

City of Bangor
Medical Marihuana Ordinance
Ordinance No: 284

Ordinance for the City of Bangor to permit and regulate Medical Marihuana Grow Operations, Processing Facilities, Safety Compliance Facilities, and Provisioning Center, and Secure Transporters by Special Use in certain parts of the City, and to prohibit Medical Marihuana Provisioning Centers throughout the City:

The City Council of Bangor hereby ordains:

ARTICLE I. MEDICAL MARIHUANA FACILITIES AND MEDICAL MARIHAUNA GROW OPERATIONS

SECTION 1. Purpose

The purpose of this article is to:

- 1) Serve and protect the health, safety and welfare of the general public;
- 2) Establish fair and equitable rules and regulations for establishing and operating Medical Marihuana Facilities and Medical Marihuana Grow Operations;
- 3) Provide reasonable regulations pursuant to the City of Bangor general police power granted to the city by the Michigan Constitution of 1963 and the city charter.

SECTION 2. Definitions

Medical Marihuana Grow Operation: A commercial facility licensed under Public Act 281 of 2016 that cultivates, dries, trims, or cures marihuana for sale to a processor or provisioning center.

Medical Marihuana Processing Facility: A commercial facility licensed under Public Act 281 of 2016 that purchases marihuana from a licensed grow operation and extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

Medical Marihuana Safety Compliance Facility: A commercial facility licensed under Public Act 281 of 2016 that receives marihuana from a licensed grow operation, licensed processing facility, or licensed caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marijuana facility.

Medical Marihuana Secure Transporter: A commercial facility licensed under Public Act 281 of 2016 that stores marihuana and transports marihuana between marihuana facilities for a fee.

Medical Marihuana Provisioning Center: A commercial facility licensed under Public Act 281 of 2016 that purchases marihuana from a licensed grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly, or through the patients registered primary caregivers. The term "provisioning center" shall include 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 through the department's marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center for purposes of this Ordinance.

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SECTION 3. Medical Marihuana Facilities

A) Pursuant to Section 205(1) of Public Act 281 of 2016, the City authorizes the following state-licensed medical marihuana facilities for operation within the municipality: Growers, Processors, Safety Compliance Facilities, and Secure Transporters will follow The City's Zoning Ordinance. As needed per the zoning ordinance a Special Use Permit may be granted for the following Medical Marihuana Uses.

- 1) Medical Marihuana Grow Operations
- 2) Medical Marihuana Processing Facilities
- 3) Medical Marihuana Safety Compliance Facilities
- 4) Medical Marihuana Secure Transporters
- 5) Medical Marihuana Provisioning Center

B) All Special Use Permits granted to the Medical Marihuana Uses listed above shall be conditioned on the licensing of the facility by the State of Michigan. Facilities must meet all state requirements, including but not limited to those of LARA and the MDEQ. Facilities must maintain an active license from the State of Michigan under Public Act 281 of 2016 at all times, in order to operate.

SECTION 4:

The following shall apply to Grow Operations, Processing Facilities, and Safety Compliance Facilities:

- 1) All facilities must be designed and operated to minimize the amount of pesticides, fertilizers, nutrients, marihuana, and other potential contaminants discharged into the public wastewater and/or storm water systems.
- 2) All facilities must be designed to minimize odors emanating from the marihuana plants.
- 3) All facilities must maintain a secure, closed, clean environment in the room where marijuana is to be stored, grown, processed, or tested, in order to prevent outside contamination and prevent the inadvertent and/or unauthorized removal of marihuana from the facility. All facilities must provide shower and locker room facilities for employees to ensure the provision of a clean environment.
- 4) All facilities must have adequate security to prevent access to the marihuana by non-authorized personnel, including unauthorized removal. All rooms that contain marihuana, in any form, must be individually locked and accessible only to authorized personal.
- 5) All drying, soil mixing, testing, processing, and other non-growing activities must take place in a separate room from any growing activities.
- 6) All facilities must be in compliance with the standards of this Ordinance, including but not limited to the standards, at all times.

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- 7) Medical Marihuana Grow Operations Does Not include:
 - a) A qualifying patient growing 12 or fewer medical marihuana plants at his/her residence for personal use in accordance with the Michigan Medical Marihuana Act 281; or
 - b) A primary caregiver growing 12 or fewer medical marihuana plants at his/her residence for personal use of a single qualifying patient in accordance with the Michigan Medical Marihuana Act 281
- 8) *Primary caregiver*: A person is a Primary Caregiver as defined by the Michigan Medical Marihuana Act 281
- 9) *Qualifying patient*: A person who is a Qualifying Patient as defined by the Michigan Medical Marihuana Act 281

Section 5: The following shall apply to Secure Transporters:

- 1) All facilities, vehicles, and processes must be designed and operated to minimize the amount of pesticides, fertilizers, nutrients, marihuana, and other potential contaminants discharged into the public wastewater and/or storm water systems.
- 2) All facilities, vehicles, and processes must be designed to minimize odors emanating from the marihuana plants.
- 3) All operations must have processes in place to prevent the contamination or pollination of the marihuana during the loading and unloading process.
- 4) All facilities, vehicles, and processes must have adequate security to prevent access to the marihuana by non-authorized personnel, including unauthorized removal. All marihuana must be stored in hermetically sealed containers prior to transport.
- 5) All operations must be in compliance with the standards of this Ordinance, including but not limited to the standards at all times.

Section 6: Special Use:

- A. If approved for a Special Use, and after payment of a fee to be determined by the City Council, Medical Marihuana Facilities shall be issued an Operating License. The Operating Permit must be renewed annually, through the payment of a fee to be determined by the City Council and through compliance with the requirements of the State of Michigan and this Ordinance as demonstrated through an inspection by the Building Official or his or her designee. The Operating License and State Medical Marihuana Facility License must be displayed in plain view clearly visible to City officials and Medical Marihuana Licensing Board authorized agents. All License Holders shall be subject to periodic inspection, and shall make their Facilities available to any, and all authorized state and local building inspectors, environmental inspectors, and law enforcement personnel.
- B. Within 30 days after Special Use Approval, the City shall provide the following to the Medical Marihuana Licensing Board:
 - 1) A copy of this Ordinance
 - 2) A copy of any zoning regulations that apply to the Applicant Facility
 - 3) A description of any violation of this Ordinance or applicable zoning regulations committed by the applicant, but only if those violations are related to activities licensed under Public Act 281 of 2016.
 - 4) No person who has opened or operated a facility doing business or purporting to do business under this Section without first obtaining a Special Use Permit and a State Operating License shall be eligible for an Operating License under this Ordinance.

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- C. Licensed medical marihuana patients or caregivers authorized by the State of Michigan under Initiated Law 1 of 2008 shall not be required to receive Special Use Approval to conduct legal activities in any zoning district, but must comply with all applicable City ordinances, including those governing odor, and all applicable State laws.
- D. Permit issued under this Section may be revoked by the City Council for any of the following:
 - 1) Knowing fraudulent or material misrepresentation contained in the Application
 - 2) A pattern of knowing violations of this Section, after reasonable notice and opportunity to cure
 - 3) A loss after final determination of the State Medical Marihuana Licensing Board of the Permit Holder's State Medical Marihuana Facility License
 - 4) Failure or refusal to pay the Annual Fee.

Section 7: Fee Schedule:

The City Fee Schedule for the permit to operate the Medical Marihuana Facilities shall be as following:

- A. Medical Marihuana Facility License: \$5,000
- B. Medical Marihuana Facility Annual Inspection/License Renewal: \$5,000

Failure to register or apply for a permit with the City will be turned in to the State, and local law enforcement for **dismantling** of the said operation.

Section 8: PERMIT REQUIREMENT:

- 1) Establish that the applicant is currently registered with one (1) of the five (5) Medical Marihuana licenses under Public Act 281 of 2016 by producing his or her license issued by the State of Michigan;
- 2) Provide a map citing the proposed location of said Medical Marihuana operating facility;
- 3) Agree that the operation that each of the five (5) Medical Marihuana operating facilities shall comply with applicable laws and regulations of the Michigan Medical Marihuana Act;
- 4) Set hours of operation for the Medical Marihuana Provisioning Center not to exceed from 8:00 a.m. to 9:00 p.m. Monday through Saturday;
- 5) Not allow persons under the age of 18 to be on the premises of any Medical Marihuana Provisioning Center unless they possess a valid medical marihuana registry card issued by the State of Michigan, and are accompanied by a parent or legal guardian;
- 6) That the applicant's facility is in compliance with the Federal Drug Free School Zone Act.

Section 9: APPLICATION TO OPERATE

Applications to operate any one (1) of each of the five (5) Medical Marihuana operating facilities shall be available at the City of Bangor office. A processing fee to be set by motion shall accompany a completed application, along with documentation and/or affidavits to support that the application meets the requirements of Section 7: 1 of this Ordinance.

- A. Any one (1) of each of the five (5) Medical Marihuana operating facilities opened prior to the adoption of this Ordinance must file for a permit within thirty (30) days of the adoption of this Ordinance.
- B. An application to operate any one (1) of each of the five (5) Medical Marihuana operating facilities must be submitted to the Planning Commission at least seven (7) days prior to the

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next regularly scheduled meeting in order for said application to be considered at that meeting.

- C. The application will be valid for sixty (60) days. If at the end of said sixty days, application has not been approved, the applicant will have to re-apply.
- D. There shall be an annual renewal process.

SECTION 10. CIVIL FORFEITURE

Any medical marihuana sold or possessed with intent to sell in violation of this Ordinance may be seized, forfeited and disposed of by the police agencies serving the City of Bangor.

SECTION 11. SEVERABILITY

Sections of this ordinance shall be deemed severable to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be invalid.

SECTION 12. PENALTY

Any persons, firm, or corporation who shall violate any provisions of this Ordinance shall be deemed responsible of violating a municipal civil infraction and shall, upon finding thereof, be subject to a fine of not more than Five Thousand and 00/5,000 (\$5,00) Dollars, plus Court cost and cost of prosecution not to exceed Five Thousand and 00/5,000 (\$5,000) Dollars, both, at the discretion of the Court. Each day that a violation occurs shall be considered a separate offense. The City may in addition seek injunctive relief.

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SECTION 13. ADOPTION AND EFFECTIVE DATE

This Ordinance is hereby, declared to have been adopted by the City of Bangor Council at a meeting thereof duly called and held on the 7th day of September 2017, and ordered to be given effect as mandated by law, and shall become effective twenty (20) days after said date of adoption.

I hereby certify the foregoing constitutes a true and complete copy of Ordinance Number 284 duly adopted by the City Council of the City of Bangor, County of Van Buren, State of Michigan, at a regular meeting held on the 7th day of September 2017, at which the following members were present:

Householder, Farmer, Bator, Fry, Aleman, Lowder, Hicks,

and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, of the Public Acts of Michigan of 1976, as amended, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I further certify that member Hicks moved for adoption of said Ordinance and that member Fry seconded said motion.

I further certify that the following members voted for adoption of said Ordinance:

Householder, Farmer, Bator, Fry, Aleman, Lowder, Hicks,

and that the following members voted against such Ordinance:

None,

I further certify that said Ordinance has been recorded in the Ordinance Book of the City of Bangor and the signatures of the City Mayor and City Clerk have authenticated that such recording.

Nick Householder, Mayor

Laura Roe, City Clerk

I do hereby certify that a synopsis of this Ordinance, in accordance with statutory requirements was published on September 24, 2017 in the South Haven Tribune, a copy of which is attached hereto.

Laura Roe, City Clerk

Record of Adoption

Presented 8/21/17

Adopted 9/7/17

Published 9/24/17

Effective 9/27/17