

AN ORDINANCE TO AMEND THE MUNICIPAL CODE REGARDING REGULATION OF THE USE, CULTIVATION, MANUFACTURING, DISPENSING, TESTING, TRANSPORTATION AND STORAGE OF MEDICAL MARIJUANA.

WHEREAS, a majority of the qualified voters of the State of Missouri passed an Amendment to Article XIV of the Missouri Constitution enabling licensed citizens the right to the use, cultivate, manufacture, dispense, test, transport, administer and store Medical Marijuana and Medical Marijuana Infused Products; and

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

WHEREAS, the City of Eureka desires to protect the public health and safety by establishing reasonable regulations on the use, cultivation, manufacturing, dispensing, testing, transportation, administration and storage of Medical Marijuana and Medical Marijuana Infused Products related businesses regarding noise, air quality, neighborhood safety, security, other health and safety concerns, and time, place and manner restrictions on Medical Marijuana facility operations; and

WHEREAS, it is in the best interest of the City of Eureka to amend existing City of Eureka Zoning Ordinances to include applicable ordinances regarding the implementation of regulations consistent with the State Constitution.

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

SECTION 1:

Section 23-12 "*Definitions*" of the Eureka Municipal Code is amended to add the following definitions:

AGRICULTURAL OPERATIONS - Any activity engaged in the commercial production of crops, orchards, livestock, poultry, livestock products, poultry products, and the facilities, equipment, and property used to facilitate the activity, excluding the growing of 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.

CHILDCARE CENTER - A childcare center, whether known or incorporated under another title or name, is a childcare 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 childcare provider for any part of the twenty-four (24) hour day.

CHURCH - At a minimum, a church includes a body of believers or communicants that assembles regularly 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 whether the organization has a distinct legal existence, recognized creed and form of worship, 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 its own, established places of worship, regular congregations and regular religious services.

FARM AND TRUCK GARDEN - An area which is used for the growing of the usual farm products such as vegetables, fruit, trees and grain, and for their parking or storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep and swine, subject to distance limitations from residential property and not including the commercial feeding of garbage or offal to swine or other animals, such as mice, rats, rabbits, etc. The term "farm" also includes dairy farms. The term "Farm and Truck Garden" does not include the growing of 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.

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. Marijuana does 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 State of Missouri to acquire, cultivate, process, store, transport and sell marijuana only to a Medical Marijuana Dispensary Facility, a Medical Marijuana Testing Facility or a Medical Marijuana Infused Products Manufacturing Facility.

MEDICAL MARIJUANA DISPENSARY FACILITY - 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 Products Manufacturing Facility.

MEDICAL MARIJUANA INFUSED PRODUCTS MANUFACTURING FACILITY - A facility licensed by the State of Missouri, to acquire, store, manufacture, transport, and sell marijuana infused products to a Medical Marijuana Dispensary Facility, a Medical Marijuana Test Facility or to another Medical Marijuana Infused Products Manufacturing Facility.

MEDICAL MARIJUANA TESTING FACILITY - A facility certified by the State of Missouri, to acquire, test, certify and transport marijuana.

QUALIFYING PATIENT - A Missouri resident diagnosed with at least one (1) qualifying medical condition.

SCHOOL - Any building which is regularly used as a public, private or parochial elementary and/or secondary school or high school.

SECTION 2:

Section 23-21. "*Special Land Uses and Developments*" of the Eureka Municipal Code is hereby amended to add Subsection (l), which shall read as follows:

- (l) Medical Marijuana Cultivation Facility.

SECTION 3:

Section 23-81. "*Special Uses*" of the Eureka Municipal Code is hereby amended to add Subsection (s), which shall read as follows:

- (s) Medical Marijuana Cultivation Facility.

SECTION 4:

Section 23-83 "*Lot Area, Lot Dimension and Yard Requirements*" of the Eureka Municipal Code is hereby amended to add Subsection (o), which shall read as follows:

- (o) Medical Marijuana Cultivation Facility shall be situated on tracts of land providing at least (10) acres of land area.

SECTION 5:

Section 23-91 "*Special Uses*" of the Eureka Municipal Code is hereby amended to add Subsection (w), (ll) (mm) and (nn) which shall read as follows:

- (w) Plant nurseries and greenhouses, including Medical Marijuana Cultivation Facility.
- (ll) Medical Marijuana Dispensary Facility.
- (mm) Medical Marijuana Infused Products Manufacturing Facility.
- (nn) Medical Marijuana Testing Facility.

