



**CITY COUNCIL AGENDA SUBMISSION
FEBRUARY 28, 2023**

Agenda Item:

Bill #2995 – an ordinance amending the Olivette Municipal Code by enacting a new Chapter 450 regulating marijuana facilities. Second Reading

Description:

This Bill will:

1. Repeal the existing Chapter 450 Medical Marijuana Facilities and replace with a new Chapter 450 Marijuana Facilities providing for the regulation of adult use recreational marijuana.

Procedures:

First Reading. January 24, 2023, Bill #2995 was before the City Council for a first reading, by title only.

Second Reading and Public Hearing. On February 14, 2023, the Council read the Bill for the second time and hosted and closed a public hearing. The Council then requested the item be placed on an upcoming meeting for further discussion before taking action. The item is on this agenda for Council discussion and action.

Recommended Action:

In accordance with Article XX Changes and Amendments of Chapter 400 Zoning Regulations for Bill #2995, the Council may consider action.

The following motion is recommended for the Council’s consideration:

Motion to approve Bill #2995 – an ordinance amending the Olivette Municipal Code by enacting a new Chapter 450 regulating marijuana facilities.

Attachments:

1. Bill #2995, proposed draft ordinance with attachment (Exhibit A).
2. Public Hearing Notice and affidavit of publication.
3. Department Memorandum to the Commission dated January 19, 2023.

Funding Request: None.

Submitted by:

Carlos Trejo, AICP
DEPARTMENT HEAD

AN ORDINANCE AMENDING THE OLIVETTE MUNICIPAL CODE BY ENACTING A NEW CHAPTER 450 REGULATING MARIJUANA FACILITIES.

WHEREAS, on November 6, 2018, the voters of the State of Missouri approved an amendment to the Missouri Constitution by adding a new Article XIV, Section 1, declaring the legality and providing for the regulation of Marijuana, and the City of Olivette subsequently enacted Chapter 450 of the Olivette City Code to implement the new law; and

WHEREAS, on November 8, 2022, the voters of the State of Missouri approved an amendment to the Missouri Constitution by adding a new Article XIV, Section 2, declaring the legality and providing for the regulation of adult use recreational marijuana, and the City of Olivette now desires to amend Chapter 450 of the Olivette City Code to implement the new law;

WHEREAS, by doing so the Council of the City of Olivette desires to put into effect the rights granted by Section 2 while protecting the public health, safety, and welfare; and

WHEREAS, on January 19, 2023, the Commission by unanimous vote, recommended to the Council of the City of Olivette ("Council") to repeal Chapter 450 Medical Marijuana Facilities and adopt a new Chapter 450 Marijuana Facilities providing for the regulation of adult use recreational marijuana; and

WHEREAS, due and lawful notice of a public hearing on repealing Chapter 450 Medical Marijuana Facilities and adopting a new Chapter 450 Marijuana Facilities, being part of Title IV Land Use of the Olivette Municipal Code, to be held by the Council on February 14, 2023, at 7:00 PM in the City Council Chambers at the Olivette City Center, 1140 Dielman Road, Olivette, Missouri, was published in the St. Louis Countian, a newspaper of general circulation in the City of Olivette, on January 30, 2023; and

WHEREAS, a public hearing was duly and properly held by the Council at the time and place provided for in the notice and all comments, statements, objections, and suggestions concerning Chapter 450 Marijuana Facilities to be part of Title IV Land Use of the Olivette Municipal Code, were duly heard and considered by the Council.

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

Section One. Title IV of the Olivette Municipal Code is hereby amended by the repeal of Chapter 450, Medical Marijuana Facilities, and by the enactment of a new Chapter 450, entitled Marijuana Facilities attached hereto as Exhibit A, made a part of this ordinance as fully set out herein.

Section Two. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unlawful or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section Three. This Ordinance shall be effective after its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2023.

Maxine Weil, Mayor

ATTEST:

Denise Mandle, Acting City Clerk

EXHIBIT A

Chapter 450

Marijuana Facilities

Section 450.010 Intent and Scope

- A. This chapter is intended to implement Article XIV of the Missouri Constitution, entitled "Marijuana Use and Regulation", to protect the right of access to marijuana and to simultaneously provide for and protect the health, safety, welfare, and property values of the City and its residents, businesses, property owners, and other constituents.
- B. This chapter shall govern marijuana facilities as defined herein and shall supersede all other conflicting zoning regulations to the extent provided herein, but it shall have no effect on zoning regulations not in conflict with this chapter.

