

BILL NO. 2226 AMENDED

ORDINANCE NO. 2226

AN ORDINANCE TO AMEND SECTIONS III, VII, AND XV OF ORDINANCE 1175 – THE ZONING ORDINANCES OF THE CITY OF LADUE, ST. LOUIS COUNTY, MISSOURI – TO ADDRESS ZONING ISSUES RELATED TO MEDICAL MARIJUANA FACILITIES

WHEREAS, the intent of Article XIV, Section 1 of the Missouri Constitution is to enable certain specified persons and legal entities who comply with the provisions of the Constitutional Amendment as well as all rules and regulations promulgated by the Department of Health and Senior Services of the State of Missouri to legally obtain, possess, cultivate, process, grow, use and distribute marijuana for medicinal purposes to the extent allowed by applicable law; and

WHEREAS, despite the enactment of Article XIV, Section 1 of the Missouri Constitution, marijuana remains a controlled substance under Missouri law except where used strictly pursuant to the provisions of the Constitutional Amendment as well as all rules and regulations promulgated by the Department of Health and Senior Services of the State of Missouri; and

WHEREAS, any zoning decisions or other authorizations including, but not limited to, building and occupancy permits or otherwise do not constitute an authorization by the City for any illegal activity, nor as any official policy of or statement by the City; and

WHEREAS, Missouri Constitutional Amendment 2 states that local government shall not prohibit any of the five types of facilities defined herein; and

WHEREAS, Missouri Constitutional Amendment 2 states that local governments may regulate the “time, place, and manner” of the operation of medical marijuana facilities as long as such regulations are not “unduly burdensome”; and

WHEREAS, the Zoning and Planning Commission met on April 24, 2019 to discuss amendments to the Zoning Ordinance regarding medical marijuana facilities and recommended approval of amendments to the Zoning Ordinance by a vote of 6 in favor and 0 opposed; and

WHEREAS, a duly noticed and published public hearing was held on May 20, 2019 regarding the proposed amended regulations in conformity with all requirements of Section 89.060 of the Missouri Revised Statutes and Zoning Ordinance 1175; and

WHEREAS, after discussion of amendments to the ordinance, the hearing was continued to May 29, 2019 for a final decision; and

WHEREAS, the City Council finds it in the best interest of the City to amend the City’s Zoning Ordinance to provide regulations regarding the location and operation of medical marijuana facilities; and

WHEREAS, this bill has been made available for public inspection prior to its consideration by the City Council and read by title two times in open meeting prior to passage.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LADUE, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. Ordinance 1175 – The Zoning Ordinance of the City of Ladue – is hereby amended by adding the following to Section III:

Subsection C.2.e. shall be amended to add the following to uses in the G2 district that are allowed with a Special Use Permit:

Medical Marijuana Dispensaries

Subsection C.3.e. shall be amended to add the following to uses in the H district that are allowed with a Special Use Permit:

Medical Marijuana Cultivation Facility

Medical Marijuana-Infused Products Manufacturing Facility

Medical Marijuana Testing Facility

Medical Marijuana Transportation Facility

Section 2. Amend Section VII to add the following Subsection F.11:

11. Medical Marijuana Facilities

- a. Medical Marijuana Facilities shall be allowed in certain zoning districts with a Special Use Permit as indicated in Section III of this Ladue Zoning Ordinance.
- b. All Medical Marijuana Facilities in the G2 and H zoning districts shall be located at least 1000 feet from all school properties, day care facilities, and churches that are currently operating.
- c. The buffer distance described in this section shall be determined by measurement from the property line of the protected use (school, church, etc.) in a straight line to the nearest portion of the structure used to house the Medical Marijuana Facility.
- d. No Medical Marijuana Dispensary within the City of Ladue shall be located within 1,000 feet of another Medical Marijuana Dispensary within the City of Ladue.
- e. No Marijuana Facility shall emit a nuisance odor. (An odor is a nuisance if it occurs on a regular basis and unreasonably interferes with the proper use and enjoyment of the property of others.) All Medical Marijuana Facilities shall have and maintain an odor control system which is at least as stringent as that which is required by State regulations.
- f. All applications for Medical Marijuana Facilities shall be accompanied by the following information:
 - i. Site plan and building plan showing the location of all activities.
 - ii. Security plans for the facility demonstrating security systems, equipment, and procedures which are at least as stringent as those which are required by State regulations.

- iii. Odor control systems for the facility demonstrating such systems are at least as stringent as that which is required by State regulations.
 - iv. Additional information may be required by the Building Department.
- g. No Medical Marijuana Facility may operate in the City of Ladue without a valid license issued by the Missouri Department of Health and Senior Services (DHSS) and a current business license issued by the City of Ladue. The license issued by the DHSS shall be prominently displayed near the front entrance to the facility as required by State regulations.
- h. No Medical Marijuana Facility may use combustible gases or CO2 during the extraction process within the City of Ladue.
- i. No marijuana may be smoked, ingested, or otherwise consumed or administered on the premises of any Medical Marijuana Facility within the City of Ladue.
- j. The maximum floor area of a Medical Marijuana Dispensary shall be 2,000 square feet. (Whenever the strict enforcement of this provision would entail real and substantial difficulties or hardships, the Planning Commission and City Council may vary or modify such requirement for good cause shown by the applicant, including inability to meet mandates and requirements of such facilities by the state, but at the same time the public welfare and interests of the municipality are fully protected and the general intent and spirit of the regulations are preserved.)
- k. Signage shall comply with the signage regulations in Section XI of this Zoning Ordinance.
- l. 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 a secured area enclosed by a fence meeting the City's requirements for fencing type, maximum height, and setback requirements. Outdoor operations or storage shall only be allowed for a Medical Marijuana Testing Facility and a Medical Marijuana Transportation Facility to the extent authorized by State regulations. Outdoor storage shall be prohibited for Medical Marijuana Dispensaries.
- m. All Medical Marijuana Facilities shall comply with all provisions of the Zoning Regulations of the City of Ladue, all provisions of Article XIV, Section 1 of the Missouri Constitution, as well as any and all rules and regulations promulgated by the DHSS regulating Medical Marijuana including but not limited to security requirements, lighting, parking, record maintenance and retention, and patient verification requirements.

Section 3. Amend Section XV to add the following definitions:

Medical Marijuana Facility. A facility to be operated for any of the following uses:

- (1) Medical Marijuana Cultivation Facility;
- (2) Medical Marijuana-Infused Products Manufacturing Facility;
- (3) Medical Marijuana Dispensary Facility;
- (4) Medical Marijuana Testing Facility;

(5) Medical Marijuana Transportation Facility.

Medical Marijuana Cultivation Facility. A facility licensed by the State of Missouri 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-Infused Products Manufacturing Facility. A facility licensed by the State of Missouri to acquire, store, manufacture, transport, and sell marijuana-infused products to a Medical Marijuana Dispensary Facility, Medical Marijuana Testing Facility, or to another Medical Marijuana Infused Products Manufacturing Facility.

Medical Marijuana Dispensary Facility. A facility licensed by the State of Missouri to acquire, store, transport, sell, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana to a qualifying patient, a primary caregiver, another Medical Marijuana Dispensary Facility, Medical Marijuana Testing Facility, or to a Medical Marijuana Infused Products Manufacturing Facility.

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

Medical Marijuana Transportation Facility. A facility certified by the State of Missouri to store and transport marijuana.

Section 4. The portions of this Ordinance shall be severable. In the event that any portion 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 that the valid portions of this Ordinance are so essential and inseparably connected with and dependent upon the void portion that it cannot be presumed that the City Council would have enacted the valid portions without the invalid 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 5. This Ordinance shall be governed by and construed in accordance with the applicable laws of the State of Missouri.

Section 6. This Ordinance shall take effect and be in force from and after its passage and approval by the Mayor.

PASSED THIS 29TH DAY OF MAY, 2019.

President, City Council

APPROVED AND ADOPTED THIS 29TH DAY OF MAY, 2019.

Nancy Spewak, Mayor

ATTEST:

Laura Rider, City Clerk