STATE OF MICHIGAN
COUNTY OF WAYNE
CITY OF GARDEN CITY

ORDINANCE NO: 10-010

ASSESSMENT AND CERTIFICATION BUSINESS ORDINANCE

AN ORDINANCE REGULATING BUSINESSES INVOLVED IN THE ASSESSMENT AND CERTIFICATION OF PATIENTS FOR MEDICAL MARIJUANA USE UNDER THE MEDICAL MARIJUANA ACT; PROVIDING FOR DEFINITION OF TERMS; PROVIDING FOR PERMIT APPLICATION AND FEE; PROVIDING FOR PROHIBITIONS; PROVIDING FOR PERMIT APPLICATIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR REVOCATION AND/OR DENIAL OF PERMIT APPLICATION AND APPEAL; PROVIDING FOR PENALTIES FOR THE VIOLATIONS THEREOF; PROVIDING FOR SEVERABILITY OF INVALID SECTIONS; PROVIDING FOR REPEAL OF INCONSISTENT ORDINANCES; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

THE CITY OF GARDEN CITY ORDAINS:

SECTION I. ORDINANCE.

Sec. 124.01. Definitions.

A. "Medical Marijuana Act" shall mean legislation adopted to comply with Proposal 1 of 2008.

B. "Controlled Substance" shall mean substances regulated under the Public Health Code, Public Act 368 of 1978, as amended, and/or the United States Code.

Sec. 124.02. Prohibited Activity. It shall be unlawful for any business to provide assessments and/or certifications under the Medical Marijuana Act without a permit under this Ordinance.

Sec. 124.03. Permit Requirements. No person shall engage in the business of Medical Marijuana Act assessments and/or certifications without obtaining a permit therefor. No such permit shall be granted except upon approval of the City Clerk.

Sec. 124.04. Regulations. No controlled substances shall be kept, stored or distributed on site. The permittee shall comply with all Federal, State and local laws.

Sec. 124.05. Application for Permit.

A. Applications for permits required by this Chapter shall be made upon forms provided by the Clerk, which shall be signed and verified under oath by the applicant, if an individual, or by the authorized agent for any firm, partnership, association, corporation, company or organization and shall set forth the following:

(1) If an individual, the name, address and telephone number of the individual;

(2) If a partnership, the name, residence and business address and telephone number of each partner and each partner's computerized criminal history (CCH) and master driving record;

(3) If a corporation, the name, date and state under whose laws such corporation was organized and, if a foreign corporation, whether authorized to do business in the state, the names of the principal officers, directors and local representatives, their residences and business addresses and telephone numbers and their computerized criminal history (CCH) and master driving record;

(4) If an employee, the name, residence and telephone number, computerized criminal history (CCH), and master driving record of the employee together with written credentials setting forth the exact nature of his employment, including, where applicable, a copy of the employees medical license;

(5) The length of time for which the right to do business is sought;

(6) A photograph of the applicant or the agent for the applicant who is to do the actual assessments and/or certification which photograph shall be two inches by two inches showing head and shoulders of applicant or agent;

(7) A copy of the applicant's computerized criminal history (CCH).

(8) A copy of the applicant's master driving record.

(9) A brief description of the product, products or services involved;

(10) The name, address and telephone number of a Michigan resident who is the registered agent of the individual, corporation or association, who has the full power and authority to accept service of process for and on behalf of applicant in respect to any matters connected with or arising out of the business transacted under said permit with the result that service on said agent shall be valid as if personally served on the applicant.

(11) A history of the applicant's ordinance and state law license and permit revocations and ordinance violations.

B. The application shall be accompanied by a nonrefundable application fee to be established by resolution of the City Council and made part of the Comprehensive Fee Schedule.

Sec. 124.06. Inspections. Upon receipt of an application, the City Clerk may request the assistance of the City Departments to determine that the premises comply with the provisions of this and any other ordinance of the City, including the zoning ordinance, and that the applicant or the activity to be licensed do not constitute an apparent danger to the health, safety and welfare of the people of the City.

Sec. 124.07. Issuance of Permit; Term. The City Clerk shall issue a permit to the applicant unless the Clerk finds reason for denial including that the applicant's permit has previously been revoked. The permit shall be for no more than one (1) year in term. The Standards for denial of the application by the City Clerk are as follows:

A. The application is not completely filled out as required by Section 124.05.

B. The applicant's Computerized Criminal History (CCH) shows a conviction or convictions for activities that pose a threat or a danger to the residents of the City should a permit be granted. By way of example, but not exclusively, such convictions would include reckless driving, drunk driving, disturbing the peace, assault and battery or simple assault, domestic violence, stalking, theft, dishonesty or deception, fraud, obstruction of justice, disorderly person, trespassing, window peeping, criminal sexual conduct, felonious assault, murder, assault with intent to commit any other crime, breaking and entering and/or any other violation of the Criminal Code of the State of Michigan, United States Code and/or local ordinances pertaining to criminal conduct.

