

Introduced by: City Manager Irvin  
of the City of Berkeley, MO

**A RESOLUTION AUTHORIZING NOAH’S ARC FOUNDATION LLC, A SPECIAL USE PERMIT TO OPERATE A MEDICAL MARIJUANA MANUFACTURING FACILITY, LOCATED AT 5001 SPRINGDALE AVE IN THE CITY OF BERKELEY, ST. LOUIS COUNTY, MISSOURI**

**WHEREAS,** Stock & Associates Consulting Engineers on behalf of Noah’s Arc Foundation LLC, has applied to such City for the issuance of a Special Use Permit to operate a Medical Marijuana Manufacturing Facility; and

**WHEREAS,** in accordance with the applicable Ordinance of the City of Berkeley, such application was submitted to the City Plan Commission for its investigation and reports, and further, that such City Plan Commission has returned its final report and recommendation wherein it recommended the issuance of a Special Use Permit to Stock & Associates Consulting Engineers on behalf of Noah’s Arc Foundation LLC, to operate a Medical Marijuana Manufacturing Facility, located at 5001 Springdale Ave, Lot 21 NorthPark One P.B. 355, PGs 941-947, 1.43 Acres; and

**WHEREAS,** due notice of the time, place and purpose of a virtual public hearing was published in two (2) consecutive issues of a newspaper of general circulation in the City or posted on the city’s website, the first notice being published at least ten (10) days prior to the date of the hearing, and written notices of said hearing were mailed to the last known places of abode of the owners of all property lying within one hundred eighty five (185) feet of all boundaries of the property under consideration for a Special Use Permit; and

**WHEREAS,** such virtual public hearing was duly held by the Council, on July 20, 2020, on behalf of the City of Berkeley, Missouri, in conformity with said public notice at which hearing the parties of interest were given an opportunity to be heard.

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

**SECTION 1.** The City Council determines that the public health, welfare, and safety are adequately protected in view of the foregoing criteria, and the Special Use Permit shall be granted as the Council affirmatively finds as to the required criteria.

**SECTION 2.** The use of said tracts for the aforesaid purpose is granted subject to the following conditions:

- a) At all times the facility shall comply with 19CSR 30-95.040 Medical Marijuana Facilities Generally.
- b) Hours of operation: Mon-Sat 6:00am-11:00pm
- c) Weight and length of transportation vehicles shall comply with Section 390.
- d) No sales to the general public.
- e) No outdoor grow fields.
- f) Smoking and vaping of cannabis on the property is prohibited.
- g) Parking of employees personal or commercial vehicles on Springdale, Zev or North Hanley Road is prohibited.
- h) Off-loading shall comply with 400.195 (I).
- i) Exterior signage shall comply with Section 400.195 (J).
- j) No signage on fencing.
- k) Manufacturing shall not:
  - 1. Release into the air any substance which would impair visibility or otherwise interfere with the operation of aircraft;
  - 2. Produce light emissions, either direct or indirect (reflective), which would interfere with the operation of aircraft;

3. Produce electrical, magnetic, or other emissions which would interfere with the operation of aircraft, aircraft communication or aircraft guidance systems;
  4. Attract birds, waterfowl or wildlife in a manner that creates a hazard to aviation;
  5. Create a hazard to aviation in any other manner.
- l) Use shall comply Section 400.195 (H)(b) – Performance Standards.
  - m) A buffer, or minimum separation distance, may be established between any cannabis-related facility and other sensitive land uses, such as Mathison Lake Park, and Lot 22, vacant land.
  - n) Property shall adhere, at all times, to section 530: Stormwater Management.
  - o) Overall, the total site, total areas, building needs to be inspected by the City Staff for compliance with the City’s current codes and regulations prior to occupying the same.
  - p) Submission of final architectural drawings for new construction to the Building Department for review and approval by the Building Commissioner.
  - q) Outside storage of bins and empty boxes is not allowed on the property or in the trash enclosure by the City’s Codes. All trash must be stored behind the building line.
  - r) State License required for medical marijuana manufacturing – shall be posted at all times.
  - s) Owner shall comply with Ordinance 4373 and install and maintain a commercial trash enclosure with dumpster. Proper trash enclosure doors with suitable hinges should be connected for smooth operations.
  - t) The building, lot, landscaping, and yard areas shall be maintained and kept free and clear of any debris, trash, or weeds including maintenance of all landscaped areas.
  - u) Only 10% of windows space shall be used for window signage.
  - v) The premise shall be subject to adherence to City of Berkeley annual fire inspections and life safety plans.
  - w) All required inspections by the city are required before issuance of occupancy permit or business license.
  - x) The interior will be thoroughly inspected by City’s Building Commissioner and Fire Department, and any and all other jurisdictions, if applicable. All permits that are required by any of said mention must be received. Once, all required inspections are completed; apply for all necessary building/occupancy & fire safety permits from the City of Berkeley, and other jurisdictions, after obtaining City Council’s approval on this Special Use Permit. Commercial Occupancy permit and Business License is required and shall be posted at all times.
  - y) In granting such special use permits, the City Council may provide that the permit be valid for a limited period of time not to exceed ten (10) years. Upon expiration of the time limit specified in the permit, the holder of the permit may request the permit be reviewed by the City Council, and the City Council may extend it for another limited period of time not to exceed ten (10) years. The City Council shall provide that the permit be exclusive only for the holder and non-transferable.
  - z) The Special Use Permit will be revoked if for any reason the applicant ceases operations and closes its doors to the public for a period of six (6) months or more, and not complying with the City’s Special Use Permit. The Special Use Permit shall not be assigned, or sold, or conveyed, or operated by another without prior approval by the City Council and occupancy permit, building permit or business license shall be issued to such assignee until such approves is secured.
  - aa) Any violations can be a reason for the City to revoke this permit, according to the City’s current regulations. To continue occupying the building and facilities the applicant must comply with all the applicable rules and regulations of the City of Berkeley, St. Louis County, State of Missouri, and Federal rules and regulations.
  - bb) Prior to issuance of an Occupancy Inspection and Permits, the above noted conditions, the conditions as described in the attached Report, and the inspections as part of the normal occupancy permit process shall be met, and as approved by the City Council. This Special Use Permit takes effect upon the approval by City Council.

- cc) The City Council may, in accordance with Section 400.580, institute a rezoning. The City Council, after a public hearing, may revoke a special use permit for failure of compliance with regulations and restrictions of this Chapter or the requirements of the special use permit.
- dd) If the City Council determines that the public health, welfare, and safety are adequately protected in view of the foregoing criteria, then the special use permit shall be granted; but if it is negative as to any of such paragraphs, then the special use permit shall be denied.

**SECTION 3.** The Department of Public Works shall be charged with responsibility for the enforcement of this Resolution and incorporated therein all necessary reports.

**SECTION 4.** This Resolution shall be in full force and effect from and after the date of its passage.

PASSED this \_\_\_\_\_ **day of** \_\_\_\_\_ **2020**

ATTEST:

\_\_\_\_\_  
Mayor Babatunde Deinbo

\_\_\_\_\_  
Deanna Jones, City Clerk

\_\_\_\_\_  
Approved as to Form:  
Donnell Smith, City Attorney

Final Virtual Roll Call:

Councilwoman Mitchell	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Williams	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Hoskins	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Anthony	Aye ___	Nay ___	Absent ___	Abstain ___
Councilman Hindeleh	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman-at-Large Greene	Aye ___	Nay ___	Absent ___	Abstain ___
Mayor Deinbo	Aye ___	Nay ___	Absent ___	Abstain ___