SECTION 6:

Chapter 23 of the Eureka Municipal Code is hereby amended to add a new Section 23-96 "*Standards for Medical Marijuana Dispensary Facility*", which shall read as follows:

23-96. Standards for Medical Marijuana Dispensary Facility.

- (a) No building shall be constructed, altered or used for a Medical Marijuana Dispensary Facility without complying with the following regulations in this section.
- (b) No Medical Marijuana Dispensary Facility shall be located within three hundred (300) feet of a then existing elementary or secondary school, childcare center, or church. "Then existing" shall mean any school, childcare center, or church with a written building permit or business license from the City to be constructed, or under construction, or completed and in use at the time the Medical Marijuana Dispensary Facility first applies for either zoning or a building permit, whichever comes first. The distance shall be measured from the nearest portion of the primary structure on a lot used for an elementary or secondary school, childcare center, or church to the nearest portion of any building on the lot used for a Medical Marijuana Dispensary Facility.
- (c) No marijuana may be smoked, ingested, or otherwise consumed on the premises of a Medical Marijuana Dispensary Facility.

- (d) Medical Marijuana Dispensary Facilities shall be secured and closed to the public after operating hours, and no persons not employed by the Medical Marijuana Dispensary Facility may be present in such a facility at any time it is closed to the public.
- (e) The Medical Marijuana Dispensary Facility 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.
- (f) Each application for a Special Use Permit for a Medical Marijuana Dispensary Facility shall comply with all requirements of this Chapter and said application shall include a Detailed Site Plan, Security Plan and Operating Plan. If approved, the Medical Marijuana Dispensary Facility shall be operated in accordance with all conditions of the Special Use Permit, Site Plan, Security Plan and Operating Plan, which shall include a plan for mitigation and control of odors and other environmental impacts which may be emitted from the facility.
- (g) It shall be unlawful to operate a Medical Marijuana Dispensary Facility without possessing a valid business license and Special Use Permit issued by the City of Eureka, and all required authority from the State of Missouri.

SECTION 7:

Section 23-110, "*Permitted Land Uses and Developments*" of the Eureka Municipal Code is hereby amended to add Subsection (q) which shall read as follows:

- (q) Plant nurseries and greenhouses, except a Medical Marijuana Cultivation Facility.

SECTION 8:

Section 233-111 "*Special Uses and Land Developments*" of the Eureka Municipal Code is hereby amended to add new Subsections (s), (t), (u) and (v) which shall read as follows:

- (s) Medical Marijuana Dispensary Facility.
- (t) Medical Marijuana Cultivation Facility.
- (u) Medical Marijuana Infused Products Manufacturing Facility.
- (v) Medical Marijuana Testing Facility.

SECTION 9:

Chapter 23 of the Eureka Municipal Code is hereby amended to add a new Section 23-111.2 "*Standards for All Medical Marijuana Facilities*", which shall read as follows:

23-111.2. Standards for All Medical Marijuana Dispensary Facilities.

- (a) No building shall be constructed, altered or used for any Medical Marijuana Facility allowed in Section 23-111 without complying with the following regulations of this section.
- (b) No Medical Marijuana Facility shall be located within three hundred (300) feet of a then existing elementary or secondary school, childcare center, or church. "Then

existing” shall mean any school, childcare center, or church with a written building permit or business license from the City to be constructed, or under construction, or completed and in use at the time the Medical Marijuana Facility first applies for either zoning or a building permit, whichever comes first. The distance shall be measured from the nearest portion of the primary structure on a lot used for an elementary or secondary school, childcare center, or church to the nearest portion of any building on the lot used for a Medical Marijuana Facility.

- (c) No marijuana may be smoked, ingested, or otherwise consumed on the premises of a Medical Marijuana Facility.
- (d) Medical Marijuana Facilities shall be secured and closed to the public after operating hours, and no persons not employed by the Medical Marijuana Facility may be present in such a facility at any time it is closed to the public.
- (e) The Medical Marijuana Facility License issued by the State of Missouri shall be prominently displayed in a highly visible location.
- (f) Each application for a Special Use Permit for a Medical Marijuana Facility shall comply with all requirements of this Chapter and said application shall include a detailed Site Plan, Security Plan and Operating Plan. If approved, the Medical Marijuana Facility shall be operated in accordance with all conditions of the Special Use Permit, Site Plan, Security Plan and Operating Plan, which shall include a plan for mitigation and control of odors and other environmental impacts which may be emitted from the facility.
- (g) It shall be unlawful to operate a Medical Marijuana Facility without possessing a valid business license and Special Use Permit issued by the City of Eureka, and all required authority from the State of Missouri.

