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Planning Commission Report

Meeting Date: January 9, 2023

From: Justin Wyse, Director of Planning

Location: City of Chesterfield

Description: **P.Z. 12-2022 City of Chesterfield (Unified Development Code – Article 4):**
An ordinance amending Article 4 of the Unified Development code to incorporate regulations pertaining to recreational or adult-use marijuana.

Background

On November 6, 2018 the voters of Missouri approved a constitutional amendment authorizing patient access to medical marijuana. On November 8, 2022 another Constitutional amendment was approved authorizing recreational or adult use marijuana facilities. In response to the latest amendment, Staff is recommending the attached ordinance to specify regulations to require distance separation from marijuana related businesses and schools, churches, and daycares as authorized in the Missouri Constitution. Additionally, the ordinance requires that all activities and displays, other than permitted signage, must be conducted indoors.

Discussion

There is currently one (1) licensed medical marijuana dispensary located in the City of Chesterfield. The City elected to utilize existing uses within the City's Unified Development Code (UDC) when reviewing where medical facilities are permitted. For example, medical marijuana facilities are allowed where "Pharmacy" is a permitted use. Similar to the discussion of medical marijuana facilities, Staff recommends that the City utilize existing uses to determine where recreational or adult use facilities are permitted Staff believes this process has served the City well in regulating medical marijuana facilities and notes the following:

Limitation on number of licenses: the State is limited in the number of licenses to be issued. The practical implication of this is that, while we may see additional facilities, we are unlikely to see a surge in the number of facilities in Chesterfield due to these limitations.

Use of planned zoning districts: In creating a new set of use terms, existing planned districts would not include this use term. While property owners would be able to request a change in zoning or amendment to a planned district, this could be construed as effectively prohibiting the uses without a vote of the residents and could be used to challenge the regulation of these facilities.

Additionally, each of the City’s planned districts contain site specific regulations. For example, many retail areas have hours of operation restrictions. Utilizing existing use terms ensures businesses follow standard regulations based on the area they locate and avoids conflicts where a facility has hours of operation for a specific use and an ordinance that states a different set of restrictions on hours of operation.

Existing Facilities: There is currently one (1) medical marijuana dispensary located within the City of Chesterfield. A review of the City’s work order system shows there have been no municipal violations associated with this business.

The table below includes the terms defined in the Missouri Constitution as well as Staff’s recommendation for existing uses that would be utilized to regulate location of each use.

Use	Proposed Use Term Required	Zoning Districts*
Comprehensive Marijuana Cultivation Facility	Farming, livestock and stables. Farming includes cultivation and sale of crops, plants and domestic animals with no salesroom	PI **
Comprehensive Marijuana Dispensary Facility	Retail Sales Establishment	PC & NB
Comprehensive Marijuana Infused Projects Manufacturing Facility	Manufacturing, fabrication, assembly, processing, or packing, except explosives or flammable gases or liquids	PC (west of Long Road), PI, & LI
Marijuana Testing Facility	Research Laboratory & Facility	PC (west of Long Road) & PI

* The planned district ordinance for each development must authorize the use

** Additional restrictions are included in the attached ordinance to limit the use for marijuana cultivation facilities to the PI district.

Recommendation

Staff recommends that the attached ordinance be considered for adoption to extend existing regulations for medical marijuana facilities to the newly authorized recreational or adult-use marijuana.

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF CHESTERFIELD AMENDING SECTION 405.04.140 OF THE MUNICIPAL CODE PERTAINING TO MARIJUANA RELATED BUSINESSES.

WHEREAS, an amendment to the Missouri Constitution, herein referred to as Amendment 3, was approved by voters on November 8, 2022 to decriminalize marijuana and to provide for the regulated production, distribution, testing, sale, and purchase of recreational marijuana by those ages 21 and older; and

WHEREAS, Amendment 3 charges the Missouri Department of Health and Senior Services to license and regulate comprehensive marijuana cultivation facilities, comprehensive marijuana dispensary facilities, comprehensive marijuana-infused products manufacturing facilities, and marijuana testing facilities;

WHEREAS, Amendment 3 gives narrow authorization for cities to enact ordinances not in conflict with state law or regulations governing the time, place, and manner of operation of comprehensive marijuana facilities defined herein; and

WHEREAS, the City of Chesterfield, having carefully studied Amendment 3 and its mandate, wishes to establish supplemental rules and regulations governing the operation of comprehensive marijuana facilities to further protect the health, safety, and welfare of the residents, business community, and property owners in Chesterfield; and

WHEREAS, a Public Hearing was held before the Planning Commission on January 9, 2023; and,

WHEREAS, the Planning Commission recommended approval of the following amendments; and,

WHEREAS, the Planning and Public Works Committee recommended approval of the following amendments; and,

WHEREAS, the City Council of the City of Chesterfield desires to amend the Unified Development Code to reflect the changes in regulation of medical and non-medical marijuana business to conform to state law; and

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

Section 1: Section 405.04.140 of the City of Chesterfield Municipal Code shall be amended to include the following:

21. Marijuana (medical and comprehensive) facilities. These regulations shall apply to all medical and comprehensive marijuana uses as defined in the Missouri Constitution.
 - a. No marijuana facilities including those relating to cultivation, testing, manufacturing or dispensing shall be permitted except in conjunction with a state issued license and in full compliance with all state mandated facility and safety standards.
 - b. No medical marijuana related use or facility shall emit an odor or in any way off-site which causes a public nuisance. Appropriate ventilation systems or odor mitigation devices shall be installed to prevent the permeation of marijuana odors or fumes shall be provided if a public nuisance violation occurs. If off-site odors become a public nuisance, the City Council, following notice and a public hearing at which the operator shall be entitled to present evidence or submit proposals for remediation, may revoke a permit for cultivation, testing, manufacturing or dispensing of marijuana or marijuana related products.
 - c. No marijuana facility shall be initially sited within one thousand feet of any then existing elementary or secondary school, child day care center, or church, as defined in the Missouri Constitution pertaining to marijuana 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. 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. Measurements shall be

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

- d. Cultivation facilities shall only be permitted in areas zoned Planned Industrial District.
- e. Any cultivation must occur indoors. Outdoor cultivation is not permitted.

Section 2: Existing medical marijuana facilities and new medical or non-medical marijuana facilities shall be permitted to obtain occupancy and business license approval where facilities are permitted by zoning.

Section 3: This ordinance shall be codified within the Municipal Code of the City of Chesterfield.

Section 4: This ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this ____ day of _____, 2023.

PRESIDING OFFICER

Bob Nation, MAYOR

ATTEST:

Vickie McGownd, CITY CLERK

FIRST READING HELD: