

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE, CHAPTER 14, OF THE INDEPENDENCE CITY CODE PERTAINING TO MARIJUANA FACILITIES.

WHEREAS, the Unified Development Ordinance was approved by the City Council on June 15, 2009, by Ordinance No. 17339 and became effective on July 1, 2009; and,

WHEREAS, after its adoption, policy issues to be addressed were discovered, and it was decided to revise these items; and,

WHEREAS, on November 8, 2022, the voters of Missouri approved recreational marijuana through a constitutional amendment, known as Amendment 3; and,

WHEREAS, after due public notice in the manner prescribed by law, the Planning Commission held a public hearing for the consideration of the request on February 28, 2023, and rendered a report to the City Council recommending the text amendment to the UDO be approved by a vote of 6-0; and,

WHEREAS, after due public notice in the manner prescribed by law, the City Council held a public hearing on April 17, 2023, and rendered a decision to approve the changes to the Unified Development Ordinance; and,

WHEREAS, in accordance with the Unified Development Ordinance, it was determined that the request is consistent with the review criteria in Section 14-701-01-F.

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

SECTION 1. That Section 14-201-01 of Chapter 14, Unified Development Ordinance, are hereby amended:

14-201-01 General terms

Unless otherwise noted, the following words and terms shall apply to this chapter.

ADMINISTER. The direct application of marijuana to a Qualifying Patient by way of any of the following methods:

- i. **Ingestion of capsules, teas, oils, and other marijuana-infused products;**
- ii. **Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;**
- iii. **Application of ointments or balms;**
- iv. **Transdermal patches and suppositories; or**
- v. **Consuming marijuana-infused food products.**

CHURCH. A permanent building primarily and regularly used as a place of religious worship.

COMPREHENSIVE FACILITY. A comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility or a comprehensive marijuana-infused products manufacturing facility.

COMPREHENSIVE MARIJUANA CULTIVATION FACILITY. A facility licensed by the department to acquire, cultivate, process, package, store on site or off site, transport to or from, and sell marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones) to a medical facility, comprehensive facility, or marijuana testing facility. A comprehensive marijuana cultivation facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana. A comprehensive marijuana cultivation facility's authority to process marijuana shall include the creation of prerolls, but shall not include the manufacture of marijuana-infused products.

COMPREHENSIVE MARIJUANA DISPENSARY FACILITY. A facility licensed by the Department to acquire, process, package, store on site or off site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient or primary caregiver, as those terms are defined in section I of Article XIV, or to a consumer, anywhere on the licensed property or to any address as directed by the patient, primary caregiver, or consumer and consistent with the limitations of this Article and as otherwise allowed by law, to a comprehensive facility, a marijuana testing facility, or a medical facility. Comprehensive dispensary facilities may receive transaction orders at the dispensary directly from the consumer in person, by phone, or via the internet including from a third party. A comprehensive marijuana dispensary facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana, but shall collect all appropriate tangible personal property sales tax for each sale, as set forth in this Article and provided for by general or local law. A comprehensive marijuana dispensary facility's authority to process marijuana shall include the creation of prerolls.

COMPREHENSIVE MARIJUANA-INFUSED PRODUCTS MANUFACTURING FACILITY. A facility licensed by the Department to acquire, process, package, store, manufacture, transport to or from a medical facility, comprehensive facility, or marijuana testing facility, and sell marijuana-infused products, prerolls, and infused prerolls to a marijuana dispensary facility, a marijuana testing facility, or another marijuana-infused products manufacturing facility. A comprehensive marijuana-infused products manufacturing facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana.

CONSTITUTION. The Constitution of the State of Missouri.

CONSUMER. A person who is at least twenty-one years of age.

DAYCARE. A child-care facility, as defined by section 215.201, RSMo., or successor provisions, that is licensed by the state of Missouri.

DEPARTMENT. The Department of Health and Senior Services, or its successor agency.

FINE. When used herein shall mean a monetary fine imposed by the Municipal Court for this City.

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 BUSINESS. Any marijuana facility or facility licensed by Department of Health and Senior Services under the authority granted by Article XIV of the Constitution.

MARIJUANA DISPENSARY. Either a Medical Marijuana Dispensary, a Comprehensive Marijuana Dispensary, or a Micro-Business as those terms are defined in Article XIV of the Constitution.

MARIJUANA FACILITY. A medical marijuana facility or a comprehensive facility as that term is defined by Article XIV Section 2 of the Constitution, a microbusiness wholesale facility, microbusiness dispensary facility, or any other type of marijuana related facility or business licensed or certified by the Department pursuant to Section 2 of Article XIV.

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.

MARIJUANA MICROBUSINESS FACILITY. A facility licensed by the Department as a microbusiness dispensary facility or microbusiness wholesale facility, as defined in this section.

MEDICAL MARIJUANA CULTIVATION FACILITY. . A facility licensed by the Department, 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 and shall also mean a Comprehensive Marijuana Cultivation Facility, as that term is defined in Article XIV of the Constitution. A facility licensed by the State of Missouri to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, 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 in this section to a qualifying patient, a primary caregiver, another licensed medical marijuana dispensary facility, a licensed medical marijuana testing facility, or a licensed medical marijuana infused products manufacturing facility.

MEDICAL MARIJUANA FACILITY. A medical marijuana dispensary, medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana transportation facility and medical marijuana infused products manufacturing facility licensed by the State of Missouri.

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 testing facility, or to another medical marijuana-infused products manufacturing facility.

MEDICAL MARIJUANA TESTING FACILITY. A facility certified by the ~~State of Missouri to Department to~~ acquire, test, certify, and transport marijuana, **including those originally certified as a medical marijuana testing facility.**

MEDICAL MARIJUANA TRANSPORTATION FACILITY. A facility certified by the State of Missouri to transport marijuana to a qualifying patient, a primary caregiver, a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a medical marijuana testing facility, or another medical marijuana transportation facility.

MICROBUSINESS DISPENSARY FACILITY. A facility licensed by the department to acquire, process, package, store on site or off site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a consumer, qualifying patient, as that term is defined in section I of this Article XIV of the Constitution, or primary caregiver, as that term is defined in section 1 of this Article XIV of the Constitution, anywhere on the licensed property or to any address as directed by the consumer, qualifying patient, or primary caregiver and, consistent with the limitations of this Article and as otherwise allowed by law, a microbusiness wholesale facility, or a marijuana testing facility. **Microbusiness dispensary facilities may receive transaction orders at the dispensary directly from the consumer in person, by phone, or via the internet, including from a third party. A microbusiness dispensary facility's authority to process marijuana shall include the creation of prerolls.**

MICROBUSINESS WHOLESALE FACILITY. A facility licensed by the Department to acquire, cultivate, process, package, store on site or off site, manufacture, transport to or from, deliver, and sell marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), and marijuana infused products to a microbusiness dispensary facility, other microbusiness wholesale facility, or marijuana testing facility. **A microbusiness wholesale facility may cultivate up to 250 flowering marijuana plants at any given time. A microbusiness wholesale facility's authority to process marijuana shall include the creation of prerolls and infused prerolls.**

PRIMARY CAREGIVER. A person designated as such by the Department.

QUALIFYING PATIENT. A person designated as such by the Department.

THEN EXISTING. 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 a business regulated under this Chapter first applies for either zoning or a building permit, whichever comes first.

SECTION 2. That Section 14-301-03-G, Medical Marijuana Facility, of Chapter 14, Unified Development Ordinance, is hereby amended to read as follows:

14-301-03-G. Use Standards. The "use standards" column of Table 301-1 identifies use-specific standards that apply to some uses. Compliance with such standards is required. Variances to use standards are prohibited.

