



8425 Airport Road

Berkeley Missouri 63134-2098

(314) 524-3313

---

## NOTICE OF PUBLIC HEARING

**NOTICE IS HEREBY GIVEN** by the City Council of the City of Berkeley that a public hearing will be held at 7:00 pm on Monday, March 04, 2019 in the City Hall Council Chambers, located at 8425 Airport Road, Berkeley, Missouri 63134, for the purpose of considering the following proposition:

**Case #19-03: Shall the City Manager's request be granted to amend the Zoning Code relating to medical marijuana cultivation, testing, and dispensary facilities in Zoning Districts (C2-C3, AD, AD-2, and M1)?**

All interested parties shall be afforded, at such public hearing, a reasonable opportunity to express their views regarding the item set forth above.

---

Deanna L. Jones – City Clerk, MPCC/MMC

If you are a person with a disability and have special needs, please notify the City Manager at (314) 524-3313, no later than 48 business hours prior to the meeting. The City will make reasonable accommodations upon your arrival at the meeting.

Posted: Friday, February 22, 2019 by 5:00 PM

# REPORT TO CITY COUNCIL PUBLIC HEARING



To: Honorable Mayor and Members of the City Plan Commission  
From: Debra M. Irvin, City Manager  
Date: February 14, 2019  
Subject: Amendments to the Zoning Code relating to medical marijuana cultivation, testing and dispensary facilities

---

**SUBJECT:** **Case # 19-03** a request from the City Manager to amend the zoning code by adding amendments to the Zoning Code relating to medical marijuana cultivation, testing and dispensary facilities in Zoning Districts (C2-C3, AD, AD-2, and M1).

Plan Commission heard the Subject item above and present the following as our findings:

**PETITIONER:** City Manager

**BACKGROUND:** Marijuana Amendment 2 passed with 66 percent of the voters on Tuesday, November 6, 2018 making it the most popular issue or candidate on the entire Missouri ballot. The law took effect December 6, 2018. The governor's office and Missouri Department of Health and Senior Services are together to talk about rulemaking.

Although the amendment legalizes growing, manufacturing, selling and consuming marijuana and marijuana products for medicinal use, it will take some time before people can actually use medicinal marijuana, probably around 2020.

The state has six months from December 6, 2018 to create the application process, then it could be another three to six months before they start accepting applications to use or grow marijuana at home and for dispensaries.

In this amendment, patients can grow up to six plants; caretakers up to 18. There are nine qualifying conditions to use medical marijuana, which include: PTSD, chronic pain, seizures, cancer, and other debilitating conditions. If a physician knows they have a qualifying condition and they want to use marijuana, then they issue a certification.

All activity will be regulated by the Missouri Department of Health and Human Services. The four percent (4%) sales tax on marijuana sales will fund veterans' healthcare programs.

## **CONSTITUTIONAL AMENDMENTS**

The Department of Health and Senior Services (DHHS) have four uses that will be licensed and regulated by their department. We will review and amend our zoning to the following four uses:

- **Medical Marijuana Cultivation Facility:** A facility licensed by the DHHS 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 DHHS 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 DHHS to acquire, store, manufacture, transport, and sell marijuana-infused products to a Medical Marijuana Dispensary Facility, a Medical Marijuana Testing Facility, or another Medical Marijuana-Infused Products Manufacturing Facility.
- Medical Marijuana Testing Facility: A facility certified by the DHHS to acquire, test, certify, and transport marijuana.

