

AN ORDINANCE AMENDING THE CODE OF THE CITY OF NORTH KANSAS CITY, MISSOURI BY ADOPTING CHAPTER 8.60, "MARIJUANA CULTIVATION" AND AMENDING CHAPTER 9.24, "OFFENSES AGAINST PUBLIC DECENCY" REGARDING MEDICAL MARIJUANA.

WHEREAS, the City of North Kansas City, Missouri (the "**City**") is a body corporate, a third class city and political subdivision of the State of Missouri, duly created, organized and validly existing under and by virtue of the Constitution and laws of the State of Missouri; and

WHEREAS, the voters of the State of Missouri approved Amendment 2 on November 6, 2018, which legalized the growing, manufacturing, transportation, and consumption of marijuana for medicinal purposes (the "**Medical Marijuana Amendment**"); and

WHEREAS, the Medical Marijuana Amendment became effective December 6, 2018 and is now identified as Article XIV, Section 1, of the Missouri Constitution;¹ and

WHEREAS, the Medical Marijuana Amendment permits state-licensed physicians, in the physician's professional opinion, to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions; and

WHEREAS, the Medical Marijuana Amendment allows patients and their registered caregivers to: (a) grow up to six marijuana plants; (b) purchase at least four ounces of cannabis per month from a dispensary; and (c) use medical marijuana for treatment under a physician's supervision; and

WHEREAS, the Missouri Constitution specifically provides that "[n]o local government shall prohibit medical marijuana cultivation facilities, medical marijuana testing facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or entities with a transportation certification either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction." MO. CONST. art. XIV, § 1 at 7(11); and

WHEREAS, the City is authorized, however, to (a) enact ordinances or regulations not in conflict with Missouri Constitution Art. XIV, § 1, or with regulations enacted pursuant to the section, governing time, place, and manner of operation of medical marijuana facilities in the City, and (b) establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing

¹ To avoid any confusion and as an explanation, it should be noted that the ballot language of Constitutional Amendment 2 adopted November 6, 2018, placed this section in a new Article XVI but was renumbered as a new Article XIV, Section 1.

facility, medical marijuana-infused products manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality;² and

WHEREAS, the City Council believes and finds that it is appropriate and in the best interests of the citizens of the City that the City regulate marijuana cultivation within the City.

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

Section 1. Title 8, “Health and Safety” of the Code of the City of North Kansas City (the “**City Code**”) is hereby amended by adding a new Chapter 8.60, “Marijuana Cultivation” to the City Code to read as follows:

Chapter 8.60

MARIJUANA CULTIVATION

8.60.010 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Qualifying Patient” means a Missouri resident issued a valid identification card by the Missouri Department of Health and Senior Services.

“Primary Caregiver” means an individual who has significant responsibility for managing the well-being of a Qualifying Patient and who possesses a Primary Caregiver Identification Card issued by the Missouri Department of Health and Senior Services.

8.60.015 Business license required—No additional licenses.

Medical marijuana businesses shall be required to have a city business license as required in Chapter 5.04, but shall not be required to have any other city issued license.

8.60.020 Registration required.

No person shall cultivate marijuana without first obtaining a facility license or certification issued by the Missouri Department of Health and Senior Services and, in the case of non-commercial cultivation by Qualifying Patients or Primary Caregivers, registering their home cultivation pursuant to the requirements of this ordinance. A separate registration shall be required for each and every Qualifying Patient or Primary Caregiver.

A. Home Cultivation Registration applications shall be submitted to the Community Development Department on forms supplied by the Department. The Director of Community

² See, MO. CONST. Art. XIV, § 1 at 7(11).

Development is authorized to establish application forms and submittal requirements in compliance with this ordinance.

B. Home Cultivation Registration shall be valid for a period of one year.

C. No registration shall be sold, transferred, or assigned by the permittee or by operation of law to any other person. Any such sale, transfer, or assignment, or attempt to do same, shall constitute a violation of this ordinance.

8.60.030 Home cultivation by qualifying patients.

Home cultivation by Qualifying Patients and Primary Caregivers shall be subject to the following requirements:

A. The primary use of residential property where marijuana is grown shall remain at all times a residence, with legal and functioning cooking, eating, sleeping, and toilet facilities with proper ingress and egress. No room shall be used for cultivating marijuana where that activity will impair or prevent the primary uses of cooking, eating, sleeping, or toileting.

