

AGENDA ITEM
August 20, 2019

Subject: Amending chapter 37 Zoning

Department: Planning/Zoning

The voters of the State of Missouri approved the right to access medical marijuana and allowed for the limited production, distribution, sale and purchase of marijuana for medical use.

The approval also dictates that local governments shall not prohibit the cultivation, testing, manufacturing or dispensing of medical marijuana.

The Planning Commission held a meeting on August 13, 2019 and voted to send a positive recommendation to add the definition of each use and place each use in the zones where similar businesses and operations are located as well as each use must be 500 feet away for any existing elementary school, secondary school, child day-care center or church:

Medical Marijuana Dispensary Facilities – C-1 Local Business District

Medical Marijuana Cultivation Facilities – M-2 Heavy Industrial

Medical Marijuana Testing Facilities – M-2 Heavy Industrial

Medical Marijuana -Infused Products Manufacturing Facilities – M-2 Heavy Industrial

Medical Marijuana Transportation Facilities -M-2 Heavy Industrial

BILL NO. 2019-035

ORDINANCE NO.

**A GENERAL ORDINANCE OF THE CITY OF NEVADA, MISSOURI,
AMENDING CHAPTER 37 OF THE NEVADA MUNICIPAL CODE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEVADA,
MISSOURI THAT:**

Whereas, The voters of the State of Missouri approved an amendment to the Missouri Constitution, now enacted as Article XIV, establishing a Right to Access Medical Marijuana and allowing for the limited legal production, distribution, sale, and purchase of marijuana medical use; and

Whereas, Article XIV, Section 1.7(11) of the Missouri Constitution dictates, “No local government shall prohibit Medical Marijuana Cultivation Facilities, Medical Marijuana Testing Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facilities, or entities with a transportation certificate either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome; and

Whereas, despite the enactment of Article XIV, Section 1 of the Missouri Constitution, marijuana remain a controlled substance under Missouri law except where used strictly pursuant to the provisions of the constitutional Amendment as well as all rules and regulations promulgated by the Department of Health and Senior Services of the State of Missouri.

Whereas, the City desires to establish reasonable regulations for the zoning of medical marijuana businesses and for the possession, cultivation, growing, using, or distributing of medical marijuana so long as such activity falls within the confines of Article XIV, Section 1 of the Missouri Constitution including any rules and regulations promulgated by the Missouri Department of Health and Senior Services, and is not otherwise illegal pursuant to applicable law.

Whereas, The Nevada City Council finds that the Planning Commission held a public hearing for which notice was duly published, all in accordance with Section 37-11 of the Municipal Code of the City of Nevada, Missouri and the change comes with a positive recommendation by that body.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
OF NEVADA, MISSOURI THAT:**

Section 1. The findings, determinations, and policy set forth in the recitals above are hereby specifically incorporated herein by reference.

Section 2. Section 37-1. Definitions is hereby amended with the following additions:

Child Day-Care Center A building or part thereof operated or maintained by any person or establishment who holds themselves out as providing child care for more than four children not related to the day care provider for any part of the twenty-four-hour day without overnight stays, for compensation or otherwise, except those operated by a school system or in connection with an establishment providing child care as a convenience for its customers or employees. A Child Day-Care Center shall not include any private or religious organization, elementary or secondary school, a religious organization academic preschool or kindergarten, home school, or a family home occupied by the day care provider where child care is given to not more than four children not related to the day care provider. Child Day-Care Centers shall be State certified.

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, 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 by the State of Missouri solely pursuant to the terms of Article XIV, Section 1 of the Missouri Constitution 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 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 store and transport marijuana

Section 3. ARTICLE VI. – C-1 LOCAL BUSINESS DISTRICT Section 37-23. – Use regulations is hereby amended with the following addition:

- (77) Medical Marijuana Dispensary Facility. Shall not be located within 500 feet of any then-existing elementary school, secondary school, child day-care center, or church. As used in the previous sentence, “then-existing” shall mean any elementary school, secondary school, child day-care center, or church with a building permit from the City to be constructed, or under construction, or completed and in use at the time the Medical Marijuana Dispensary Facility applies for a

zoning permit.

Section 4. ARTICLE XI. – M-2 HEAVY INDUSTRIAL DISTRICT Section 37-37. – Use regulations is hereby amended with the following additions:

- (45) Medical Marijuana Cultivation Facility. Shall not be located within 500 feet of any then-existing elementary school, secondary school, child day-care center, or church. As used in the previous sentence, “then-existing” shall mean any elementary school, secondary school, child day-care center, or church with a building permit from the City to be constructed, or under construction, or completed and in use at the time the Medical Marijuana Cultivation Facility applies for a zoning permit.
- (46) Medical Marijuana-Infused Products Manufacturing Facility. Shall not be located within 500 feet of any then-existing elementary school, secondary school, child day-care center, or church. As used in the previous sentence, “then-existing” shall mean any elementary school, secondary school, child day-care center, or church with a building permit from the City to be constructed, or under construction, or completed and in use at the time the Medical Marijuana-Infused Products Manufacturing Facility applies for a zoning permit.
- (47) Medical Marijuana Testing Facility. Shall not be located within 500 feet of any then-existing elementary school, secondary school, child day-care center, or church. As used in the previous sentence, “then-existing” shall mean any elementary school, secondary school, child day-care center, or church with a building permit from the City to be constructed, or under construction, or completed and in use at the time the Medical Marijuana Testing Facility applies for a zoning permit.
- (48) Medical Marijuana Transportation Facility. Shall not be located within 500 feet of any then-existing elementary school, secondary school, Child Day-care center, or church. As used in the previous sentence, “then-existing” shall mean any elementary school, secondary school, child day-care center, or church with a building permit from the City to be constructed, or under construction, or completed and in use at the time the Medical Marijuana Transportation Facility applies for a zoning permit.

Section 5. Severability. The portions of this Ordinance shall be severable. In the event that any portion 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 and inseparably connected with and dependent upon the void portion that it cannot

be presumed that the City Council would have enacted the valid portions standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

This ordinance shall be in full force and effect after its passage.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Nevada, Missouri, this ____ day of _____ 2019.

George Knox, Mayor

(seal)
ATTEST

Johnna Williams, Deputy City Clerk