Section 450.020 Definitions

For the purposes of this chapter, the follow terms shall have the following meanings:

Church-a permanent building primarily and regularly used as a place of religious worship.

Child day-care center-a child-care facility, as defined by Section 210.201 RSMo. or its successor provisions, that is licensed by the State of Missouri.

Marijuana-*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. The term marijuana does not include industrial hemp, as defined by Missouri statute, or commodities or products manufactured from industrial hemp.

Marijuana accessories-any equipment, product, material, or combination thereof which is designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marijuana into the human body.

Marijuana dispensary facility-a facility licensed by the State of Missouri to acquire, process, package, store (on site or off site), sell, transport (to or from), and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and marijuana accessories to any consumer authorized by and in accordance with applicable law and regulations. A marijuana dispensary facility may dispense marijuana products for medical purposes, recreational purposes, or both, to persons at least 21 years of age for consumption and use as permitted by law.

Marijuana Facility-any marijuana cultivation facility, marijuana dispensary facility, marijuana testing facility, marijuana-infused products manufacturing facility, marijuana microbusiness facility, or any other type of marijuana-related facility or business licensed or certified by the State of Missouri pursuant to Article XIV of the Missouri Constitution.

Marijuana products-marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products (including infused pre-rolls), marijuana accessories, and any other marijuana product defined and permitted by law.

Section 450.030 Marijuana Facilities Permitted, Where

Marijuana facilities may be permitted and located in the following zoning districts of the City by Special Permit Use only, issued in accord with Article XII, Special Permits, of Chapter

EXHIBIT A

(Continued)

400, Zoning Regulations, of this Code and subject to the additional regulations of this Chapter:

- A. Marijuana facilities may be permitted in the “LID Light Industrial District”, but no such facility shall be located: (1) within 1,000 feet of any then-existing elementary or secondary school, child day-care center, or church, or (2) within 750 feet of (a) any property residentially zoned, including but not limited to the “SR” Single Family Residential District, “AR” Attached Single-Family Residential District, “PASF” Planner Attached Single-Family District, and “PRO” Planned Residential/Office District, or (b) any other marijuana facility.
- B. Marijuana dispensary facilities may be permitted in any non-residential zoning district, but no such facility shall be located within 1,000 feet of any then-existing elementary or secondary school, child day-care center, or church.
- C. Method of measurement:
 1. For purposes of this subsection: (a) the facilities from which a marijuana facility are to be separated, i.e., a pre-existing elementary or secondary school, child day-care center, church, or marijuana facility, shall be referred to as a “buffered facility”; (b) a “non-freestanding facility” shall refer to a facility that is part of a larger structure, such as an office building or strip mall; (c) the referenced demarcation points shall be those in closest proximity to each other; and (d) measurements shall be made along the shortest path between the demarcation points that can be lawfully traveled by foot.
 2. Freestanding marijuana facility and freestanding buffered facility: the distance shall be measured from the external wall of the marijuana facility to the property line of the buffered facility.
 3. Freestanding marijuana facility and non-freestanding buffered facility: the distance shall be measured from the external wall of the marijuana facility to the nearest entrance or exit of the buffered facility.
 4. Non-freestanding marijuana facility and freestanding buffered facility: the distance shall be measured from the property line of the buffered facility to the nearest entrance or exit of the marijuana facility.
 5. Non-freestanding marijuana facility and non-freestanding buffered facility: the distance shall be measured from the nearest entrance or exit of the marijuana facility to the nearest entrance or exit of the buffered facility.

Section 450.040 Regulations Pertaining To All Marijuana Facilities

- A. General.
 1. All activities of any marijuana facility shall occur only within an enclosed building.
 2. The waiting area of a marijuana dispensary facility shall be separated from the area of the facility used for the sale and delivery of marijuana products by a solid wall and solid door so that persons in the waiting area are obstructed from observing the sale and delivery of the product.
 3. No marijuana product shall be visible through glass, windows, or doors by a person of normal visual acuity standing at the outside perimeter of a facility.

