

## ORDINANCE NUMBER 2017.11/405

### AN ORDINANCE AMENDING THE CITY OF BUCHANAN ZONING ORDINANCE; ARTICLE III-DEFINITIONS AND USE OF TERMS; ARTICLE X – C-2 COMMERCIAL DISTRICT; ARTICLE XI – C-3 CENTRAL BUSINESS DISTRICT; ARTICLE XII I-1 LIGHT INDUSTRIAL DISTRICT; ARTICLE XIII I-2 HEAVY INDUSTRIAL DISTRICT; ARTICLE XVIII SPECIAL PROVISIONS: ARTICLE XXIII NONCONFORMING USES, BUILDINGS AND LOTS; ARTICLE XVII GENERAL PROVISIONS

**BE IT ORDAINED** by the City Commission of the City of Buchanan, Berrien County Michigan that based upon the unanimous recommendation of the Planning Commission after its public hearing held on October 9, 2017 and continued on October 23, 2017, that the City of Buchanan Zoning Ordinance is amended as follows:

At a regular meeting of the City of Buchanan, Berrien County, Michigan, held at the Buchanan City Hall on Monday November 13, 2017, at 7:00 p.m., Commissioner Vigansky moved to adopt the following Ordinance, which motion was seconded by Commissioner Cole:

THE CITY OF BUCHANAN ORDAINS:

#### ARTICLE III

##### DEFINITIONS AND USE OF TERMS

Section 3.02 Definitions pertaining to Medical Marihuana.

**Grower.** A permittee/licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

**Licensee.** A person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

**Marijuana or marihuana.** That term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.

**Marijuana/marihuana facility.** Enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, or marijuana safety compliance facility. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

**MMFLA.** Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., being PA 281 of 2016. Any term defined in the MMFLA shall have the definition given in the MMFLA.

**MTA.** Marihuana Tracking Act, MCL 333.27901 et seq, being PA 282 of 2016. Any term defined in the MTA shall have the definition given in the MTA.

**Permit.** A current and valid Permit for a Commercial Medical Marihuana Facility issued by the City of Buchanan, which shall be granted to a Permit Holder only for and limited to a specific Permitted Premises and a specific Permitted Property.

**Permitee.** A person holding a City of Buchanan operating Permit issued under the provisions of Ordinance 2017.07/404.

**Permit Holder.** A Person that holds a current and valid Permit issued under the provisions of Ordinance 2017.07/404.

**Permitted Premises.** A particular building or buildings within which the Permit Holder will be authorized to conduct the Facility's activities pursuant to the Permit.

**Permitted Property.** The real property comprised of a lot, parcel or other designated unit of real property upon which the Permitted Premises is situated.

**Person.** An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, or other legal entity.

**Processor.** A permittee/licensee that is a commercial entity located in Michigan that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

**Provisioning center.** A permittee/licensee that is a commercial entity located in Michigan that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this ordinance.

**Safety compliance facility.** A permittee/licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

**Secure transporter.** A Permittee/licensee that is commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

### **Section 3.03 Terms Used in this Ordinance.**



**ARTICLE X**

**C-2 COMMERCIAL DISTRICT**

**Section 10.03 - Uses Permitted by Special Use Permit**

- D. A medical marihuana provisioning center as authorized by City of Buchanan Ordinance 2017. 404.

**ARTICLE XI**

**C-3 CENTRAL BUSINESS DISTRICT**

**Section 11.03 - Uses Permitted by Special Use Permit**

- D. A medical marihuana provisioning center as authorized by City of Buchanan Ordinance 2017. 404.

**ARTICLE XII**

**I-1 LIGHT INDUSTRIAL DISTRICT**

**Section 12.03 – Uses Permitted by Special Use Permit.**

- D. A medical marihuana grower as authorized by City of Buchanan Ordinance 2017.404.
- E. A medical marihuana processor as authorized by City of Buchanan Ordinance 2017.404.
- F. A medical marihuana secure transporter as authorized by City of Buchanan Ordinance 2017.404.
- G. A medical marihuana safety compliance facility as authorized by the City of Buchanan Ordinance 2017.404.

**ARTICLE XIII**

**I-2 HEAVY INDUSTRIAL DISTRICT**

**Section 13.03 – Uses Permitted by Special Use Permit.**

- C. A medical marihuana grower as authorized by City of Buchanan Ordinance 2017.404.
- D. A medical marihuana processor as authorized by City of Buchanan Ordinance 2017.404.
- E. A medical marihuana secure transporter as authorized by City of Buchanan Ordinance 2017.404.

- F. A medical marihuana safety compliance facility as authorized by the City of Buchanan Ordinance 2017.404.

