

AN ORDINANCE OF THE CITY OF WILDWOOD, MISSOURI, AMENDING SECTIONS OF CHAPTER 415 OF THE CODE OF ORDINANCES OF THE CITY OF WILDWOOD, MISSOURI; PROVIDING FOR MARIJUANA LAND USE REGULATIONS.

WHEREAS, on November 8, 2022, Missouri voters approved Constitutional Amendment Three, codified at Article XIV of the Missouri Constitution (“Article XIV”); and

WHEREAS, Amendment Three amended various provisions of Article XIV, Section 1 relating to the right to access medical marijuana; and

WHEREAS, Amendment Three’s passage enacted Article XIV, Section 2, which provides for the legalization of the purchase and possession of certain amounts of marijuana for non-medical use in the State of Missouri; and

WHEREAS, Article XIV preserves local authority to regulate the location of medical and non-medical marijuana facilities; and

WHEREAS, the City Council and the Planning and Zoning Commission held public hearings on the proposed amendments to the City’s zoning regulations; and

WHEREAS, at those public hearings interested persons and residents were given an opportunity to be heard on the proposed amendments to the City’s zoning regulations; and

WHEREAS, the City Council hereby finds and determines that it is to the benefit of the health, safety, and general welfare of the residents of the City to include medical and non-medical marijuana facilities within the City’s zoning regulations.

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

Section One. That Section 415.030 of the Code of Ordinances of the City of Wildwood, Missouri, be and hereby is amended by deleting the definitions of “Marijuana,” “Marijuana-Infused Products,” “Medical Marijuana Cultivation Facility,” “Medical Marijuana Dispensary Facility,” “Medical Marijuana Facility,” “Medical Marijuana-Infused Products Manufacturing Facility,” and “Medical Marijuana Testing Facility” in their entirety and enacting, in lieu thereof, new definitions of “Marijuana,” “Marijuana-Infused Products,” “Medical Marijuana Cultivation Facility,” “Medical Marijuana Dispensary Facility,” “Medical Marijuana Facility,” “Medical Marijuana-Infused Products Manufacturing Facility,” and “Marijuana Testing Facility” to read as follows:

MARIJUANA

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 marijuana plant and marijuana-infused products. Marijuana does not include industrial hemp containing, or commodities or products manufactured from industrial hemp.

MARIJUANA-INFUSED PRODUCTS

Products that are infused, 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 pre-rolls.

MEDICAL MARIJUANA CULTIVATION FACILITY

A facility licensed by DHSS 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, 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 DHSS 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 pursuant to the terms of the Code of Ordinances of the City of Wildwood and Article XIV, Section 1 of the Missouri Constitution, to a qualifying patient, a primary caregiver, anywhere on the licensed property or to any address 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, or a medical marijuana-infused products manufacturing facility. These 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 FACILITY

A medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, and marijuana testing facility.

MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING FACILITY

A facility licensed by DHSS 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, a medical marijuana cultivation facility, or to another medical marijuana-infused products manufacturing facility.

MARIJUANA TESTING FACILITY

A facility certified by DHSS to acquire, test, certify, and transport marijuana.

Section Two. That Section 415.030 of the Code of Ordinances of the City of Wildwood, Missouri, be and hereby is amended by enacting new definitions, to read as follows:

ADMINISTER

The direct application of marijuana by any one of the following methods:

1. Ingestion of capsules, teas, oils, and other marijuana-infused products;
2. Vaporization or smoking of dried flowers, buds, plant material, extracts, oils, and other marijuana-infused products;
3. Application of ointments or balms;
4. Transdermal patches and suppositories;
5. Consuming marijuana-infused food products; or
6. Any other method recommended by a qualifying patient's physician or nurse practitioner.

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 DHSS 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 marijuana 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 DHSS 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 in Article XIV, Sections 1 and 2 of the Missouri Constitution to a consumer, qualifying patient, or primary caregiver, as those terms are defined in this Section, anywhere on the licensed property or to any address as directed by the patient, primary caregiver, or consumer and consistent with the limitations in Article XIV, Sections 1 and 2 of the Missouri Constitution and this Section and otherwise allowed by law, to a comprehensive facility, a marijuana testing facility, or a medical marijuana facility. Comprehensive dispensary facilities may receive transaction orders at the dispensary facility 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 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 DHSS 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.

