



Legislation Details (With Text)

File #: 230124 **Version:** 2 **Name:**
Type: Ordinance **Status:** Passed
File created: 2/2/2023 **In control:** Council
On agenda: 2/9/2023 **Final action:** 2/9/2023
Title: Sponsor: Councilmember Lee Barnes, Jr.

Amending Chapter 88, Code of Ordinances, by repealing Section 88-354, Medical Marijuana Facilities, and enacting in lieu thereof a new section of like number and subject matter to allow for medical and non-medical marijuana facilities as authorized by Article XIV, Sections 1 and 2 of the Missouri Constitution; amending Sections 88-805-04-P, Office; 88-805-04-T, Research Service; 88-805-04-V, Retail Sales; 88-805-B, Manufacturing, Production and Industrial Services; and 88-805-06, Agricultural Use Group, to allow for non-medical marijuana uses; and amending Section 88-810 by adding and inserting definitions applicable to marijuana uses.

Sponsors: Lee Barnes Jr.

Indexes:

Code sections:

Attachments: 1. 230124 Marijuana Ch 88 Docket Memo, 2. 230124com, 3. Authenticated Ordinance 230124 CS

| Date | Ver. | Action By | Action | Result |
|----------|------|---|-----------------------------|--------|
| 2/9/2023 | 1 | Council | Passed as Substituted | Pass |
| 2/8/2023 | 1 | Neighborhood Planning and Development Committee | Adv and Do Pass as Cmte Sub | Pass |
| 2/2/2023 | 1 | Council | referred | |

[COMMITTEE SUBSTITUTE FOR] ORDINANCE NO. 230124

Sponsor: Councilmember Lee Barnes, Jr.

Amending Chapter 88, Code of Ordinances, by repealing Section 88-354, Medical Marijuana Facilities, and enacting in lieu thereof a new section of like number and subject matter to allow for medical and non-medical marijuana facilities as authorized by Article XIV, Sections 1 and 2 of the Missouri Constitution; amending Sections 88-805-04-P, Office; 88-805-04-T, Research Service; 88-805-04-V, Retail Sales; 88-805-B, Manufacturing, Production and Industrial Services; and 88-805-06, Agricultural Use Group, to allow for non-medical marijuana uses; and amending Section 88-810 by adding and inserting definitions applicable to marijuana uses.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 88, Code of Ordinances, is hereby amended by repealing Section 88-354, Medical Marijuana Facilities, and enacting in lieu thereof a new section of like number and subject matter, to read as follows:

88-354 MARIJUANA FACILITIES

88-354-01 APPLICABILITY

Marijuana facilities authorized by article XIV, sections 1 and 2 of the Missouri Constitution must be licensed by the Missouri

Department of Health and Senior Services, or its successor entity..

88-354-02 STANDARDS AND CONDITIONS FOR ALL MARIJUANA FACILITIES

All marijuana facilities licensed by the Missouri Department of Health and Senior Services, and authorized to operate under article XIV, sections 1 and 2 of the Missouri Constitution, shall operate according to the local regulations applicable to all properties in zoning districts which allow the use of marijuana facilities.

88-354-02-A. DISTANCE REQUIREMENT FROM SCHOOLS

All comprehensive or medical marijuana cultivation facilities, comprehensive or medical marijuana-infused products manufacturing facilities, and marijuana testing facilities licensed by the Missouri Department of Health and Senior Services, and authorized to operate under article XIV, sections 1 and 2 of the Missouri Constitution, shall not be initially sited, at the time of application for license or for zoning approval, whichever is earlier, within 750 feet of any then-existing elementary or secondary school, as elementary and secondary schools are defined by state laws and regulations governing comprehensive and medical marijuana facilities.

All comprehensive or medical marijuana dispensary facilities licensed by the Missouri Department of Health and Senior Services, and authorized to operate under article XIV, sections 1 and 2 of the Missouri Constitution, shall not be initially sited, at the time of application for license or for zoning approval, whichever is earlier, within 300 feet of any then-existing elementary or secondary school, as elementary and secondary schools are defined by state laws and regulations governing comprehensive and medical marijuana facilities.

88-354-02-B. DISTANCE REQUIREMENT FROM CHURCHES AND DAY CARE CENTERS

All marijuana facilities licensed by the Missouri Department of Health and Senior Services, and authorized to operate under article XIV, sections 1 and 2 of the Missouri Constitution, shall not be initially sited, at the time of application for license or for zoning approval, whichever is earlier, within 300 feet of any then-existing church or daycare, as church and daycare are defined by state laws and regulations governing marijuana facilities.

88-354-03 MEASUREMENTS

Measurements shall be made along the shortest path between the demarcation points that can be lawfully traveled by foot.

88-354-03-A. MEASUREMENT REQUIREMENT FOR FREESTANDING FACILITIES

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.

88-354-03-B. MEASUREMENT REQUIREMENT FOR FACILITIES THAT ARE PART OF A LARGER STRUCTURE

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 shall be measured from the property line of 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.