SECTION 10:

Section 233-121 "*Special Uses and Land Developments*" of the Eureka Municipal Code is hereby amended to add new Subsections (n), (o), (p) and (q) which shall read as follows:

- (n) Medical Marijuana Dispensary Facility.
- (o) Medical Marijuana Cultivation Facility.
- (p) Medical Marijuana Infused Products Manufacturing Facility.
- (q) Medical Marijuana Testing Facility.

SECTION 11:

Chapter 23 of the Eureka Municipal Code is hereby amended to add a new Section 23-121.2 "*Standards for All Medical Marijuana Facilities*", which shall read as follows:

23-121.2. Standards for All Medical Marijuana Dispensary Facilities.

- (a) No building shall be constructed, altered or used for any Medical Marijuana Facility allowed in Section 23-111 without complying with the following regulations this section.

- (b) No Medical Marijuana Facility shall be located within three hundred (300) feet of a then existing elementary or secondary school, childcare center, or church. “Then existing” shall mean any school, childcare center, or church with a written Building Permit or Business License from the City to be constructed, or under construction, or completed and in use at the time the Medical Marijuana Facility first applies for either zoning or a building permit, whichever comes first. The distance shall be measured from the nearest portion of the primary structure on a lot used for an elementary or secondary school, childcare center, or church to the nearest portion of any building on the lot used for a Medical Marijuana Facility.
- (c) No marijuana may be smoked, ingested, or otherwise consumed on the premises of a Medical Marijuana Facility.
- (d) Medical Marijuana Facilities shall be secured and closed to the public after operating hours, and no persons not employed by the Medical Marijuana may be present in such a facility at any time it is closed to the public.
- (e) The Medical Marijuana Facility License issued by the State of Missouri shall be displayed prominently in a highly visible location.
- (f) Each application for a Special Use Permit for a Medical Marijuana Facility shall comply with all requirements of this Chapter and said application shall include a detailed Site Plan, Security Plan and Operating Plan. If approved, the Medical Marijuana Facility shall be operated in accordance with all conditions of the Special Use Permit, Site Plan, Security Plan and Operating Plan, which shall include a plan for mitigation and control of odors and other environmental impacts which may be emitted from the Facility.
- (g) It shall be unlawful to operate a Medical Marijuana Facility without possessing a valid business license and Special Use Permit issued by the City of Eureka, and all required authority from the State of Missouri.

SECTION 12:

Section 23-150. *"Specific Requirements by Use"* of the Eureka Municipal Code is hereby amended to add a new use designation, which shall read as follows:

Use of Use Category	Off Street Parking Space(s) Required
Medical Marijuana Dispensary Facility	One (1) per seventy-five (75) square feet of floor area, in addition to one (1) space for each employee onsite during normal business hours as set forth in the Operating Plan.
All other Medical Marijuana Facilities	One (1) per one hundred (100) square feet of floor area.

SECTION 13:

In addition to all other requirements set forth in the Eureka Municipal Code, any storage of Medical Marijuana Facility materials, products, or equipment shall be within a fully secured area inside the building structure or outdoors on the property (with all necessary City approvals) in an area enclosed by a razor wire fence at least ten (10) feet in height, not including any razor wire.

SECTION 14:

It shall be unlawful for any person under the age of eighteen (18) to be in or on any portion of a Medical Marijuana Dispensary Facility, Medical Marijuana Cultivation Facility, Medical Marijuana Infused Products Manufacturing Facility or Medical Marijuana Testing Facility. Each location shall be posted with a clear and legible notice indicating that persons under the age of eighteen (18) are prohibited from entering the facility.

SECTION 15:

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 16:

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

PASSED AND APPROVED on this 6TH day of AUGUST, 2019.

(Original with signature on file)

Sean M. Flower, Mayor

ATTEST:

(Original with signature on file)

Craig E. Sabo, Acting City Clerk