under Section 605.090 as follows:

LICENSE TYPE	ANNUAL FEE
Medical Marijuana Sales	\$
Medical Marijuana Manufacturing Facility	\$
Medical Marijuana Testing Facility	\$

Section 4. Appendix B, Land Use and Required Parking, of Chapter 400, Zoning, of the Berkeley Municipal Code is hereby amended as set forth and fully described in "Table A" below:

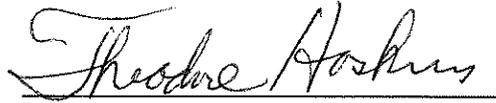
TABLE A						
Land Use	C-2	C-3	AD	AD-2	M-1	Minimum Parking
Crops Grown Indoors -- Manufacturing	N/A	N/A	SUP	SUP	SUP	Section 400.160 (g)
Medical Marijuana Dispensaries	SUP	SUP	SUP	SUP	SUP	1 space per 200 sf. of floor area devoted to retail use

Section 5. This Ordinance shall be in full force and effect from and after its passage and approval.

1st Reading, this 04th day of March 2019

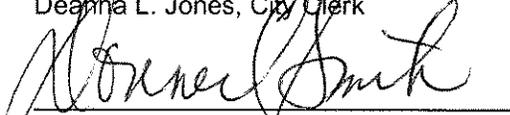
2nd Reading this 18th day of March 2019

3rd Reading, PASSED and APPROVED, this 18th day of March 2019



Theodore Hoskins, Mayor

ATTEST:


Deanna L. Jones, City Clerk
Approved As To Form:
Donnell Smith, City Attorney

Final Roll Call:

Mayor Hoskins	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>
Councilwoman Hoskins	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>
Councilwoman Mitchell	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>
Councilwoman Williams	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>
Councilman-at-Large Greene	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>
Councilwoman Hindeleh	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>
Vacant	Aye <input type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>

REPORT TO CITY COUNCIL PUBLIC HEARING



To: Honorable Mayor and Members of the City Plan Commission
From: Debra M. Irvin, City Manager
Date: February 14, 2019
Subject: Amendments to the Zoning Code relating to medical marijuana cultivation, testing and dispensary facilities

SUBJECT: **Case # 19-03** a request from the City Manager to amend the zoning code by adding amendments to the Zoning Code relating to medical marijuana cultivation, testing and dispensary facilities in Zoning Districts (C2-C3, AD, AD-2, and M1).

Plan Commission heard the Subject item above and present the following as our findings:

PETITIONER: City Manager

BACKGROUND: Marijuana Amendment 2 passed with 66 percent of the voters on Tuesday, November 6, 2018 making it the most popular issue or candidate on the entire Missouri ballot. The law took effect December 6, 2018. The governor's office and Missouri Department of Health and Senior Services are together to talk about rulemaking.

Although the amendment legalizes growing, manufacturing, selling and consuming marijuana and marijuana products for medicinal use, it will take some time before people can actually use medicinal marijuana, probably around 2020.

The state has six months from December 6, 2018 to create the application process, then it could be another three to six months before they start accepting applications to use or grow marijuana at home and for dispensaries.

In this amendment, patients can grow up to six plants; caretakers up to 18. There are nine qualifying conditions to use medical marijuana, which include: PTSD, chronic pain, seizures, cancer, and other debilitating conditions. If a physician knows they have a qualifying condition and they want to use marijuana, then they issue a certification.

All activity will be regulated by the Missouri Department of Health and Human Services. The four percent (4%) sales tax on marijuana sales will fund veterans' healthcare programs.

CONSTITUTIONAL AMENDMENTS

The Department of Health and Senior Services (DHHS) have four uses that will be licensed and regulated by their department. We will review and amend our zoning to the following four uses:

- **Medical Marijuana Cultivation Facility:** A facility licensed by the DHHS 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 DHHS to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section 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 DHHS to acquire, store, manufacture, transport, and sell marijuana-infused products to a Medical Marijuana Dispensary Facility, a Medical Marijuana Testing Facility, or another Medical Marijuana-Infused Products Manufacturing Facility.
- Medical Marijuana Testing Facility: A facility certified by the DHHS to acquire, test, certify, and transport marijuana.

ZONING DISTRICTS

(C2-C3, AD, AD-2, and M1) under the Special Use Permit procedures 400.530

DISTANCE REQUIREMENTS

Amendment 2 includes a requirement that a medical marijuana facility may not be initially located within **1000-feet** of any then-existing elementary or secondary school, child daycare center, or church; however, this spacing requirement may be decreased if a city chooses. *In our code, we require at least three hundred (300) feet from the nearest property line of any church, synagogue or similar place of worship, or any school.*

SUPPORTING DOCUMENTS

- Staff Report
- Padraic Corcoran – Article – Medical Marijuana in Missouri
- Zoning Districts - (C2-C3, AD, AD-2, and M1)
- License Fees – Section 605.090
- Draft Ordinance

RECOMMENDATIONS:

1. The Plan Commission finds it necessary to amend the Zoning Code with regard to medical marijuana and related uses. Reduce the 1000 feet to the city's current 300 feet from the nearest property line of any church, synagogue, or similar place of worship, or any school.
2. Subject to comprehensive review and comment from the Plan Commission, the proposed amendments are consistent with the Comprehensive Plan existing uses, Section 1.4e. And will be regulated under Special Uses Section 400.530.
3. The Plan Commission finds that the amendments to the Zoning Code will be consistent with the State of Missouri medical marijuana related uses; and clarify regulations regarding medical marijuana related uses.
4. The Plan Commission finds it necessary for the City Manager to give fees to the City Council thereby amending Section 605.090

Respectfully submitted,