



STAFF REPORT

TO: Honorable Mayor and Members of the Council
FROM: Barbara Carroll, Director of Community Development
DATE: June 13, 2019
SUBJECT: Medical Marijuana Ordinance Updates

BACKGROUND:

The state finalized their medical marijuana rules at the end of May. As previously discussed, Warrensburg needs to make a few changes to the local ordinance to stay consistent with the state's rules. A copy of the current Warrensburg ordinance is attached for reference.

Local Ordinance

Staff is drafting an ordinance for consideration at the July 8, City Council meeting that will amend the medical marijuana ordinance adopted in January. The draft ordinance is not complete at this time and will go out in the Council packet for the July 8 meeting. At this point, changes are being drafted in two areas.

1. The City's ordinance measures in a straight line from the main public entrance of the business premises or from the lot lines of property in a residentially zoned district. The state's rules involve different scenarios of measuring from property lines or external walls of the medical marijuana facility or an entrance/exit of the church. And then instead of a straight line between those points it is measured along the shortest path between the two points that can be lawfully traveled by foot. These are the rules for medical marijuana dispensaries, testing facilities, infused products manufacturing facilities or cultivation facilities.

Attached is a file with the state's language and some diagrams staff has created to illustrate the state's language and method of measuring.

One thing to note about the state's method of measuring. The shortest distance between 2 points is a straight line. The state is measuring along the shortest path of lawful travel, so typically along public streets and parking lots. This makes the distance between the 2 points longer in most cases which means the 1,000 ft distance is reached faster. Attached is an illustration of this. The aerial photo shows the two points as the front door of Glasscock Jewelry and the front door of the Lutheran Church. The straight line measurement is about 910' which is under 1,000 ft. The path of lawful travel for a pedestrian is closer to 1,220 ft. along Young Street and Maguire St.

2. The state has created a new use category for a Medical Marijuana Transportation Facility and buffer and measuring requirements for it. Warrensburg will need to add this definition and use category to our code and address the buffer and measuring requirements for it.

Buffer Map

A GIS map of the City with all the currently adopted buffers shown on it has been created. It shows what areas a medical marijuana use can be located on in Warrensburg. A 24" by 36" printed copy of the map is available for viewing at City Hall and will also be at the City Council meeting.

Medical Marijuana Regulations from Other Missouri Cities

Staff has gathered newly adopted medical marijuana zoning regulations from several other Missouri cities. This research is summarized in the attached spreadsheet.

- Attachments:
1. Ordinance #5494
 2. Diagrams of the state's method of measuring
 3. Straight line illustration
 4. Other cities regulations

BILL NO. H19

ORDINANCE NO. 594

AN ORDINANCE AMENDING CHAPTER 27 OF THE CODE OF CITY ORDINANCES OF THE CITY OF WARRENSBURG, MISSOURI REGARDING MARIJUANA RELATED USES

WHEREAS, an amendment to Missouri's constitution was approved by voters on November 6, 2018 allowing access to Medical Marijuana in Missouri; and

WHEREAS, the Federal Controlled Substance Act, 21 U.S.C. §§ 801 et seq., the use, possession and cultivation of marijuana are unlawful and subject to federal prosecution without regard to a claimed medical need; and

WHEREAS, the United States Department of Justice issued a Memorandum entitled "Guidance for Marijuana Enforcement" on August 29, 2013. The memorandum established eight guidelines for states regarding the federal priorities in determining whether federal enforcement should commence against those engaged in specific activities related to marijuana cultivation and distribution. This ordinance places the highest priority on meeting these guidelines, particularly those related to public safety and health, restrictions on availability to minors, and prevention of illegal trafficking and profiteering; and

WHEREAS, Marijuana plants, as they begin to flower and for a period of two months or more during the growing season, produce an extremely strong odor that is detectable far beyond property boundaries and that can adversely impact the peace and enjoyment of nearby properties; and

WHEREAS, the Planning and Zoning Commission of the City of Warrensburg held a public meeting regarding marijuana related uses on December 3, 2018 and recommended approval of the ordinance to the City Council; and

WHEREAS, public notice of the hearing before City Council of the City of Warrensburg was published in the Daily Star Journal on November 23, 2018,

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

Section 1. That Section 27-6 Definitions is amended to add the following definitions leaving all other provisions of Section 27-6 in effect, unaltered:

Marijuana or Marihuana. Means *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 containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis, or commodities or products manufactured from industrial hemp.