EXHIBIT A

(Continued)

4. The sale, consumption, or personal use of alcohol or any marijuana product within any marijuana facility is prohibited, except that a marijuana testing facility may use or consume marijuana during the testing process and only as the use or consumption relates to the testing process.
- B. Security.
1. Surveillance cameras shall be installed to monitor each entrance to a facility along with the interior and exterior of the premises to discourage and to facilitate the reporting and investigation of criminal acts and nuisance activities occurring on or at the premises. Security video shall be preserved for at least 90 days and be made available to law enforcement officers on demand.
 2. All salable inventory of marijuana must be kept and stored in a secured, locked manner.
 3. A locking safe or secure vault shall be permanently affixed or built into the premises to store any currency on site.
 4. Professionally monitored robbery and burglary alarm systems shall be installed and maintained in good working condition within the facility at all times.
 5. Each facility licensee shall provide and update the chief of police with the name, cellular telephone number, electronic mail address, and facsimile number of an on-site facility employee to whom the city may provide notice of any operating problems associated with the facility.
 6. Each facility licensee shall provide the chief of police with a security plan, which shall be subject to the chief's review and approval and which may include additional requirements or conditions to ensure public safety or to incorporate current best practices.
- C. Odor.
1. An odor mitigation plan shall be submitted to the city for approval as part of the review process established in Article XII, Special Permits, of Chapter 400 of this Code.
 2. All structures used for any marijuana facility shall be equipped with odor control filtration and ventilation systems to prevent odors of marijuana from leaving the premises. No odor shall be detectable by a person with a normal sense of smell at any point outside the property boundary of the facility.
- D. Hours of Operation.
1. Dispensaries may be open from 8:00 A.M. to 8:00 P.M., seven days a week.
 2. Non-dispensary facilities may be open for operation 24 hours a day, 7 days a week.
- E. It shall be unlawful for any person to grow, distribute, transmit, give, dispense, or otherwise provide marijuana as a home occupation unless otherwise allowed by law.

Section 450.050 Enforcement

EXHIBIT A

(Continued)

- A. No marijuana facility shall be operated within the city without a valid license issued by the Missouri Department of Health and Senior Services, and any licensee shall be in compliance with the requirements of the license, and this Chapter 450, at all times. In addition, all license requirements, including those of this chapter, are deemed incorporated into any special permit issued pursuant to Article XII, Special Permits, of Chapter 400, Zoning Regulations, of this Code.
- B. Any violation of the requirements noted herein, or any violation of a special use permit issued pursuant to Article XII of Chapter 400 hereof, shall be a violation of this section, punishable upon conviction as provided in Section 100.080 hereof. In addition, such non-compliance or violation may be: (1) evidence of the existence of a public nuisance, which may be acted upon as provided in Chapter 220 hereof, and (2) grounds for revocation of any special permit issued pursuant to Article XII, Special Permits, of Chapter 400, Zoning Regulations, hereof.

Section 450.060 Electoral Control Of Non-Medical Marijuana

Should the voters of the city elect to prohibit the operation of non-medical marijuana dispensaries as allowed by Section 2.5(1) of Article XIV of the Missouri Constitution, this Chapter 450 shall remain in full force and effect but shall thereafter be limited to the regulation of medical marijuana facilities as defined and regulated by Article XIV, Section 1 thereof.

**CITY OF OLIVETTE, MISSOURI
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN

That the City Council of the City of Olivette will hold a Public Hearing on Tuesday, February 14, 2023, at 7:00 PM in the Olivette City Center, and via videoconference, concerning:

- an ordinance amending the Olivette Municipal Code by enacting a new Chapter 450 regulating marijuana facilities.

The Olivette City Center is located at 1140 Dielman Road, Olivette, Missouri, 63132. The link for the videoconference live stream can be accessed on the City's website at www.olivettemo.com.

Copies of the ordinance are available for inspection at the City Center and on the City's website at www.olivettemo.com. Persons desiring to be heard are advised to attend the hearing and to express their views orally or in writing. Written comments may be submitted and will be considered if received on or before the date and time of the hearing as specified above. Assistance will be provided to any handicapped individual upon receipt of notice, two days prior to the hearing. Persons needing additional information may call the City Manager at (314) 993-0444.

