

SPONSORED BY: COUNCIL MEMBER BAKER
INTRODUCED BY: COUNCIL MEMBER BAKER

BILL NO. 3635
ORDINANCE NO. 3415

AN ORDINANCE AMENDING TITLE IV: LAND USE, CHAPTER 400: ZONING REGULATIONS, SECTIONS 400.090, 400.260, 400.290, 400.300, AND 400.320, AND ARTICLE VII, OF THE MUNICIPAL CODE OF THE CITY OF ELLISVILLE, MISSOURI, TO ADD REGULATIONS AND ESTABLISH PERMITTED DISTRICTS FOR MEDICAL MARIJUANA RELATED USES.

WHEREAS, an amendment to Missouri’s constitution was approved by voters on November 6, 2018 allowing access to Medical Marijuana in Missouri; and

WHEREAS, pursuant to the Federal Controlled Substance Act, 21 U.S.C. §§ 801 et seq., the use, possession and cultivation of marijuana are unlawful and subject to federal prosecution without regard to a claimed medical need; and

WHEREAS, the United States Department of Justice issued a Memorandum entitled “Guidance for Marijuana Enforcement” on August 29, 2013. The memorandum established eight guidelines for states regarding the federal priorities in determining whether federal enforcement should commence against those engaged in specific activities related to marijuana cultivation and distribution. This ordinance places the highest priority on meeting these guidelines, particularly those related to public safety and health, restrictions on availability to minors, and prevention of illegal trafficking and profiteering; and

WHEREAS, as a result of such state and federal laws, the City has initiated a petition for text amendments to Title IV, Land Use, Chapter 400: Zoning Regulations, of the Municipal Code of the City of Ellisville, to add regulations and establish permitted districts for medical marijuana related uses; and

WHEREAS, the City desires to protect the public health and safety by establishing reasonable regulations on medical marijuana related uses regarding noise, air quality, neighborhood safety, security, other health and safety concerns, and time, place and manner restrictions on medical marijuana facility operations; and

WHEREAS, a public hearing was held by the Planning and Zoning Commission of the City of Ellisville on April 10, 2019, pursuant to legal notices and Title IV, Land Use, of the Municipal Code of the City of Ellisville, to amend said land use regulations, and the Planning and Zoning Commission forwarded a favorable recommendation of said petition to the City Council; and

WHEREAS, a public hearing was held by the Council of the City of Ellisville on April 17, 2019, pursuant to legal notices and Title IV, Land Use, of the Municipal Code of the City of Ellisville, to amend said land use regulations; and

WHEREAS, all persons present at such hearings were given an opportunity to be heard and were heard; and

WHEREAS, the Council finds that amendment of said land use regulations will not adversely affect the character of the neighborhood, traffic conditions, fire hazards, public utility facilities and other matters pertaining to the public health, safety and general welfare of the community; and

WHEREAS, a copy of the proposed Ordinance was made available for public inspection prior to its consideration by the Council.

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

SECTION 1: Title IV, Land Use, Chapter 400: Zoning Regulations, Section 400.090 Definitions, of the Municipal Code of the City of Ellisville (Section 400.090), is hereby amended by adding the defined terms set forth in Exhibit A, which is attached hereto and incorporated herein by reference, leaving all other provisions of Section 400.090 in effect, unaltered.

SECTION 2: Title IV, Land Use, Chapter 400: Zoning Regulations, Section 400.260 “WNU” Wildwood Non-Urban District Regulations, Subsection (C) Conditional Uses, of the Municipal Code of the City of Ellisville (Section 400.260(C)), is hereby amended by adding the following to the list of conditional uses:

- Medical Marijuana Cultivation Facility (indoor)
- Medical Marijuana Cultivation Facility (outdoor)

SECTION 3: Title IV, Land Use, Chapter 400: Zoning Regulations, Section 400.290 “C-3” Commercial Zoning District, Subsection (C) Conditional Uses, of the Municipal Code of the City of Ellisville (Section 400.290(C)), is hereby amended by adding the following to the list of conditional uses:

- Medical Marijuana Cultivation Facility (indoor)
- Medical Marijuana Dispensary Facility
- Medical Marijuana-Infused Products Manufacturing Facility
- Medical Marijuana Testing Facility

SECTION 4: Title IV, Land Use, Chapter 400: Zoning Regulations, Section 400.300 “C-4” Ellisville Business Park Zoning District, Subsection (D) Conditional Uses, of the Municipal Code of the City of Ellisville (Section 400.300(D)), is hereby amended by adding the following to the list of conditional uses:

- Medical Marijuana Cultivation Facility (indoor)
- Medical Marijuana Cultivation Facility (outdoor)
- Medical Marijuana Dispensary Facility
- Medical Marijuana Testing Facility
- Medical Marijuana-Infused Products Manufacturing Facility

SECTION 6: Title IV, Land Use, Chapter 400: Zoning Regulations, Section 400.320 “M-1” Light Industrial Zoning District, Subsection (B) Permitted Uses, of the Municipal Code of the City of Ellisville (Section 400.320(B)), is hereby amended by adding the following to the list of permitted uses:

- Medical Marijuana Cultivation Facility (indoor only)
- Medical Marijuana Dispensary Facility
- Medical Marijuana Testing Facility
- Medical Marijuana-Infused Products Manufacturing Facility

SECTION 7: Title IV, Land Use, Chapter 400: Zoning Regulations, Section 400.320 “M-1” Light Industrial Zoning District, Subsection (C) Conditional Uses, of the Municipal Code of the City of Ellisville (Section 400.320(C)), is hereby amended by adding the following to the list of conditional uses:

- Medical Marijuana Cultivation Facility (outdoor)

SECTION 8: Title IV, Land Use, Chapter 400: Zoning Regulations, Article VII Supplemental Regulations, is hereby amended by adding a new Section 400.340 Regulations for Medical Marijuana Related Uses, as set forth in Exhibit B, which is attached hereto and incorporated herein by reference.

SECTION 9: All other Sections and Subsections of Title IV, Land Use, Chapter 400: Zoning Regulations, of the Municipal Code of the City of Ellisville, shall remain in full force and effect.

SECTION 10: 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 11: This Ordinance shall be in full force and effect from and after its passage and approval by the Council.

This Bill No. 3635 having been read by title or in full two times prior to passage and having been duly considered and voted upon was finally passed and approved this 17th day of April, 2019.

First Reading votes:

DATE: 04/17/2019

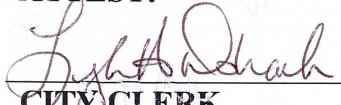
Second Reading votes:

DATE: 04/17/2019

	AYE	NAY	ABSTAIN
MCGRATH	X		
CHISMARICH	X		
BAKER	X		
REEL		Absent	
DUFFY	X		
POOL	X		
ROEMERMAN	X		

	AYE	NAY	ABSTAIN
	X		
	X		
	X		
		Absent	
	X		
	X		
	X		

ATTEST:




 CITY CLERK

CITY OF ELLISVILLE



 MAYOR MIKE ROEMERMAN

Approved as to legal content and form:



 City Attorney

EXHIBIT A**MARIJUANA OR MARIHUANA**

Cannabis indica, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as seed thereof and resin extracted from the plant and marijuana-infused products. Marijuana does not include industrial hemp containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis, or commodities or products manufactured from industrial hemp.

MARIJUANA-INFUSED PRODUCTS

Products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures, and concentrates.

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 DISPENSARY FACILITY

A facility licensed by the State of Missouri to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products and drug paraphernalia used to administer marijuana as provided for in this section to a Qualifying Patient, a Primary Caregiver, another Medical Marijuana Dispensary Facility, a Medical Marijuana Testing Facility, or 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, a Medical Marijuana Testing Facility, or to another Medical Marijuana-Infused Products Manufacturing Facility.

MEDICAL MARIJUANA PRIMARY CAREGIVER

A Missouri resident possessing a valid medical marijuana Primary Caregiver identification card issued by the Missouri Department of Health and Senior Services, or its successor agency.