Marijuana-Infused Products. Means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

Medical Marijuana Cultivation Facility. Means a facility licensed by the State of Missouri to acquire, cultivate, process, store, transport, and sell marijuana to a Medical Dispensary Facility, Medical Marijuana Testing Facility, or to a Medical Marijuana-Infused Products Manufacturing Facility.

Medical Marijuana Dispensary Facility. Means a facility licensed by the State of Missouri to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, another Medical Marijuana Dispensary Facility, a Medical Marijuana Testing Facility, or a Medical Marijuana-Infused Projects Manufacturing Facility.

Medical Marijuana-Infused Products Manufacturing Facility. Mean a facility licensed by the State of Missouri, to acquire, store, manufacture, transport, and sell marijuana-infused products to a Medical Marijuana Dispensary Facility, a Medical Marijuana Test Facility, or to another Medical Marijuana-Infused Projects Manufacturing Facility.

Medical Marijuana Testing Facility. Mean a facility certified by the State of Missouri, to acquire, test, certify, and transport marijuana.

Section 2. That Section 27-200 Table of Permissible Uses, Land Use 28.000 is added as follows, leaving all other provisions of Section 27-200 in effect, unaltered:

		ZONING DISTRICTS										
		R1	R2	R3	R4	RMH	BO	NB	CB	GB	LI	HI
28.000	MARIJUANA RELATED USES											
28.100	Medical Marijuana Dispensary Facility, entirely within enclosed building						Z	Z	Z	Z	Z	
28.200	Medical Marijuana Cultivation Facility											
	28.210 Entirely within enclosed building										Z	Z
	28.220 Cultivation inside or outside a building allowed										C	C
28.300	Medical Marijuana-Infused Products Manufacturing Facility, Medical Marijuana Testing Facility, entirely within enclosed building with or without dispensary											
	28.310 Majority of dollar volume of business done with walk-in trade								Z	Z	Z	
	28.320 Majority of dollar volume of business not done with walk-in trade									Z	Z	Z

Section 3. That subsection 27-404 (b) (2) is amended to read as follows, leaving all other provisions of Section 27-404 in effect, unaltered:

- (2) The parking requirements of land use classifications 2.000 to 25.000 and 28.000 to 28.320 shall apply in full to buildings, structures and uses within such use district, with the exception that, in the central business district where no setback building line is required, there shall be no off-street parking required.

Section 4. That Section 27-406 Table of Parking Requirements, Land Use 28.000 is added as follows, leaving all other provisions of Section 27-406 in effect, unaltered:

Land Use	Off-Street Parking Requirement
28.100	1 space per 200 square feet of gross floor area for the first 16,000 square feet of gross floor area, and 1 space per 350 square feet of gross floor area after the first 16,000 square feet
28.210 28.220	1 space for every employee on the maximum shift, plus 1 space per 400 square feet of gross floor area in enclosed buildings, plus space to accommodate all trucks and other vehicles used in connection therewith.
28.310 28.320	1 space per employee for single shift establishments, or .75 spaces per employee on the two largest consecutive shifts, plus space to accommodate parking and maneuvering room for all trucks and other vehicles used in connection therewith, plus 1 space per 200 square feet of gross floor area for retail sales connected with dispensary.

Section 5. That Section 27-246. Marijuana related uses, is added as follows:

Sec. 27-246. Marijuana related uses.

