

ORDINANCE NO. _____

AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE CODE OF ORDINANCES REGARDING ZONING TO CONFORM WITH ARTICLE XIV OF THE MISSOURI CONSTITUTION.

WHEREAS, proposed amendments to Sections 400.030, 400.180.A.5, 400.210.A.9, 400.300, of the Code of Ordinances regarding regulation of marijuana facilities in accordance with Article XIV of the Missouri Constitution was submitted by City staff to the Planning and Zoning Commission for consideration; and

WHEREAS, after due public notice in the manner prescribed by law, the Planning and Zoning Commission held a public hearing regarding the proposed amendments on _____, 2023, and rendered a report to the City Council recommending that the proposed amendments be approved; and

WHEREAS, the City Council desires to approve the proposed amendments to Sections 400.030, 400.180.A.5, 400.210.A.9, 400.300, of the Gladstone City Code.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Excelsior Springs, Missouri, as follows:

Section 1. That Section 400.030 Definitions is hereby amended with additions in bold underline and deletions in strikethrough notation as follows, all other terms and definitions remain unchanged:

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 (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 or off site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (clones), marijuana-infused products, and drug paraphernalia used to administer marijuana as allowed by applicable law to a qualifying patient or primary caregiver, as defined by law, 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 applicable laws 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 Article XIV of the Missouri Constitution 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.

Cultivation

As related to activity authorized pursuant to Article XIV, ~~Section 1~~ of the Missouri Constitution and all rules and regulations issued by the Missouri Department of Health and Senior Services, the process by which a person, business or legal entity promotes the germination and growth of a seed to a mature marijuana plant.

Infused preroll

A consumable or smokable marijuana product, generally consisting of: (1) a wrap or paper, (2) dried flower, buds, and/or plant material, and (3) a concentrate, oil or other type of marijuana extract, either within or on the surface of the product. Infused prerolls may or may not include a filter or crutch at the base of the product.

Manufacturer

Every person, partnership, firm, corporation, association, limited liability company, or other legal entity engaged in cultivation, treating, processing, refining, improving, combining, fabricating, assembling or otherwise adding to the utility value, or appearance of commodities and other personal property, whether done on order of for sale upon expected or anticipated demand or orders for the manufactured goods. **Comprehensive and** Medical marijuana cultivation facilities and **comprehensive and** medical marijuana infused products manufacturing facilities are manufacturers.

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, as defined by Missouri statute, or commodities or products manufactured from industrial hemp.

Marijuana Facility

A comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility, marijuana testing facility, comprehensive marijuana-infused products facility, microbusiness wholesale facility, microbusiness dispensary facility, or any other type of marijuana-related facility or business licensed or certified by the department, but shall not include a licensed medical facility.

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, **dipped, coated, sprayed, or mixed with marijuana or an extract thereof, including, but not limited to, products that are able to be vaporized or smoked, edible products, ingestible products, topical products, suppositories, and infused prerolls.**

Marijuana Microbusiness Facility

A facility licensed by the department as a microbusiness dispensary facility or microbusiness wholesale facility, as defined by law.

Marijuana Testing Facility

A facility certified by the department to acquire, test, certify, and transport marijuana, including those originally certified as a medical marijuana testing facility.

Medical Facility

Any medical marijuana cultivation facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility, as defined in this section.

Medical marijuana cultivation facility

A facility licensed by the **department** ~~State of Missouri~~ to acquire, cultivate, process, **package, store on site or off site,** transport **to or from,** and sell marijuana, **marijuana seeds, and marijuana vegetative cuttings (also known as clones)** to a medical marijuana dispensary facility, medical marijuana testing facility, **medical marijuana cultivation facility,** or to a medical marijuana-infused products manufacturing facility. **A medical marijuana cultivation facility's authority to process marijuana shall include the production and sale of prerolls, but shall not include the manufacture of marijuana-infused products.**

Medical marijuana dispensary facility

A facility licensed by the State of Missouri ~~department~~ **department** to acquire, cultivate, **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, a primary caregiver, anywhere on the licensed property or to any address as directed by the patient or primary caregiver, so long as the address is a location allowing for the legal possession of marijuana,** another medical marijuana dispensary facility, a ~~medical~~ marijuana testing facility, **a medical marijuana cultivation facility,** or a medical marijuana-infused products manufacturing facility. **Dispensary facilities may receive transaction orders at the dispensary in person, by phone, or via the internet, including from a third party. A medical marijuana dispensary facility's authority to process marijuana shall include the production and sale of prerolls, but shall not include the manufacture of marijuana-infused products.**

Medical marijuana-infused products manufacturing facility

A facility licensed by the department, to acquire, process, package, store on site or off site, manufacture, transport to or from, and sell marijuana-infused products to a medical marijuana dispensary facility, a marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

Marijuana testing facility

A facility certified by the department, to acquire, test, certify, and transport marijuana, including those originally licensed as a medical marijuana testing facility.