MEDICAL MARIJUANA QUALIFYING PATIENT

A Missouri resident possessing a valid medical marijuana Qualifying Patient identification card issued by the Missouri Department of Health and Senior Services, or its successor agency.

MEDICAL MARIJUANA TESTING FACILITY

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

EXHIBIT B

Chapter 400 Zoning Regulations

Article VII Supplemental Regulations

Section 400.340 Regulations for Medical Marijuana Related Uses.

A. *Regulations Applicable to All Medical Marijuana Related Uses.* In addition to all other pertinent and applicable regulations, the following special conditions shall apply to all businesses and establishments selling, growing, acquiring, transporting, delivering, cultivating, harvesting, processing, testing, manufacturing, extracting and/or certifying marijuana and/or marijuana-infused products, including, but not limited to, Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, and Medical Marijuana Testing Facilities (“Medical Marijuana Related Uses”):

1. *Location restrictions.* No Medical Marijuana Related Uses shall be operated or maintained within three-hundred (300) feet, measured property line to property line, of a then existing elementary or secondary school, or church. “Then existing” shall mean any elementary or secondary school, or church with a written building permit from the City to be constructed, or under construction, or completed and in use at the time the Medical Marijuana Related Use first applies for either zoning or a building permit, whichever comes first.

2. *Outdoor Operations or Storage.*

a. *Medical Marijuana Cultivation Facilities.* Outdoor operations are conditionally permitted in the “WNU” Wildwood Non-Urban District, “C-4” Ellisville Business Park Zoning District and the “M-1” Light Industrial Zoning District. Facilities with outdoor cultivation shall construct an exterior barrier around the perimeter of the marijuana cultivation area that consists of a solid block wall or fence at least eight (8) feet in height. Indoor operations shall be within a fully secured area inside the building structure. All storage of materials, products, or equipment shall be within a fully secured area inside the building structure or outdoors on the property in an area enclosed by a solid block wall or fence at least eight (8) feet in height.

All Medical Marijuana Related Uses Other Than Outdoor Medical Marijuana Cultivation Facilities. All operations shall be within a fully secured area inside the building structure. All storage of materials, products, or equipment shall be within a fully secured area inside the building structure or outdoors on the property in an area enclosed by a solid block wall or fence at least eight (8) feet in height.

3. *Onsite Usage Prohibited.* No marijuana or marijuana-infused product may be smoked, ingested, or otherwise consumed on the premises of a property upon which a Medical Marijuana Related Use is conducted.

4. *Display of License Required.* The license issued by the State of Missouri to conduct the Medical Marijuana Related Use shall be displayed prominently in a location visible from the front entrance to the facility.
5. *Hours of Operation.*
 - a. *Medical Marijuana Dispensary Facilities.* All sales or distribution of Medical Marijuana and any other products sold to the public through a Medical Marijuana Dispensary Facility may take place between the hours of 8:00 AM and 10:00 P.M., Monday –Sunday. Medical Marijuana Dispensary Facilities shall be secured and closed to the public after the hours listed in this subsection and no persons not employed by the Medical Marijuana Dispensary Facility may be present in such a facility at any time it is closed to the public.
 - b. *All Medical Marijuana Related Uses Other Than Medical Marijuana Dispensary Facilities.* Facilities shall be closed to the public between the hours of 10:00 P.M. and 8:00 A.M. No persons not employed by the business shall be on the premises at any time without being approved entry and logged in by building security personnel and are required to obtain a visitor pass.
 - c. Hours of operation other than the hours listed in this subsection will not be allowed except as a conditional use.
6. *Waste Disposal.* Any excess or unusable medical marijuana or medical marijuana byproduct of a Medical Marijuana Related Use shall be stored securely before final disposition, which may be done within the facility in areas designated for disposal activities or, if necessary, outside the facility in a locked, tamper-resistant receptacle.
7. *Drive-Through Facilities.* Drive-through facilities for Medical Marijuana Related Uses shall be subject to the same regulations as drive-through facilities that are not for food and beverage.