

City of Independence

SPECIAL CALLED COUNCIL AGENDA

August 12, 2019
6:00 PM, Council Chambers

Agendas are published late in the week for the following week's Council business meetings. Changes made after the tentative agenda is published will be reflected in the latest version posted.

To view a Council meeting agenda, visit <http://independencemo.org/agenda>, and select 'Most Recent Council Agenda'.

ROLL CALL

CITIZEN REQUESTS

CONSENT AGENDA

REGULAR AGENDA

Ordinances

19-058 - 2R. An ordinance amending Chapter 14 of the Independence City Code pertaining to Medical Marijuana Facilities. *[Requested by Councilmember Karen DeLuccie]*

COUNCILMEMBER COMMENTS

ADJOURNMENT

"Is it good for the children?"

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 14 OF THE INDEPENDENCE CITY CODE
PERTAINING TO MEDICAL MARIJUANA FACILITIES.

WHEREAS, the Unified Development Ordinance was approved by the City Council on June 15, 2009, by Ordinance No. 17339 and became effective on July 1, 2009; and,

WHEREAS, after its adoption, policy issues to be addressed were discovered, and it was decided to revise these items; and,

WHEREAS, a public hearing, having been held by the Planning Commission on May 14, 2019, and by the City Council on June 3, 2019, it is the desire of the City Council to adopt this amendment to the Unified Development Ordinance; and,

WHEREAS, on July 15, 2019, the City Council adopted Ordinance No. 19-043, an ordinance amending Chapter 14 of the Independence City Code pertaining to Medical Marijuana Facilities; and

WHEREAS, subsequent to the adoption of Ordinance No. 19-043, City staff identified provisions of Ordinance No. 19-043 that were not consistent with Article XIV, Section 1 of the Missouri Constitution, as well as 19 CSR 30-95, the rules governing medical marijuana promulgated by the Missouri Department of Health and Senior Services; and

WHEREAS, the City Council now desires to repeal Ordinance No. 19-043, adopted on July 15, 2019, and adopt a new ordinance consistent with the provisions of Article XIV, Section 1 of the Missouri Constitution, as well as 19 CSR 30-95, the rules promulgated by the Missouri Department of Health and Senior Services

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

SECTION 1. That existing Ordinance No. 19-043, adopted on July 15, 2019, is hereby repealed.

SECTION 2. That Section 14-201-01 of Article 14, Unified Development Ordinance, be and is hereby amended to add definitions for “Medical Marijuana Cultivation Facility”, “Medical Marijuana Dispensary Facility”, “Medical Marijuana Facility”, “Medical Marijuana Infused Products Manufacturing Facility” and “Medical Marijuana Testing Facility” and “Medical Marijuana Transportation Facility”, as follows:

“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 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 to a Qualifying

Patient, a Primary caregiver, another licensed Medical Marijuana Dispensary Facility, a licensed Medical Marijuana Testing Facility, or a licensed Medical Marijuana-Infused Products Manufacturing Facility.

MEDICAL MARIJUANA FACILITY

A Medical Marijuana Dispensary, Medical Marijuana Cultivation Facility, Medical Marijuana Testing Facility, Medical Marijuana Transportation Facility, and Medical Marijuana-Infused Products Manufacturing Facility licensed by the State of Missouri.

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 TESTING FACILITY

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

MEDICAL MARIJUANA TRANSPORTATION FACILITY

A facility certified by the State of Missouri to transport marijuana to a qualifying patient, a primary caregiver, a Medical Marijuana Cultivation Facility, a Medical Marijuana-Infused Products Manufacturing Facility, a Medical Marijuana Dispensary Facility, a Medical Marijuana Testing Facility, or another Medical Marijuana Transportation Facility.”

SECTION 3. That Section 14-301 of Chapter 14, Unified Development Ordinance, is hereby amending Table 301-1 to read as follows:

**Table 301-1
Office and Commercial Districts Use Table**

USE GROUP	ZONING DISTRICT					Use Standards
	O-1	O-2	C-1	C-2	C-3	
Use Category						
^L specific use type						
P: Permitted S : Special Use Permit Required C: Conditional uses – Not Allowed						
COMMERCIAL						
Medical Marijuana Facility						
^L Medical marijuana cultivation facility	-	-	-	-	<u>S</u>	14-421
^L Medical marijuana dispensary facility	-	-	-	<u>S</u>	<u>S</u>	14-421
^L Medical marijuana infused products manufacturing facility	-	-	-	-	<u>S</u>	14-421
^L Medical marijuana testing facility	-	-	-	<u>C</u>	<u>C</u>	14-421

SECTION 4. That Section 14-302 of Chapter 14, Unified Development Ordinance, is hereby amending Table 302-1 to read as follows:

**Table 302-1
Industrial Districts Use Table**

USE GROUP	ZONING DISTRICT			Use Standards
	BP	I-1	I-2	
Use Category				
^L specific use type				
P: Permitted S : Special Use Permit Required C: Conditional Use – Not Allowed				

USE GROUP	ZONING DISTRICT			Use Standards
	BP	I-1	I-2	
Use Category ↳ specific use type				
P: Permitted S : Special Use Permit Required C: Conditional Use - Not Allowed				
COMMERCIAL				
Medical Marijuana Facility				
↳ Medical marijuana cultivation facility	-	§	-	14-421
↳ Medical marijuana dispensary facility	-	-	-	14-421
↳ Medical marijuana infused products manufacturing facility	-	§	-	14-421
↳ Medical marijuana testing facility	C	C	-	14-421

SECTION 5. That Section 14-421 of Chapter 14, Unified Development Ordinance, is hereby added to read as follows:

“14-421 MEDICAL MARIJUANA FACILITY

14-421-01 APPLICABILITY

The standards of this article apply to Medical Marijuana Facilities.

14-421-02 SPECIAL USE PERMIT REQUIREMENTS

Special Use Permit applicants shall comply with all provisions of Section 14-704, regarding Special Use Permit applications as well as the requirements of this Section, including the following:

1. All city-adopted building, fire, mechanical, plumbing, and electrical codes shall be complied with when submitting building plans for remodel or new construction.
2. All signage shall conform to the standards of Section 14-504 as well as the Missouri Department of Health and Senior Services guidelines. Signage shall be reviewed and approved under a separate permit process.

Special Use Permit applicants shall provide the following plans and documentation for review and approval:

1. The appropriate state license and/or certification issued pursuant to 19 CSR 30-95. The applicant may apply for a Special Use Permit upon showing that the applicant has applied this state license and/or certification, however, the Special Use Permit shall not be issued until such license and/or certification has been obtained from the Missouri Department of Health and Senior Services.
2. A site plan for the Medical Marijuana Facility that shall include a floor plan showing where the various activities will be conducted.
3. A plan which reasonably shows that the Medical Marijuana Facility is capable, when functioning properly, of preventing odors of marijuana from being detected by a person of ordinary sense of smell beyond the boundary of the parcel on which the facility is located.
4. A security plan for review and approval by the Independence Police Department, which reasonably shows that the Medical Marijuana Facility can be kept secure from access by

unauthorized persons both during and after normal hours of operation and, if applicable, provides adequate overnight security for product trucks parked outside the Medical Marijuana Facility.

5. A waste disposal plan for any unused product, byproduct, waste, and/or hazardous materials used as part of normal operations by a Medical Marijuana Facility in accordance with the rules promulgated by the Missouri Department of Health and Senior Services.

14-421-03 BUFFER REQUIREMENT

No Medical Marijuana Facility shall be located within one thousand (1,000) feet of any then-existing elementary or secondary school, daycare, or church. In the case of a freestanding facility, the distance between the facility and the school, daycare, or church shall be measured from the external wall of the facility structure closest in proximity to the school, daycare, or church to the closest point of the property line of the school, daycare, or church. If the school, daycare, or church is part of a larger structure, such as an office building or strip mall, the distance shall be measured to the entrance or exit of the school, daycare, or church closest in proximity to the facility. In the case of a facility that is part of a larger structure, such as an office building or strip mall, the distance between the facility and the school, daycare, or church to the facility's entrance or exit closest in proximity to the school, daycare, or church. If the school, daycare, or church is part of a larger structure, such as an office building or strip mall, the distance shall be measured to the entrance or exit of the school, daycare, or church closest in proximity to the facility. Measurements shall be made along the shortest path between the demarcation points that can be lawfully traveled by foot.

14-421-04 STORAGE

All storage of medical marijuana materials, products, or equipment shall be in accordance with the rules promulgated by the Missouri Department of Health and Senior Services.

14-421-05 ONSITE USAGE PROHIBITED

No marijuana may be smoked, ingested, or otherwise consumed on the premises of a Medical Marijuana Dispensary.

14-421-06 HOURS OF OPERATION

All Medical Marijuana Dispensaries shall be closed to the public, no persons not employed by the business shall be on the premises, and no sales or distribution of marijuana shall occur upon the premises or by delivery from the premises between the hours of 10:00 P.M. and 8:00 A.M.

14-421-07 DISPLAY OF LICENSES REQUIRED

The medical marijuana license issued by the State of Missouri shall be displayed in an open and conspicuous place on the premises at all times in accordance with State of Missouri requirements.

14-421-08 RESIDENTIAL DWELLING UNITS PROHIBITED

No Medical Marijuana Dispensary shall be located in a building that contains a residence.

14-421-09 VENTILATION REQUIRED

All medical marijuana facilities shall install and operate a ventilation system that will prevent any odor of marijuana from leaving the premises of the business. No odors shall be detectable by a person with a normal sense of smell outside the boundary of the parcel on which the facility is located.

14-421-010 BUSINESS LICENSE

A medical marijuana facility shall be required to have a City business license as required in Chapter 5 of the City Code.

14-421-11 CONFORMANCE WITH STATE OF MISSOURI RULES

All medical marijuana facilities shall be operated in accordance with the rules from the State of Missouri Department of Health and Senior Services.”

SECTION 6. Any City of Independence Business License application for Medical Marijuana Dispensary Facility, Medical Marijuana Cultivation Facility, or Medical Marijuana Infused Products Manufacturing Facility received by the City prior to the adoption, by the City Council for Bill No. 19-708, Resolution No. 6407, shall be processed.

SECTION 7. That all other parts and provisions of the City Code shall be in full force and effect unless previously or subsequently amended or repealed.

PASSED THIS _____ DAY OF _____, 2019, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

City Clerk

APPROVED - FORM AND LEGALITY:

City Counselor

REVIEWED BY:

City Manager

NOTE: Words struck through and bolded are being removed by this ordinance and words underscored and bolded are being added by this ordinance.

SECTION 1. That Section 14-201-01 of Article 14, Unified Development Ordinance, be and is hereby amended to add definitions for “Medical Marijuana Cultivation Facility”, “Medical Marijuana Dispensary Facility”, “Medical Marijuana Facility”, “Medical Marijuana Infused Products Manufacturing Facility” and “Medical Marijuana Testing Facility” and “**Medical Marijuana Transportation Facility**”, as follows:

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 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 to a Qualifying Patient, a Primary caregiver, another licensed Medical Marijuana Dispensary Facility, a licensed Medical Marijuana Testing Facility, or a licensed Medical Marijuana-Infused Products Manufacturing Facility.

MEDICAL MARIJUANA FACILITY

A Medical Marijuana Dispensary, Medical Marijuana Cultivation Facility, Medical Marijuana Testing Facility, **Medical Marijuana Transportation Facility**, and Medical Marijuana-Infused Products Manufacturing Facility licensed by the State of Missouri.

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 TESTING FACILITY

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

MEDICAL MARIJUANA TRANSPORTATION FACILITY

A facility certified by the State of Missouri to transport marijuana to a qualifying patient, a primary caregiver, a Medical Marijuana Cultivation Facility, a Medical Marijuana-Infused Products Manufacturing Facility, a Medical Marijuana Dispensary Facility, a Medical Marijuana Testing Facility, or another Medical Marijuana Transportation Facility.”

SECTION 2. That Section 14-301 of Chapter 14, Unified Development Ordinance, is hereby amending Table 301-1 to read as follows:

**Table 301-1
Office and Commercial Districts Use Table**

USE GROUP	ZONING DISTRICT					Use Standards
	O-1	O-2	C-1	C-2	C-3	
Use Category ↳ specific use type						
P: Permitted S: Special Use Permit Required C: Conditional uses - Not Allowed						
COMMERCIAL						
Medical Marijuana Facility						
↳ Medical marijuana cultivation facility	-	-	-	-	S	14-421
↳ Medical marijuana dispensary facility	-	-	-	S	S	14-421

USE GROUP Use Category ↳specific use type	ZONING DISTRICT					Use Standards
	O-1	O-2	C-1	C-2	C-3	
P: Permitted S: Special Use Permit Required C: Conditional uses - Not Allowed						
↳Medical marijuana infused products manufacturing facility	-	-	-	-	§	<u>14-421</u>
↳Medical marijuana testing facility	-	-	-	C	C	<u>14-421</u>

SECTION 3. That Section 14-302 of Chapter 14, Unified Development Ordinance, is hereby amending Table 302-1 to read as follows:

Table 302-1
Industrial Districts Use Table

USE GROUP Use Category ↳specific use type	ZONING DISTRICT			Use Standards
	BP	I-1	I-2	
P: Permitted S: Special Use Permit Required C: Conditional Use - Not Allowed				
COMMERCIAL				
<u>Medical Marijuana Facility</u>				
↳Medical marijuana cultivation facility	-	§	-	<u>14-421</u>
↳Medical marijuana dispensary facility	-	-	-	<u>14-421</u>
↳Medical marijuana infused products manufacturing facility	-	§	-	<u>14-421</u>
↳Medical marijuana testing facility	C	C	-	<u>14-421</u>

SECTION 4. That Section 14-421 of Chapter 14, Unified Development Ordinance, is hereby added to read as follows:

“14-421 MEDICAL MARIJUANA FACILITY

14-421-01 APPLICABILITY

The standards of this article apply to Medical Marijuana Facilities.