CITY OF OLIVETTE
Barbara Sondag
City Manager

Posted: January 30, 2023

The Countian (St Louis)
100 S. Highway Drive
Fenton, MO, 63099
Phone: 3144211880 Fax: 0

THE
COUNTIAN **ST. LOUIS**

Affidavit of Publication

To: MYRA G. Bennett -
1140 Dielman Rd
Olivette, MO, 631323202

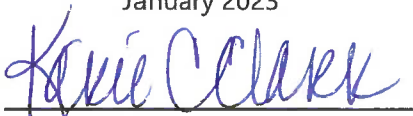
Re: Legal Notice 2469613, Public Hearing
State of MO }
County of St. Louis }

I, Lisa Fowler, being duly sworn, depose and say: that I am the Authorized Designee of The Countian (St Louis), a daily newspaper of general circulation in Fenton, County of St. Louis, State of MO; that a notice, of which the annexed is a printed copy, has been duly and regularly published in the The Countian (St Louis) once each day for 1 consecutive days; and that the date of the publication were as follows: 01/30/2023.

Publishers fee: \$47.56

By: 
Lisa Fowler

Sworn to me on this 31st day of
January 2023

By: 

Karie C. Clark
Notary Public, State of MO
No. 20404921
Qualified in Lincoln County
My commission expires on
October 19, 2024

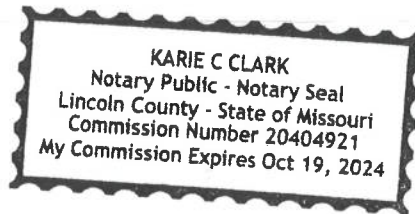
**CITY OF OLIVETTE, MISSOURI
NOTICE OF PUBLIC HEARING
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CITY OF OLIVETTE
Barbara Sondag
City Manager
2469613 County Jan. 30, 2023



DEPARTMENT MEMORANDUM

DATE: JANUARY 19, 2023
TO: PLANNING AND COMMUNITY DESIGN COMMISSION
FROM: CARLOS TREJO, AICP
DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT
RE: MARIJUANA REGULATIONS
REVIEW TYPE: TEXT AMENDMENT

PETITIONER
City of Olivette

PROPERTY OWNER
N/A

STAFF SUMMARY

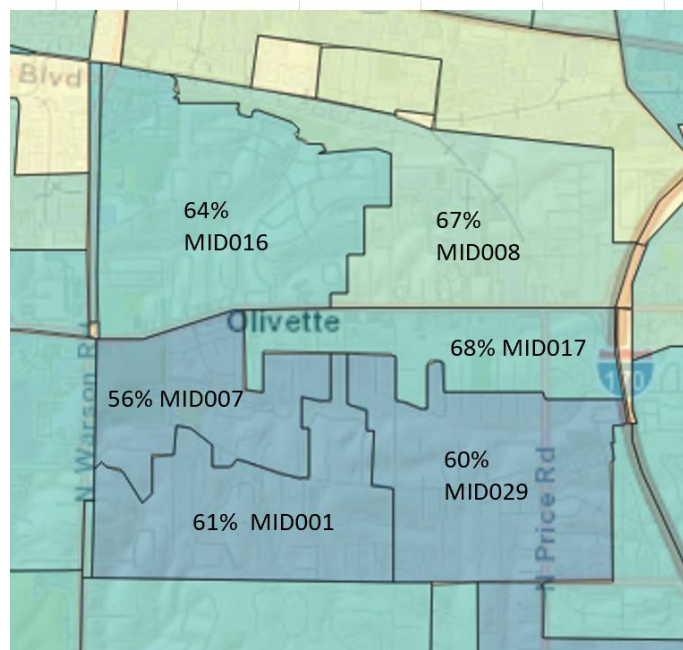
Quick Summary of staff comments:

- In response to the November 6, 2022, voter approval to amending the Missouri Constitution to permit adult use recreational marijuana, the City Attorney has drafted the attached draft ordinance to amend Chapter 450 Medical Marijuana Facilities.
- The amendment will rename Chapter 450 to Marijuana Facilities and include provisions to include adult use recreational marijuana.
- **No changes** are proposed to locational requirements, how distances are measured, or to the general regulations.

ATTACHMENTS:

- Draft ordinance as prepared by City Attorney.

Precinct results Yes to Amendment 3



SUGGESTED MOTION:

Commission will consider a motion to forward a recommendation to the City Council. The motion to recommend should be as follows:

Motion to recommend approval and forward to the City Council an ordinance to permit adult use recreational marijuana by amending Chapter 450 Medical Marijuana Facilities and adopting in lieu a new Chapter 450 Marijuana Facilities.

