

ORDINANCE NO. 19-08-01

**AN ORDINANCE REGULATING THE TIME, PLACE, AND MANNER OF
OPERATION OF MEDICAL MARIJUANA FACILITIES IN THE CITY OF
EXCELSIOR SPRINGS, MISSOURI**

WHEREAS, medical marijuana facilities are lawful under Article XVI, Section 1 of the Missouri Constitution and have special characteristics and impacts upon their surroundings, and upon the use and enjoyment of adjacent properties; and

WHEREAS, regulations are necessary to protect and balance the lawful rights to produce and dispense medical marijuana with the lawful rights to the enjoyment and use of property; and

WHEREAS, the City Council of the City of Excelsior Springs, Missouri considered and reviewed the recommendation of the Planning & Zoning Commission at its regular meeting of July 16, 2019, and determined adoption and approval with the amendments set forth herein to be in the City's best interests and to promote the public health, safety and welfare; and

WHEREAS, the City Council finds that these regulations are necessary to protect the health, safety, morals and general welfare of the residents of the City of Excelsior Springs, Missouri.

NOW, THEREFORE, be it ordained by the City Council of the City of Excelsior Springs, Missouri, as follows:

Section 1. Section 400.180, District "C-2" – General Business District, of the Municipal Code is hereby amended to add the following Permitted Use:

- A.5. Medical Marijuana Dispensaries, subject to the further requirements and restrictions of Section 400.300.

Section 2. Section 400.210, District "M-1" – Light Industrial District, of the Municipal Code is hereby amended to add the following Permitted Use:

- A.8. Medical Marijuana Dispensaries, Medical Marijuana Testing Facilities, Medical Marijuana Transportation Facilities, Medical Marijuana Infused Products Manufacturing Facilities, and Medical Marijuana Cultivation Facilities, subject to the further requirements and restrictions of Section 400.300.

Section 3. Title IV, Chapter 400 Zoning Regulations, of the Municipal Code is hereby amended by adding a new Section to be entitled, numbered and read as follows:

Section 400.300: **Medical Marijuana Facilities.**

A. Purpose and Intent.

1. Medical marijuana facilities are hereby acknowledged to be lawful under Article XVI, Section 1 of the Missouri Constitution and to have special characteristics and impacts upon their surroundings, and upon the use and enjoyment of adjacent properties.
2. It is the purpose and intent of these regulations to provide for the location of medical marijuana facilities in the areas within which the special characteristics and impacts are judged to be compatible with other permitted uses and be the least disruptive to the use and enjoyment of adjacent properties and neighborhoods.
3. These regulations are further intended to require that medical marijuana facilities shall not be permitted to locate in such concentration that their operational features may establish the dominant character of any commercial area or to be a blighting influence on the surrounding neighborhood(s).
4. The special regulation of medical marijuana facilities is deemed to be necessary to ensure that the special characteristics and impacts of such uses will not contribute to the blighting or degradation of surrounding neighborhoods, whether residential or non-residential by location or concentration and to ensure the stability of such neighborhoods.
5. These regulations are further intended to protect and balance the lawful rights to produce and dispense medical marijuana with the lawful rights to the enjoyment and use of property.
6. These regulations are necessary to protect the health, safety, morals and general welfare of the residents of the City of Excelsior Springs, Missouri.

B. Definitions. The words and phrases when used in this Section shall have the meaning set out under Article XVI, Section 1 of the Missouri Constitution and the Regulations of the Missouri Department of Health and Senior Services.

C. General Requirements.

1. All medical marijuana facilities shall comply with all provisions of the Excelsior Springs Municipal Code; including International Building, Electrical, Gas, Plumbing and Fire Codes as adopted and amended by the City.
2. All medical marijuana facilities shall comply with the requirements of the Zoning District in which the facility is located.
3. All medical marijuana facilities shall be properly licensed by the Missouri Department of Health and Senior Services and shall comply with all regulations and orders of the Department at all times.

D. Conditions.

1. A Medical Marijuana Dispensary Facility shall be located only in a "C-2" General Business District, "C-3" Service Business District, or "M-1" Light Industrial District. Medical Marijuana Testing Facilities, Transportation Facilities, Infused Products Manufacturing Facilities and Cultivation Facilities shall be located only in the "M-1" Light Industrial and "M-2" General Industrial Districts.

2. No medical marijuana facility shall be permitted to locate within one thousand (1,000) feet of any religious institution, school, or licensed day-care or youth facility. In the case of a freestanding facility, the distance between the facility and any religious institution, school, or licensed day-care or youth facility shall be measured from the external wall of the facility structure closest in proximity to the religious institution, school, or licensed day-care or youth facility to the closest point of the property line of the religious institution, school, or licensed day-care or youth facility. If the religious institution, school, or licensed day-care or youth facility school, daycare 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 religious institution, school, or licensed day-care or youth facility closest in proximity to the facility.

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 religious institution, school, or licensed day-care or youth facility shall be measured from the property line of the religious institution, school, or licensed day-care or youth facility to the facility's entrance or exit closest in proximity to the religious institution, school, or licensed day-care or youth facility. If the religious institution, school, or licensed day-care or youth facility 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 religious institution, school, or licensed day-care or youth facility closest in proximity to the facility.

Measurements shall be made along the shortest path between the demarcation points that can be lawfully traveled by foot.

3. No medical marijuana facility shall be permitted to locate within one hundred (100) feet of any single-family residential zoning district. Such distance shall be measured in a straight line without regard to intervening properties from the closest exterior structural wall of the medical marijuana facility to the closest property line of the single-family residential zoning district.

4. No medical marijuana facility shall be permitted to locate within one thousand (1,000) feet of another lawfully existing medical marijuana facility. Such distance shall be measured in a straight line without regard to intervening properties from the closest exterior structural wall of the medical marijuana facility to the closest property line of the other medical marijuana facility.

5. No Medical Marijuana Facility shall be permitted to locate in a building that contains a residential dwelling.

6. Medical Marijuana Dispensaries are prohibited from having drive-through services.

7. Medical Marijuana Dispensaries may operate only between the hours of 8:00 a.m. and 9:00 p.m., Monday – Sunday.

8. A medical marijuana facility shall not operate so as to emit an offensive, noxious, unhealthy or disagreeable odor, or release any substance emitting an offensive, noxious, unhealthy or disagreeable effluvium in the neighborhood where it exists.

9. Liquid waste and wastewater generated during medical marijuana production and processing shall not be discharged into the Excelsior Springs sanitary sewer system.

10. Solid waste generated during medical marijuana production and processing shall be stored and disposed of in accordance with Sections 245.030 – 245.080 of the Excelsior Springs Municipal Code and the regulations of the Department. Solid waste shall not be disposed of in solid waste containers provided by the City.

11. No production, dispensing or use of medical marijuana shall take place outside of the establishment either wholly or partially.

12. The medical marijuana facility shall be limited to one (1) wall-mounted sign no greater than one (1) square foot of sign per linear foot of wall length, not to exceed a total of fifty (50) square feet; said sign shall not flash, blink, or move by mechanical means, and shall not extend above the roof line of the building.

13. No merchandise or pictures of products may be displayed in any area where it may be viewed from outside of the establishment.

14. Each application for a business license for a medical marijuana facility in accordance with Section 605.010 shall include a site plan. The site plan shall be drawn at a scale of one (1) inch equals fifty (50) feet or larger and shall include, as a minimum, the following information:

a. The site plan shall delineate the property lines of the proposed project, and shall indicate the Zoning District classification and present use of the proposed project site and for abutting properties.

b. The site plan shall delineate existing rights-of-way and easements.

c. The site plan shall delineate the general location and width of all existing streets and public rights-of-way and easements.

d. The site plan shall delineate the proposed building layout with the required setbacks and exclusions as required in Subsections (D)(2), (3), (4) and (5) above.

e. The site plan shall delineate the location and number of parking spaces required in the District in which the facility is located.

f. The site plan shall indicate the signage in accordance with Subsection (D) (12) above.

g. The site plan shall show that the measurements from the building to surrounding structures and property lines comply with this Section.

Section 4. The provisions of the Municipal Code of the City of Excelsior Springs, Missouri amended hereby shall not be construed to revive any former ordinance, clause or provision of the Municipal Code of the City of Excelsior Springs, Missouri.

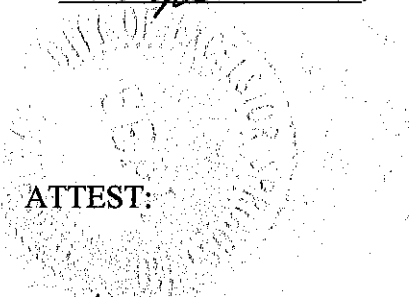
Section 5. The sections, paragraphs, clauses and phrases of this Ordinance are severable, and if any portion of the Ordinance is declared unlawful by the valid judgment, decree or injunction order of a court of competent jurisdiction, such ruling shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance, and all provisions of the Ordinance not specifically declared to be unlawful shall remain in full force and effect.

Section 6. This Ordinance overrides any conflicting provision or regulation within the Municipal Code of the City of Excelsior Springs, Missouri.

Section 7. This Ordinance shall be in full force and effect from and after its passage and approval.

INTRODUCED IN WRITING, read by title two times, passed and approved on the 2ND day of August, 2019.

ATTEST:


Shannon Stroud
Shannon Stroud, City Clerk

Bradley T. Eales
Bradley T. Eales, Mayor

REVIEWED BY:

Molly McGovern
Molly McGovern, City Manager