

**AN ORDINANCE AMENDING CHAPTER 405, RELATING TO ZONING, OF THE MUNICIPAL CODE OF THE CITY OF WAYNESVILLE,
WITH REGARD TO MEDICAL MARIJUANA RELATED ISSUES;
FIXING AN EFFECTIVE DATE**

WHEREAS, the City of Waynesville, MO acknowledges voters passed an Amendment to Article XIV of the Missouri Constitution enabling licensed citizens the right to use, cultivate, manufacture, dispense, test, transport, administrate and store Medical Marijuana (MMJ) and Medical Marijuana-Infused Products; and.

WHEREAS, the Planning and Zoning Commission of the City of Waynesville was adopted for the purpose of promoting the public health, safety, comfort, morals, convenience, and general welfare of the City; and

WHEREAS, the City desires to protect the public health and safety by establishing reasonable regulations on MMJ related businesses regarding neighborhood safety, security, other health and safety concerns, and time, place and manner restrictions on MMJ facility operations; and

WHEREAS, the City has tasked the Planning and Zoning Commission to amend the existing City of Waynesville Zoning Ordinances to include applicable ordinances regarding the implementation of MMJ regulations consistent with the State Constitution.

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

Section 1. Chapter 405. Section 405.100 "Definition" of the Municipal Code of the City of Waynesville, MO. is amended to add the following definitions leaving all other provisions of Chapter 405 in effect:

- A. Child day-care center. A child day care center or center, whether known or incorporated under another title or name, is a child care program conducted in a location other than the provider's permanent residence, or separate from the provider's living quarters, and licensed by the Department of Health and Senior Services of the State of Missouri where care is provided for children not related to the child care provider for any part of the twenty-four (24)-hour day.
- B. Church. At a minimum, a church includes a body of believers or communicants that assembles regularly in order to worship. Unless the organization is reasonably available to the public in its conduct of worship, its educational instruction, and its promulgation of doctrine, it cannot fulfill the associational role that Courts have increasingly adopted as a threshold for determining when an organization qualifies as a church. Other key factors to consider include definite and distinct ecclesiastical government, a formal code of doctrine and discipline, distinct religious history, membership not associated with any other church or denomination, organization of ordained ministers, ordained ministers selected after completing prescribed studies, literature of this own, established places of worship, regular congregations and regular religious services. No single factor is controlling but having regular meetings with a regular congregation should be weighted more heavily than some of the other factors. Cities can generally use a combination of these characteristics, together

with other facts and circumstances, to determine whether an organization is considered a church for the purposes of this Ordinance.

- C. Drug Paraphernalia. Shall have the same meaning as prescribed in Section 195.010, RSMo., as the same may be amended by the General Assembly of the State of Missouri from time to time.
- D. Marijuana or Marihuana. Means 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 seed thereof and resin extracted from the plant and marijuana-infused products.
- E. Marijuana-Infused Products. Means 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.
- F. Medical Marijuana Cultivation Facility. Means a facility licensed by the State of Missouri to acquire, cultivate, process, store, transport and sell marijuana to a Medical Dispensary Facility, Medical Marijuana Testing Facility or to a Medical Marijuana-Infused Products Manufacturing Facility.
- G. Medical Marijuana Dispensary Facility. Means 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 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 Projects manufacturing Facility.
- H. Medical Marijuana Testing Facility. Means a facility certified by the State of Missouri to acquire, test, certify and transport marijuana.
- I. Qualifying Patient. Means a Missouri resident diagnosed with at least one qualifying medical condition.
- J. School. Any building which is regularly used as a public, private or parochial elementary and/or secondary school or high school.

Section 2. Marijuana Related Uses. Marijuana related uses and facilities, as defined in Section 1 above, shall meet the following standards in addition to all other zoning requirements in order to operate within the City of Waynesville:

A. Standards for Medical Marijuana Dispensaries

All Articles and Sections pertaining to "C1 Commercial Districts", "C2 Commercial District", "I1 Industrial Districts", "I2 Industrial Districts" and "MU2 Mixed Use" are hereby amended to add to "Uses Permitted" the following:

Medical Marijuana Dispensary Facilities

No building shall be constructed, altered or used for a Medical marijuana Dispensary without complying with the following regulations:

- 1) No Medical Marijuana Dispensary shall be located within three-hundred (300) feet of a then existing school, child day-care center or church. In the case of a free-standing facility, the distance between the facility and the school, daycare, or church shall be measured from the external wall of the facility structure closest in proximity to the school, daycare, or church to the closest point of the property line of the school, daycare, or church. In the case of a facility that is part of a larger structure, such as an office building or strip mall, the distance between the facility and the school, daycare, or church shall be measured from the property line of the school, daycare or church to the facility's entrance or exit closest in proximity to the school, day care or church. Measurements shall be made along the shortest path between the demarcation points that can be traveled by foot. "Then existing" shall mean any school, child day-care center, or church with a written building permit from the City to be constructed, or under construction, or completed and in use at the time the Medical Marijuana Dispensary first applies for either a zoning or building permit, whichever comes first.
- 2) Onsite Usage Prohibited. No marijuana may be smoked, ingested or otherwise consumed on the premises of a Medical Marijuana Dispensary building.
- 3) Hours of Operation. All sales or distribution of Medical Marijuana any other products sold to the public through a Medical Marijuana Dispensary shall take place between the hours of 8:00 A.M. and 10:00 P.M., Sunday thru Saturday. Medical Marijuana Dispensaries shall be secured and closed to the public after the hours listed in this subsection and no persons not employed by the Medical Marijuana Dispensary may be present in such a facility at any time it is closed to the public.
- 4) Display of License Required. The Medical Marijuana Dispensary license issued by the State of Missouri shall be prominently displayed in a highly visible location, easily seen by patients on the dispensary's sales floor.
- 5) Zoning Limitations. Medical Marijuana Dispensaries shall be in any general commercial business district located in the City of Waynesville and shall be treated no differently than any business application for a pharmacy, healthcare clinic, dental or doctor's office except for the distance restrictions set forth herein.
- 6) Any plans for a Medical Marijuana Dispensary shall be at the standard new construction requirements of all Business and Commercial District construction outlined in this Title and approved subject to the standard procedures of Chapter 405 of the City of Waynesville general business commercial zoning code. The City shall not impose any additional requirements in the type of medical facility described in this Section.

B. Standards for Medical Marijuana-Infused Products Manufacturing Facility

All Articles and Sections pertaining to "I1 Industrial Districts", "I2 Industrial Districts", and "MU2 Mixed Use" are hereby amended to add to "Uses Permitted" the following:

Medical Marijuana-Infused Products Manufacturing Facility

Medical Marijuana-Infused Products Manufacturing Facility shall be completely within an enclosed building.

No building shall be constructed, altered or used for a Medical Marijuana-Infused Products Manufacturing Facility without complying with the following regulations of Chapter 405 or the City Code of the City of Waynesville, Missouri.

- 1) **Distance Requirements.** No Medical Marijuana-Infused Products Manufacturing Facility using any combustible gases or CO₂ in the extraction process shall be located within three-hundred (300) feet of a then existing school, licensed child day-care center or church. Any other Medical Marijuana-Infused Products Manufacturing Facility may be located in any location where a Medical Marijuana Dispensary may be located as detailed above. In the case of a free-standing facility, the distance between the facility and the school, daycare, or church shall be measured from the external wall of the facility structure closest in proximity to the school, daycare, or church to the closest point of the property line of the school, daycare, or church. In the case of a facility that is part of a larger structure, such as an office building or strip mall, the distance between the facility and the school, daycare, or church shall be measured from the property line of the school, daycare or church to the facility's entrance or exit closest in proximity to the school, day care or church. Measurements shall be made along the shortest path between the demarcation points that can be traveled by foot.
- 2) **Outdoor Operations or Storage.** All operations and all storage of materials, products or equipment shall be within a fully secured area inside the building structure or outdoors on the property in an area enclosed by a razor wire fence at least ten (10) feet in height, not including the razor wire.
- 3) **Onsite Usage Prohibited.** No marijuana may be smoked, ingested, or otherwise consumed on the premises of any Medical Marijuana-Infused Products Manufacturing Facility.
- 4) **Display of Licenses Required.** The Medical Marijuana-Infused Products Manufacturing Facility license issued by the State of Missouri shall be displayed in a prominent place in plain view near the front desk of the facility.
- 5) **Site Plan Review Required.** Any plans for a Medical Marijuana-Infused Products Facility using combustible gases or CO₂ in the extraction process shall meet the standard new construction requirement of the approved Zoning District and be subject to the standard procedures of the City of Waynesville Building Code.

C. Standards for Medical Marijuana Cultivation Facilities

All Articles and Sections pertaining to "I1 Industrial Districts", "I2 Industrial Districts", and "MU2 Mixed Use" are hereby amended to add to "Uses Permitted" the following:

Medical Marijuana Cultivation Facilities

No building shall be constructed, altered or used for a Medical Marijuana Cultivation Facility without complying with the following regulations of Chapter 405 of the I1 Industrial Districts, I2 Industrial Districts, and MU2 Mixed Use Districts or the City Code of the City of Waynesville, Missouri.

