

CITY OF BURTON
GENESEE COUNTY, MICHIGAN

ORDINANCE NO. 2017-7-157

AN ORDINANCE TO AMEND CHAPTER 157, the ZONING ORDINANCE, OF THE CODE OF ORDINANCES OF THE CITY OF BURTON TO REGULATE COMMERCIAL MEDICAL MARIJUANA TRANSACTION FACILITIES

THE CITY OF BURTON ORDAINS:

SECTION I

Section 157.006 of Chapter 157 of the Code of ordinances of the City of Burton shall be amended by the removal and addition of the following:

§157.006 DEFINITIONS.

MEDICAL MARIJUANA PROVISIONING CENTER. A medical marijuana provisioning center (“Provisioning Center”) shall mean a commercial facility that purchases marijuana from a grower or processor and sells, supplies, or provides to registered qualifying patients directly or through the patients’ registered primary caregivers. Provisioning center includes any commercial property where marijuana is sold at retail to registered qualifying patients or registered primary caregivers.

MEDICAL MARIJUANA GROWING FACILITY. A medical marijuana growing facility (“Grow Facility” or “Growing Facility”) shall mean an industrial facility that cultivates, dries, trims, or cures and packages marijuana for sale to a processor or provisioning center

MEDICAL MARIJUANA PROCESSING FACILITY. A medical marijuana processing facility (“Processing Facility”) shall mean an industrial facility that purchases marijuana from a grower and that extracts resin from the marijuana or creates a marijuana infused products for sale and transfer in packaged form to a provisioning center.

MEDICAL MARIJUANA SAFETY COMPLIANCE FACILITY. A medical marijuana safety compliance facility (“Safety compliance facility” or “compliance facility”) shall mean an industrial facility that received marijuana from a marijuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marijuana to the marijuana facility.

MEDICAL MARIJUANA SECURE TRANSPORTER FACILITY. A medical marijuana secure transporter facility (“Secure Transporter Facility” or “Transporter Facility”) shall mean an industrial facility stores marijuana for the purpose of transporting marijuana between commercial medical marijuana transaction facilities.

SECTION II

Section 157.043 of Chapter 157 of the Code of Ordinances of the City of Burton shall be amended by the removal and addition of the following:

§ 157.043 GENERAL BUSINESS DISTRICT, C-2

(C)(7) Medical Marijuana Provisioning Center, Shall be subject to all requirements as set forth in section 157.092 of this Code for site plan review provided that the provisioning center shall not be permitted:

- (a) Within five hundred (500) feet of any other commercial medical marijuana transaction facility;
- (b) Within two hundred (200) feet of a residential district or use;
- (c) Within one thousand (1000) feet of any school, nursery, licensed day care center or other building used for the care or instruction of children under 18 years of age;
- (d) Within one thousand (1000) feet of any church, house of worship or other religious facility or institution; and
- (e) Within one thousand (1000) feet of any public or municipal park.

SECTION III

Section 157.046 of Chapter 157 of the Code of Ordinances of the City of Burton, shall be amended by the removal and addition of the following:

§157.046 LIGHT INDUSTRIAL DISTRICT, M-1.

(B) (5) Medical Marijuana Provisioning Center, Shall be subject to all requirements as set forth in section 157.092 of this Code for site plan review provided that the provisioning center shall not be permitted:

- (a) within five hundred (500) feet of any other commercial medical marijuana transaction facility; if the same applicant has one parcel of land in which they have the ability to co-locate a provisioning center, a grow facility and/or processing center, there may be an exception given to permit these uses on that one parcel of land. Each facility will provide separate applications and will be given separate consideration along with individual annual fees.
- (b) Within two hundred (200) feet of a residential district Or use;
- (c) Within one thousand (1000) feet of any school, nursery, licensed day care center or other building used for the care or instruction of children under 18 years of age;
- (d) Within one thousand (1000) feet of any church, house of worship or other religious facility or institution; and
- (e) Within one thousand (1000) feet of any public or municipal park.

(B)(6) Medical Marijuana Growing Facility Shall be subject to all requirements as set forth in section 157.092 of this Code for site plan review provided that the grow facility shall not be permitted:

- (a) Within five hundred (500) feet of any other commercial medical marijuana transaction facility; if the same applicant has one parcel of land in which they have the ability to co-locate a provisioning center, a grow facility and/or processing center, there may be an exception given to permit these uses on that one parcel of land. Each facility will provide separate applications and will be given separate consideration along with individual annual fees.
- (b) Within two hundred (200) feet of a residential district or use;
- (c) Within one thousand (1000) feet of any school, nursery, licensed day care center or other building used for the care or instruction of children under 18 years of age;
- (d) Within one thousand (1000) feet of any church, house of worship or other religious facility or institution; and
- (e) Within one thousand (1000) feet of any public or municipal park.

