

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 230-19

AN ORDINANCE

amending Chapter 13 of the City Code to add a new Article XIII establishing medical marijuana business licensing regulations; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. A new Article XIII of Chapter 13 of the Code of Ordinances of the City of Columbia, Missouri, is hereby enacted as follows:

ARTICLE XIII.
MEDICAL MARIJUANA BUSINESS LICENSING

DIVISION 1. GENERALLY

Sec. 13-419. Scope.

This article regulates business license provisions for the cultivation, manufacturing, dispensing, selling, or testing of medical marijuana within the City of Columbia corporate limits as authorized by law. It is not intended by this article to repeal, abrogate, annul or in any way interfere with existing provisions of other laws or ordinances. Where this article imposes a greater restriction upon persons, premises, or personal property than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this article shall control. All penalty and enforcement provisions not expressly superseded in this article remain in full force and effect.

Sec. 13-420. Definitions.

The following words and terms, as used in this article, shall be deemed to have the meanings hereinafter specified:

Department of Health and Senior Services ("DHSS"). The Missouri Department of Health and Senior Services ("DHSS"), or its successor agency.

Medical marijuana activities. The cultivation, manufacturing, dispensing, selling, or testing of medical marijuana.

Medical marijuana cultivation facility. A facility licensed by the DHSS 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 DHSS to acquire, store, sell, transport, and deliver marijuana, marijuana infused products, and drug paraphernalia used to administer marijuana as provided for by state law and regulations 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 facility. Any one or more of the following described medical marijuana facilities: medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, medical marijuana testing facility.

Medical marijuana-infused products manufacturing facility. A facility licensed by the DHSS 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 DHSS to acquire, test, certify, and transport marijuana.

Primary caregiver. An individual twenty-one (21) years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who holds a primary caregiver identification card issued by DHSS.

Qualifying patient. A Missouri resident diagnosed with at least one (1) qualifying medical condition in accordance with state law and holds a qualifying patient identification card issued by DHSS.

DIVISION 2. REQUIREMENTS FOR ALL MEDICAL MARIJUANA FACILITY TYPE APPLICATIONS

Sec. 13-421. License—Required; term; renewal.

(a) It shall be unlawful for any person, either personally or through the use of an agent or employee, to engage in medical marijuana activities within the city, without the appropriate license issued by the DHSS and a license issued by the city under this article. A license issued under this article shall be issued for a period of one (1) year from the first day of January each year. The fee for any license issued after the first day of January shall be prorated. Thereafter, the renewal of all licenses shall be made effective on the first day of January each year.

(b) If the business services administrator determines that there is good reason not to issue a license for the full license term, the business services administrator may issue a license for a shorter period of time. Any person licensed under this subsection for a shorter period of time shall pay a prorated license fee.

Sec. 13-422. Qualifications of applicant.

(a) No applicant shall be granted a license under this article unless the applicant is of good moral character. In determining whether an applicant is of good moral character, the applicant's criminal history shall be considered as permitted under state law.

(b) No person shall be granted a license under this article unless the person is a resident of the state of Missouri for at least one (1) year prior to application.

(c) No license issued under this article shall be denied, suspended, revoked or otherwise affected based solely on the fact that an employee of the licensee has been convicted of a felony unrelated to medical marijuana activities so long as any such employee is not directly responsible for the retail sale of medical marijuana. Each licensed medical marijuana facility shall report the identity of any employee convicted of a felony to the business services administrator.

Sec. 13-423. Premises requirements.

(a) No license shall be granted or retained under this article for a medical marijuana facility if the premises includes a building occupied or used for unlawful purposes or the premises are connected by an entrance or exit or other means of access with any place used for unlawful purposes.

(b) No license shall be granted or retained under this article for a medical marijuana facility if the applicant has not submitted, received, or maintained an approved security plan, operation and management plan, and emergency response plan in accordance with this article.