Marijuana related uses and facilities as defined in section 27-6 shall meet the following standards in addition to all other zoning requirements in order to operate within the City of Warrensburg:

(a) *Location restrictions.*

- (1) No marijuana related uses shall be operated or maintained within one thousand (1,000) feet of any school, child day-care center, church, or public library.
- (2) No marijuana related uses shall be operated or maintained on any portion of a lot where any portion of the lot is within one hundred (100) feet of a residentially zoned district or any public park.
- (3) No marijuana related uses shall be operated or maintained within five hundred (500) feet of any establishment licensed under Chapter 2 of the Code of Ordinances.
- (4) No marijuana related uses shall be operated or maintained within two hundred fifty (250) feet of any establishment licensed under Chapter 3 of the Code of Ordinances to sell liquor by the drink.
- (5) No marijuana related uses shall be operated or maintained within five hundred (500) feet of another marijuana related use except when marijuana sales represents less than 5% of the dollar volume of business in a state or federally licensed pharmacy.

(6) The distance limitations in subsections (1-5) above shall be measured in a straight line from the main public entrance of the business premises or from the lot lines of property in a residentially zoned district.

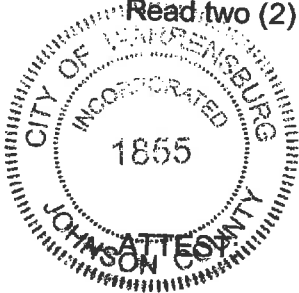
(b) *Nuisance.* No marijuana related use or facility as defined in Section 27-6 shall emit an odor or in any way cause a public nuisance per Chapter 13 of this Code. Appropriate ventilation systems to prevent any odor of marijuana or fumes from leaving the premises or other changes to the facilities can be required if a public nuisance violation occurs.

Section 6. If any clause, section or other part of this section shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby, but shall remain in full force and effect.

Section 7. It is intended that Sections 1 through 5 of this ordinance be incorporated into the Code of Ordinances of the City of Warrensburg.

Section 8. That this ordinance shall become effective immediately upon its passage.

Read two (2) times and passed by title this 14th day of August 2019.



Danielle Johnston
Danielle Johnston, Mayor

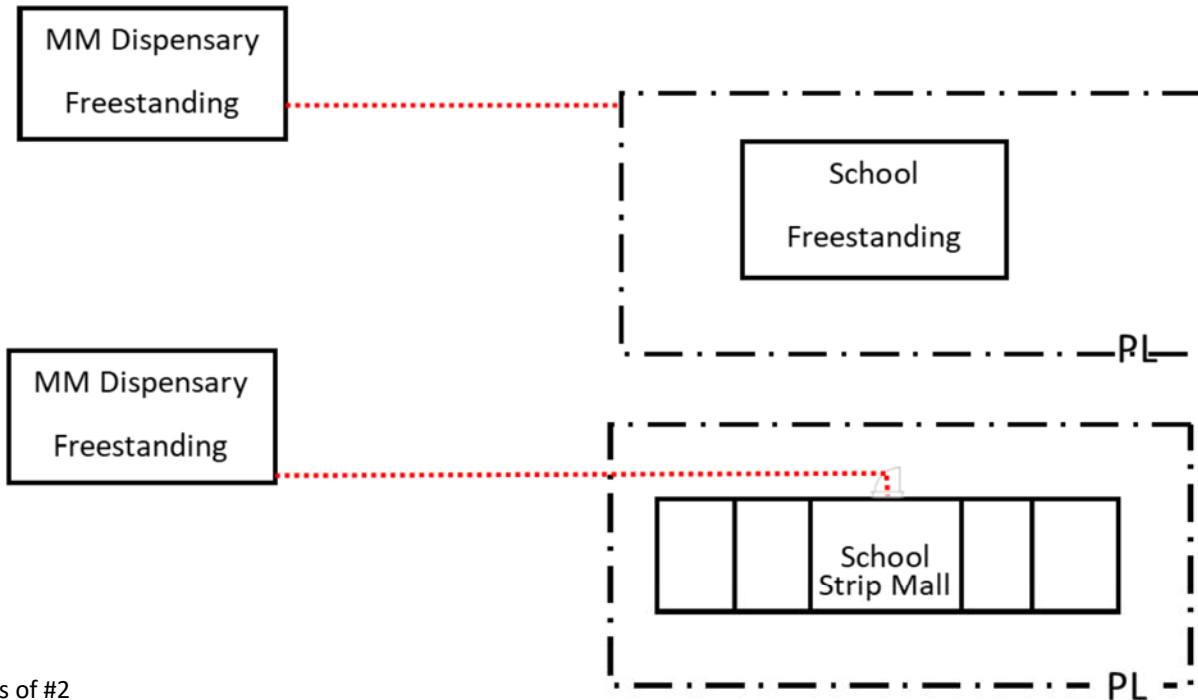
Cindy Gabel
City Clerk

1. 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.