(B)(7) Medical Marijuana Processing Facility: Shall be subject to all requirements as set forth in section 157.092 of this Code for site plan review provided that the processing facility shall not be permitted:

(a) Within five hundred (500) feet of any other commercial medical marijuana transaction facility; if the same applicant has one parcel of land in which they have the ability to co-locate a provisioning center, a grow facility and/or processing center, there may be an exception given to permit these uses on that one parcel of land. Each facility will provide separate applications and will be given separate consideration along with individual annual fees.

(b) Within two hundred (200) feet of a residential district or use;

(c) Within one thousand (1000) feet of any school, nursery, licensed day care center or other building used for the care or instruction of children under 18 years of age;

(d) Within one thousand (1000) feet of any church, house of worship or other religious facility or institution; and

(e) within one thousand (1000) feet of any public or municipal park.

(B)(8) Medical Marijuana Safety Compliance Facility: Shall be subject to all requirements as set forth in section 157.092 of this Code for site plan review provided that the safety compliance facility shall not be permitted:

(a) Within five hundred (500) feet of any other commercial medical marijuana transaction facility;

(b) Within two hundred (200) feet of a residential district or use;

(c) Within one thousand (1000) feet of any school, nursery, licensed day care center or other building used for the care or instruction of children under 18 years of age;

(d) Within one thousand (1000) feet of any church, house of worship or other religious facility or institution; and

(e) within one thousand (1000) feet of any public or municipal park.

(B)(9) Medical Marijuana Secure Transporter Facility: Shall be subject to all requirements as set forth in section 157.092 of this Code for site plan review provided that the secure transporter facility shall not be permitted:

(a) Within five hundred (500) feet of any other commercial medical marijuana transaction facility;

(b) Within two hundred (200) feet of a residential district or use;

(c) Within one thousand (1000) feet of any school, nursery, licensed day care center or other building used for the care or instruction of children under 18 years of age;

(d) Within one thousand (1000) feet of any church, house of worship or other religious facility or institution; and

(e) within one thousand (1000) feet of any public or municipal park.

SECTION IV

Chapter 157 of the Code of Ordinances of the City of Burton shall be amended by the deletion and addition of Section 157.099 to provide as follows:

§157.099 COMMERCIAL MEDICAL MARIJUANA TRANSACTION FACILITIES

It is the intent of this section to regulate any commercial medical marijuana transaction facilities by the following requirements:

(A) Operational Limitations.

(1) A commercial medical marijuana transaction facility shall only operate between 8:00 a.m. and 8:00 p.m. Monday through Saturday and 12:00 noon and 6:00 p.m. Sunday.

(2) A commercial medical marijuana transaction facility shall comply at all times with each and every provision of the State of Michigan Medical Marijuana Act of 2008 (MCL 333.26421, et seq.) and House Bill 4209, 4210 and 4827.

(3) Any permitted activities conducted by a commercial medical marijuana transaction facility must be done inside a fully enclosed structure or building that is kept secured with locks to prevent unintended or uninvited access.

(4) Persons under the age of eighteen (18) years of age are not permitted to be on the property of any commercial medical marijuana transaction facility unless they possess a valid Medical Marijuana Registry Card issued by the State of Michigan or other state.

(5) Advertising and/or marketing for a commercial medical marijuana transaction facility, viewed from the exterior, shall not appeal to or have the effect of appealing to minors, this shall include but is not limited to signage, flyers, banners, etc. as permitted in Chapter 153.10 of the City Code of Ordinances.

(6) Any owners and/or operators of any commercial medical marijuana transaction facility who violates these sections shall be liable for all costs associated with the investigation, prosecution and enforcement of that violation.

(B) Site Plan Requirements.

(1) Any person who wished to operate any commercial medical marijuana transaction facility shall submit an application for site plan review to the City of Burton as set forth in Section 157.092, consistent with the zoning of the property, showing required locational limitations as set forth in Section 157.043(C)(7), Section 157.046 (B)(5), (B)(6), (B)(7), (B)(9), and (B)(10) as they apply, shall pay a nonrefundable fee as shall be established, and from time to time be amended by resolution of the Burton City Council, and which shall include the following:

(a) Security system details which shall include, at the minimum, audible and silent alarms and video surveillance cameras.

(b) Details regarding the building electrical system, power demands of specialized lighting and other necessary equipment, and method proposed to prevent excessive heat build-up and risk of fire within the building.

(c) Ventilation equipment details, including fresh air intake and filtration of exhaust air to prevent offensive odors from leaving the site.

(d) Proposed methods for controlling insects within the building and preventing insects from becoming a nuisance or health hazard, off the site.

(e) A description of the operation of the commercial medical marijuana transaction facility in sufficient detail to permit the City to determine if the operation, as described would be lawful and fully compliant with. The State of Michigan Medical Marijuana Act of 2008 (MCL 333.26421, et seq.) and House Bill 4209, 4210 and 4827.

(2) Once the application is approved and within 30 days, the applicant must then submit any further documentation necessary to receive a certificate of occupancy which shall include but is not limited to building permits, inspections, and audits as deemed necessary by the Department of Public Works. At this time the applicant must also pay an annual, nonrefundable license fee as shall be established, and from time to time be amended by resolution of the Burton City Council.

(3) Annual renewal of the application is required for any commercial medical marijuana transaction facility and must comply with 157.099 (E).

(4) All applicants must provide a copy of the State of Michigan approved operating license before certificate of occupancy can be issued.

(5) Any change of ownership of the property and/or facility or change of use will be considered a new application for all purposes of this ordinance, with the exception of 157.099 (F). In the case in which the existing facility has not vacated the new application will be secured from any new locational limitation.

(C) Periodic Inspections. All approved commercial medical marijuana transaction facilities shall submit and allow authorized City zoning and building inspection and/or law enforcement personnel to make unannounced, periodic inspections for purposes of verifying compliance with all requirements of this Ordinance and Section, and any reasonable conditions placed upon any special land use approval.

(D) Existing Facilities. Commercial medical marijuana transaction facilities (also known as “medical marijuana dispensaries” and “medical marijuana grow facilities”) that have been approved to operate prior to the enactment of this ordinance shall remain approved provided that the facility comply with the following:

(1) Within 90 days of the enactment of this Ordinance, the applicant shall submit an application for site plan review to the City of Burton as set forth in Section 157.099 (B)(1) – (B)(3) and the applicant must pay an annual, nonrefundable license fee as shall be established, and from time to time be amended by resolution of the Burton City Council

(2) Within 90 days of the acceptance of State operating licenses in accordance with MCL 333.27101, the applicant must apply to the State for an operating license as appropriate for the use.

(a) Medical Marijuana Dispensary – must apply for a Medical Marijuana Provisioning Center and;

(b) Medical Marijuana Growing Facility – must apply for a Medical Marijuana Growing Facility

(3) Once the State of Michigan operating licensed is secured, a copy must be submitted to the Department of Public Works and a new certificate of occupancy may be issued.

(4) Any change of ownership of the property and/or facility or change of use will be considered a new application.

(E) Annual Renewal. A site plan approval shall be issued for a 1-year period and is renewable annually.

(1) Except as set forth in this Ordinance, the Department of Public Works shall renew a license if all of the following requirements are met:

(a) The applicant submits a renewal application provided by the City of Burton and pay the an annual, nonrefundable license fee as shall be established, and from time to time be amended by resolution of the Burton City Council; and

(b) The application is received by the City on or before the expiration date of the current approval.

(2) It is the sole responsibility of the applicant to apply for renewal prior to the expiration. Upon or after the date of expiration the City of Burton shall notify the applicant at the last known address on file advising them they have 30 days to apply for renewal and pay any applicable late fees and the annual non-refundable fee. Failure to renew 30 days from date noticed mailed will revoke the facilities certificate of occupancy and require any future application to be considered new.

(3) Renewal shall be considered 1-year from the date in which the annual fee is paid and the site plan is approved.

(4) In its decision on an application for renewal, the City of Burton shall consider any input from the building official, code enforcement officer, fire department and/or police department.

(F) Securing locational limitations. Applications are considered on a first come basis for purpose of required locational limitations as set forth in Section 157.043(C)(7), Section 157.046 (B)(5).(B)(6), (B) (7), and (B) (8). Consideration is only taken when the complete application is submitted to the City of Burton and any required fees are paid in full. Consideration may be taken when there is a pending application to the Zoning Board of Appeals or Planning Commission, as appropriate. Application for a State operating license does not secure any position for locational limitations.

SECTION V

All other provisions of Chapter 157 shall be and are hereby ratified.

SECTION VI

This Ordinance shall be published in a newspaper of general circulation within the City of Burton, Genesee County, Michigan, and shall become effective upon publication.

SECTION VII

A copy of this Ordinance may be inspected at the City Clerk's office at the Burton City Hall, 4303 S. Center Road, Burton, Michigan, during regular business hours.

CITY OF BURTON


BY: PAULA ZELENKO, MAYOR


BY: RICHARD HAYMAN, ACTING CITY CLERK

Ordinance introduced on: November 14, 2017

Enacted: December 4, 2017

Effective date: December 14, 2017