(1) *Security plan.* A written security plan shall be submitted for the premises upon which applicant intends to conduct medical marijuana activities, to the Columbia Police Department demonstrating there is limited undue burden on city public safety services as a result of the proposed business. The plan shall be submitted with the business license application. The plan must be reviewed and approved by the Columbia Police Department prior to the issuance of a business license. The plan shall detail security measures for the site and the transportation of medical marijuana and medical marijuana products to and from off-site premises to ensure the safety of employees and the public and to protect the property from theft or other criminal activity. Each facility shall comply with the security requirements established by the DHSS and include, but not be limited to, the following elements in the security plan:

i. *Cameras.* The medical marijuana facility shall install and use security cameras to monitor and record all areas of the premises, except in restrooms and consultation rooms while a patient is undressed. Such security cameras shall specifically include all areas where a person may gain or attempt to gain access to marijuana or cash maintained by the medical marijuana facility. Cameras shall be of sufficient resolution to record operations of the business to an off-site location and shall also include any parking lots or areas near the facility and all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of forty (40) days in a secure off-site location in the city or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The off-site location shall be identified in the security plan submitted to the city and access to recordings maintained must be provided to the Columbia Police Department upon request. Any change in location of the off-site location shall be updated within seventy-two (72) hours of any such change.

ii. *Use of safe for storage.* The medical marijuana facility shall install and use a secure safe for storage of all processed marijuana and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto. For marijuana-infused products or marijuana being tested in a testing facility that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the city in place of use of a safe, so long as the container is affixed to the building structure and secure from intrusion.

iii. *Alarm system.* The medical marijuana facility shall install and use an alarm system that is monitored by a company that is staffed twenty-four (24) hours a day, seven (7) days a week. The security plan submitted to the city shall identify the company monitoring the alarm, including contact information, and must be updated within seventy-two (72) hours of any change of monitoring company. If the alarm system includes a panic alarm, an operable dedicated phone for law enforcement to respond to the alarm shall remain on the premises at all times.

iv. *Lighting system.* The medical marijuana facility shall have sufficient exterior lighting for security purposes and shall otherwise comply with applicable city code requirements.

v. *Additional requirements.* The medical marijuana facility shall install and provide any additional security measures as may be deemed necessary for the public health, safety and welfare as determined by the Columbia Police Department from time to time, including but not limited to, additional lighting, additional security cameras, upgraded security cameras, etc.

- (2) *Operation and management plan.* A written operation and management plan shall be submitted for the premises upon which applicant intends to conduct medical marijuana activities as part of the business license application process. The plan shall be reviewed and approved by the Fire Department, Building and Site Development Division, Utilities Department, and any other city department the business services administrator deems appropriate prior to the issuance of a business license and/or occupancy permit. The operation and management plan shall include, but not be limited to, the following elements: organizational structure, location, property description, proof that facilities are wheelchair accessible, proof that facilities comply with the Americans with Disabilities Act, hours of operation and staffing, description of proposed operations, list of any hazardous materials used as part of its operations, distribution practices, employee safety procedures and guidelines, fire mitigation and prevention systems in compliance with the International Fire Code as adopted by the City of Columbia, sanitation requirements and waste management processes, electrical system overview, proposed energy demand and proposed electrical demand off-sets, any environmental or carbon emission mitigation practices (if applicable), ventilation system and air quality controls showing how odor emission will not be detectable off the premises, and proposed water system and utility demand. The operation and management plan must also meet the minimum facility standards established by the DHSS, comply with city code, and include any additional measures required by the city.
- (3) *Emergency response plan.* A written emergency response plan shall be submitted for the premises upon which applicant intends to conduct the medical marijuana activities to the Columbia Fire and Police Departments for approval before issuance of a business license and/or occupancy permit. The plan shall be submitted with the business license application. The plan shall identify emergency plans and contingency plans that would be executed in the event of an emergency arising from the site's usage as a medical marijuana facility. The emergency response plan must meet any minimum standards established by the DHSS, comply with city Code, and include any additional measures required by the city.

Sec. 13-424. Application.

(a) Any person desiring a license to operate a medical marijuana facility shall apply to the business services administrator in writing and under oath. If the application is made on behalf of a partnership, the applicant shall be all partners. If the application is made on behalf of a corporation, the applicant shall be all officers, directors, stockholders who own at least ten percent (10%) of the corporation, and manager who will be in charge of the facility. If the application is made on behalf of a limited liability company, the applicant shall be all members and managers. The application shall state:

