

**ZONING ORDINANCE CHANGE  
PETITION REVIEW REPORT**

**Petition Number:** Z 23-01

**Petitioner:** City of Ballwin  
1 Government Ctr.  
Ballwin, MO 63021

**Project Name:** Marijuana Use Text Amendment

**Requested Action:** Zoning Ordinance Regulations Change

**Public Hearing Date:** March 6, 2023

**Code Section:** Chapter 1, Article 1-2;  
Zoning Ordinance, Article XIV, Sections 1  
& 10

## **Project Description:**

On November 8, 2022, The State of Missouri adopted Amendment 3 to the Missouri Constitution, relating to access to recreational marijuana, which became effective on December 8, 2022.

Due to the fact that Article XIV lies under Article A, The Zoning Ordinance of the City of Ballwin, it was determined to be necessary to inform and gather the recommendation of the Planning and Zoning Commission before bringing this before the Board of Aldermen.

The City Attorney has proposed that Article XIV, Sections 1 and 10 be repealed and replaced with the following:

### **Section 1. – Generally**

33. Marijuana Cultivation Facility entirely within an enclosed building in the C-1, C-2, C-3, and the S-1 Zoning Districts.
34. Marijuana-Infused Products Manufacturing Facility in the C-1, C-2, C-3, and the S-1 Zoning Districts.
35. Marijuana Testing Facility in the C-1, C-2, C-3, and S-1 Zoning Districts.
36. Marijuana Dispensary Facility in the C-1, C-2, C-3, and S-1 Zoning Districts.
37. Marijuana Cultivation Facility (outside) in the Planned Overlay Zoning Districts.

**Section 10. – Marijuana Uses.** The purpose of this division is to regulate the placement and licensing of facilities for the dispensing, selling, cultivating, manufacturing, storing, and testing of marijuana and marijuana-infused products, to the extent permitted by the Missouri Constitution, applicable statutes enacted by the General Assembly, and regulations promulgated by the Missouri Department of Health and Senior Services, and to protect the health, safety, and welfare of the residents, businesses, and property owners in the City.

- A. No marijuana related use, activity, or facility shall emit an odor or in any way cause a public nuisance per Chapter 29 of this Code. Appropriate ventilation systems to prevent any odor of marijuana or fumes from leaving the premises or other changes to the facilities can be required if a public nuisance violation occurs.
- B. No more than a total of three (3) Marijuana Dispensary Facilities, three (3) Marijuana Cultivation Facilities, and three (3) Marijuana-Infused Products Manufacturing Facilities will be allowed within the City Limits.

- C. Each Marijuana Cultivation Facility, Marijuana-Infused Products Manufacturing Facility, or Marijuana Dispensary Facility shall be located on properties that meet the following distance requirements:
1. No marijuana related uses shall be operated or maintained within three hundred (300) feet of any school, child day-care center, or church.
  2. No marijuana related used shall be operated or maintained within one thousand five hundred (1,500) feet of another marijuana related use except when marijuana sales represents less than 5% of the dollar volume of business in a state or federally license pharmacy. Marijuana related uses under the same ownership and on the same property are exempt from the requirement.
  3. In the case of a free-standing facility, the distance between the facility and the school shall be measured from the external wall of the facility closest in proximity to the school to the closest point of the property line of the school, unless the school is part of a larger structure such as an office building or mall, in which case the distance shall be measured to the entrance or exit of the school in closest proximity to the facility. In the case of a facility that is part of a larger structure, such as an office building or mall, the distance between the facility and the school shall be measured from the property line of the school to the facility's entrance or exit closest in proximity to the school, unless the school is part of a larger structure such as an office building or mall, in which case the distance shall be measured to the entrance or exit of the school in closest proximity to the facility. Measurements shall be made along the shortest path between the demarcation points that can be lawfully traveled by foot.
- D. No marijuana or marijuana-infused product shall be displayed so as to be visible through glass, windows, or doors by a person of normal visual acuity standing at the outside perimeter of a Facility.
- E. Paraphernalia as defined in Chapter 195 of the Revised Statutes of Missouri, as may be amended, may be lawfully sold at a Marijuana Dispensary Facility.
- F. The sale or consumption of alcohol within a Facility is prohibited.
- G. The consumption, inhalation, or other personal use of marijuana or marijuana-infused products on or within the premises of a Marijuana Cultivation Facility, Marijuana Testing Facility, Marijuana-Infused Products Manufacturing Facility, or Marijuana Dispensary Facility is prohibited, except that a Marijuana Testing Facility may consume marijuana during the testing process and only as the consumption relates to the testing process.

