

UDO Amendments for Medical Marijuana Facilities

Staff Presentation to City Council

July 9, 2019



LEE'S SUMMIT
MISSOURI



Yours Truly

Constitutional Amendment

- **Medical Marijuana Facilities:**
 1. Medical Marijuana Cultivation Facility
 2. Medical Marijuana Dispensary Facility
 3. Medical Marijuana-Infused Products Manufacturing Facility
 4. Medical Marijuana Testing Facility
 5. Medical Marijuana Transportation Facility
- All five uses together defined as “Medical Marijuana Facility” (“MM Facility” in slides)
- Federally, still controlled substance and federal crime

Constitutional Amendment

- **Buffer Zones**: “Unless allowed by the local government, no [MM Facility] shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center or church.”
- **Local Regulatory Limit**: “No local government shall prohibit [MM Facilities] either expressly or through the enactment or ordinances or regulations that make their operation *unduly burdensome* in the jurisdiction.”

Constitutional Amendment

- **Time, Place & Manner Regulations allowed:**
“[L]ocal governments may enact ordinances or regulations not in conflict with this section, *or with regulations enacted pursuant to this section,* governing the time, place and manner of operation of such facilities in the locality.”
- **Penalties allowed:** “A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place and manner of operation of a [MM Facility].”

Legal Framework

- Legal Doctrine of Pre-emption
 - State law “occupies the field”
- Cannot be “unduly burdensome”
 - Can be burdensome; no legal guidance yet
- Conflict Analysis
 - Cannot **prohibit** what the State **allows**
 - Cannot **allow** what the State **prohibits**
- Presumption: City Council wants maximum restrictions
- Fill in the gaps: City regulations can supplement items not covered in State regulations

Buffer Zones in State Regulations

Medical Marijuana “Points of Demarcation” Under State Regulations

	MM Freestanding	MM Multi-Tenant
Day Care Freestanding	MM – External Wall Day Care – Property Line	MM – Door Day Care – Property Line
Day Care Multi-Tenant	MM – External Wall Day Care – Door	MM – Door Day Care – Door

Buffer Zones in State Regulations

- **Always use the “Walking Path” method**
“Measurements shall be made along the shortest path between the demarcation points that can lawfully be traveled by foot.”
- **Does not use “Straight Line” method**