- (1) The name and birth place of the applicant. If the applicant is a naturalized citizen, the application shall state the place and time of naturalization.
- (2) The length of time the applicant has resided in the state of Missouri, and the residential addresses of the applicant for the preceding five (5) years from the date of application.
- (3) If the application is made on behalf of a corporation, the date of incorporation, the state in which incorporated, the amount of paid in capital, the amount of authorized capital, and the number of shares held or percentage of the business owned by each officers, directors, and stockholders.
- (4) If the application is made on behalf of a limited liability company, the date of formation, and the state in which formed.
- (5) The name and address of the individuals who will be actively engaged in the actual control and management of the establishment for which the license is sought.
- (6) The name and business address of applicant's employers for the five (5) years immediately prior to the application.
- (7) Whether or not the applicant has been convicted of a felony, and if so the date, court of conviction, and the specific crime which is the subject of the conviction.
- (8) The location, place, or premises for which a license is sought.
- (9) The zoning district in which the proposed location is located.
- (10) The class of license for which the application is made.
- (11) Whether or not the applicant has had a license for medical marijuana activities suspended or revoked, or has been convicted of the violation of any local, state, or federal law applicable to medical marijuana activities, or whether the applicant employs, or will employ in the business, any person not of good moral character, or whose license has been revoked or suspended, or who has been convicted of violating the provisions of any local, state, or federal law applicable to the medical marijuana activities.
- (12) A full listing of the business ownership percentage for each individual; or when the applicant is a corporation or limited liability company the business ownership percentage for each officers, directors, members, and managers.

- (13) Any further information reasonably required by the business services administrator.
- (b) The department of finance shall obtain a criminal record check of the applicant.
- (c) The application shall be accompanied by a complete security plan, operation and management plan, and emergency plan for review.
- (d) The application shall be accompanied by proof of a valid and current license or certificate issued by the DHSS for each medical marijuana facility type for which a license is sought; provided, however, if DHSS has not yet issued its license or certificate by the application deadline, the applicant may supplement the application to include this documentation once DHSS issues such license or certificate.
- (e) The application may be accompanied by a State of Missouri or other equivalent government certification showing that the applicant is a minority-owned business enterprise, women-owned business enterprise, service disabled veteran-owned business enterprise, or veteran-owned small business, and any additional information showing ownership percentages for persons who are minority as defined under section 37.013, RSMo., women, or veterans.
- (f) The application shall be accompanied by payment of a processing fee in the amount of \$2,000.00 (two thousand dollars) plus a fee to cover costs incurred by the department of finance in obtaining any required criminal record checks.
- (g) An application for license renewals shall be submitted to the business services administrator no later than October 1 together with a renewal processing fee of \$500.00 (five hundred dollars). The business services administrator may allow a renewal applicant to continue the medical marijuana activities at an existing facility with a temporary license if the renewal application has been submitted to the business services administrator but has not been processed.
- (h) For failure to submit a renewal application on or before October 1, a late charge shall be added to the renewal fee as follows:
 - (1) October 2 to October 31 \$100.00
 - (2) November 1 to November 30..... \$200.00
 - (3) December 1 to December 31..... \$300.00
 - (4) Any renewal application not submitted by December 31 shall result in automatic forfeiture of the license.

Sec. 13-425. Investigation of application.

The business services administrator, upon receipt of an application, shall cause an investigation to be made of the statements in the application, the character of the applicant, accompanying documentation, and the location and condition of the premises to be licensed. A copy of each application shall be forwarded by the business services administrator to the relevant city departments for review and comment. On each application for an original license, the relevant city departments shall investigate the safety and sanitation of the premises of the applicant, all relevant plans required under this article, and the equipment and furnishings contained in the applicant's premises. Each department shall report the findings of the investigation to the business services administrator. Nothing contained herein shall prevent the business services administrator from issuing a temporary conditional license contingent upon the findings of any subsequent on-site investigation determining the premises to be in conformance with the submitted application and plans. A temporary conditional license shall not authorize the applicant to operate. After the original license has been issued, the business services administrator may, at any reasonable time, have the premises or records of the licensee re-inspected for compliance with the requirements of this article.

DIVISION 3. APPROVAL PROCESS FOR MEDICAL MARIJUANA-INFUSED
PRODUCTS MANUFACTURING FACILITY, MEDICAL MARIJUANA CULTIVATION
FACILITY, OR MEDICAL MARIJUANA TESTING FACILITY

Sec. 13-426. Standards for issuance of license for medical marijuana-infused products manufacturing facility, medical marijuana cultivation facility, or medical marijuana testing facility.

The business services administrator shall issue a license under this article for medical marijuana-infused products manufacturing facility, medical marijuana cultivation facility, or medical marijuana testing facility when the business services administrator determines that:

- (1) The application including any required attachments and submissions is complete and signed by the applicant, and all plans are approved by the appropriate city departments;
- (2) The applicant currently holds a valid medical marijuana-infused products manufacturing facility, medical marijuana cultivation facility, or medical marijuana testing facility license or certification issued by the DHSS;
- (3) The applicant has paid the application fee and any other fees required by this article;
- (4) The application does not contain any falsehood, material misstatement, or misrepresentation;

- (5) The application contains proof of the applicant's right to occupy and use the premises in the manner proposed by the application;
- (6) The application, applicant, including each individual owner and manager, and proposed medical marijuana facility comply with all of the requirements of this article, city code, state law and rules promulgated by the DHSS;
- (7) The applicant, and when the applicant is a corporation or limited liability company the officers, directors, members, and managers, have good moral character and are without a disqualifying felony offense as that term is defined by state law; and
- (8) The proposed location of the medical marijuana facility is permitted under chapter 29 of the city code.

DIVISION 4. APPROVAL PROCESS AND ADDITIONAL REGULATIONS FOR MEDICAL MARIJUANA DISPENSARY FACILITIES

Sec. 13-427. Limit on number of licenses for medical marijuana dispensary facilities.

As set forth in chapter 29 of the city code, the number of medical marijuana dispensary facilities located within the city limits shall be limited to one (1) per twenty thousand (20,000) population, or fraction thereof, as established by the most recent U.S. Census Bureau, Population Estimates Program (PEP).

Sec. 13-428. Time period for initial medical marijuana dispensary licenses applications.

The business services administrator will accept applications for the initial issuance of medical marijuana dispensary facility licenses under this article for a two (2) week period beginning on October 1, 2019 and ending at 5:00 pm on October 15, 2019. An applicant for consideration of issuance of an initial medical marijuana dispensary facility license issued by the city must submit a complete application during the identified two (2) week period. An application must satisfy the requirements of this article to be considered complete. The business services administrator shall review all applications within sixty (60) days after the close of the initial application filing period. In the event DHSS has not issued its medical marijuana dispensary licenses by December 1, 2019, the time period for the business services administrator to review such applications shall be extended to thirty (30) days following the last date a license is issued by DHSS. Applications filed after the close of the initial application filing period will be based on availability of licenses and will only be processed after all of the applications filed during the initial application filing period have been either issued or denied.

Sec. 13-429. Prerequisite standards for issuance of license for medical marijuana dispensary facility.

The business services administrator shall first conclude that an application is complete by determining that the following minimum elements have been met:

- (1) The application including any required attachments and submissions is complete and signed by the applicant, and all plans are approved by the appropriate city departments;
- (2) The applicant currently holds a valid medical marijuana dispensary facility license issued by the DHSS;
- (3) The applicant has paid the application fee and any other fees required by this article;
- (4) The application does not contain any falsehood, material misstatement, or misrepresentation;
- (5) The application includes all documentation submitted by the applicant to the DHSS as part of applicant's state medical marijuana dispensary facility license application;
- (6) The application includes all scores issued by the DHSS on applicant's state medical marijuana dispensary facility license application;
- (7) The application contains proof of the applicant's right to occupy and use the premises in the manner proposed by the application;
- (8) The application, applicant, including each individual owner and manager, and proposed medical marijuana facility comply with all of the requirements of this article, city code, state law and rules promulgated by the DHSS;
- (9) The applicant, and when the applicant is a corporation or limited liability company the officers, directors, members, and managers, have good moral character and are without a disqualifying felony offense as that term is defined by state law;
- (10) There are sufficient licenses remaining for issuance in accordance with section 13-427 and chapter 29 of the city code; and
- (11) The proposed location of the medical marijuana facility is permitted under chapter 29 of the city code.

Sec 13-430. Medical marijuana dispensary licenses scoring criteria.

In addition to the core application requirements, an applicant may submit supplemental information upon which the business services administrator may award bonus points to be used in connection with determining the order in which medical marijuana dispensary facility licenses will be issued. After reviewing completed applications, the business services administrator will assess bonus points to each completed application based on following criteria:

- (1) An application that complies with section 13-429 shall be assessed ten (10) bonus points.
- (2) An application from a government certified minority business enterprise, women business enterprise, service disabled veteran business enterprise, or veteran-owned small business shall be assessed five (5) bonus points. For every ten percent (10%) ownership share above fifty percent (50%) held by a minority as defined under section 37.013, RSMo., woman, or veteran the application shall receive one (1) additional bonus point. A single individual may not qualify for points under more than one qualifying criteria. For example, if an application has a woman veteran who owns seventy-seven percent (77%) of the business, then that application will receive seven (7) bonus points. An application is eligible to receive a total of ten (10) bonus points for this criteria.
- (3) An application for a dispensary located two (2) miles or more when measured from property line to property line from 701 E. Broadway, Columbia, Missouri 65201 shall be assessed ten (10) bonus points. Any facility that is located one and one-half (1½) miles or more when measured from property line to property line from 701 E. Broadway, Columbia, Missouri 65201 shall be assessed five (5) bonus points.
- (4) An applicant who has resided within the corporate limits of the city of Columbia for a minimum of three (3) consecutive years immediately preceding the date of the application shall be defined as a "local owner" for purposes of this subsection. An application that includes at least one (1) local owner with a minimum of ten percent (10%) ownership interest shall be assessed one (1) bonus point. For every ten percent (10%) ownership share held by a local owner who has at least a ten percent (10%) ownership interest, the application shall receive one (1) additional bonus point. For example, if an application has three (3) total owners and two (2) local owners and together the local owners own sixty-six percent (66%) of the business, then that application will receive six (6) bonus points. By way of further example, an application which has a local owner with seventy-five percent (75%) ownership interest and a second local owner with five percent (5%) ownership interest would be eligible for seven (7) bonus points. An

application is eligible to receive a maximum of ten (10) bonus points for this criteria.

- (5) An application that contains a written cultural competency plan that describes how the facility will ensure services are provided effectively to people of all cultures, races, ethnic backgrounds and religions in a manner that recognizes, values, affirms and respects the worth of the individual and protects and preserves the dignity of each, shall be assessed ten (10) bonus points.

Sec. 13-431. Process to determine how medical marijuana dispensary facility licenses are issued.

Medical marijuana dispensary facility licenses shall be issued by the business services administrator in the following order in accordance with this article:

- (1) The completed applications received prior to the end of the initial application period shall be reviewed by the business services administrator and eligibility for issuance of a license determined by the business services administrator. For the license year January 1, 2020 to December 31, 2020, the business services administrator shall issue a maximum of seven (7) initial medical marijuana dispensary facility licenses. In the event more than seven (7) applications are received, the business services administrator shall issue the licenses based on the point system set forth in section 13-430 to the seven (7) initial applicants with the highest number of points.
- (2) If one or more applicants have the same total points using the point system set forth in section 13-430, the business services administrator shall utilize the scores issued by DHSS to determine the priority rank for the applicants who have the same points.
- (3) If one or more applicants have the same total points after using both of the processes set forth in sections 13-431(1) and 13-431(2), then the business services administrator shall hold a random lottery between the remaining tied complete applications to award the remaining licenses.

Sec 13-432. Process when new medical marijuana dispensary facility licenses are available.

In the event the limit for issuance of licenses for medical marijuana dispensary facilities is met, the business services administrator shall reject further applications. At any time a license becomes available in the future, the business services administrator shall notify the public by weekly publication in a newspaper of general circulation within the city for four (4) consecutive weeks. Following such publication, the business license administrator shall open up the application process for a minimum of two (2) weeks to

accept new applications in accordance with this article and using the same process as set forth in sections 13-430 and 13-431.

Sec. 13-433. Limitation on retail sale of medical marijuana.

No medical marijuana dispensary facility may sell, give away or transfer medical marijuana except to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, a medical marijuana-infused products manufacturing facility, or other entity allowed under state and local law.

Sec. 13-434. Hours of operation for medical marijuana dispensary facility.

Hours of operation for a medical marijuana dispensary facility shall be between the hours of 6:00 a.m. and 10:00 p.m., irrespective of what zoning district such facility may be located within. Medical marijuana dispensary facilities are prohibited from having hours of operation between 10:01 p.m. and 5:59 a.m.

DIVISION 5. ISSUANCE OF LICENSE; APPEAL

Sec. 13-435. Approval of applications and issuance of license.

If the applicant meets all of the requirements and qualifications of this article, and in the case of a renewal the business has been conducted in accordance with the additional requirements of this article, and in the case of medical marijuana dispensary facility a license is selected in accordance with this article, the business services administrator shall grant and issue the license. Every license issued under this article shall set forth the type of license granted and shall particularly describe the premises at which medical marijuana activities will occur and the license shall not authorize or permit medical marijuana activities at any other place.

Sec. 13-436. Posting of license.

A license shall be continuously posted in a conspicuous location at the medical marijuana facility.

Sec. 13-437. Denial of application; appeal.

(a) *Denial.* When a license under this article is denied, the business services administrator shall notify the applicant, in writing, of such denial. Such notification shall be hand delivered or sent by first class mail. A mailed letter shall be presumed received three (3) business days after it was mailed to the applicant at the address provided in the application.

(b) *Appeal by applicant.* The applicant may appeal the denial to the marijuana facility license review board by delivering a written notice of appeal to the director of finance with a copy to the business services administrator. The notice of appeal must be

filed with the director no later than ten (10) business days after the applicant received the letter of denial. The applicant may submit to the director of finance a position statement explaining why applicant believes the license should be granted. The business services administrator may also submit to the director a position statement explaining why the administrator believes the denial should be upheld.

(c) *Right to continue operation.* If an application for renewal of a license is denied, an applicant who has filed an appeal under this section shall be allowed to continue operating as though the license were renewed until the marijuana facility license review board has rendered a decision. If the board affirms the denial of the license, the applicant shall be allowed to continue operating as though the license were renewed until ten (10) days after receiving the letter of denial.

Sec. 13-438. Marijuana facility license review board.

(a) *Establishment; composition of board.* A three (3) member marijuana facility license review board is hereby established consisting of the director of finance, the director of public health and human services and a citizen member appointed by the city council to serve a three (3) year term. The marijuana facility license review board may adopt rules and procedures that are consistent with city code and state law.

(b) *Review of license denial, suspension or revocation.* The director of finance, after receiving an appeal from a license denial, suspension, or revocation shall schedule a meeting of the marijuana facility license review board. Before the meeting, the board members shall be provided with copies of the letter of denial, suspension, or revocation the notice of appeal and any documentation and position statements provided by the business services administrator and the applicant pertaining to the action. The board may allow the business services administrator and the applicant or the applicant's representative to explain their positions to the board at the meeting. The board shall render decisions in conformance with this article. The board may either affirm the action taken by the business services administrator or direct the business services administrator to grant or reinstate the license. The license, in the board's discretion, may be for less than the full period of time ending on December 31. If the board affirms the action taken by the business services administrator, the board shall set forth the grounds for denial, revocation, or suspension in writing to the applicant. The determination shall be hand-delivered or sent by first class mail. A mailed determination shall be presumed received three (3) business days after it was mailed.

(c) *Judicial review.* A decision of the marijuana facility license review board may be appealed by the applicant by filing a petition with the Circuit Court of Boone County within thirty (30) calendar days of receiving the determination letter from the marijuana facility license review board. The petition shall set forth with particularity the grounds for review.

Sec. 13-439. License—Issuance after decision of marijuana facility license review board.

On approval of the application by the marijuana facility license review board for a license under this article, the business services administrator shall issue the applicant a license to conduct business at the location specified in the application for the period set forth by the marijuana facility license review board. The license issued shall set forth the type of license granted and shall particularly describe the premises at which medical marijuana activities will occur and the license shall not authorize or permit the cultivation, manufacturing, dispensing, selling, or testing of medical marijuana at any other place.

Sec. 13-440. Must provide current information.

Licensee must at all times possess a current valid state license from the DHSS for its medical marijuana facility type and must immediately update the business services administrator if there are any changes to the information provided under section 13-424 or otherwise required by this article.

Sec. 13-441. Renewal, suspension, revocation of license—standards of conducting business on licensed premises.

The standards set forth in this section shall be considered in determining whether a license under this article should be renewed, suspended, or revoked. In conducting business on the licensed premises, a licensee and the licensee's agents and employees shall:

- (1) Prevent or suppress any violent quarrel, disorder, brawl, fight or other unlawful conduct of any person on the premises. As used in this section, "premises" includes the licensed premises and the parking lots and areas around the business which are owned, used or maintained as part of the business.
- (2) Immediately report to the police any illegal or violent act committed on the premises when the licensee or the licensee's employee knew or should have known that the act occurred on the premises.
- (3) Cooperate fully with law enforcement authorities during an investigation of an illegal or violent act committed on the premises.
- (4) Operate the business in such a manner that it does not constitute a nuisance.
- (5) Take appropriate and necessary steps to supervise the outdoor area of the premises including keeping the area free from litter and preventing the parking area from becoming a gathering place for customers of the business.
- (6) Begin facility operations within one (1) year of license issuance.

- (7) Prohibit alcohol consumption on premises.
- (8) Comply with all provisions of this article and city code.
- (9) Comply with all state laws including all regulations promulgated by the DHSS pertaining to the cultivation, manufacturing, dispensing, selling, or testing of medical marijuana.
- (10) Answer all summons and appear for all scheduled hearings and trials in any court for purported violations of this article or state and federal law, including all rules and regulations pertaining to the cultivation, manufacturing, dispensing, selling, or testing of medical marijuana.
- (11) Every licensee shall be responsible for medical marijuana activities by its employees.

Sec. 13-442. Suspension or revocation of license.

(a) *Suspension or revocation.* The business services administrator may suspend or revoke the license of any licensee under this article who has failed to meet any of the standards of conducting business set forth in this article or who has made any false, misleading, or fraudulent statement in the license application. A suspension may be from one (1) day to one (1) year.

(b) *Notice of suspension or revocation.* The business services administrator shall suspend or revoke a license issued under this article by sending notice of the suspension or revocation to the licensee by first class mail or by personal service on the licensee or the person in charge at the licensed premises. Mailed notice shall be presumed received three (3) business days after it is mailed. The notice shall contain:

- (1) A statement of the grounds for the suspension or revocation.
- (2) The effective date of the suspension or revocation, which shall be at least ten (10) business days after the notice is received.
- (3) In the case of a suspension, the length of the suspension.
- (4) Instructions on how to appeal the suspension or revocation.

(c) *Appeal to marijuana facility license review board.* The licensee may appeal the suspension or revocation by requesting a hearing before the marijuana facility license review board. The appeal must be in writing, addressed to the director of finance and received by the director of finance within ten (10) business days after the notice of suspension or revocation was received. Receipt of an appeal by the director of finance shall automatically stay enforcement of the suspension or revocation.

(d) *Notice of hearing.* After receipt of an appeal, the director of finance shall schedule a hearing before the marijuana facility license review board. At least ten (10) business days written notice of the hearing shall be given to the licensee. Notice shall be given in the same manner as the notices of denial.

(e) *Depositions.* There shall be no right to depositions.

(f) *Issuance of a subpoena duces tecum.* The marijuana facility license review board shall have the authority to issue subpoenas duces tecum for purposes of hearings only. Requests for subpoena duces tecum must be submitted in writing at least three (3) business days before the hearing.

(g) *Hearing and decision.* The marijuana facility license review board shall conduct the hearing within a reasonable amount of time and enter a decision in conformance with this article within thirty (30) calendar days following the date of the hearing in accordance with the rules and procedures adopted by the board and the requirements of chapter 536, RSMo., for contested cases. The board may affirm or reverse the decision of the business services administrator. If the board finds that a marijuana facility license violation has occurred, the board may impose a suspension from one (1) day to one (1) year or revoke the license. The board is not bound by the suspension period imposed by the business services administrator.

(h) *Appeal.* The licensee may appeal an adverse decision of the marijuana facility license review board under this section to the Circuit Court of Boone County in accordance with chapter 536, RSMo.

DIVISION 6. MISCELLANEOUS REGULATIONS

Sec. 13-443. Changing location of establishment; license transfer; license required for each place of business.

(a) No licensee under this article shall move the location of the licensed establishment as pertains to medical marijuana activities without the express approval of the business services administrator after verification that the provisions in this article and the provisions of chapter 29 are met.

(b) No license issued under this article shall be sold, transferred, or assigned from one person to another, nor shall such license be used at any place except on the premises for which such license is issued, and the proper license shall be procured for each place of business for which a state license is required.

Sec. 13-444. Updating ownership changes.

A licensee must provide the business services administrator a notarized affidavit showing any ownership changes within ten (10) business days of the change. If more than

five percent (5%) of the business is conveyed to any individual or entity not listed in the initial license application, the license is automatically forfeited and the licensee must apply for the license again in accordance with this article. Regardless of whether there are any ownership changes, licensee shall provide a notarized affidavit at the time of their annual license renewal detailing current individual ownership shares.

Sec. 13-445. Selling to intoxicated and certain individuals prohibited.

