

ORDINANCE NO. 1099

CITY OF FERNDALE
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND CHAPTER 7, BUSINESS REGULATION AND LICENSES GENERALLY, TO ADD ARTICLE XX, MEDICAL MARIHUANA FACILITY AND MEDICAL MARIHUANA GROW OPERATION, OF THE FERNDALE CODE OF ORDINANCES.

THE CITY OF FERNDALE ORDAINS:

Part I. The City of Ferndale Code of Ordinances, Chapter 7, Business Regulation and Licenses Generally, is amended to add Article XX, Medical Marihuana Facility and Medical Marihuana Grow Operation, as follows:

Article XX. Medical Marihuana Facility and Medical Marihuana Grow Operation

Sec. 7-410. Purpose.

The purpose of this article is to:

- (a) Serve and protect the health, safety and welfare of the general public;
- (b) Establish a set of rules and regulations which are fair and equitable for those interested in establishing Medical Marihuana Facility and Medical Marihuana Grow Operation;
- (c) To provide reasonable regulations pursuant to the City's general police power granted to cities by the Michigan Constitution of 1963 and the Home Rule City Act, MCL §117.1 et. seq., as amended.

Sec. 7-411. Definitions.

For the purpose of the provisions of this article, the following words and phrases shall be construed to have the meanings herein set forth, unless it is apparent from the context that a different meaning is intended.

- (a) *Department* means the Department of Community Development.
- (b) *Director* means the Director of Community Development and Director's authorized representative.

- (c) *Medical Marihuana Facility* means a facility where primary caregivers and/or qualified patients, who are legally registered by the Michigan Department of Community Health (MDCH), may lawfully assist qualified patients, also legally registered by the MDCH, concerning the evaluation, counseling and acquisition of medical marihuana in accordance with the Michigan Medical Marihuana Act, as amended. A use purporting to be engaged in the medical use of marihuana prior to enactment of the Michigan Medical Marihuana Act or prior to being legally registered by the MDCH, shall be deemed to not be a legally established use and not entitled to legal nonconforming status under the provision of this ordinance and under state law. The facility shall not include a club, café or other design that permits consumption of medical marihuana at the facility
- (d) *Medical Marihuana Grow Operation* means a use in accordance with the Michigan Medical Marihuana Act, as amended, for the growing, cultivation, planting and manufacturing of medical marihuana.
- (e) *Public Place* means any area in which the public is invited or in which the public is permitted in the normal course of business or use of the premises.

Sec. 7-412. License required.

- (a) No person shall own or operate a Medical Marihuana Facility or Medical Marihuana Grow Operation in the City without first applying for and receiving a license from the city clerk's office.
- (b) Licenses are not transferrable and shall only apply to the person listed on the license.
- (c) Licenses shall be valid for a period of one year, from July 1st to June 30th.
- (f) A license shall be issued or renewed upon payment of the required fee and submission of a completed application in compliance with the provisions of this article. Application to renew a license to operate a Medical Marihuana Facility or Medical Marihuana Grow Operation license shall be filed at least 30 days prior to the date of expiration. Such renewal shall be annual and shall be accompanied by the annual fee.
- (g) Every applicant shall pay a nonrefundable application fee at the time of application for an initial or renewal license, which fee shall be set by council resolution.

Sec. 7-413. Application

Every applicant for a license to maintain, operate or conduct a Medical Marihuana Facility or Medical Marihuana Grow Operation shall file an application under oath with the city

clerk's office upon a form provided by the city. The application shall contain the following information:

- (a) An explanation of services to be provided and a completed medical marihuana checklist, upon form prepared by Director.
- (b) The location, mailing address and all telephone numbers where the business is to be conducted.
- (c) The name and address of applicant.
 - (1) If applicant is a corporation, the names and residence addresses of each of the officers and directors of said corporation and of each stockholder owning more than ten percent of the stock of the corporation, the address of the corporation itself, if different from the address of the Medical Marihuana Facility or Medical Marihuana Grow Operation, and the name and address of the resident agent for the corporation.
 - (2) If applicant is a partnership, the names and residence addresses of each of the partners and the partnership itself, if different from the address of the Medical Marihuana Facility or Medical Marihuana Grow Operation, and the name and address of a resident agent for the partnership.
- (d) Proof that the applicant and/or proposed employees are at least 21 years of age.
- (e) Identification of applicant and/or operator's driver's license.
- (f) Business, occupation, or employment of the applicant for the three years immediately preceding the date of application.
- (h) The Medical Marihuana Facility or Medical Marihuana Grow Operation history of the applicant; whether such person has had a business license revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation.
- (i) Proof that the applicant and/or its employees are primary caregivers under the Michigan Medical Marihuana Act.

