

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 5 OF THE CITY CODE, “BUSINESS AND OCCUPATION LICENSES”.

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

WHEREAS, the City seeks to amend the business license regulations to align the City’s business licensing code with recent changes associated with Constitution Amendment 3.

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

SECTION 1. That Section 5.01.002 of the City Code is hereby amended as follows:

**Sec. 5.01.002. Definitions.**

A. For the purposes of this chapter:

**ADMINISTER means 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.**

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

**COMPREHENSIVE MARIJUANA CULTIVATION FACILITY means 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 means 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 means 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 shall mean the Constitution of the State of Missouri.

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

DEPARTMENT means 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 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 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 means 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 means 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 means 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 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.

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

**MEDICAL MARIJUANA CULTIVATION FACILITY** means 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. ~~means 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** 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 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 INFUSED PRODUCTS MANUFACTURING FACILITY** means a facility licensed by the ~~State of Missouri~~ **Department** 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** means a facility certified by the ~~State of Missouri-Department~~ to acquire, test, certify, and transport marijuana, including those originally certified as a medical marijuana testing facility including those originally certified as a medical marijuana testing facility.

**MICROBUSINESS DISPENSARY FACILITY** means 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 I 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** means 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** means a person designated as such by the Department.

**QUALIFYING PATIENT means a person designated as such by the Department.**

SECTION 2. That Section 5.01.009 of the City Code is hereby amended as follows:

**Sec. 5.01.009. ~~Medical marijuana~~ Marijuana business licensing**

- A. ~~It shall be unlawful for any person to engage in any business, profession or occupation in a medical marijuana facility within the City without the appropriate license issued by the State of Missouri and a license issued by the City under this chapter. Marijuana businesses shall be required to have a city license as required in Chapter 5.~~
- B. Premises Requirements. No license shall be granted or retained under this chapter for a ~~medical marijuana facility~~ marijuana business if the applicant has not submitted and maintained a security plan, operation and management plan, and emergency response plan in accordance with this chapter.
1. *Security Plan.* A written security plan shall be submitted with the business license application for the ~~medical marijuana facility~~ marijuana business. The plan shall detail security measures for the site and the transportation of ~~medical~~ marijuana and ~~medical~~ marijuana products to and from off-site premises to ensure the safety of employee and the public and to protect the property from theft or other criminal activity. Each facility shall comply with the security requirements established by the State of Missouri and include, but not limited to, the following elements in the security plan:
    - a. *Cameras.* The ~~medical~~ marijuana business facility shall install and use security cameras to monitor and record all areas of the premises, except in restrooms and consultation rooms while a patient is undressed. Such security cameras shall specifically include all areas where a person may gain or attempt to gain access to marijuana or cash maintained by the ~~medical~~ marijuana business facility. Cameras shall be of sufficient resolution to record operations of the marijuana business to an off-site location and shall also include any parking lots or areas near the ~~facility~~ marijuana business and all potential areas of ingress or egress to the marijuana business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of 40 days in a secure off-site location in the City or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The off-site location shall be identified in the security plan submitted to the City and access to recordings maintained must be provided to the Independence Police Department upon request. Any change in location of the off-site location shall be updated within 72 hours of any such change.
    - b. *Use of Safe for Storage.* The ~~medical~~ marijuana business facility shall install and use a secure safe for storage of all processed marijuana and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto. For marijuana-infused products or marijuana being tested in a testing facility that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the City in place of use of a safe, so long as the container is affixed to the building structure and secure from intrusion.

- c. *Alarm System.* The ~~medical~~ marijuana business facility shall install and use an alarm system that is monitored by a company that is staffed 24 hours a day, seven days a week. The security plan submitted to the City shall identify the company monitoring the alarm, including contact information, and must be updated within 72 hours of any change of monitoring company. If the alarm system includes a panic alarm, an operable dedicated phone for law enforcement to respond to the alarm shall remain on the premises at all times.
    - d. *Lighting System.* The ~~medical~~ marijuana business facility shall have sufficient exterior lighting for security purposes and shall otherwise comply with applicable city code requirements.
  2. *Operation and Management Plan.* A written operation and management plan shall be submitted with the business license application for the ~~medical~~ marijuana business facility. The operation and management plan shall include, but not be limited to, the following elements: organizational structure, location, property description, proof that facilities are wheelchair accessible, proof that facilities comply with the Americans with Disabilities Act, hours of operation and staffing, description of proposed operations, list of any hazardous materials used as part of its operations, distribution practices, employee safety procedures and guidelines, fire mitigation and prevention systems in compliance with the International Fire Code as adopted by the City of Independence, sanitation requirements and waste management processes, ventilation system and air quality controls showing how odor emission will not be detectable off the premises, and proposed water system and utility demand. The operation and management plan must also meet the minimum facility standards established by the State of Missouri and comply with the City Code.
  3. *Emergency Response Plan.* A written emergency response plan shall be submitted with the business license application for the ~~medical~~ marijuana business facility. The plan shall identify emergency plans and contingency plans that would be executed in the event of an emergency arising from the site's usage as a ~~medical~~ marijuana business facility. The emergency response plan must meet any minimum standards established by the State of Missouri and comply with the City Code.
- C. Application. Any person desiring a license to operate a ~~medical~~ marijuana business facility shall submit an application for issuance or renewal of such license to License Officer. The application shall include the following:
  1. Written statements upon forms provided by the License Officer as necessary to determine:
    - a. The gross receipts, gross business activity or gross commission of the applicant.
    - b. Every business that permits members of the public on its business premises or that performs services on premises other than its own business premise, shall certify that the business has a minimum of \$500,000.00 of general liability insurance for bodily injury and property damage per occurrence.
    - ~~c. Any conviction of, or plea of guilty to, a felony or previous record of suspension or revocation of an occupation license in any jurisdiction.~~

- d. That an applicant has sworn to the truthfulness and accuracy of the information provided on all forms and will abide by the provisions of this chapter. The applicant must provide positive identification as the person applying for such license.
  - e. The location, place, or premises for which a license is sought.
  - f. The type of license for which the application is made.
  - ~~g. Whether or not the applicant has had a license for medical marijuana activities suspended or revoked, or has been convicted of the violation of any local, state, or federal law applicable to medical marijuana activities, or whether the applicant employs, or will employ in the business, any person not of good moral character, or whose license has been revoked or suspended, or who has been convicted of violating the provisions of any local, state, or federal law applicable to the medical marijuana activities.~~
2. The application shall be accompanied by a complete security plan, operation and management plan, and emergency plan.
  3. The application shall be accompanied by proof of a valid and current license or certificate issued by the DHSS for each medical marijuana facility type for which a license is sought.
  4. The full amount of the fees chargeable for such license.

SECTION 3. 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 4. 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

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City Manager

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