No person shall sell or supply or permit another to sell or supply any medical marijuana product to an intoxicated person or to any person who is under or apparently under the influence of alcohol or narcotics.

Sec. 13-446. Consumption on premises prohibited.

The consumption of alcohol and medical marijuana are prohibited upon or about any licensed premises.

Sec. 13-447. Sales, handling by minors.

(a) Except as provided in this section, no person under the age of twenty-one (21) years shall participate in the retail sale of medical marijuana.

(b) In any medical marijuana cultivation facility, medical marijuana-infused product manufacturing facility, or medical marijuana testing facility, persons at least eighteen (18) years of age may be employed and their duties may include the handling of medical marijuana products for all purposes except consumption, dispensing, or sale at retail.

Sec. 13-448. Purchase or possession on behalf of minors.

It shall be unlawful for any person to purchase, or attempt to purchase or possess, any medical marijuana for a person under the age of eighteen (18) years, unless otherwise allowed by federal, state, or local law.

Sec. 13-449. Presumption.

In any prosecution under this article, there is a rebuttable presumption that a container marked or labeled as containing medical marijuana actually contains the described medical marijuana. This rebuttable presumption applies to both open and sealed containers. This rebuttable presumption applies only in cases where a sample of the contents of the container has been preserved and is available to the defendant for testing.

Sec. 13-450. Penalty.

(a) In addition to the powers granted to the business services administrator, any person convicted of violating any of the provisions of this article shall be deemed guilty of a

Class B misdemeanor unless otherwise provided herein. Each offense is punishable by confinement not to exceed thirty days (30), or payment of the following fines, or by both such fines and confinement:

- (1) An individual violating the provisions of this article shall pay a fine not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00).
- (2) Any corporation or partnership violating the provisions of this article shall pay a fine not less than five thousand dollars (\$5,000.00) nor more than ten thousand dollars (\$10,000.00).

(b) The city is authorized to seek civil penalties in a court of competent jurisdiction up to fifty thousand dollars (\$50,000.000) against any person that violates the provisions of this article.

(c) Each day that a violation of this article continues shall be deemed a separate violation.

Sec. 13-451. Business license required; fees.

A separate business license shall be required for each place of business and a business license fee shall be determined in accordance with section 13-27.

Sec. 13-452. Taxes.

Each licensee shall collect and remit sales tax and other applicable taxes on all medical marijuana, paraphernalia, and other tangible personal property sold by the licensee at the medical marijuana facility.

Sec. 13-453. Rules and regulations—records.

(a) Each medical marijuana facility in the city shall procure and retain invoices showing the amount and value of each shipment of marijuana or marijuana products received, the date thereof, and the name of the shipper, and shall retain this invoice for a period of five (5) years subject to the use and inspection of the city.

(b) All medical marijuana facilities in the city shall maintain and keep for a period of five (5) years such other records of marijuana received, sold or delivered within the city as may be required by the city.

(c) The city, through its duly authorized representatives, is authorized to examine the books, papers, invoices and other records, stock of marijuana in and upon any premises where they are placed, stored or sold, and equipment of any such medical marijuana facility pertaining to the cultivation, manufacturing, testing, dispensing, sale and delivery of marijuana taxable under city code during all business hours.

(d) To verify the accuracy of any taxes imposed and assessed by city code, each medical marijuana facility shall give the city and its duly authorized representatives the means, facilities and opportunity to examine all records pertaining to marijuana sales and all marijuana inventories.

(e) The city is authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to the administration and enforcement of the provisions of this article.

Sec. 13-454. Revocation of license upon denial or revocation of state license or applicable federal prohibition.

If the state prohibits the cultivation, manufacturing, dispensing, selling, or testing of medical marijuana through medical marijuana facilities, or if a medical marijuana facility is denied a medical marijuana license or has such license revoked by the state, or if a court of competent jurisdiction determines that the federal government's prohibition of medical marijuana activities through medical marijuana businesses supersedes state law, any license issued pursuant to this article shall be deemed to be immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

Sec.13-455. Severability.

In the event any portion of this article shall be held by a state or federal court to be invalid or unconstitutional, such portion is hereby declared to be severable and such invalid or unconstitutional portion shall in no way affect the remainder of this article, but shall be in full force and effect and it is hereby declared to be the intention of the city council that the remainder of this article would have been passed notwithstanding the invalidity or unconstitutionality of any section, clause, paragraph, sentence or phrase thereof.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2019.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor