

**CITY OF MORENCI**

**ORDINANCE NO. 17-334**

# **Alcoholic Liquor and Medical Marijuana Facilities**

*An ordinance to authorize and regulate the establishment of medical marijuana facilities in the City of Morenci and to provide for penalties for violations thereof; to rename Chapter 3 of the City of Morenci Code of Ordinances to “Alcoholic Liquor and Medical Marijuana Facilities” creating two new Articles under this Chapter, placing all existing regulations pertaining to alcoholic liquor under Article I and all regulations for medical marijuana facilities under Article II.*

**THE CITY OF MORENCI ORDAINS:**

**Section 1. Renaming Chapter 3.**

Chapter 3 of the Morenci City Code is renamed “Alcoholic Liquor and Medical Marijuana Facilities”.

**Section 2. Creation of Two New Articles under Chapter 3.**

Chapter 3 of the Morenci City Code is divided into two new subdivisions. Article I which is entitled “Alcoholic Liquor” and Article II which is entitled, “Medical Marijuana Facilities”

**Section 3. Moving Code Sections to Article I of Chapter 3.**

Existing Code Sections 3-1, 3-2, 3-2.5, 3-3, 3-4, 3-5, 3-6, 3-7 and 3-8 shall be contained in Article I of Chapter 3.

**Section 4. Adoption of New Sections under Article II of Chapter 3.**

The following new sections regulating medical marijuana facilities shall be adopted and be contained in Article II of Chapter 3.

**Sec. 3-21. Purpose.**

- (a) It is the intent of this ordinance to authorize the establishment of certain types of medical marijuana facilities in the City of Morenci and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this ordinance to help defray administrative and enforcement costs associated with the operation of a marijuana facility in the City through imposition of an annual, nonrefundable fee \$5,000.00 on

each medical marijuana facility licensee. Authority for the enactment of these provisions is set forth in the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.

- (b) Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marijuana, in any form, that is not in compliance with the Michigan Medical Marijuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marijuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the state of Michigan.
- (c) As of the effective date of this ordinance, marijuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., which makes it unlawful to manufacture, distribute, or dispense marijuana, or possess marijuana with intent to manufacture, distribute, or dispense marijuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws.

**Sec. 3-22. Definitions.**

For the purposes of this ordinance:

- (a) Any term defined by the Michigan Medical Marijuana Act, MCL 333.26421 et seq., shall have the definition given in the Michigan Medical Marijuana Act.
- (b) Any term defined by the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in the Medical Marijuana Facilities Licensing Act.
- (c) Any term defined by the Marijuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marijuana Tracking Act.
- (d) "Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marijuana for sale to a processor or provisioning center.
- (e) "Licensee" means a person holding a state operating license issued under the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.
- (f) "Marijuana" or "marihuana" means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marijuana Act, MCL 333.26421 et seq.; the Medical Marijuana

Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.

- (g) "Marijuana facility" means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marijuana 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 Marijuana Act, MCL 333.26421 et seq.
- (h) "Medical marijuana facilities permit" or "permit". A permit issued by the City pursuant to the provisions of this ordinance.
- (i) "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- (j) "Processor" means a 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.
- (k) "Provisioning center" means a 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 in accordance with the Michigan Medical Marijuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.
- (l) "Safety compliance facility" means a 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.
- (m) "Secure transporter" means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.
- (n) "City" means the City of Morenci

**Sec. 3-23. Authorization of Facilities and Fee.**

- (a) The maximum number of each type of marijuana facility allowed in the City shall be as follows.

Facility	Number
Grower	[15]
Processor	[5]
Secure transporter	[5]
Provisioning center	[5]
Safety compliance facility	[5]

- (b) At least every two (2) years after adoption of this ordinance, City Council shall review the maximum number of each type of marijuana facility allowed and determine whether this maximum number should be changed. The review and its findings shall be recorded in the minutes of the relevant meeting of the City Council.
- (c) A nonrefundable fee shall be paid by each marijuana facility permitted under this ordinance in an annual amount of not more than \$5,000.00 as set by resolution of the City Council

**Sec. 3-24. Requirements and Procedure for Issuing Permit**

- (a) No person shall operate a marijuana facility in the City without a valid marijuana facility permit issued by the City pursuant to the provisions of this ordinance.
- (b) Every applicant for a permit to operate a medical marijuana facility shall file an application in the City Clerk's office upon a form provided by the City. The application shall contain any information required by the Act and the following information:
  - (1) Name, address, and telephone number of property owner of the land where the marijuana facility will conduct business
  - (2) Name, address, and telephone number of the licensee.
  - (3) If the property owner and licensee are not the same person, a document signed by the property owner authorizing the licensee to operate on the property owner's land.
  - (4) Any other information deemed by the City to be required for the consideration of a permit.
- (c) Every applicant for a permit to operate a Grow Operation shall submit with the application a photocopy of the applicant's valid and current license issued by the State of Michigan in accordance with

the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

- (d) Upon an applicant's completion of the above-provided form and furnishing of all required information and documentation, the City Clerk shall accept the application and assign it a sequential application number by facility type based on the date and time of acceptance. The City Clerk shall act to approve or deny an application not later than fourteen (14) days from the date the application was accepted. If approved, the City Clerk shall issue the applicant a provisional permit.
- (e) A provisional permit means only that the applicant has submitted a valid application for a marijuana facility permit, and the applicant shall not locate or operate a marijuana facility without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the City. A provisional permit will lapse and be void if such permits and approvals are not diligently pursued to completion, but in any event no later than ninety (90) days after the provisional permit is issued.
- (f) Within fourteen (14) days from the applicant submitting proof of obtaining all other required permits and approvals and payment of the permit fee, the City Clerk shall approve or deny the marijuana facility permit. The Clerk shall issue marijuana facility permits in order of the sequential application number previously assigned.
- (g) Maintaining a valid marijuana facility license issued by the state is a condition for the issuance and maintenance of a marijuana facility permit under this ordinance and continued operation of any marijuana facility.
- (h) A marijuana facility permit issued under this ordinance is not transferable.
- (i) Applicant must own land within the City of Morenci or control land under a lease in order to apply for a license for any type of medical marihuana facility.

### **Sec. 3-25. Regulations for Marijuana Facilities.**

All marijuana facilities permitted under this ordinance shall be subject to the following regulations:

- (a) *Lighting.* Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.

- (b) *Odor.* As used in this subsection, building means the building, or portion thereof, used for marijuana production or marijuana processing.
- (1) The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
  - (2) The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
  - (3) The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
  - (4) Negative air pressure shall be maintained inside the building.
  - (5) Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
  - (6) An alternative odor control system is permitted if the special use permit applicant submits and the municipality accepts a report by a mechanical engineer licensed in the state of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.
- (c) *Security Cameras.* All medical marijuana facilities shall be equipped with security cameras. Security cameras shall be directed to record only the subject property and may not be directed to public rights-of-way as applicable, except as required to comply with licensing requirements of the State of Michigan.
- (d) *Hours of Operation.* A provisioning center may only sell to consumers or allow consumers to be present in the building space occupied by the provisioning center between the hours of 9:00 a.m. and 9:00 p.m.

(e) *Marijuana and tobacco products.* The following regulations shall apply to marijuana processing facilities, marijuana growing facilities, safety compliance centers, provisioning centers, and secure transporters:

(1) Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by marijuana processing facilities, marijuana growing facilities, safety compliance centers, provisioning centers, and secure transporters.

**Sec. 3-26. Permit Renewal.**

(a) A marijuana facility license shall be valid for one (1) year from the date of issuance, unless revoked as provided by law.

(b) A valid marijuana facility permit may be renewed on an annual basis by submitting a renewal application upon a form provided by the City and payment of the annual permit fee. Application to renew a marijuana facility permit shall be filed at least thirty (30) days prior to the date of its expiration.

**Sec. 3-27. Applicability.**

The provisions of this ordinance shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marijuana facility were established without authorization before the effective date of this ordinance.

**Sec. 3-28. Penalties and Enforcement.**

(a) Any person who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and subject to the payment of a civil fine and costs as set forth in the City of Morenci Civil Infractions Ordinance. Each day a violation of this Ordinance continues to exist constitutes a separate violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.

(b) In addition to being responsible for a civil infraction, the medical facility permit of any licensee who is found to be in violation of any of the provisions of this Ordinance shall be suspended until the violation is cured.

(c) A violation of this Ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, the City may bring an

action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Ordinance.

- (d) This Ordinance shall be enforced and administered by the City Police Department or such other City official as may be designated from time to time by resolution of the Board

**Section 5. Severability.**

Should any section, subdivision, sentence, clause or phrase of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part as invalidated.

**Section 6. Publication and Effective Date.**

Publication of this ordinance shall be made by causing a true copy thereof to be inserted once in the State Line Observer, a newspaper circulating within the City of Morenci. This ordinance shall take effect ten (10) days after the ordinance is published.

YEAS: Councilors Cox, Lampson, Leahy, Seger, & Mayor Bell

NAYS: Councilors Berger & DiCenso

ABSENT: None

Ordinance declared adopted on October 23, 2017.

  
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Jeffrey D. Bell  
Mayor for the City of Morenci

**CERTIFICATION OF ADOPTION AND PUBLICATION**

I, Michael S. Sessions, the duly appointed Clerk, certify that the foregoing ordinance was properly enacted by the City Council of the City of Morenci, Lenawee County, Michigan on October 23, 2017 and that it was published in the State Line Observer on October 25, 2017.

  
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Michael S. Sessions  
Clerk for the City of Morenci