- 1) **Distance Requirements.** No Medical Marijuana Cultivation Facility shall be located within three-hundred (300) feet of a then existing school, licensed child day-care center or church. In the case of a free-standing facility, the distance between the facility and the school, daycare, or church shall be measured from the external wall of the facility structure closest in proximity to the school, daycare, or church to the closest point of the property line of the school, daycare, or church. In the case of a facility that is part of a larger structure, such as an office building or strip mall, the distance between the facility and the school, daycare, or church shall be measured from the property line of the school, daycare or church to the facility's entrance or exit closest in proximity to the school, day care or church. Measurements shall be made along the shortest path between the demarcation points that can be traveled by foot.
- 2) **Outdoor Operations or Storage.** All operations and all storage of materials, products or equipment shall be within a fully secured area inside the building structure or outdoors on the property in an area enclosed by a razor wire fence at least ten (10) feet in height, not including the razor wire.
- 3) **Onsite Usage Prohibited.** No marijuana may be smoked, ingested, or otherwise consumed on the premises of any Medical Marijuana Cultivation Facility.
- 4) **Display of Licenses Required.** The Medical Marijuana Cultivation Facility license issued by the State of Missouri shall be displayed in a prominent place in plain view near the front desk of the facility.
- 5) **Site Plan Review Required.** Any plans for a Medical Marijuana Cultivation Facility shall meet the standard new construction requirements of the approved Zoning District and be subject to the standard procedures of the City of Waynesville Building Code.

D. Standards for Medical Marijuana Testing Facilities

All Articles and Sections pertaining to "I1 Industrial Districts", "I2 Industrial Districts", and "MU2 Mixed Use" are hereby amended to add to "Uses Permitted" the following:

Medical Marijuana Testing Facilities

Medical Marijuana Testing Facilities shall be completely within an enclosed building, only.

No building shall be constructed, altered or used for a Medical Marijuana Testing Facilities without complying with the following regulations of Chapter 405 of the I1 Industrial Districts, I2 Industrial Districts, and MU2 Mixed Use Districts or the City Code of the City of Waynesville, Missouri.

- 1) **Distance Requirements.** No Medical Marijuana Testing Facility shall be located within three-hundred (300) feet of a then existing school, licensed child day-care center or church. In the case of a free-standing facility, the distance between the facility and the school, daycare, or church shall be measured from the external wall of the facility structure closest in proximity to the school, daycare, or church to the closest point of the property line of the school, daycare, or church. In the case of a facility that is part of a larger structure, such as an office building or strip mall, the distance between the facility and the school, daycare, or church shall be measured from the property line of the school, daycare or church to the facility's entrance or exit closest in proximity to the school, day care or church. Measurements shall be made along the shortest path between the demarcation points that can be traveled by foot.
- 2) **Onsite Usage Prohibited.** No marijuana may be smoked, ingested, or otherwise consumed on the premises of any Medical Marijuana Testing Facility.
- 3) **Display of Licenses Required.** The Medical Marijuana Testing Facility license issued by the State of Missouri shall be displayed in a prominent place in plain view near the front desk of the facility.
- 4) **Site Plan Review Required.** Any plans for a Medical Marijuana Testing Facility shall meet the standard new construction requirements of the approved Zoning District and be subject to the standard procedures of the City of Waynesville Building Code.

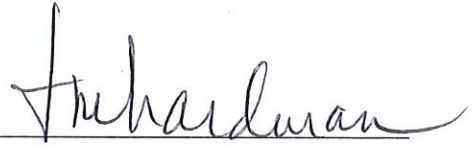
Section 3. Severability. The sections, paragraphs, sentences, clauses and phrases of this ordinance shall be severable. In the event that any such section, paragraph, sentence, clause or phrase of this ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this ordinance are valid, unless the court finds the valid portions of this ordinance are so essential to and inseparably connected with and dependent upon the void portion that it cannot be presumed that the City has enacted the valid portions without the void 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 4. Governing Law. This ordinance shall be governed exclusively by and construed in accordance with the applicable laws of the State of Missouri.

Section 5. Penalties and Enforcement. Every person who shall be convicted of violation of any of the provision of this chapter shall be fined not more than \$500.00 or imprisoned in the Pulaski County Jail for not more than one (3) months, or punished by both such fine and imprisonment.


Section 6. This ordinance shall be in full force and effect from and after the date of its passage and approval.

PASSED BY THE CITY COUNCIL ON THIS 16th DAY OF MAY, 2019.



Luge Hardman, Mayor

ATTEST:



Michele Brown, City Clerk

APPROVED by the Mayor on this 16th day of May, 2019.



Luge Hardman, Mayor