

BILL NO. _____

ORDINANCE NO. _____

INTRODUCED BY ALDERMAN _____

AN ORDINANCE AMENDING ARTICLE IV OF CHAPTER 26 OF THE
MUNICIPAL CODE OF THE CITY OF CRESTWOOD, MISSOURI, TO ADD A
NEW DIVISION RELATING TO MEDICAL MARIJUANA

WHEREAS, on November 6, 2018, a majority of the qualified voters of the State of Missouri approved the adoption of Amendment 2 to the Missouri Constitution, enacting Article XIV, Section 1, relating to access to medical marijuana, which became effective on December 6, 2018; and

WHEREAS, Amendment 2 provides for the Missouri Department of Health and Senior Services to license and regulate medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, and medical marijuana testing facilities, to ensure that qualifying patients have access to medical marijuana to treat qualifying medical conditions; and

WHEREAS, Amendment 2 permits cities to enact ordinances not in conflict therewith governing the time, place, and manner of operation of medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, and medical marijuana testing facilities; and

WHEREAS, the City of Crestwood (the “City”) wishes to regulate the location and operation of medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, and medical marijuana testing facilities to protect the health, safety, and welfare of the residents, businesses, and property owners in the City of Crestwood; and

WHEREAS, City staff submitted the proposed amendment to Chapter 26 of the City's Code to the Planning, Zoning, and Architectural Review Commission (the "Commission"), and a majority of the Commission recommended that the Board of Aldermen approve the proposed amendment; and

WHEREAS, on March 4, 2019, the Board of Aldermen published notice of a public hearing regarding the proposed amendment to Chapter 26 of the Code; and

WHEREAS, the Board of Aldermen held a public hearing on March 26, 2019, with notice to the public as required by Section 26-343 of the Code; and

WHEREAS, the Board of Aldermen finds that the proposed amendment to Chapter 26 of the Code would be in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CRESTWOOD, MISSOURI, AS FOLLOWS:

SECTION 1: The Municipal Code of the City of Crestwood, Missouri is hereby amended by adding a new Division 20 to Article IV of Chapter 26, which reads as follows:

DIVISION 20 – MEDICAL MARIJUANA

Sec. 26-490. Purpose.

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 of Crestwood.

Sec. 26-491. Definitions.

Terms not expressly defined herein shall have the meaning set forth in Mo. Const. art. XIV, Section 1(2), enacted as Amendment 2 (2018) to the Missouri Constitution and approved by Missouri voters on November 6, 2018, relating to access to medical marijuana, if defined therein. The following definitions shall apply in interpretation and enforcement of this division, unless otherwise specifically stated:

“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 resin extracted from the plant and marijuana-infused products. “Marijuana” or “Marihuana” do 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 Missouri Department of Health and Senior Services 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 Missouri Department of Health and Senior Services to acquire, store, sell, transport, 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, a medical marijuana testing facility, or a medical marijuana-infused products manufacturing facility.

Medical Marijuana-Infused Products Manufacturing Facility

A facility licensed by the Missouri Department of Health and Senior Services 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 Testing Facility

A facility certified by the Missouri Department of Health and Senior Services to acquire, test, certify, and transport marijuana.

Sec. 26-492. General Requirements.

- A. No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall be operated within the City of Crestwood 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 of Crestwood, except by persons or entities licensed for such purposes by the

Missouri Department of Health and Senior Services. All medical marijuana dispensaries, medical marijuana-infused products manufacturing facilities, medical marijuana cultivation facilities, and medical marijuana testing facilities shall prominently display said license in a highly visible location, easily seen by patients on the dispensary's sales floor.

- B. No person shall possess or consume marijuana or marijuana-infused products in the City of Crestwood except qualifying patients. No qualifying patient shall consume marijuana in a public place, except public places where such consumption is expressly permitted by law.
- C. A medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall be operated in the manner provided by Section 1 of Article XVI, Mo. Const., regulations promulgated by the Missouri Department of Health and Senior Services, applicable state statutes, and this division.
- D. Medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, and medical marijuana testing facilities shall annually obtain a business license from the City as required by Chapter 13 of this Code, and shall annually pay the applicable taxes and fees required by Chapter 13 of this Code.
- E. Any person who violates this Section is guilty of an offense and shall be assessed a penalty in accordance with Section 1-6 of this Code. The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this division. In addition to any other remedies, the city attorney may institute injunction, mandamus or other appropriate action or proceeding to prevent violation of this division. Additionally, the City may notify appropriate officials at the Missouri Department of Health and Senior Services, or other law enforcement agencies, of violations of this division.

Sec. 26-493. District Regulations, Conditional Use Permit Required.

- A. A licensed medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall be permitted as a conditional use in properties zoned "C-1," "PD-C," "M-1," or "PD-M." A medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall not be permitted in any other zoning district within the City.
- B. No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall be located within one thousand feet of any elementary or secondary school, child day-care center, or church.

- C. No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall be located within one thousand feet of another medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility.
- D. No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall be located on the same premises as a physician's office.
- E. *Hours of Operation.*
 - 1. All sales or distribution of medical marijuana and any other products sold to the public through a medical marijuana dispensary shall take place between the hours of 08:00 a.m. and 9:00 p.m., Sunday – Saturday. Medical marijuana dispensaries 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 may be present in such a facility at any time it is closed to the public.
 - 2. All medical marijuana-infused products manufacturing facilities, medical marijuana cultivation facilities, and medical marijuana testing facilities shall be closed to the public between the hours of 7:00 p.m. and 7:00 a.m. No persons not employed by the business shall be on the premises at any time.
- F. *Storage.* All operations and all storage of materials, products, or equipment shall be within a fully secured area inside the building structure. No outdoor storage shall be permitted on the property.
- G. The review procedure for an application for a conditional use permit under this division shall be in the manner set forth in Section 26-302 of this Code. The Board of Aldermen may impose such restrictions on the time, place, and manner of operation of such facilities as it deems appropriate for the protection of public health, safety, and welfare, and to ensure compliance with the Missouri Constitution, applicable statutes and regulations, and this division.
- H. A separate conditional use permit shall be required for each premises used for a medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or a medical marijuana testing facility. No two medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or a medical marijuana testing facility may be located within the same premises, except that a medical marijuana dispensary facility and a medical marijuana cultivation facility may be located on the same premises if both businesses are owned by the same entity.

- I. A conditional use permit for a medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility is not transferable or assignable, including, without limitation, not transferable or assignable to a different premises, to a different type of business, or to a different owner or licensee, without the permission of the Board of Aldermen. A conditional use permit for a medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility is valid only for the owner(s) named thereon, the type of facility for which a conditional use permit has been granted, and the location for which the permit is issued.
- J. An application for a conditional use permit for a medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall be filed with the Department of Public Services, with an application fee in an amount established by the Board of Aldermen. The Department of Public Services may provide forms to applicants for that purpose.

Sec. 26-494. Signs.

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

Secs. 26-495 – 26-499. Reserved.

SECTION 2: The remaining provisions of Chapter 26, Article IV of the City's Code shall remain in full force and effect.

SECTION 3: This Ordinance shall be in full force and effect from and after its passage by the Board of Aldermen and its approval by the Mayor.

PASSED AND SIGNED this _____ day of _____, 2019.

Mayor

ATTEST:

City Clerk

APPROVED this ____ day of _____, 2019.

Mayor