CONSUMER

For purposes of marijuana regulations, a person who is at least twenty-one years of age.

CONSUMER CULTIVATION IDENTIFICATION CARD

An identification card authorized pursuant to Article XIV, Section 2, of the Missouri Constitution, issued by DHSS, allowing the holder to cultivate non-medical marijuana in amounts and in secure manners only to the extent authorized by applicable law.

CULTIVATION

As related to activity authorized pursuant to Article XIV, Sections 1 and 2, as applicable, of the Missouri Constitution and all rules and regulations issued by DHSS, the process by which a person, business or legal entity promotes the germination and growth of a seed to a mature marijuana plant.

DHSS

The Missouri Department of Health and Senior Services.

INDUSTRIAL HEMP

Shall have the same meaning as set forth in Section 195.010, RSMo., as amended.

MARIJUANA FACILITY

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

MICROBUSINESS DISPENSARY FACILITY

A facility licensed by DHSS 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 pursuant to the terms of Article XIV, Sections 1 and 2 of the Missouri Constitution to a consumer, qualifying patient, or primary caregiver, as those terms are defined in this Section, anywhere on the licensed property or to any address directed by the consumer, qualifying patient, or primary caregiver and, consistent with the limitations of Article XIV, Sections 1 and 2 and this Section 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 DHSS 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 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 base at the product.

QUALIFYING PATIENT CULTIVATION IDENTIFICATION CARD

An identification card, authorized by Article XIV, Section 1 of the Missouri Constitution, issued DHSS allowing the holder to cultivate medical marijuana in amounts and in secure manners only to the extent authorized by applicable law.

Section Three. That Subparagraphs 21, 22, 23, and 24 of Subsection (C) of Section 415.200 of the Code of Ordinances of the City of Wildwood, Missouri, be and hereby are amended by deleting Subparagraphs 21, 22, 23, and 24 of Subsection (C) of Section 415.200 and enacting, in lieu thereof, new Subparagraphs 21, 22, 23 and 24 of Subsection (C) of Section 415.200 to read as follows:

Section 415.200 "M-1" Industrial District Regulations

...

C. Conditional Land Use And Development Permits Issued By The Commission. The following land uses and developments may be permitted under conditions and requirements specified in Section 415.500, Conditional Use Permit Procedure:

...

21. Medical marijuana facility.
22. Marijuana facility.
23. (Reserved).
24. (Reserved).

Section Four. That Subparagraphs 5, 6, 7 and 8 of Subsection (E) of Section 415.210 of the Code of Ordinances of the City of Wildwood, Missouri, be and hereby are amended by deleting Subparagraphs 5, 6, 7, and 8 of Subsection (E) of Section 415.210 and enacting, in lieu thereof, new Subparagraphs 5, 6, 7, and 8 of Subsection (E) of Section 415.210 to read as follows:

Section 415.210 "M-3" Planned Industrial District.

E. Conditional Land Use And Development Permits Issued By The Commission. The following land uses and developments may be permitted under conditions and requirements specified in Section 415.500, Conditional Use Permit Procedure:

...

5. Medical marijuana facility.
6. Marijuana facility.
7. (Reserved).
8. (Reserved).

Section Five. That Section 415.610 of the Code of Ordinances of the City of Wildwood, Missouri, be and hereby is amended by deleting Section 415.610 in its entirety and enacting, in lieu thereof, a new Section 415.610 to read as follows:

Section 415.610. Supplementary Regulations of Medical Marijuana Facilities and Marijuana Facilities.

A. Definition. For purposes of this Section 415.610, the following terms shall have the meanings set forth herein:

1. "Then-Existing" shall mean any building that is occupied by, or for which a building permit has been issued and which will be used as, an elementary or secondary school, child day-care center, or church at the time an individual or entity applies for a conditional use permit to operate a medical marijuana facility or marijuana facility.
2. "Child Day-Care Center" means a child-care facility, as defined by Section 210.201, RSMo., as amended, that is licensed by the State of Missouri.
3. "Elementary or secondary school" means a public school as defined by Section 160.011, RSMo., as amended, or any private school giving instruction in a grade or grades not higher than twelfth (12th) grade, including any property owned by the public or private school that is regularly used for extracurricular activities, but does not include any private school in which education is primarily conducted in private homes.
4. "Church" means a permanent building primarily and regularly used as a place of religious worship.
5. "Facility" or "Facilities" means a marijuana facility or medical marijuana facility, as applicable.