88-354-04 HOURS OF OPERATION

Comprehensive and Medical Marijuana dispensary facilities shall have limited hours of operation from 8:00 a.m. to 10:00 p.m.

88-354-05 STORAGE

All operations and any storage of materials, products, or equipment shall be within a fully enclosed building. No outdoor operations or storage shall be permitted.

88-354-06 EXTERNAL IMPACTS

No marijuana facility shall produce dust, vibration, noise, or other external impacts that are detectable beyond the property lines of the subject property.

Section 2. That Section 88-805-04-P, Office; Section 88-805-04-T, Research Service, Section 88-805-04-V, Retail Sales; Section 88-805-B, Manufacturing, Production and Industrial Services; and Section 88-805-06, Agricultural Use Group, are hereby repealed and new sections of like number and title are hereby enacted to allow for non-medical marijuana uses as authorized by article XIV, sections 1 and 2 of the Missouri Constitution, such sections to read as follows:

88-805-04-P. OFFICE

1. ADMINISTRATIVE, PROFESSIONAL OR GENERAL OFFICE

Professional, governmental, executive, management, or administrative offices of private organizations or government agencies. Typical uses include administrative offices, law offices, architectural firms, insurance companies, and government offices.

2. MEDICAL OFFICE

Personal health services including prevention, diagnosis and treatment; rehabilitation services provided by physicians, dentists, nurses, and other health personnel; and medical testing and analysis services, including marijuana testing facilities. Typical uses include medical and dental offices, health maintenance organizations, blood banks, plasma centers, and government-operated health centers. Excludes use types more specifically classified, such as hospitals.

88-805-04-T. RESEARCH SERVICE

An establishment that conducts educational, scientific, high-technology or medical research not involving the mass production, distribution, or sale of products. Includes marijuana testing facilities. Research services do not produce odors, dust, vibration, noise, or other external impacts that are detectable beyond the property lines of the subject property. Research-related establishments that do produce such external impacts are classified as "manufacturing, production, and industrial services."

88-805-04-V. RETAIL SALES

Businesses involved in the sale, lease, or rent of new or used products or merchandise to consumers. Typical uses include drug stores, grocery stores, department stores, and apparel stores.

1. OUTDOOR RETAIL SALES - CLASS A

Outdoor retail sales - class A are permanent uses outside of a completely enclosed building or structure used to display goods for sale to the general public as part of and subordinate to retail sales or similar business establishment. This includes but is not limited to garden supplies, building supplies, and plant materials.

2. OUTDOOR RETAIL SALES - CLASS B

Outdoor retail sales - class B are permanent uses where the majority of the retail space is outdoors and items are for sale to the general public. This includes but is not limited to garden nurseries, manufactured home sales, and recreational and play equipment sales.

88-805-05-B. MANUFACTURING, PRODUCTION AND INDUSTRIAL SERVICES

1. ARTISAN

On-site production of goods by hand manufacturing, involving the use of hand tools and small-scale, light mechanical equipment. Typical uses include food and beverage production such as distilleries, breweries, and caterers; small scale personal and household product manufacturing such as woodworking and cabinet shops, ceramic studios, jewelry manufacturing, and similar types of arts and crafts; or very small-scale manufacturing uses that have no negative external impacts on surrounding properties.

2. LIMITED

Manufacturing of finished parts or products, primarily from previously prepared materials. Typical uses include: comprehensive medical marijuana-infused products manufacturing facilities and medical marijuana-infused products manufacturing facilities, printing and related support activities; machinery manufacturing; food manufacturing; computer and electronic product manufacturing/assembly; electrical equipment, appliance, component manufacturing/assembly; furniture and related product manufacturing/assembly; a contractor's establishment if the principal use is fabrication and manufacturing; and other manufacturing and production establishments that typically have very few, if any, negative external impacts on surrounding properties.

3. GENERAL

- a. Manufacturing of finished or unfinished products, primarily from extracted or raw materials, or recycled or secondary materials, or bulk storage and handling of such products and materials. Typical uses include: asphalt plants, concrete plants, textile mills; textile product mills; apparel manufacturing; leather and allied product manufacturing; wood product manufacturing; paper manufacturing; chemical manufacturing; plastics and rubber products manufacturing; nonmetallic mineral product manufacturing; transportation equipment manufacturing; primary metal manufacturing; and fabricated metal product manufacturing. Also includes medical, scientific, or technology-related research establishments that produce odors, dust, vibration, noise, or other external impacts that are detectable beyond the property lines of the subject property.
- b. Industrial service firms engaged in the repair or servicing of industrial or commercial machinery, equipment, products, or by-products. Typical uses include: welding shops; machine shops; industrial tool repair; fuel oil distributors; solid fuel yards; laundry, dry-cleaning, and carpet cleaning plants; and photofinishing laboratories. Excludes uses classified as "repair or laundry services."

4. **INTENSIVE**

Manufacturing of acetylene, cement, lime, gypsum or plaster-of-Paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish, petroleum products, coal products, plastic and synthetic resins, and radioactive materials. Also includes smelting, animal slaughtering, and oil refining.

88-805-06 AGRICULTURAL USE GROUP

The agricultural use group includes the following:

88-805-06-A. AGRICULTURE, CROP

The use of land for the production of row crops, field crops, tree crops; timber, bees, apiary products, or fur-bearing animals. Also includes comprehensive marijuana cultivation facilities and medical marijuana cultivation facilities.

88-805-06-B. AGRICULTURE, ANIMAL

The feeding, breeding, raising or holding of cattle, swine, poultry or other livestock, whether held in a confinement area or open pasture. Also includes the killing, butchering or dressing of livestock, fowl, fish or other animals raised on the premises. Such killing, butchering or dressing shall be done within an accessory building (or principal building if animal agriculture is the principal use on the lot), which building shall be located not less than 200 feet from any property line.

Section 3. That Section 88-810, Definitions, is hereby amended by adding and inserting definitions applicable to the new code section set forth in Section 1, as follows:

88-810-366 COMPREHENSIVE FACILITY

A comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility, or a comprehensive marijuana-infused products manufacturing facility.

88-810-367 COMPREHENSIVE MARIJUANA CULTIVATION FACILITY

A facility licensed by the department to acquire, cultivate, process, package, store on site or off site, transport to or from, and sell marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones) to a medical facility, comprehensive facility, or marijuana testing facility. A comprehensive marijuana cultivation facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana. A comprehensive marijuana cultivation facility's authority to process marijuana shall include the creation of prerolls, but shall not include the manufacture of marijuana-infused products.

88-810-368 COMPREHENSIVE MARIJUANA DISPENSARY FACILITY

A facility licensed by the department 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, ad drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient or primary caregiver, as those terms are defined in section I of this Article, or to a consumer, anywhere on the licensed property or to any address as directed by the patient, primary caregiver, or consumer and consistent with the limitations of this Article and as otherwise allowed by law, to a comprehensive facility, a marijuana testing facility, or a medical facility. Comprehensive dispensary facilities may receive transaction orders at the dispensary directly from the consumer in person, by phone, or via the internet including from a third party. A comprehensive marijuana

dispensary facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana, but shall collect all appropriate tangible personal property sales tax for each sale, as set forth in this Article and provided for by general local law. A comprehensive marijuana dispensary facility's authority to process marijuana shall include the creation of prerolls.

88-810-369 COMPREHENSIVE MARIJUANA-INFUSED PRODUCTS

MANUFACTURING FACILITY

A facility licensed by the department to acquire, process, package, store, manufacture, transport to or from a medical facility comprehensive facility, or marijuana testing facility, and sell marijuana-infused products, prerolls, and infused prerolls to a marijuana dispensary facility, a marijuana testing facility, or another marijuana-infused products manufacturing facility. A comprehensive marijuana-infused product manufacturing facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana.

88-810-835 MARIJUANA/MARIHUANA

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 seed thereof and resin extracted from the plant and marijuana-infused products. Marijuana does not include industrial hemp as defined by Missouri statute, or commodities or products manufactured from industrial hemp.

88-810-835.2 MARIJUANA FACILITY

Any comprehensive facility, medical facility, or marijuana testing facility.

88-810-835.3 MARIJUANA TESTING FACILITY

A facility certified by the state to acquire, test, certify, and transport marijuana, including those originally licensed as a medical marijuana testing facility.

88-810-882 MEDICAL MARIJUANA CULTIVATION FACILITY

A facility licensed by the state to acquire, cultivate, process, package, store on or off site, transport to or from, and sell marijuana, marijuana seeds, and marijuana vegetative cutting (also known as clones), to a medical dispensary facility, marijuana testing facility, medical marijuana cultivation facility, or to a medical marijuana-infused products manufacturing facility. A medical marijuana cultivation facility's authority to process marijuana shall include the production and sale of prerolls, but shall not include the manufacture of marijuana-infused products.

88-810-883 MEDICAL MARIJUANA DISPENSARY FACILITY

A facility licensed by the state 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 drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, anywhere on the licensed property or to any address as directed by the patient or primary caregiver, so long as the address is a location allowing for the legal possession of marijuana, another medical marijuana dispensary facility, a marijuana testing facility, a medical marijuana cultivation facility, or a medical marijuana-infused products manufacturing facility. Dispensary facilities may receive transaction orders at the dispensary in person, by phone, or via the internet, including from a third party. A medical marijuana dispensary facility's authority to process marijuana shall include the production and sale of prerolls, but shall not include the manufacture of marijuana-infused products.

88-810-884 MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING FACILITY

A facility licensed by the state to acquire, process, package, store on site or off site, manufacture, transport to or from, and sell marijuana-infused products to a medical marijuana dispensary facility, a marijuana testing facility, a medical marijuana cultivation facility, or to another medical marijuana-infused products manufacturing facility.

88-810-881 MEDICAL FACILITY

Any medical marijuana cultivation facility, medical marijuana dispensary facility, or medical marijuana infused products manufacturing facility.

Approved as to form:

Sarah Baxter
Senior Associate City Attorney