

BILL NO. 4620

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 50, ZONING, OF THE CODE BOOK OF THE CITY OF WEST PLAINS, MISSOURI REGARDING MEDICAL MARIJUANA.

WHEREAS, the City of West Plains, MO acknowledges voters passed an Amendment to the Missouri Constitution enabling licensed citizens the right to the use, cultivation, manufacturing, dispensing, testing, transportation, administration and storage of Medical Marijuana (MMJ) and Medical Marijuana-Infused Products; and.

WHEREAS, the Planning and Zoning Commission of the City of West Plains was adopted for the purpose of promoting the public health, safety, comfort, morals, convenience, and general welfare of the City; and

WHEREAS, the City desires to protect the public health and safety by establishing reasonable regulations on MMJ related businesses regarding noise, air quality, neighborhood safety, security, other health and safety concerns, and time, place and manner restrictions on MMJ facility operations; and

WHEREAS, the City has tasked the Planning and Zoning Commission to amend the existing City of West Plains Zoning Ordinances to include applicable ordinances regarding the implementation of MMJ regulations consistent with the State Constitution.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST PLAINS AS FOLLOWS:

Section 1. Section 50-3 “Definitions” of the Code of West Plains, Missouri is amended to add the following definitions. If any of the new definitions adopted herein conflict with any preexisting definitions, the definitions in this Ordinance shall supersede any preexisting definitions:

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 seed thereof and resin extracted from the plant and marijuana-infused products. Marijuana does 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 State of Missouri to acquire, cultivate, process, store, transport, and sell marijuana to a Medical Dispensary Facility, Medical Marijuana Testing Facility, or to 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 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 Projects Manufacturing Facility.

Medical Marijuana-Infused Products Manufacturing Facility. Means 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 Test Facility, or to another Medical Marijuana-Infused Projects Manufacturing Facility.

Medical Marijuana Testing Facility. Means a facility certified by the State of Missouri, to acquire, test, certify, and transport marijuana.

Qualifying Patient. Means a Missouri resident diagnosed with at least one qualifying medical Condition.

School. Any building which is regularly used as a public, private or parochial elementary and/or secondary school, high school or university.

Public Consumption. For example, the Amendment specifically prohibits the public consumption of medical marijuana. Therefore the City of West Plains also prohibits public consumption. It is important to note in regards to public consumption, that the Amendment does not differentiate between the different means of consumption when it imposes this ban. Therefore consumption in public, by any means, is prohibited. A city could therefore not only ban consumption in public, but also prohibit Dispensaries from allowing consumption on their premises.

Sections 2. Chapter 50 “Business or Commercial District” of the Code of West Plains, Missouri is hereby amended to add a new Section 50-442 ”Standards for Medical Marijuana Dispensary Facility”, which Subsection shall read as follows:

50-442 Standard for Medical Marijuana Dispensaries

No building shall be constructed, altered or used for a Medical Marijuana Dispensary without complying with the following regulations of this subchapter.

A. No Medical Marijuana Dispensary shall be located within five hundred (500) feet of a then existing elementary or secondary school, university, child day care center, park or church. Said 500 feet shall be measured from the closest property line to property line, as described in the license application.

***Then existing” shall mean 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 the Medical Marijuana Dispensary first applies for either zoning or a building permit, whichever comes first.**

B. Onsite Usage Prohibited. No marijuana may be smoked, ingested, or otherwise consumed on the premises of a Medical Marijuana Dispensary building at anytime.

C. Hours of Operation*. All sales or distribution of Medical Marijuana and any other products sold to the public through a Medical Marijuana Dispensary shall take place between the hours of 08:00 AM and 10:00 PM, Monday – Sunday. Medical Marijuana Dispensaries shall be secured and closed to the public after the hours listed in this subsection and no persons not employed by the Medical Marijuana Dispensary may be present in such a facility at any time it is closed to the public.

D. Display of License Required. The Medical Marijuana Dispensary license issued by the state of Missouri shall be prominently in a highly visible location, easily seen by patients on the dispensary’s sales floor.

E. Zoning Limitations. Medical Marijuana Dispensaries shall be in any general commercial business district located in the City of West Plains and shall be treated no differently than any business application for a pharmacy, healthcare clinic, dental, or doctor's office, except for the distance restrictions set forth herein.

F. Site Plan Review. Any plans for a Medical Marijuana Dispensary shall meet the standard new construction requirements of all General Business and Commercial District construction outlined in this Title and approved subject to the standard procedures of Section 40-124 of the City of West Plains general business and commercial zoning code. The city shall not impose any additional requirements in the type of medical facility described in this Section.

Section 3. Chapter 50 "Light Industrial District and Heavy-Industrial District of the City Code of West Plains, Missouri is hereby amended to add a new Section 50-443 Standards for Medical Marijuana-Infused Products Facilities, which shall state the following:

50-443 Standards for Medical Marijuana-Infused Products Manufacturing Facility

No building shall be constructed, altered or used for a Medical Marijuana-Infused Products Manufacturing Facility without complying with the following regulations of subchapter 50-443.

A. Distance Requirement. No Medical Marijuana-Infused Products Manufacturing Facility using any combustible gases or CO₂ in the extraction process shall be located within one thousand (1000) feet of a then existing elementary or secondary school, university, licensed child day care center, park or church*. Any other Medical Marijuana -Infused Products Manufacturing Facility may be located in any location where a Medical Marijuana Dispensary may be located as detailed above. Said 1000 feet shall be measured from closest property line to property line, as described in the license application.

***"Then existing" shall mean 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 the Medical Marijuana Dispensary first applies for either zoning or a building permit, whichever comes first.**

B. Outdoor Operations or Storage. 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 in an area enclosed by a razor wire fence at least ten (10) feet in height, not including the razor wire.

C. Onsite Usage Prohibited. No marijuana may be smoked, ingested, or otherwise consumed on the premises of any Medical Marijuana-Infused Products Manufacturing Facility at anytime.

D. Hours of Operation. All Medical Marijuana-Infused Products Manufacturing Facilities shall be closed to the public, between the hours of 10:00 P.M. and 8:00 A.M. No persons not employed by the business shall be on the premises at any time without being approved entry and logged in by building security personnel and are required to obtain a visitor pass

E. Display of Licenses Required. The Medical Marijuana-Infused Products Manufacturing Facility license issued by the State of Missouri shall be displayed in a prominent place in plain view near the front desk of the facility.

F. Site Plan Review Required. Any plans for a Medical Marijuana-Infused Products Facility using combustible gases or CO₂ in the extraction process shall meet the standard new construction requirements of the “Light Industrial District” outlined in this Title and approved subject to the standard procedures of Section 50 of the City of West Plains Code for “Light Industrial Districts” or “Heavy Industrial Districts.” The city shall not impose any additional requirements on the type of medical facility described in this Section. Furthermore, this Section clarifies that a Medical Marijuana-Infused Products Facility may be built in either a “Light Industrial” or “Heavy Industrial District.”

Section 4. Chapter 50 “Heavy Industrial District”, “Agricultural and Cultivation District” of the City Code of West Plains, Missouri is hereby amended to add a new

Section 50-444 Standards for Medical Marijuana-Infused Products Facilities, which shall state the following:

50-444 Standards for Medical Marijuana Cultivation Facilities

No building shall be constructed, altered or used for a Medical Marijuana Cultivation Facility without complying with the following regulations of the Heavy Industrial District or Agricultural and Cultivation District or the City Code of West Plains, Missouri.

A. Distance Requirement. No Medical Marijuana Cultivation Facility shall be located within one thousand (1000) feet of a then existing elementary or secondary school, university, state licensed child day-care center, park or church. Said 1000 feet shall be measured from closest property line to property line, as described in the license application.

***"Then existing" shall mean 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 the Medical Marijuana Dispensary first applies for either zoning or a building permit, whichever comes first.**

B. Outdoor Operations or Storage. 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 in an area enclosed by a razor wire fence at least 10 feet in height, not including the razor wire.

C. Onsite Usage Prohibited. No marijuana may be smoked, ingested, or otherwise consumed on the premises of any Medical Marijuana Cultivation Facility at anytime.

D. Hours of Operation. All Medical Marijuana Cultivation Facility shall be closed to the public, between the hours of 10:00 P.M. and 8:00 A.M. No persons not employed by the business shall be on the premises at any time without being approved entry and logged in by building security personnel and are required to obtain a visitor pass.

E. Display of Licenses Required. The Medical Marijuana Cultivation Facility license issued by the State of Missouri shall be displayed in a prominent place in plain view near the front entrance of the facility.

F. Site Plan Review Required. Any plans for an indoor "Medical Marijuana Cultivation Facility" shall meet the standard new construction requirements of the "Heavy Industrial District" outlined in this Title and approved subject to the standard procedures of Section 40-124 of the City of West Code of Ordinances.

Medical Marijuana Cultivation Facility” shall meet the standard requirements for of any other crop, except as otherwise set forth herein. The city shall not impose any additional requirements on the type of medical facility described in this Section.

Section 5. Severability. The sections, paragraphs, sentences, clauses and phrases of this ordinance shall be severable. In the event that any such section, paragraph, sentence, clause or phrase of this ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this ordinance are valid, unless the court finds the valid portions of this ordinance are so essential to and inseparably connected with and dependent upon the void portion that it cannot be presumed that the City has enacted the valid portions without the void ones, or unless the court finds that the valid portions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Section 6. Governing Law. This ordinance shall be governed exclusively by and construed in accordance with the applicable laws of the State of Missouri.

Section 7. It is intended that Sections 1-4 of this ordinance be incorporated into The Code of Ordinances of West Plains, Missouri.

Section 8. Effective Date. This ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor.

Section 9. That this Ordinance shall be in full force and effect from and after its date of passage and approval as provided by law.

PASSED AND APPROVED THIS 22nd DAY OF JULY 2019.

CITY OF WEST PLAINS, MISSOURI

BY: _____

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MAYOR JACK PAHLMANN

ATTEST:

CITY CLERK MALLORY SNODGRAS