## **ARTICLE XVIII**

### **SPECIAL PROVISIONS INCLUDING HOME OCCUPATIONS**

#### **Section 18.10 – Medical Marihuana Facilities – All Types.**

1. A medical marihuana grower, processor, provisioning center, secure transporter, and safety compliance facility, in accordance with the provisions of state law, may be permitted through the issuance of a special use permit pursuant to Article XX in the specified zones, provided that:
  - A. No medical marihuana grower, processor, provisioning center, safety compliance facility or secure transporter shall be located within one Thousand (1,000) feet of real property comprising a public elementary, vocational, or secondary school.
  - B. No medical marihuana grower, processor, provisioning center, safety compliance facility or secure transporter shall be located within Five Hundred (500) feet of real property comprising a church or a public park with activities designed specifically for youth.
  - C. In the consideration of granting a special use permit, the setback from residential districts shall be evaluated as it relates to the surrounding areas.
  - D. Any uses or activities found by the state of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by state law may not be permitted by the City of Buchanan. In the event that a court with jurisdiction declares some of all of this article invalid, then the City of Buchanan may suspend the acceptance of applications for special use permits pending the resolution of the legal issue in question.
  - E. All special use approvals for medical marihuana facilities are contingent upon the approval of the medical marihuana facility(s) application(s) by the City of Buchanan and the State of Michigan.
  - F. The use or facility must be at all times in compliance with all other applicable laws and ordinances of the City of Buchanan.
  - G. The City of Buchanan may suspend or revoke a special use permit based on a finding that the provisions of the special use standards in this section, all other applicable provisions of this zoning ordinance, City of Buchanan Ordinance 2017.404, or the terms of the special use permit and approved site plan are not met.
  - H. A medical marihuana facility, or activities associated with the permitted and licensed growing, processing, testing, transporting, or sales of marihuana, may not be permitted as a home occupation or accessory use.



- I. Signage requirements for medical marijuana facilities are as provided in the City of Buchanan Sign ordinance, being Chapter 76 in the City of Buchanan Code of Ordinances, and in the City of Buchanan Medical Marihuana Facilities Ordinance 2017.404.
  - J. No medical marihuana facility shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable beyond the boundaries of the property on which the medical marihuana facility is operated.
2. Medical marihuana growers and processors shall also be subject to the following standards:
    - A. The minimum operational standards of growers and processors found in the City of Buchanan Medical Marihuana Ordinance 2017/404.
    - B. All applicable regulations of Articles XII and XIII, including but not limited to Accessory Buildings and Structures, Parking Requirements, Signs, Visual Screening Requirements, Building Height Regulations, and Yard, Setback and Lot Area Requirements.
    - C. All marihuana growing and processing shall be located entirely within an enclosed, locked facility which shall include one or more completely enclosed buildings.
    - D. If only a portion of a building used for marihuana production, a partition wall from floor to ceiling shall separate the marihuana production space from the remainder of the building. A partition wall must include a door capable of being closed and locked from both sides for ingress and egress between the marihuana production space and the remainder of the building.
    - E. Light cast by light fixtures inside any building used for marihuana production or processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
  3. Provisioning centers (dispensaries) shall also be subject to the following standards:
    - A. All applicable regulations of Articles X and XI, including but not limited to Accessory Buildings and Structures, Parking Requirements, Signs, Visual Screening Requirements, Building Height Regulations, and Yard, Setback and Lot Area Requirements.
    - B. A provisioning center shall only sell to consumers or allow consumers to be present in the facility between the hours of 9:00 a.m. and 9:00 p.m.
    - C. All activities of a provisioning center, including all transfers of marihuana shall be conducted within the facility and out of public view. A provisioning center shall not have a walk-up window or a drive thru window service.
    - D. Marihuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the facility or on the premises.

- E. The exterior appearance of the structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment of property values within the zoning district.

### ARTICLE XXIII

#### NONCONFORMING USES, BUILDINGS AND LOTS

**Section 23.09 – Medical Marihuana Facilities.** No medical marihuana facility operating or purporting to operate prior to December 15, 2017, shall be deemed to have been a legally existing use nor shall the operation of such marihuana facility be deemed a legal nonconforming use under this ordinance.

### ARTICLE XVII

#### GENERAL PROVISIONS

##### **Section 17.14 – Accessory Structures in Residential Districts.**

- A. **Maximum Height:** The roof pitch of an accessory structure shall match the roof pitch of the principal dwelling in order to maintain architectural uniformity, but shall not exceed eighteen (18) feet in height.

**DELETE: E. Distance from Principal Structure.**

##### **Section 20. Effective Date**

This Ordinance shall become effective twenty (20) days after its enactment.

Proposed Commission Member: Daniel Vigansky

Supported Commission Member: Carla Cole

Roll Call Vote:

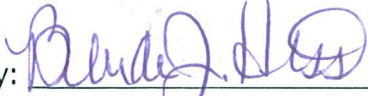
Ayes: Carla Cole, Brenda Hess, Dale Toerne, Daniel Vigansky

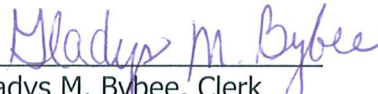
Nays: Patricia Moore

Abstain: none

Absent: none

MADE, PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF BUCHANAN, BERRIEN COUNTY, MICHIGAN, ON THE 13 DAY OF NOVEMBER, 2017, AND IT WAS PUBLISHED IN THE NILES DAILY STAR NEWSPAPER ON SEPTEMBER 25, 2017 AND AGAIN IN THE BERRIEN COUNTY RECORD NEWSPAPER ON NOVEMBER 23, 2017.

By:   
Mayor Brenda J. Hess

By:   
Gladys M. Bybee, Clerk

**CERTIFICATION**

I hereby certify that the above is a true and complete copy of a resolution adopted by the City Commission of the City of Buchanan, County of Berrien, State of Michigan, at a regular meeting held on the 13th day of November, 2017, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976 as required by said act.

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Gladys M. Bybee, City Clerk