Any terms used in this Section but not defined herein or elsewhere in the Code of Ordinances of the City of Wildwood shall have the meaning provided in the applicable state statutes, constitutional provisions, or regulations, as amended.

B. Siting. No Facility shall be initially sited within one thousand (1,000) feet of any then-existing elementary or secondary school, child day-care center, or church.

1. In the case of a freestanding Facility, the distance between the Facility and the elementary or secondary school, child day-care center, or church shall be

measured from the external wall of the Facility structure closest in proximity to the elementary or secondary school, child day-care center, or church to the closest point of the property line of the elementary or secondary school, child day-care center, or church. If the elementary or secondary school, child day-care center, 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 from the elementary or secondary school, child day-care center, or church closest in proximity to the Facility.

2. 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 elementary or secondary school, child day-care center, or church shall be measured from the property line of the elementary or secondary school, child day-care center, or church to the Facility's entrance or exit closest in proximity to the elementary or secondary school, child day-care center, or church. If the elementary or secondary school, child day-care center, 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 elementary or secondary school, child day-care center, or church closest in proximity to the Facility.

3. Measurements shall be made along the shortest path between the demarcation points that can be traveled by foot. Any application for a conditional use permit for a medical marijuana facility or marijuana facility shall include as part of the application a sealed statement of a Missouri licensed professional engineer or land surveyor that the siting requirements of this subsection B are satisfied as of a date certain but no greater than thirty days prior to submission of the application for the conditional use permit.

C. Outdoor Operations or Storage. No Facility may store, cultivate, or display marijuana or marijuana-infused products outside of an enclosed building.

D. All applications for a conditional use permit for a Facility shall include, in addition to any material required by this Code and by law, an odor control plan at least as stringent as that required by 19 CSR 100.1.160, 19 CSR 100.1.170 or such other applicable state regulations, and a security plan for security systems, equipment, and procedures as least as stringent as that required by 19 CSR 100-1.090 or such other applicable state regulations. Implementation and maintenance of such odor control and security systems shall be a condition of any conditional use permit issued for any Facility.

E. The following restrictions shall apply to any conditional use permit (CUP):

1. Zoning Components.

- a. The site upon which the Facility is located shall not have more than one (1) wall-type sign, not to exceed thirty (30) square feet, and must be reviewed and acted upon by the Planning and Zoning Commission and the City Council.
- b. The exterior building lighting and parking area of the facility shall comply with the City's outdoor lighting requirements of the Zoning Ordinance.
- c. The facility shall not sell to customers who are in cars or who consume the sold products in cars parked on the facility, nor shall it sell products through an exterior sales window.
- d. All sales or distribution of marijuana and any other products sold to the public shall take place only between the hours of 10:00 am and 8:00 pm. Facilities shall be secured and closed to the public outside of these hours. Any person who is not employed by the Facility is prohibited from being present in such Facility during any time it is closed, except in emergency situations.
- e. The windows and doors of the Facility shall not be covered by boards, mesh, grates, materials or coverings of any kind, except proper blinds and curtains.
- f. The display and sales of marijuana shall occur within an enclosed building and shall not be visible from the exterior of the building.

2. Operation Components.

- a. The operator of the site shall be required to provide the same reporting to the City of Wildwood, as to the State of Missouri.
- b. No Facility or person employed by a Facility shall dispose of marijuana in an unsecured waste receptacle not in possession and control of the licensee and designed to prohibit unauthorized access.
- c. The Facility shall display its State-issued license on the interior of the facility, visible to the public, at all times.
- d. The Facility shall not allow on-site consumption of marijuana or marijuana-infused products on the premises at any given time.
- e. The Facility shall display a sign on the interior of the Facility indicating that a form of identification evidencing the person attempting to purchase marijuana is lawfully entitled to do so is required and must be presented to purchase products.

Section Six. That Chapter 415 of the Code of Ordinances of the City of Wildwood, Missouri, be and hereby is amended by enacting a new Section 415.615 to Chapter 415 to read as follows:

Section 415.615 Marijuana Cultivation – An Accessory Use in All Zoning Districts.

A. A person is prohibited from cultivating marijuana within the City of Wildwood, Missouri, unless such person possesses a current, valid qualifying patient cultivation identification card or consumer cultivation identification card issued by DHSS (collectively referred to herein as “Identification Card”). If a person meets these criteria, such cultivation will be permitted as an accessory use to residential use, and the operation must be done in compliance with these regulations, Article XIV, Sections 1 and 2 of the Missouri Constitution, and any regulations promulgated by the State.

B. The cultivation must take place in a facility that is enclosed, locked, and equipped with security devices, as the term “enclosed, locked facility” is defined in 19 C.S.R. 100-1.010(28), as amended (the “Cultivation Area”), all of which shall be designed to prevent access by any person other than the qualifying patient, such qualifying patient’s primary caregiver, or the consumer cultivator.

C. The DHSS issued Identification Card must be clearly displayed within the Cultivation Area and in close proximity to the marijuana plants.

D. The Cultivation Area must have an odor control system that is at least as stringent as that which is required by State regulations, and which complies with the nuisance and property maintenance codes of the City of Wildwood.

E. Qualifying Patient Cultivation Limits.

1. It is unlawful for a qualifying patient authorized to cultivate marijuana to cultivate more than (6) flowering marijuana plants, more than six (6) nonflowering marijuana plants (over fourteen (14) inches tall), or more than six (6) clones (plants under fourteen (14) inches tall) in a single, enclosed locked facility. This provision shall not prohibit cultivating the maximum number of plants allowed in each category at the same time.

2. Two (2) qualifying patients, who both hold valid Identification Cards, are authorized to share one (1) enclosed, locked facility. In this case, it is unlawful to cultivate more than twelve (12) flowering marijuana plants, more than twelve (12) non-flowering plants, or more than twelve (12) clones in a single, enclosed locked facility, except when one (1) of the qualifying patients, as a primary caregiver, also holds a patient cultivation identification card for a third qualifying patient, in which case that primary caregiver is authorized to cultivate six (6) additional flowering marijuana plants, six (6) additional nonflowering marijuana plants, and six (6) additional clones for a total of eighteen (18) flowering marijuana plants, eighteen (18) nonflowering marijuana plants, and eighteen (18) clones in a single, enclosed locked facility. This provision shall not prohibit cultivating the maximum number of plants allowed in each category at the same time.

3. All cultivated flowering marijuana plants in possession of a qualifying patient or primary caregiver shall be clearly labeled with the qualifying patient's name. All qualifying patient cultivation must take place inside a private residence.

4. All qualifying patient marijuana cultivation must immediately cease upon the expiration, suspension, or revocation of the DHSS issued qualifying patient identification card.

5. Nothing herein shall convey or establish a right to cultivate marijuana in a facility or premises that a state or federal law, or private contract, would otherwise prohibit.

F. Consumer Cultivation Limits.

1. All consumer cultivation must take place inside a private residence.

2. It is unlawful to cultivate more than twelve (12) flowering marijuana plants, more than twelve (12) nonflowering marijuana plants (over fourteen (14) inches tall), or more than twelve (12) clones (under fourteen (14) inches tall) at a single private residence, regardless of the number of consumer cultivators who live at that private residence. This provision shall not prohibit cultivating the maximum number of plants allowed in each category at the same time.

3. Plants and marijuana produced by the plans in excess of three (3) ounces must be kept at the private residence in an enclosed, locked facility.

4. All cultivated flowering marijuana plants in the possession of a consumer cultivator shall be clearly labeled with the consumer's name.

5. All consumer cultivation must cease immediately upon the expiration, suspension, or revocation of the DHSS-issued consumer cultivation identification card.

G. Any terms used in this Section but not defined herein or elsewhere in the Municipal Code shall have the meaning provided in the applicable state regulations, as amended.

Section Seven. Savings. Except as expressly set forth herein, nothing contained in this Ordinance shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in manner connected with the subject matter hereof.

Section Eight. Severability. If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall

be enforced to the fullest extent permitted by law, it being the intent of the City Council that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision, which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

Section Nine. This Ordinance shall be in full force and take effect from and after the date of its final passage and approval.

This Bill was passed and approved this 8th day of April, 2024, by the Council of the City of Wildwood after having been read by title or in full two times prior to passage.




Presiding Officer

ATTEST:



City Clerk



James R. Bowlin, Mayor

ATTEST:



City Clerk