Microbusiness Dispensary Facility

A facility licensed by the department to acquire, process, package, store on or off site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (clones), marijuana infused products, and drug paraphernalia used to administer marijuana as allowed by law to a qualifying patient or primary caregiver, as defined by law, or to a consumer, anywhere on the licensed property or to any address as directed by the qualifying patient, primary caregiver, or consumer and consistent with the limitations of Article XIV of the Missouri Constitution 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 marijuana 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 (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.

Preroll

A consumable or smokable marijuana product, generally consisting of: (1) a wrap or paper and (2) dried flower, buds, and/or plant material. Prerolls may or may not include a filter or crutch at the base of the product.

Transportation Facility

A facility certified by the department to house operations involving the transport of marijuana product to or from a marijuana facility or medical facility; or to a qualifying patient, primary caregiver, or consumer.

Section 2. That Section 400.180.A.5 of District “C-2” – General Business District is hereby amended to read as follows, with additions in bold underline and deletions in strikethrough notation.

5. Medical Marijuana Dispensaries, **Microbusiness dispensary facilities, Comprehensive marijuana dispensary facilities,** subject to the further requirements and restrictions of Section 400.300.

Section 3. That Section 400.210.A.9 of District “M-1” – Light Industrial District is hereby amended to read as follows, with additions in bold underline and deletions in strikethrough notation.

9. ~~Medical marijuana dispensaries, medical marijuana testing facilities, medical marijuana transportation facilities, medical marijuana infused products manufacturing facilities, and medical marijuana cultivation facilities,~~ **Medical facilities and marijuana facilities as defined in Section 400.030,** subject to the further requirements and restrictions of Section 400.300.

Section 4. That Section 400.300 Medical Marijuana Facilities is hereby amended to read as follows, with additions in bold underline and deletions in strikethrough notation.

Section 400.300. Medical **Facilities and** Marijuana Facilities.

A. Purpose And Intent.

1. Medical **facilities and** marijuana facilities are hereby acknowledged to be lawful under Article XVI, ~~Section 4~~ of the Missouri Constitution and to have special characteristics and impacts upon their surroundings, and upon the use and enjoyment of adjacent properties.
2. It is the purpose and intent of these regulations to provide for the location of medical **facilities and** marijuana facilities in the areas within which the special characteristics and impacts are judged to be compatible with other permitted uses and be the least

disruptive to the use and enjoyment of adjacent properties and neighborhoods.

3. These regulations are further intended to require that medical **facilities and** marijuana facilities shall not be permitted to locate in such concentration that their operational features may establish the dominant character of any commercial area or to be a blighting influence on the surrounding neighborhood(s).
 4. The special regulation of medical **facilities and** marijuana facilities is deemed to be necessary to ensure that the special characteristics and impacts of such uses will not contribute to the blighting or degradation of surrounding neighborhoods, whether residential or non-residential by location or concentration and to ensure the stability of such neighborhoods.
 5. These regulations are further intended to protect and balance the lawful rights to produce and dispense medical marijuana with the lawful rights to the enjoyment and use of property.
 6. These regulations are necessary to protect the health, safety, morals and general welfare of the residents of the City of Excelsior Springs, Missouri.
- B. Definitions. The words and phrases when used in this Section shall have the meaning set out under Article XVI, ~~Section 4~~ of the Missouri Constitution and the Regulations of the Missouri Department of Health and Senior Services.
- C. General Requirements.
1. All medical **facilities and** marijuana facilities shall comply with all provisions of the Excelsior Springs Municipal Code; including International Building, Electrical, Gas, Plumbing and Fire Codes as adopted and amended by the City.
 2. All medical **facilities and** marijuana facilities shall comply with the requirements of the Zoning District in which the facility is located.
 3. All medical **facilities and** marijuana facilities shall be properly licensed by the Missouri Department of Health and Senior Services and shall comply with all regulations and orders of the Department at all times.
- D. Conditions.
1. A Medical Marijuana Dispensary Facility, **Microbusiness dispensary facility, Comprehensive dispensary facility,** shall be located only in a "C-2" General Business District, "C-3" Service Business District, or "M-1" Light Industrial District. ~~Medical Marijuana Testing Facilities, Transportation Facilities, Infused Products Manufacturing Facilities and Cultivation Facilities shall be located only in the "M-1" Light Industrial and "M-2" General Industrial Districts.~~
 2. No **new** medical **facility or** marijuana facility shall be permitted to locate within one thousand (1,000) feet of any **then-existing elementary or secondary school, child**

