

Bill No: 19-20

Ordinance No. 1822

AN ORDINANCE CREATING CHAPTER 5 OF THE CODE OF ORDINANCES OF THE CITY OF PLEASANT HILL, MISSOURI, REGULATING MEDICAL MARIJUANA IN THE CITY OF PLEASANT HILL

WHEREAS, on November 6, 2018, the voters of the State of Missouri approved Amendment 2 to the Constitution of the State of Missouri which legalizes medical marijuana within the State; and

WHEREAS, the Department of Health and Senior Services has developed regulations allowing for the legal cultivation, manufacturing, sale, transportation, and consumption of medical marijuana under a state-licensed program; and

WHEREAS, the City Council has determined that it is in the best interest of the City of Pleasant Hill to adopt regulations to the same to serve the public health, safety, and welfare of the City and its residents; and

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

Section 1. That a new chapter of the Code of Ordinances is hereby adopted as reflected in Exhibit A, which is attached hereto and incorporated by reference.

Section 2. This ordinance shall be in full force and effect from and after the date of its passage.

Section 3. That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 4. Should any section, sentence, or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences, or clauses.

Read and approved this _____ day of _____.

Mark Guffey, Mayor

ATTEST:

Jessica Elliott, City Clerk

Exhibit A

Section 5-1. Definitions

Administer means the direct application of marijuana to a qualifying patient by any 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, or oils
- (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.

Canopy space means a space measured from the outermost point of a mature flowering plant in a designated growing area and continuing around the outside of all mature flowering plants in that designated growing area but not including space allocated for walkways or ancillary equipment. This space may be spread over a single level or several levels.

Church means a permanent building primarily and regularly used as a place of religious worship.

Daycare means a child-care facility, as defined by Section 210.201, RSMo., that is licensed by the state of Missouri.

Department means the Department of Health and Senior Services, or its successor agency.

Dried, unprocessed marijuana or its equivalent means the marijuana flower after it has been cured and trimmed or its equivalent amount of marijuana concentrate or THC. For purposes of purchase and possession limitations, one (1) ounce of dried unprocessed marijuana is equivalent to eight (8) grams of medical marijuana concentrate or eight hundred (800) milligrams of THC in infused products.

Elementary or secondary school means any public school as defined in Section 610.011, RSMo., or any private school giving instruction in a grade or grades not higher than the 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 rooms.

Enclosed, locked facility means:

- (1) An indoor stationary closet, room, garage, greenhouse, or other comparable fully enclosed space equipped with locks or other functioning security devices that permit access only to the qualifying patient(s) or primary caregiver(s) who have informed the department that this is the space where they will cultivate marijuana; or
- (2) An outdoor stationary structure:
 - a. That is enclosed on all sides, except at the base, by chain-link fencing, wooden slats, or a similar material that is anchored, attached or affixed to the ground and that cannot be accessed from the top;
 - b. In which the plants are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure at any level; and
 - c. That is equipped with locks or other security devices that restrict access to only the qualifying patient(s) or primary caregiver(s) who have informed the department that this is the space where they will cultivate marijuana.

Entity means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or other legal entity.

Identification card means a document, whether in paper or electronic format, issued by the Department that authorizes a qualifying patient, primary caregiver, or employee or contractor of a licensed facility to access medical marijuana as provided by law.

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-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.

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.

Medical marijuana dispensary facility or Dispensary means a facility licensed by the department, 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 means a facility licensed by the 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 Department to acquire, test, certify, and transport marijuana.

Medical marijuana transportation facility means a facility certified by the Department 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.

Medical use means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or marijuana-infused product, for the benefit of a qualifying patient to mitigate symptoms or effects of the patient's qualifying medical condition.

Physician means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

- (1) A license in good standing if it registered with the Missouri Board of Healing Arts as current, active, and not restricted in any way, such as by designation as temporary or limited.
- (2) Practice of medicine or osteopathy means practice by persons who hold a physician and surgeon license pursuant to Chapter 334 RSMo, including those who are admitted to practice in Missouri by reciprocity pursuant to 334.043, RSMo.

Primary caregiver means an individual twenty-one (21) years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this chapter or in other written notification to the Department.

Public place means any public or private property, or portion of public or private property, that is open to the general public, including, but not limited to, sidewalks, streets, bridges, parks, schools, and businesses. However, for purposes of designating a non-public place within a public place, the owner or entity with control of any such property may, but is not required to, provide one (1) or more enclosed, private spaces where one (1) qualifying patient and, if required by the owner or entity with control of any such property, a representative of such owner or entity, may congregate for the qualifying patient to consume medical marijuana. The qualifying patient may be accompanied by the family of the qualifying patient, the qualifying patient's primary caregiver, and/or the qualifying patient's physician. The owner or entity with control of any such property may provide such a space by individual request or designate such a space for ongoing use and may limit the use of medical marijuana in that space to uses that do not produce smoke. Any such permission shall be given in writing and provided to the qualifying patient or publicly posted prior to a qualifying patient's use of medical marijuana in that space.

Qualifying patient means a Missouri resident diagnosed with at least one(1) qualifying medical condition.

Section 5-2. Prohibited hours of sale. Medical marijuana dispensary facilities shall not be open to the public or make any sales between the hours of 7 p.m. and 6 a.m.

Section 5-3. Unauthorized marijuana prohibited on premises. It shall be unlawful for any marijuana other than expressly authorized to be cultivated or sold in accordance with the regulations issued by the Department of Health and Senior Services. All medical marijuana sold at a dispensary must be stored in or with its original packaging.

Section 5-4. Possession and transportation. No person shall possess and/or transport medical marijuana within the city limits, except:

- (1) A qualifying patient for the qualifying patient's own personal use, in an amount no greater than the law allows, or
- (2) A primary caregiver of a qualifying patient(s) but only when transporting medical marijuana to a qualifying patient or when accompanying a qualifying patient(s) or when holding for a qualifying patient while with the qualifying patient or at the primary caregivers residence, or
- (3) An owner or an employee of a medical marijuana facility within the enclosed building licensed as such, or when delivering directly to a qualifying patient's or primary caregiver's residence, or another medical marijuana facility, or to multiples of these locations. This provision shall only apply to the transportation of medical marijuana while within the city limits and shall not apply to transportation outside the city limits or to and from locations outside the State of Missouri. This provision will not be construed to prohibit the growing of marijuana outdoors by a holder of a medical marijuana cultivation facility license or a qualifying patient or primary caregiver for personal use, so long as the requirements of the Department are complied with.

Section 5-5. Sales to or by certain persons restricted. It shall be unlawful for medical marijuana to be sold by any individual other than those licensed through the State of Missouri. Sales of marijuana shall only be made to individuals licensed through the State of Missouri.

Section 5-6. Purchases by unlicensed persons. It shall be unlawful for any individual who does not possess and produce a patient identification card or primary caregiver identification card to purchase, attempt to purchase, or have in his possession any amount of medical marijuana.

Section 5-7. **Use of property for unlawful purposes.** It shall be unlawful for any person to own, operate, lease, occupy, or control any building, car, shed, room, basement, structure, tent, or booth and knowingly permit medical marijuana to be unlawfully manufactured, sold, stored, kept, or consumed therein or thereon.

Section 5-8. **Regulation of sale in original packages.** Any marijuana or marijuana-infused products packaged for retail sale must be packaged in accordance with the rules and regulations issued by the Department of Health and Senior Services.

Section 5-9. **General cultivation and use.**

- (a) It shall be unlawful for any person to consume marijuana for medical use in a public place unless provided by law.
- (b) It shall be unlawful for any person to extract resins from marijuana using dangerous materials or combustible gases without a Medical Marijuana-Infused Products Manufacturing Facility license issued by the Department of Health and Senior Services.

Section 5-10. **Public nuisance.**

- (a) No medical marijuana facility shall emit any odor of marijuana which is capable of being smelled by a person of ordinary senses outside of the boundary of the lot upon which the medical marijuana facility is located.
- (b) The smell or noxious odor emitted from smoking, consumption, or cultivation of marijuana by a person possessing a valid state-issued license shall be treated as a public nuisance. Any odors emitted from cultivating or consuming marijuana shall be treated as a public nuisance.
- (c) It shall be unlawful for any person or entity to grow marijuana in such a manner that constitutes a public nuisance. A public nuisance may be deemed to exist if growing marijuana produces light, glare, heat, noise, odor, or vibration that is detrimental to public health, safety, or welfare, or interferes with the reasonable enjoyment of life and property.

Section 5-11. **Use of medical marijuana at a licensed dispensary facility prohibited.** The consumption, inhalation, or other personal use of marijuana or other medical marijuana-infused products on or within the premises of a medical marijuana dispensary facility is prohibited.

Section 5-12. No additional licenses. Medical marijuana facilities shall be required to be properly licensed and/or certified by the Missouri Department of Health and Senior Services as required by 19 CSR 30-95. Each medical marijuana facility in operation shall obtain a separate license, but multiple licenses may be utilized in a single location. All licenses shall be displayed at all times within twenty (20) feet of the main entrance to the medical marijuana facility.

Furthermore, all medical marijuana facilities shall be required to have a city business license as required in Chapter 10 of the Pleasant Hill Code of Ordinances but shall not be required to have any other city-issued license.

Section 5-13. Security plan. Marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, medical marijuana dispensary facility, and medical marijuana transportation facilities shall provide adequate security on the premises in accordance with the regulations issued by the State of Missouri, including, but not limited to the following:

- (a) Surveillance. Security video shall be preserved for at least ninety (90) days and be made available to law enforcement officers upon demand.
- (b) Method of immediate, automatic notification to alert local law enforcement agencies of an unauthorized breach of security at the facility
- (c) Alarm System. Professionally monitored robbery alarm and burglar alarm systems shall be installed and maintained in good working condition within the facility at all times with capability of alerting local law enforcement agencies immediately of an unauthorized breach of security at the facility. Each facility shall provide the chief of police with the name and telephone number of the designated on-call facility personnel to respond to any alarms.
- (d) Emergency Contact. Each facility shall provide the chief of police with the name, telephone number, electronic mail address, and facsimile number of an on-site facility employee to whom the City may provide notice of any operating problems associated with the facility. It shall be the responsibility of the licensee to keep up to date the contact information of the facility employee.
- (e) Armed Security Personnel. Each facility shall provide policies for keeping local law enforcement updated on whether the facility employs armed security personnel

and how law enforcement can identify such personnel on-site. It shall be the responsibility of the licensee to inform the Police Chief of any changes to this policy.

Section 5-14. **Permanent location required.** Each medical marijuana dispensary shall be operated from a permanent and fixed location. No medical marijuana dispensary shall be permitted to operate from a moveable, mobile, or transitory location. This subsection shall not prevent the physical delivery of medical marijuana to a qualifying patient or primary caregiver at a location off of the premises of the licensee's medical marijuana dispensary, to the extent so permitted by law.

Section 5-15. **Revocation or suspension.** Licenses and certification for facilities suspended or revoked by the State of Missouri will also be suspended or revoked by the City Clerk.