

ORDINANCE NO. 19-08-02

**AN ORDINANCE AMENDING THE CODE OF THE CITY OF EXCELSIOR SPRINGS,
MISSOURI BY ADOPTING CHAPTER 233, "MARIJUANA CULTIVATION"
AND AMENDING CHAPTER 230, "OFFENSES" REGARDING MEDICAL
MARIJUANA**

WHEREAS, the cultivation, possession and use of medical marijuana is lawful under Article XVI, Section 1 of the Missouri Constitution; and

WHEREAS, amendments and additions to the Municipal Code are necessary to protect the lawful rights to produce and dispense medical marijuana; and

WHEREAS, the City Council finds that these amendments and additions 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. The Excelsior Springs Municipal Code is hereby amended by the addition of Chapter 233 MARIJUANA CULTIVATION as set out below:

Chapter 233

Marijuana Cultivation

SECTION 233.010: 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.

SECTION 233.020: Business License Required – No Additional Licenses.

Medical marijuana businesses shall be required to have a city business license as required in Chapter 605, but shall not be required to have any other city-issued business license.

SECTION 233.030: Registration Required.

No person shall cultivate marijuana without first obtaining a Medical Marijuana Cultivation Facility license issued by the Missouri Department of Health and Senior Services or, in the case of noncommercial cultivation by Qualifying Patients or Primary Caregivers holding a Qualifying Patient Cultivation identification card, registering their cultivation location pursuant to the requirements of this ordinance. A separate registration shall be required for each and every Qualifying Patient or Primary Caregiver.

- A. Qualifying Patient Cultivation registration forms shall be submitted to the Building Official on forms supplied by the Department.
- B. Qualifying Patient 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.

SECTION 233.040: Cultivation by Qualifying Patients.

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 in close proximity to the marijuana plants.
- D. The growing area shall comply with all provisions of the Excelsior Springs Municipal Code, including International Building, Electrical, Gas, Plumbing, Fire and Property Maintenance Codes as adopted and amended by the City 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.

SECTION 233.050: 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.

SECTION 233.060: Public Health.

- A. It shall be unlawful for any Qualifying Patient to allow the smell or noxious odor emitted from smoking, consumption or possession of medical marijuana to intrude into any public or private property, including sidewalks, streets and parks, unless permitted by the person or entity with control of the property or provided by law.
- B. It shall be unlawful for any person or entity to cultivate medical marijuana or operate a medical marijuana facility 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 the facility exists.
- C. It shall be unlawful for any person or entity to cultivate medical marijuana or operate a medical marijuana facility so as to produce 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 230 of the Excelsior Springs Municipal Code is hereby amended by repealing section 230.560 "Drugs and Marijuana – Legal Possession." in its entirety and enacted in lieu thereof a new Section 230.560 "Drugs – Possession." as set out below:

SECTION 230.560 – Drugs – Possession

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 230 of the Excelsior Springs Municipal Code is hereby amended by repealing section 230.563 “Drugs and Marijuana – Illegal Use.” in its entirety and enacted in lieu thereof a new Section 230.563 “Drugs – Possession of Marijuana” as set out below:

SECTION 230.563 – Drugs – Possession of Marijuana

- 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 Missouri law.
 2. A Primary Caregiver of a Qualifying Patient in an amount no larger than allowed by Missouri law.
 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 an inseparably connected with and dependent upon the void portion that it cannot

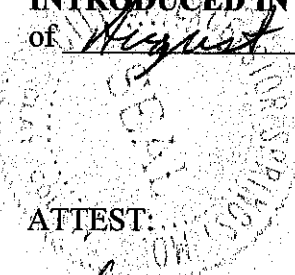
be presumed that the City has enacted the valid portions without the void ones, or unless the court finds that the valid portions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

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.

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