- H. Dispensaries can be on the same property as a cultivation facility, a Marijuana-Infused Products Manufacturing Facility, or Marijuana Testing Facility but are not permitted to be within the same building as any other marijuana related use.
- I. Security plans. A Marijuana Cultivation Facility, Marijuana Testing Facility, Marijuana-Infused Products Manufacturing Facility, or Marijuana Dispensary Facility shall provide adequate security on the premises including, but not limited to, the following:
1. Surveillance. Security surveillance cameras installed to monitor each entrance to the Facility along with the interior and exterior of the premises to discourage and to facilitate the reporting and investigation of criminal acts and nuisance activities occurring at the premises. Security video shall be preserved for at least ninety (90) days, and be made available to law enforcement officers upon demand.
  2. Inventory. All salable inventory of marijuana must be kept and stored in a secured, locked manner.
  3. Safe. A locking safe or secure vault permanently affixed or built into the premises to store any currency on site.
  4. Alarm System. Professionally monitored robbery alarm and burglary alarm systems shall be installed and maintained in good working condition within the Facility at all times.
  5. Emergency Contact. Each Facility shall provide the Chief of Police with the name, cellular telephone number, electronic mail address, and facsimile number of an on-site Facility employee to whom the City may provide notice to any operating problems associated with the Facility. It shall be the responsibility of the Licensee to keep up to date the contact information of the Facility employee.
- J. Operating Plans. As a condition of processing of a business license application, a Facility operator shall provide at the time of filing the business license application, a detailed operations plan, and, upon issuance of a license, shall operate the Facility in accordance with the plan. Such plan shall include:
1. Floor Plan. A plan showing the layout of the Facility and the principal uses of the floor area depicted. A Marijuana Dispensary Facility shall have a lobby waiting area at the entrance to the center to receive clients, and a separate and secure designated area for dispensing marijuana. The primary entrance of any standalone facility shall be located and maintained clear of barriers, landscaping, and similar obstructions so that it is clearly visible from public streets, sidewalks, or site driveways. All storage areas shall be shown or labeled.

2. Odor Controls. A Facility shall provide a plan for the mitigation and control of odors and other environmental impacts which may emanate from a Facility. Such plan shall describe the ventilation system for the premises. Appropriate ventilation systems to prevent any odor of marijuana or fumes from leaving the premises of a Facility or other changes to a Facility may be required to abate a public nuisance.

K. Signage.

1. A sign for a marijuana cultivation facility, marijuana dispensary facility, marijuana-infused products manufacturing facility, or marijuana testing facility shall comply with the requirements of Chapter 22 of the Code, or any ordinance enacted hereafter regulating signs.
2. A sign for a marijuana cultivation facility, marijuana dispensary facility, marijuana-infused products manufacturing facility, or marijuana testing facility shall be located on the same premises as the facility.

L. Each Facility shall provide off-street parking and comply with all parking regulations for the zoning district in which the Facility is located.

M. Each Facility shall at all times possess a current City business license. By obtaining a City business license, the Facility Licensee irrevocably consents to the immediate closure and cessation of operation of the Facility in addition to all other penalties or remedies available by law for the failure to possess a current City business license.

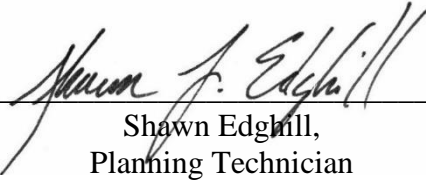
N. It shall be unlawful for any person to distribute, transmit, give, dispense, or otherwise provide marijuana as a home occupation.

O. No marijuana cultivation facility, marijuana dispensary facility, marijuana-infused products manufacturing facility, or marijuana testing facility shall be operated within the City without a valid license issued by the Missouri Department of Health and Senior Services. No marijuana or marijuana-infused products shall be acquired, certified, cultivated, delivered, manufactured, processed, sold, stored, tested, or transported within the City, except by persons or entities licensed for such purposes by the Missouri Department of Health and Senior Services.

P. Application Review Process:

1. Site review permit. This preliminary permit reviews the proposed marijuana related use for compliance with the City's zoning and location standards prior to issuance of State license. A draft of proposed security and floor plans should also be provided. Site review approval shall expire, and be of no effect, one (1) year after the date of issuance thereof. Site review and approval shall be conducted administratively.

2. Business License. Once State licensing has been received, the business license shall include all relevant State approvals and approved operating plans and security plans.



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