Sec. 7-414. Violations and penalties.

Any person who is found to be in violation of this article shall be responsible for a misdemeanor and shall be subject to a fine of up to 90 days in jail and/or not more than \$500.00.

Sec. 7-415. Conditions necessary.

No license to conduct a Medical Marihuana Facility or Medical Marihuana Grow Operation shall be issued unless the city, through the Department, confirms the proposed Medical Marihuana Facility or Medical Marihuana Grow Operation complies with all of the following minimum requirements:

- (a) All provisions of the city building, plumbing, fire, electrical and health codes have been fulfilled.
- (b) There shall be no entrance or exit way which provides direct access to another type of business, residence or living quarters.
- (c) A Medical Marihuana Facility or Medical Marihuana Grow Operation shall open no earlier than 8:00 a.m. and close no later than 8:00 p.m., except staff for a Medical Marihuana Grow Operation may be at the operation as necessary to attend to the grow operation.
- (d) Except as otherwise provided by law, smoking and/or use of medical marihuana shall be prohibited in a Medical Marihuana Facility or Medical Marihuana Grow Operation, including all public places, at all times.
- (e) A Medical Marihuana Facility may provide drug paraphernalia for use, sale or lease to primary caregivers and/or qualified patients.
- (f) A Medical Marihuana Facility or Medical Marihuana Grow Operation shall not have exterior signage using the word “marihuana and/or marijuana” or any other word, phrase or picture commonly understood to refer to marihuana.
- (g) A Medical Marihuana Facility or Medical Marihuana Grow Operation shall maintain a log book identifying by date the amount of medical marihuana on the premises for each qualifying patient, keeping the qualifying patient information confidential and each primary caregiver. This log shall be available to law enforcement personnel to confirm that the Medical Marihuana Facility or Medical Marihuana Grow Operation does not have more medical marihuana than authorized at the location and shall not be used to disclose more information than is reasonably necessary to verify the lawful amount of medical marihuana at the facility. The facility shall maintain the confidentiality of qualifying patients in compliance with the Michigan Medical Marihuana Act, as amended.

Part II. Savings Clause.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law enforced when they are commenced.

Part III. Severability.

The various parts, sections and clauses of this ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

Part IV. Repeal.

All regulatory provisions contained in other city ordinances which are inconsistent with the provisions of this ordinance, are repealed.

Part V. Effective Date; Publication.

This ordinance shall become effective upon publication of a notice in a newspaper circulated in the City, stating the date of the enactment and the effective date of the ordinance, a brief notice as to the subject matter of this ordinance, and such other facts as the city clerk shall deem pertinent and that a copy of the ordinance is available for public use and inspection at the office of the city clerk.

MADE, PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FERNDALE, OAKLAND COUNTY, MICHIGAN, THIS ___ DAY OF _____, 2010.

CRAIG COVEY, MAYOR

J. CHERILYNN TALLMAN, CITY CLERK

Date of Adoption: _____

Date of Publication: _____

CERTIFICATE OF ADOPTION

I certify that the foregoing is a true and complete copy of the Ordinance passed at a meeting of the Ferndale City Council held on the ___ day of _____, 2010.

J. CHERILYNN TALLMAN, CITY CLERK

CITY OF FERNDALE
NOTICE OF ADOPTION
ORDINANCE _____

NOTICE IS HEREBY GIVEN that the City of Ferndale Council has adopted Ordinance No. ____, an Ordinance to add to Chapter 7, Business Regulation and Licenses Generally, Article XX, Medical Marihuana Facility and Medical Marihuana Grow Operation, of the Code of Ordinances of the City of Ferndale.

This Ordinance shall become effective upon publication. This Ordinance was adopted by the City Council on Monday, _____, 2010. A complete copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

J. CHERILYNN TALLMAN, CITY CLERK
(248) 546-2384