### **ZONING DISTRICTS**

(C2-C3, AD, AD-2, and M1) under the Special Use Permit procedures 400.530

### **DISTANCE REQUIREMENTS**

Amendment 2 includes a requirement that a medical marijuana facility may not be initially located within **1000-feet** of any then-existing elementary or secondary school, child daycare center, or church; however, this spacing requirement may be decreased if a city chooses. *In our code, we require at least three hundred (300) feet from the nearest property line of any church, synagogue or similar place of worship, or any school.*

### **SUPPORTING DOCUMENTS**

- Staff Report
- Padraic Corcoran – Article – Medical Marijuana in Missouri
- Zoning Districts - (C2-C3, AD, AD-2, and M1)
- License Fees – Section 605.090
- Draft Ordinance

### **RECOMMENDATIONS:**

1. The Plan Commission finds it necessary to amend the Zoning Code with regard to medical marijuana and related uses. Reduce the 1000 feet to the city's current 300 feet from the nearest property line of any church, synagogue, or similar place of worship, or any school.
2. Subject to comprehensive review and comment from the Plan Commission, the proposed amendments are consistent with the Comprehensive Plan existing uses, Section 1.4e. And will be regulated under Special Uses Section 400.530.
3. The Plan Commission finds that the amendments to the Zoning Code will be consistent with the State of Missouri medical marijuana related uses; and clarify regulations regarding medical marijuana related uses.
4. The Plan Commission finds it necessary for the City Manager to give fees to the City Council thereby amending Section 605.090

**Respectfully submitted,**

**BILL NO.**

**ORDINANCE NO.**

**Introduced by: Council Present**

**AN ORDINANCE AMENDING CHAPTER 400 RELATING TO MEDICAL MARIJUANA AND RELATED USES**

**WHEREAS**, medical marijuana uses are licensed and regulated by the State of Missouri; and

**WHEREAS**, On February 13, 2019 the Planning Commission reviewed and considered the proposed amendments to C2-C3, AD, AD-2, and M-1 of the Zoning Code; and

**WHEREAS**, the Planning Commission has recommended approval of the proposed amendments; and,

**WHEREAS**, the City Council has reviewed the recommendation of the Planning Commission and held a Public Hearing, on March 4, 2019, determining that the proposed amendments are appropriate.

**NOW THEREFORE**, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BERKELEY, MISSOURI, AS FOLLOWS:

**Section 1:** Section 400.020 Definitions, of Chapter 400, Zoning, of the Berkeley Municipal Code is hereby amended to include the following new definition:

***Medical Marijuana Dispensary:*** 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 for medical purposes 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.

**Section 2:** The following zoning districts shall be amended; C2-C3, AD, AD-2, and M-1, regulating Medical Marijuana Dispensaries, i.e., retail sales, manufacturing, testing facilities, and related uses under the Special Use Process, Berkeley Code 400.530.

**Section 3:** The annual license fees shall be established under Section 605.090 as follows:

<b>LICENSE TYPE</b>	<b>ANNUAL FEE</b>
Medical Marijuana Sales	\$
Medical Marijuana Manufacturing Facility	\$
Medical Marijuana Testing Facility	\$

**Section 4:** Appendix B, Land Use and Required Parking, of Chapter 400, Zoning, of the Berkeley Municipal Code is hereby amended as set forth and fully described in "Table A" below:

**TABLE A**

<b>Land Use</b>	<b>C-2</b>	<b>C-3</b>	<b>AD</b>	<b>AD-2</b>	<b>M-1</b>	<b>Minimum Parking</b>
Crops Grown Indoors – Manufacturing	N/A	N/A	SUP	SUP	SUP	Section 400.160 (g)
Medical Marijuana Dispensaries	SUP	SUP	SUP	SUP	SUP	1 space per 200 sf. of floor area devoted to retail use

**Section 4:** This Ordinance shall be in full force and effect from and after its passage and approval.

1<sup>st</sup> Reading this \_\_\_ day of March 2019

2<sup>nd</sup> Reading this \_\_\_ day of March 2019

3<sup>rd</sup> Reading, PASSED and APPROVED, this \_\_\_ day of March 2019

---

Theodore Hoskins, Mayor

---

Deanna L. Jones, City Clerk

---

Approved as to Form:  
Donnell Smith, City Attorney