14-421-02 SPECIAL USE PERMIT REQUIREMENTS

Special Use Permit applicants shall comply with all provisions of Section 14-704, regarding Special Use Permit applications as well as the requirements of this Section, including the following:

- 1. All city-adopted building, fire, mechanical, plumbing, and electrical codes shall be complied with when submitting building plans for remodel or new construction.**
- 2. All signage shall conform to the standards of Section 14-504 as well as the Missouri Department of Health and Senior Services guidelines. Signage shall be reviewed and approved under a separate permit process.**

Special Use Permit applicants shall provide the following plans and documentation for review and approval:

1. The appropriate state license and/or certification issued pursuant to 19 CSR 30-95. The applicant may apply for a Special Use Permit upon showing that the applicant has applied this state license and/or certification, however, the Special Use Permit shall not be issued until such license and/or certification has been obtained from the Missouri Department of Health and Senior Services.
2. A site plan for the Medical Marijuana Facility that shall include a floor plan showing where the various activities will be conducted.
3. A plan which reasonably shows that the Medical Marijuana Facility is capable, when functioning properly, of preventing odors of marijuana from being detected by a person of ordinary sense of smell beyond the boundary of the parcel on which the facility is located.
4. A security plan for review and approval by the Independence Police Department, which reasonably shows that the Medical Marijuana Facility can be kept secure from access by unauthorized persons both during and after normal hours of operation and, if applicable, provides adequate overnight security for product trucks parked outside the Medical Marijuana Facility.
5. A waste disposal plan for any unused product, byproduct, waste, and/or hazardous materials used as part of normal operations by a Medical Marijuana Facility in accordance with the rules promulgated by the Missouri Department of Health and Senior Services.

14-421-03 BUFFER REQUIREMENT

No Medical Marijuana Facility shall be located within one thousand (1,000) feet of any then-existing elementary or secondary school, daycare, or church. In the case of a freestanding facility, the distance between the facility and the school, daycare, or church shall be measured from the external wall of the facility structure closest in proximity to the school, daycare, or church to the closest point of the property line of the school, daycare, or church. If the school, daycare, or church is part of a larger structure, such as an office building or strip mall, the distance shall be measured to the entrance or exit of the school, daycare, or church closest in proximity to the facility. In the case of a facility that is part of a larger structure, such as an office building or strip mall, the distance between the facility and the school, daycare, or church to the facility's entrance or exit closest in proximity to the school, daycare, or church. If the school, daycare, or church is part of a larger structure, such as an office building or strip mall, the distance shall be measured to the entrance or exit of the school, daycare, or church closest in proximity to the facility. Measurements shall be made along the shortest path between the demarcation points that can be lawfully traveled by foot.

14-421-04 STORAGE

All storage of medical marijuana materials, products, or equipment shall be in accordance with the rules promulgated by the Missouri Department of Health and Senior Services.

14-421-05 ONSITE USAGE PROHIBITED

No marijuana may be smoked, ingested, or otherwise consumed on the premises of a **Medical Marijuana Dispensary**.

14-421-06 HOURS OF OPERATION

All Medical Marijuana Dispensaries shall be closed to the public, no persons not employed by the business shall be on the premises, and no sales or distribution of marijuana shall occur upon the premises or by delivery from the premises between the hours of 10:00 P.M. and 8:00 A.M.

14-421-07 DISPLAY OF LICENSES REQUIRED

The medical marijuana license issued by the State of Missouri shall be displayed in an open and conspicuous place on the premises at all times in accordance with State of Missouri requirements.

14-421-08 RESIDENTIAL DWELLING UNITS PROHIBITED

No Medical Marijuana Dispensary shall be located in a building that contains a residence.

14-421-09 VENTILATION REQUIRED

All medical marijuana facilities shall install and operate a ventilation system that will prevent any odor of marijuana from leaving the premises of the business. No odors shall be detectable by a person with a normal sense of smell outside the boundary of the parcel on which the facility is located.

14-421-010 BUSINESS LICENSE

A medical marijuana facility shall be required to have a City business license as required in Chapter 5 of the City Code.

14-421-11 CONFORMANCE WITH STATE OF MISSOURI RULES

All medical marijuana facilities shall be operated in accordance with the rules from the State of Missouri Department of Health and Senior Services.”

SECTION 5. Any City of Independence Business License application for Medical Marijuana Dispensary Facility, Medical Marijuana Cultivation Facility, or Medical Marijuana Infused Products Manufacturing Facility received by the City prior to the adoption, by the City Council for Bill No. 19-708, Resolution No. 6407, shall be processed.