C. The product or services being offered violate any provision of Federal, State or local laws, rules or regulations.

D. Verification of any of the information required by Section 124.05 shows the information provided by the applicant to be fraudulent, a misrepresentation, or a false statement.

E. An investigation through the City Police Department or any other law enforcement agency shows a pattern and history of conduct which would justify a revocation of the applicant's permit under Section 124.11.

F. The applicant or any of the proposed employees of the applicant have a history of business license/permit violations, revocations, or a history of ordinance violations regardless of whether they have resulted in conviction.

G. Failure to pay the nonrefundable application fee.

H. No permit shall be issued to any applicant until such applicant shall have obtained the age of eighteen (18) years.

I. Any other competent, material and substantial evidence indicating the applicant or any of the applicant's proposed employees pose an apparent danger to the health, safety and welfare of the people of the City and/or the activity proposed to be permitted constitutes an apparent danger to the health, safety and welfare of the people of the City.

Sec. 124.08 Denial of Permit; Appeal hearing.

A. The Clerk may refuse to issue a permit for the reasons stated in Section 124.07.

B. Any person whose permit application has been denied shall have the right to petition the City Council for an appeal. The City Council shall grant a public hearing on this appeal, and the applicant shall have the right to appear and present evidence on his/her behalf. Following such hearing, the Council shall submit to the applicant a written statement of its findings and determinations. The Council's determination shall be based upon competent, material and substantial evidence showing failure to comply with the requirements of Section 124.07.

Sec. 124.09. Transfer or misuse of permit. No permit issued hereunder shall be transferred to another business location or represented as pertaining to any other business location.

Sec. 124.10. Display. A permit issued hereunder shall be prominently displayed at the location at all times.

Sec. 124.11. Revocation of Permit; Appeal.

A. Permits issued pursuant to Section 124.07 may be revoked by the City Clerk upon the Clerk's findings based upon competent, material and substantial evidence of any of the following causes:

(1) Any fraud, misrepresentation or false statement contained in the application for permit;

(2) Any fraud, misrepresentation or false statement made in connection with the services and/or merchandise;
(3) Any violation of this Chapter;

(4) Conviction by the permittee of any felony; or

(5) Conducting the business in an unlawful manner or in such a manner as to constitute breach of the peace.

B. Notice of the revocation of a permit shall be given in writing, setting forth specifically the grounds for the revocation. Such notice shall be mailed, postage prepaid, to the permittee at the address provided in the application.

C. Any permittee whose permit has been revoked as herein provided shall have the right to appeal the revocation to the City Council as provided in Section 124.08.

Sec. 124.12. Surrender of Permit on Demand; Return. The permit shall be surrendered on demand to a police officer based upon a probable cause belief by the officer that the permittee is in violation of this Chapter. The permit shall be returned to the permittee within forty-eight (48) hours upon failure of the City Clerk to find cause to revoke the permit as provided in Section 124.11.

SECTION II. VIOLATIONS AND PENALTY. Unless otherwise provided, any person, corporation, partnership or any other legal entity who violates the provisions of this Ordinance shall be guilty of a misdemeanor and may be fined not more than Five Hundred ($500.00) Dollars or imprisoned for not more than ninety (90) days, or both, at the discretion of the Court.

SECTION III. SEVERABILITY.

If any clause, sentence, section, paragraph or part of this Ordinance, or the application thereof to any person, firm, corporation, legal entity or circumstances, shall be for any reason adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalid the remainder of this Ordinance. It is hereby declared to the legislative intent of this body that the Ordinance is severable, and that the Ordinance would have been adopted had such invalid or unconstitutional provision not have been included in this Ordinance.

SECTION IV. REPEAL.

All Ordinance or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION V. SAVINGS CLAUSE.

All rights and duties which have matured, penalties which have been incurred, proceedings which have begun and prosecution for violations of law occurring before the effective date of this Ordinance are not affected or abated by this Ordinance.

SECTION VI. PUBLICATION.

The Clerk for the City of Garden City shall cause this Ordinance to be published in the manner required by law.

SECTION VII. EFFECTIVE DATE.

This Ordinance shall take full force and effect upon publication as required by law.

All interested citizens are invited to attend and provide comments. Copies of the complete Ordinance are available at the office of the City of Garden City, 6000 Middlebelt Road, Garden City, Michigan 48135, during regular business hours.

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Allyson Bettis, Clerk/Treasurer

Adopted: October 26, 2009
Resolution# 09-10-214