AMENDMENTS: Once the motion above is seconded, a Commission member can motion to amend the ordinance. Steps for consideration of an amendment would be as follows:

1. Motion to Amend. A Commission member would have to forward a motion to amend.
2. Acceptance of the motion. To accept the motion, another Commission member would have to "second" the amending motion.
3. If no second is received. If there is no second, the motion fails, and the Commission may consider other amendments or move on to the vote.
4. If the motion is accepted. If an amendment is seconded, the Commission may then discuss the amendment proposed.
5. Once there is no further discussion on the amendment, the Commission will take a roll call vote solely on the amendment brought forward.

VOTE ON FINAL ORDINANCE. If there are no amendments, or once no other amendments are forwarded, the Commission shall take a roll call vote. Regardless of the vote results, the draft ordinance will be forwarded to the City Council for final consideration.

In accordance with Article XX Changes and Amendments, being part of Chapter 400 Zoning Regulations, a public hearing will be held by the City Council before final action.

01-Sponsored By: Mayor and City Council

BILL NO. _____

ORDINANCE 2023-

AN ORDINANCE AMENDING THE OLIVETTE MUNICIPAL CODE BY ENACTING A NEW CHAPTER 450 REGULATING MARIJUANA FACILITIES.

WHEREAS, on November 6, 2018, the voters of the State of Missouri approved an amendment to the Missouri Constitution by adding a new Article XIV, Section 1, declaring the legality and providing for the regulation of Marijuana, and the City of Olivette subsequently enacted Chapter 450 of the Olivette City Code to implement the new law; and

WHEREAS, on November 8, 2022, the voters of the State of Missouri approved an amendment to the Missouri Constitution by adding a new Article XIV, Section 2, declaring the legality and providing for the regulation of adult use recreational marijuana, and the City of Olivette now desires to amend Chapter 450 of the Olivette City Code to implement the new law;

WHEREAS, by doing so the Council of the City of Olivette desires to put into effect the rights granted by Section 2 while protecting the public health, safety, and welfare;

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

Section One. Title IV of the Olivette Municipal Code is hereby amended by the repeal of Chapter 450, Marijuana Facilities, and by the enactment of a new Chapter 450, entitled Marijuana Facilities and to read as follows:

Chapter 450 Marijuana Facilities

Section 450.010 Intent and Scope

- A. This chapter is intended to implement Article XIV of the Missouri Constitution, entitled “Marijuana Use and Regulation”, to protect the right of access to marijuana and to simultaneously provide for and protect the health, safety, welfare, and property values of the City and its residents, businesses, property owners, and other constituents.
- B. This chapter shall govern marijuana facilities as defined herein and shall supersede all other conflicting zoning regulations to the extent provided herein, but it shall have no effect on zoning regulations not in conflict with this chapter.

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Section 450.030 Marijuana Facilities Permitted, Where

Marijuana facilities may be permitted and located in the following zoning districts of the City by Special Permit Use only, issued in accord with Article XII, Special Permits, of Chapter 400, Zoning Regulations, of this Code and subject to the additional regulations of this Chapter:

- A. Marijuana facilities may be permitted in the “LID Light Industrial District”, but no such facility shall be located: (1) within 1,000 feet of any then-existing elementary or secondary school, child day-care center, or church, or (2) within 750 feet of (a) any property residentially zoned, including but not limited to the “SR” Single Family Residential District, “AR” Attached Single-Family Residential District, “PASF” Planner Attached Single-Family District, and “PRO” Planned Residential/Office District, or (b) any other marijuana facility.
- B. Marijuana dispensary facilities may be permitted in any non-residential zoning district, but no such facility shall be located within 1,000 feet of any then-existing elementary or secondary school, child day-care center, or church.
- C. Method of measurement:
 - 1. For purposes of this subsection: (a) the facilities from which a marijuana facility are to be separated, i.e., a pre-existing elementary or secondary school, child day-care center, church, or marijuana facility, shall be referred to as a “buffered facility”; (b) a “non-freestanding facility” shall refer to a facility that is part of a larger structure, such as an office building or strip mall; (c) the referenced demarcation points shall be those in closest proximity to each other; and (d) measurements shall be made along the shortest path between the demarcation points that can be lawfully traveled by foot.
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 - 3. Freestanding marijuana facility and non-freestanding buffered facility: the distance shall be measured from the external wall of the marijuana facility to the nearest entrance or exit of the buffered facility.
 - 4. Non-freestanding marijuana facility and freestanding buffered facility: the distance shall be measured from the property line of the buffered facility to the nearest entrance or exit of the marijuana facility.
 - 5. Non-freestanding marijuana facility and non-freestanding buffered facility: the distance shall be measured from the nearest entrance or exit of the marijuana facility to the nearest entrance or exit of the buffered facility.

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- A. General.

1. All activities of any marijuana facility shall occur only within an enclosed building.
2. The waiting area of a marijuana dispensary facility shall be separated from the area of the facility used for the sale and delivery of marijuana products by a solid wall and solid door so that persons in the waiting area are obstructed from observing the sale and delivery of the product.
3. No marijuana product shall be visible through glass, windows, or doors by a person of normal visual acuity standing at the outside perimeter of a facility.
4. The sale, consumption, or personal use of alcohol or any marijuana product within any marijuana facility is prohibited, except that a marijuana testing facility may use or consume marijuana during the testing process and only as the use or consumption relates to the testing process.

B. Security.

1. Surveillance cameras shall be installed to monitor each entrance to a facility along with the interior and exterior of the premises to discourage and to facilitate the reporting and investigation of criminal acts and nuisance activities occurring on or at the premises. Security video shall be preserved for at least 90 days and be made available to law enforcement officers on demand.
2. All salable inventory of marijuana must be kept and stored in a secured, locked manner.
3. A locking safe or secure vault shall be permanently affixed or built into the premises to store any currency on site.
4. Professionally monitored robbery and burglary alarm systems shall be installed and maintained in good working condition within the facility at all times.
5. Each facility licensee shall provide and update the chief of police with the name, cellular telephone number, electronic mail address, and facsimile number of an on-site facility employee to whom the city may provide notice of any operating problems associated with the facility.
6. Each facility licensee shall provide the chief of police with a security plan, which shall be subject to the chief's review and approval and which may include additional requirements or conditions to ensure public safety or to incorporate current best practices.

C. Odor.

1. An odor mitigation plan shall be submitted to the city for approval as part of the review process established in Article XII, Special Permits, of Chapter 400 of this Code.
2. All structures used for any marijuana facility shall be equipped with odor control filtration and ventilation systems to prevent odors of marijuana from leaving the premises. No odor shall be detectable by a person with a normal sense of smell at any point outside the property boundary of the facility.

D. Hours of Operation.

1. Dispensaries may be open from 8:00 A.M. to 8:00 P.M., seven days a week.
2. Non-dispensary facilities may be open for operation 24 hours a day, 7 days a week.

E. It shall be unlawful for any person to grow, distribute, transmit, give, dispense, or otherwise provide marijuana as a home occupation unless otherwise allowed by law.

Section 450.050 Enforcement

- A. No marijuana facility shall be operated within the city without a valid license issued by the Missouri Department of Health and Senior Services, and any licensee shall be in compliance with the requirements of the license, and this Chapter 450, at all times. In addition, all license requirements, including those of this chapter, are deemed incorporated into any special permit issued pursuant to Article XII, Special Permits, of Chapter 400, Zoning Regulations, of this Code.
- B. Any violation of the requirements noted herein, or any violation of a special use permit issued pursuant to Article XII of Chapter 400 hereof, shall be a violation of this section, punishable upon conviction as provided in Section 100.080 hereof. In addition, such non-compliance or violation may be: (1) evidence of the existence of a public nuisance, which may be acted upon as provided in Chapter 220 hereof, and (2) grounds for revocation of any special permit issued pursuant to Article XII, Special Permits, of Chapter 400, Zoning Regulations, hereof.

Section 450.060 Electoral Control Of Non-Medical Marijuana

Should the voters of the city elect to prohibit the operation of non-medical marijuana dispensaries as allowed by Section 2.5(1) of Article XIV of the Missouri Constitution, this Chapter 450 shall remain in full force and effect but shall thereafter be limited to the regulation of medical marijuana facilities as defined and regulated by Article XIV, Section 1 thereof.

Section Two. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unlawful or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section Three. This Ordinance shall be effective after its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2023.

Maxine Weil, Mayor

ATTEST:

Denise Mandel, Acting City Clerk