B. Access to the growing area shall be secured by lock and key or equivalent at all times except when the facility is being actively supervised in person by the permit holder.

C. State cultivation authorization shall be clearly displayed within the enclosed cultivation area.

D. The growing area shall comply with adopted building, fire, and other municipal codes and shall be properly ventilated so as not to create excessive heat, humidity, mold, hazardous atmosphere, or other related conditions.

E. Lighting used in the growing area shall not exceed 1,000 watts per light. The use of compressed gas products, including but not limited to carbon dioxide and butane, solvents, or ozone generators in the growing area is prohibited.

8.60.040 General cultivation and use.

A. No person shall consume marijuana for medical use in a public place, unless provided by law.

B. No person shall extract resins from marijuana using dangerous materials or combustible gases without a Medical Marijuana-Infused Products Manufacturing Facility license issued by the Missouri Department of Health and Senior Services.

8.60.050 Public nuisance.

A. The smell or noxious odor emitted from smoking or consumption 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.

B. 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 2. Chapter 9.24, “Offenses Against Public Decency,” of the City Code is hereby amended by repealing Section 9.24.030, “Possession of drugs” in its entirety and enacted in lieu thereof is a new Section 9.24.030, “Possession of drugs” to read as follows:

9.24.030 Possession of drugs.

No person other than a manufacturer of, or a wholesale dealer in drugs, a licensed druggist, a duly registered practicing physician, a licensed veterinarian, or a licensed dentist shall possess any drug or substance included in Schedules I through V of the Uniform Controlled Substances Act found in Chapter 195 of the Missouri Revised Statutes within the city, including, but not limited to: cocaine, opium or any of its salts, alkaloids or derivatives, choral, barbiturates, synthetic cannabinoid, any analogue or homologue of a Schedule I controlled substance, or any compound or preparation of any of them, or any amphetamine, desoxyephedrine, methylphenidate, or any salt mixture or optical isomer thereof also having a stimulating effect on the central nervous system.

Section 3. Chapter 9.24, “Offenses Against Public Decency,” of the City Code is hereby amended by repealing Section 9.24.040, “Growing marijuana” in its entirety and enacted in lieu thereof is a new Section 9.24.040, “Possession of marijuana” to read as follows:

- A. No person shall possess marijuana within the city, except:
1. A Qualifying Patient for the patient’s own personal use, in an amount no larger than allowed by law.
 2. A Primary Caregiver of a Qualifying Patient, but only when transporting the Medical Marijuana to a Qualifying Patient or when accompanying a Qualifying Patient.
 3. An owner or employee of a Medical Marijuana Facility within the enclosed building licensed as such or when delivering directly to another Medical Marijuana Facility.
- B. Any person in possession of medical marijuana shall, immediately upon request of any law enforcement officer, produce a valid Qualifying Patient identification card, a Primary Caregiver identification card, or a Facility Agent Identification Card issued by the State of Missouri.
- C. Any person lawfully authorized to possess medical marijuana shall maintain such marijuana in the original packaging or, if personally cultivated as allowed by law, in a sealed container clearly marked with the patient’s name.
- D. No person shall consume marijuana for medical use in a public place, unless provided by law.

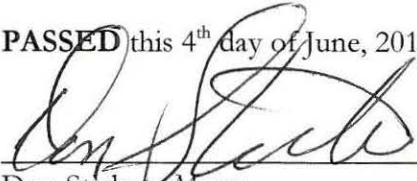
Section 4. Section Providing for Repeal of Conflicting Ordinances. All ordinances or parts of ordinances in conflict with the provisions of this ordinance, or any parts hereof, are hereby repealed or amended accordingly.

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. 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.

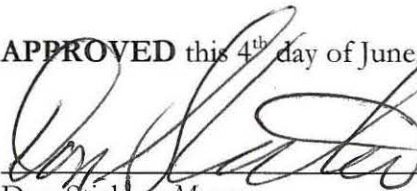
PASSED this 4th day of June, 2019.


Don Stielow, Mayor

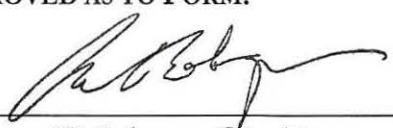
ATTEST:



Crystal Doss, City Clerk

APPROVED this 4th day of June, 2019.


Don Stielow, Mayor

APPROVED AS TO FORM:


Anthony W. Bologna, City Attorney


Thomas E. Barzee, Jr., City Counselor