Table 301-1 Office and Commercial Districts Use Table						
P: Permitted S: Special Use Permit Required C: Conditional Uses —: Not Allowed						
Use Category Specific use type	Zoning District					Use Standards
	O-1	O-2	C-1	C-2	C-3	
COMMERCIAL						
Medical Marijuana Facilities Facility						
<u>Comprehensive marijuana cultivation facility</u>					<u>C</u>	<u>14-421</u>
Medical marijuana cultivation facility	—	—	—	—	C	14-421
Medical marijuana dispensary facility	—	—	—	C	C	14-421
<u>Comprehensive marijuana dispensary facility</u>				<u>C</u>	<u>C</u>	<u>14-421</u>
<u>Microbusiness dispensary</u>				<u>C</u>	<u>C</u>	<u>14-421</u>
<u>Microbusiness wholesale facility</u>				<u>C</u>	<u>C</u>	<u>14-421</u>
Medical marijuana infused products manufacturing facility	—	—	—	—	C	14-421
<u>Comprehensive marijuana infused products manufacturing facility</u>					<u>C</u>	<u>14-421</u>
<u>Medical mMarijuana testing facility</u>	—	—	—	C	C	14-421

SECTION 3. That Section 14-302-03-G, Medical Marijuana Facility, of Chapter 14, Unified Development Ordinance, is hereby amended to read as follows:

14-301-03-G. Use Standards. The "use standards" column of Table 301-1 identifies use-specific standards that apply to some uses. Compliance with such standards is required. Variances to use standards are prohibited.

Table 302-1 Industrial Districts Use Table				
P: Permitted S: Special Use Permit Required C: Conditional Uses —: Not Allowed				
Use Category Specific use type	Zoning District			Use Standards
	B-P/PUD	I-1	I-2	
Medical Marijuana Facility Facilities				
<u>Comprehensive marijuana cultivation facility</u>	<u>—</u>	<u>C</u>	<u>—</u>	<u>14-421</u>
Medical marijuana cultivation facility	—	C	—	14-421
<u>Comprehensive marijuana dispensary facility</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>14-421</u>
Medical marijuana dispensary facility	—	—	—	14-421
<u>Microbusiness dispensary</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>14-421</u>
Medical marijuana infused products manufacturing facility	—	C	—	14-421
<u>Comprehensive marijuana infused products manufacturing facility</u>	<u>—</u>	<u>C</u>	<u>—</u>	<u>14-421</u>
<u>Medical mMarijuana testing facility</u>	C	C	—	14-421

SECTION 4. That a Section 14-421 of Chapter 14, Unified Development Ordinance, is hereby amended to read as follows:

14-421 MEDICAL MARIJUANA FACILITY FACILITIES

14-421-01 Applicability

The standards of this article apply to ~~medical~~ marijuana ~~facilities~~ facility.

14-421-02 Buffer requirements

No ~~medical-marijuana facility~~ Marijuana facility shall be located within 1,000 feet of any then existing elementary or secondary school, day care, or church. In the case of a freestanding marijuana facility ~~facility~~, the distance between the facility and the school, day care, or church shall be measured from the external wall of the facility structure closest in proximity to the school, day care, or church to the closest point of the property line of the school, day care, or church. If the school, day care, or church is part of a larger structure, such as an office building or strip mall, the distance shall be measured to the entrance or exit of the school, day care, or church closest in proximity to the facility. **In the case of a facility 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, daycare, or church.** Measurements shall be made along the shortest path between the demarcation points that can be lawfully traveled by foot.

The City Council may reduce this distance by resolution if an applicant shows good cause for the same. The determination of what constitutes good cause shall be the sole discretion of the City Council.

14-421-03 Storage and Security

A. All storage of medical marijuana materials, products, or equipment shall be in accordance with the rules **as amended and** promulgated by the Missouri Department of Health and Senior Services **and any successor agency.**

B. **Marijuana Dispensaries may operate an offsite storage facility for storage of products and inventory. A single offsite storage facility may only be used by a single entity licensed as a marijuana dispensary. An offsite storage facility shall not be open to the public. An offsite storage facility shall comply with the same requirements of a dispensary in regard to location, security, and odor control.**

C. **For marijuana-infused products manufacturing facilities, marijuana cultivation and testing facilities, 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 on the area in an area enclosed by a fence with razor wire at least ten (10) feet) in height, not including the razor wire or other such alternative security measures approved by the City Council.**

D. **A marijuana dispensary shall provide adequate security on the premises of the marijuana dispensary including, but not limited to the following:**

a. Security surveillance cameras installed to monitor the main entrance along with the interior and exterior of the premises to discourage and to facilitate the reporting of criminal acts and nuisance activities occurring at the premises. Security videos shall be preserved for at least 72 hours by the permittee;

b. Alarm systems which are professionally monitored and maintained in good working conditions;

c. A locking safe permanently affixed to the premises, or locked storage room, that is suitable for storage of all of the saleable inventory of marijuana if marijuana is to be stored overnight on the premises; and

d. Exterior lighting that illuminates the exterior walls of the business and is compliant with City Code.

14-421-04 Onsite usage prohibited

No marijuana may be smoked, ingested, or otherwise consumed on the premises of a **medical** marijuana dispensary, **a marijuana-infused products manufacturing facility, and marijuana cultivation and testing facilities.**

14-421-05 Hours of operation

All **medical** marijuana dispensaries shall be closed to the public, no persons not employed by the business shall be on the premises, and no sales or distribution of marijuana shall occur upon the premises or by delivery from the premises between the hours of 10:00 p.m. and 8:00 a.m.

14-421-06 Display of licenses required

~~The **medical** marijuana license issued by the State of Missouri shall be displayed in an open and conspicuous place on the premises at all times in accordance with State of Missouri requirements.~~
Any applicable marijuana license issued by the State of Missouri shall be displayed in an open and conspicuous place on the premises at all times in accordance with the State of Missouri's requirements.

14-421-07 Residential dwelling units prohibited

No **medical** marijuana dispensary shall be located in a building that contains a residence.

14-421-08 Ventilation required

All **medical** marijuana facilities shall install and operate a ventilation system that will prevent any odor of marijuana from leaving the premises of the business. No odors shall be detectable by a person with a normal sense of smell outside the boundary of the parcel on which the facility is located.

14-421-09 Business license

A **medical** marijuana facility shall be required to have a City business license as required in Chapter 5 of the City Code.

14-421-10 Conformance with State of Missouri Rules

All **medical** marijuana facilities shall be operated in accordance with the rules from the State of Missouri Department of Health and Senior Services.

14-421-11 Minimum Age Requirements

No person under the age of twenty-one who is not a qualifying patient shall be allowed into a comprehensive marijuana dispensary facility. No person under the age of twenty-one shall be allowed into any microbusiness dispensary. No person under the age of eighteen years old shall be allowed into a medical marijuana dispensary. The foregoing notwithstanding, a comprehensive marijuana dispensary, or micro-business, may do so if such qualifying patient is accompanied by a parent or guardian or such qualifying patient has been emancipated and shows proof of emancipation.

14-421-12 Permanent and Fixed Locations

Each marijuana dispensary shall be operated from a permanent and fixed location. No marijuana dispensary shall be permitted to operate from a moveable, mobile, or transitory location. This subsection shall not prevent the physical delivery of marijuana to a customer, patient or the patient’s primary caregiver at a location off of the premises of the permittee’s marijuana dispensary, to the extent so allowed by law, if:

A. The marijuana was lawfully purchased;

B. The marijuana was delivered by the permittee or an employee of the permittee;

C. The marijuana is delivered only by the use of a motor vehicle, bicycle, or other lawful means of transportation; marijuana may not be delivered by drone or any remotely operated vehicle, or by any self-navigating vehicle unless a human occupies such self-navigating vehicle.

14-421-13 Marijuana Paraphernalia

Paraphernalia designated or intended for use in consuming marijuana may be sold at a marijuana dispensary.

14-421-14 Disposal of Medical Marijuana

No person shall dispose of marijuana or marijuana-infused products in an unsecured waste receptacle not in possession and control of the licensee and designated to prohibit unauthorized access.

SECTION 5. That all other parts and provisions of the City Code shall be in full force and effect unless previously or subsequently amended or repealed.

SECTION 6. That correction of any scrivener’s errors identified within these articles are hereby authorized by this ordinance.

PASSED THIS _____ DAY OF _____, 2023, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

City Clerk

APPROVED - FORM AND LEGALITY:

City Counselor

REVIEWED BY:

City Manager

NOTE: Words struck through are being removed by this ordinance and words underscored and bolded are being added by this ordinance.