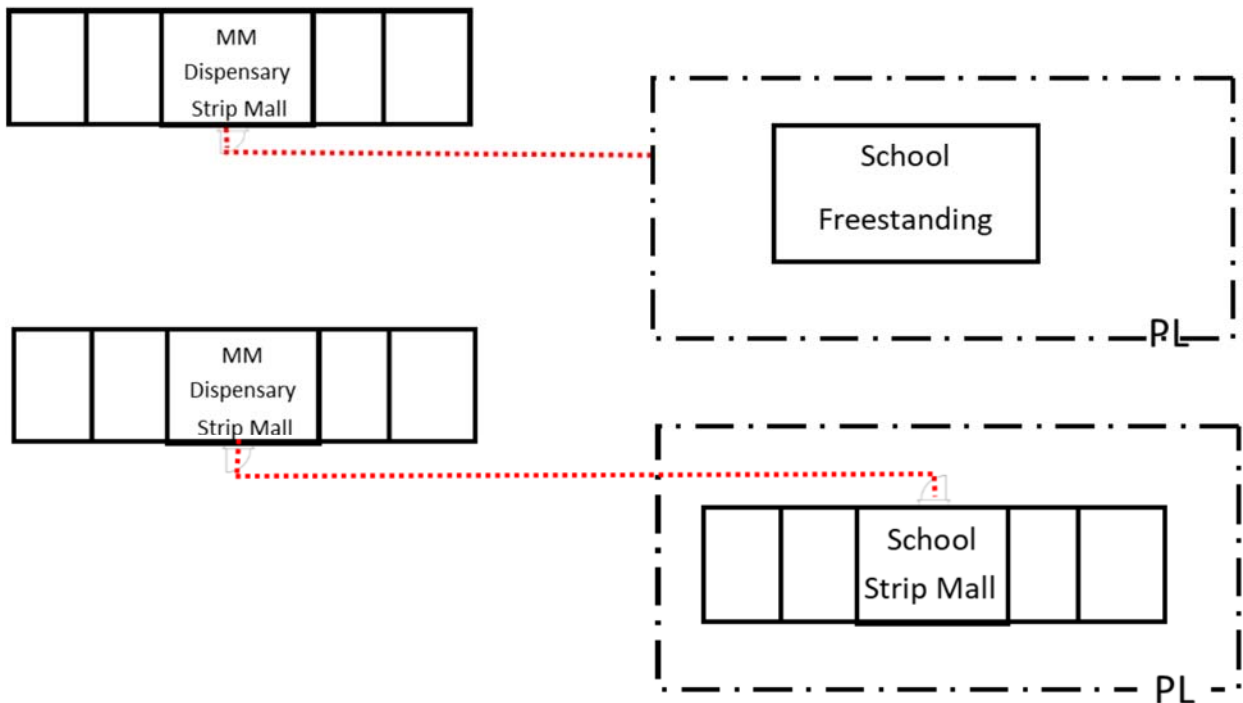
2. In the case of a facility that is part of a larger structure, such as an office building or strip mall, the distance between the facility and the school, daycare, or church shall be measured from the property line of the school, daycare, or church to the facility's entrance or exit closest in proximity 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.

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

Examples of #1



Examples of #2



Warrensburg, MO

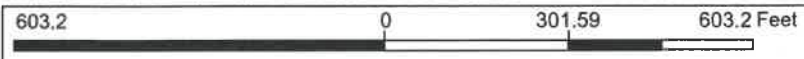


Legend

- Street
- City Limit
- Parcel
- Address Point
- Original Lot
- Park
- Trail

Notes

1 in. = 302ft.



This Cadastral Map is for informational purposes only. It does not purport to represent a property boundary survey of the parcels shown and shall not be used for conveyances or the establishment of property boundaries.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

Sampling of Medical Marijuana Requirements for Other Missouri Cities as of 6-11-19

CITIES	ELEMENTARY SCHOOL, SECONDARY SCHOOL, DAYCARE OR CHURCH				OTHER USES				
	CULTIVATION FACILITY	TESTING FACILITY	MANUFACTURING FACILITY	DISPENSARY	OTHER USES	CULTIVATION FACILITY	TESTING FACILITY	MANUFACTURING FACILITY	DISPENSARY
State of MO req. 19 CSR 30-95.040	1,000 FT.	1,000 FT.	1,000 FT.	1,000 FT.					
WARRENSBURG† (2017 POP. 20,168)	1,000 FT. (INCLUDES ANY SCHOOL OR PUBLIC LIBRARY)	1,000 FT. (INCLUDES ANY SCHOOL OR PUBLIC LIBRARY)	1,000 FT. (INCLUDES ANY SCHOOL OR PUBLIC LIBRARY)	1,000 FT. (INCLUDES ANY SCHOOL OR PUBLIC LIBRARY)	ADULT ENTERTAINMENT BUSINESSES	500 FT.	500 FT.	500 FT.	500 FT.
					LIQUOR BY THE DRINK ESTABLISHMENTS	250 FT.	250 FT.	250 FT.	250 FT.
					OTHER MEDICAL MARIJUANA RELATED USES	500 FT.	500 FT.	500 FT.	500 FT.
					PUBLIC PARK OR RESIDENTIAL DISTRICT	100 FT.	100 FT.	100 FT.	100 FT.
NORTH KANSAS CITY (2016 POP. 4,376)	300 FT.	300 FT.	300 FT.	300 FT.					
SPRINGFIELD*† (2017 POP. 167,376)	1,000 FT.	1,000 FT.	TYPE 1: 1,000 FT. TYPE 2: 200 FT.	200 FT.					
JEFFERSON CITY*† (2018 POP. 42,838)	1,000 FT.	1,000 FT.	1,000 FT.	1,000 FT.					
INDEPENDENCE* (2017 POP. 117,306)	1,000 FT.	1,000 FT.	1,000 FT.	1,000 FT.					
KIRKSVILLE† (2016 POP. 17,519)	300 FT.	300 FT.	300 FT.	0 FT.					
CARROLLTON (2016 POP. 3,603)	100 FT.	100 FT.	100 FT.	100 FT.					
COLUMBIA*† (2017 POP. 121,717)	1,000 FT. (AND 1 PER 100,000 POP.)	1,000 FT.	1,000 FT. (AND 1 PER 70,000 POP.)	1,000 FT. (AND 1 PER 20,000 POP.)					
ST. JOSEPH† (2017 POP. 76,442)	300 FT.	300 FT.	300 FT.	300 FT.	RESIDENTIAL DISTRICT	100 FT. (FROM ENTRANCES TO PROPERTY LINES)	100 FT. (FROM ENTRANCES TO PROPERTY LINES)	100 FT. (FROM ENTRANCES TO PROPERTY LINES)	0 FT.
					ADULT ENTERTAINMENT BUSINESSES	500 FT.	500 FT.	500 FT.	500 FT.
					OTHER MEDICAL MARIJUANA RELATED USES	500 FT.	500 FT.	500 FT.	500 FT.
BLUE SPRINGS (2017 POP. 54,594)	1,000 FT.	300 FT.	1,000 FT.	1,000 FT.					

300 ft. Buffer was recommended to match existing Liquor by the Drink sales buffer from the same school, church, daycare uses. No Buffer for Dispensaries since they considered the same as pharmacies. (CC Minutes 03-18-19)

CONDITIONAL USE PERMIT IS REQUIRED IF IT IS WITHIN 100 FT OF A RESIDENTIAL DISTRICT

Notes:

*Final ordinance has not been approved

†College or University located inside the city

No deviation from 19 CSR 30-95.040

None Indicated