~~**daycare center, or church.** religious institution, school, or licensed day care or youth facility. In the case of a freestanding facility, the distance between the facility and any religious institution, school, or licensed day care or youth facility shall be measured from the external wall of the facility structure closest in proximity to the religious institution, school, or licensed day care or youth facility to the closest point of the property line of the religious institution, school, or licensed day care or youth facility. If the religious institution, school, or licensed day care or youth facility school, day care 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 religious institution, school, or licensed day care or youth facility closest in proximity to the facility.~~

~~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 religious institution, school, or licensed day care or youth facility shall be measured from the property line of the religious institution, school, or licensed day care or youth facility to the facility's entrance or exit closest in proximity to the religious institution, school, or licensed day care or youth facility. If the religious institution, school, or licensed day care or youth facility 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 religious institution, school, or licensed day care or youth facility closest in proximity to the facility.~~

~~**In the case of a freestanding 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. If the school, daycare, 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, daycare, or church closest in proximity to the facility. 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, daycare, or church. If the school, daycare, 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, daycare, or church closest in proximity to the facility.**~~

Measurements shall be made along the shortest path between the demarcation points that can be lawfully traveled by foot.

3. No medical **facility or** marijuana facility shall be permitted to locate within one hundred (100) feet of any single-family residential zoning district. Such distance shall be measured in a straight line without regard to intervening properties from the closest exterior structural wall of the medical marijuana facility to the closest property line of the single-family residential zoning district.
4. No medical **facility or** marijuana facility shall be permitted to locate within one thousand (1,000) feet of another lawfully existing medical **facility or** marijuana

facility. Such distance shall be measured in a straight line without regard to intervening properties from the closest exterior structural wall of the medical **facility or** marijuana facility to the closest property line of the other medical **facility or** marijuana facility.

5. No medical **facility or** marijuana facility shall be permitted to locate in a building that contains a residential dwelling.
6. ~~Medical m~~**Marijuana** dispensaries are prohibited from having drive-through services.
7. ~~Medical m~~**Marijuana** dispensaries may operate only between the hours of 8:00 a.m. and 9:00 p.m., Monday through Sunday.
8. A ~~m~~**Medical marijuana facilities and** marijuana **facilities** shall not operate so as to emit an offensive, noxious, unhealthy or disagreeable odor, or release any substance emitting an offensive, noxious, unhealthy or disagreeable effluvium in the neighborhood where it exists.
9. Liquid waste and wastewater generated during ~~medical~~ marijuana production and processing shall not be discharged into the Excelsior Springs sanitary sewer system.
10. Solid waste generated during ~~medical~~ marijuana production and processing shall be stored and disposed of in accordance with Sections **245.030** through **245.080** of the Excelsior Springs Municipal Code and the regulations of the Department. Solid waste shall not be disposed of in solid waste containers provided by the City.
11. No production, dispensing or use of ~~medical~~ marijuana shall take place outside of the establishment either wholly or partially.
12. ~~The medical~~Medical facilities and marijuana **facilities** ~~facility~~ shall be limited to one (1) wall-mounted sign no greater than one (1) square foot of sign per linear foot of wall length, not to exceed a total of fifty (50) square feet; said sign shall not flash, blink, or move by mechanical means, and shall not extend above the roof line of the building.
13. No merchandise or pictures of products may be displayed in any area where it may be viewed from outside of the establishment.
14. Each application for a business license for a medical **facility or** marijuana facility in accordance with Section **605.010** shall include a site plan. The site plan shall be drawn at a scale of one (1) inch equals fifty (50) feet or larger and shall include, as a minimum, the following information:
 - a. The site plan shall delineate the property lines of the proposed project, and shall indicate the Zoning District classification and present use of the proposed project site and for abutting properties.
 - b. The site plan shall delineate existing rights-of-way and easements.
 - c. The site plan shall delineate the general location and width of all existing streets

and public rights-of-way and easements.

- d. The site plan shall delineate the proposed building layout with the required setbacks and exclusions as required in Subsections **(D)(2)**, **(3)**, **(4)** and **(5)** above.
- e. The site plan shall delineate the location and number of parking spaces required in the District in which the facility is located.
- f. The site plan shall indicate the signage in accordance with Subsection **(D)(12)** above.
- g. The site plan shall show that the measurements from the building to surrounding structures and property lines comply with this Section.

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

INTRODUCED IN WRITING, read by title two times, passed and approved this _____ day of _____, 2023.

Mark Spohn, Mayor

ATTEST:

Shannon Stroud, City Clerk

REVIEWED BY:

Molly McGovern, City Manager