

ORDINANCE NO. 2016 - 002

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF CLARE BY amending the City Code, Chapter 52.

Short Title: CITY OF CLARE – Medical Marihuana facilities licensing act.

Chapter 52, Article III, Section 52-2, of the Clare City Code is hereby amended to add the following definitions:

Sec. 52-2 – Definitions.

Home occupation means any occupation that is customarily performed at home and that does not involve an external structural change in the building, does not require the employment of the equivalent of full-time help, does not require on-street parking, does not require the display of a sign, is not conducted in an accessory building and does not impose any negative external influences upon surrounding property. Under no circumstances shall a business that involves or is related to medical marihuana in any way be considered a home occupation. Home occupations expressly excludes all medical marihuana dispensaries, retail activity, growing facilities, and all activities licensed under Public Act 281 of 2016.

Person means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

Medical marihuana definitions:

- (1) *Grower* means a 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.
- (2) *Licensee* means a person holding a state operating license.
- (3) *Marihuana* means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.
- (4) *Marihuana facility* means a location at which a license holder is licensed to operate under this act.
- (5) *Marihuana plant* means any plant of the species *Cannabis sativa* L.
- (6) *Marihuana-infused product* means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 to 289.8111.

- (7) *Michigan medical marihuana act* means the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.
- (8) *Paraphernalia* means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacture, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marihuana.
- (9) *Person* means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- (10) *Plant* means any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.
- (11) *Processor* means a licensee that is a commercial entity located in this state 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.
- (12) *Provisioning center* means a licensee that is a commercial entity located in this state 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 through the department's marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of this act.
- (13) *Registered primary caregiver* means a primary caregiver who has been issued a current registry identification card under the Michigan medical marihuana act.
- (14) *Registered qualifying patient* means a qualifying patient who has been issued a current registry identification card under the Michigan medical marihuana act or a visiting qualifying patient as that term is defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.
- (15) *Registry identification card* means that term as defined in section 3 of the Michigan medical marihuana act. MCL 333.26423.
- (16) *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.
- (17) *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.

- (18) *State operating license* or, unless the context requires a different meaning, “License” means a license that is issued under this act that allows the licensee to operate as 1 of the following, specified in the license:
- (a) A grower.
 - (b) A processor.
 - (c) A secure transporter.
 - (d) A provisioning center.
 - (e) A safety compliance facility.
- (19) *Statewide monitoring system* or, unless the context requires a different meaning, “system” means an internet-based, statewide database established, implemented, and maintained by the department under the marihuana tracking act, that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hur basis for all of the following:
- (a) Verifying registry identification cards.
 - (b) Tracking marihuana transfer and transportation by licensees, including transferee, date, quantity, and price.
 - (c) Verifying in commercially reasonable time that a transfer will not exceed the limit that the patient or caregiver is authorized to receive under section 4 of the Michigan medical marihuana act, MCL 333.26424.

Chapter 52, Article III, Section 52-3, of the Clare City Code is hereby revoked.

Chapter 52, Article III, Section 52-145, of the Clare City Code is hereby amended as follows:

Sec. 52-145. - [Medical marijuana provisions.]

The following provisions shall apply to medical marijuana use as provided by state law.

- (1) Qualifying patients and qualifying care-givers as registered with the state may exercise their right to use, possess or cultivate medical marijuana in conformity with state law.
- (2) The medical marijuana use, possession and cultivation shall comply at all times with the Michigan Medical Marijuana Act and the General Rules of the Michigan Department of Community Health as they may be amended from time to time.
- (3) All medical marijuana plants cultivated shall be contained within a fully enclosed, locked facility, inaccessible on all sides and equipped with locks or other security devices that permit access only by the primary caregiver or qualifying patient cultivating the plants.

- (4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the parcel and shall not be visible from an adjoining public way.
- (5) The principal use of the parcel shall be a dwelling and shall be in actual use as such. Any registered primary caregiver shall operate at his or her own primary residence.
- (6) Space allocated to marijuana cultivation shall not exceed 120 square feet but not greater than ten percent of total available living space. If medical marijuana is to be grown in an unattached building such as a pole barn or garage, the area allocated to marijuana cultivation shall not exceed ten percent of the unattached building, i.e., a garage or shed.
- (7) No transfer of medical marijuana to qualifying patients other than qualifying patients residing on the parcel shall occur.
- (8) Except as provided by the Medical Marijuana Act regarding caregivers recouping costs for cultivation and providing marijuana, there shall be no commercial cultivation or patient to patient transfer of marijuana for any type of consideration, cash or otherwise. This provision is intended to prohibit any type of medical marijuana dispensary or commercial activity.
- (9) No vested rights. A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this section or any amendment of this section.
- (10) No activities licensed by the State under Public Act 281 of 2016 shall be conducted in a residential zone.

Chapter 52, Article III, Section 52-166, of the Clare City Code is hereby amended as follows:

Sec. 52-166. - [Medical marijuana provisions.]

The following provisions shall apply to medical marijuana use as provided by state law.

- (1) Qualifying patients and qualifying care-givers as registered with the state may exercise their right to use, possess or cultivate medical marijuana in conformity with state law.
- (2) The medical marijuana use, possession and cultivation shall comply at all times with the Michigan Medical Marijuana Act and the General Rules of the Michigan Department of Community Health as they may be amended from time to time.
- (3) All medical marijuana plants cultivated shall be contained within a fully enclosed, locked facility, inaccessible on all sides and equipped with locks

or other security devices that permit access only by the primary caregiver or qualifying patient cultivating the plants.

- (4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the parcel and shall not be visible from an adjoining public way.
- (5) The principal use of the parcel shall be a dwelling and shall be in actual use as such. Any registered primary caregiver shall operate at his or her own primary residence.
- (6) Space allocated to marijuana cultivation shall not exceed 120 square feet but not greater than ten percent of total available living space. If medical marijuana is to be grown in an unattached building such as a pole barn or garage, the area allocated to marijuana cultivation shall not exceed ten percent of the unattached building, i.e. a garage or shed.
- (7) No transfer of medical marijuana to qualifying patients other than qualifying patients residing on the parcel shall occur.
- (8) Except as provided by the Medical Marijuana Act regarding caregivers recouping costs for cultivation and providing marijuana, there shall be no commercial cultivation or patient to patient transfer of marijuana for any type of consideration, cash or otherwise. This provision is intended to prohibit any type of medical marijuana dispensary or commercial activity.
- (9) No vested rights. A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this section or any amendment of this section.
- (10) No activities licensed by the State under Public Act 281 of 2016 shall be conducted in a residential zone.

Chapter 52, Article III, Section 52-211, of the Clare City Code is hereby revoked.

Chapter 52, Article III, Section 52-271, of the Clare City Code is hereby amended as follows:

Sec. 52-271. - Boundaries; purpose; uses.

- (a) The district boundaries for the IP industrial park district shall be as identified and stipulated on the adopted zoning map of the city, as amended.
- (b) The IP district classification is primarily intended for wholesale, commercial, light, medium and heavy industrial uses. Residential construction is not permitted in the IP district. The term "light industry" refers to those manufacturing processes that are attractively built and landscaped, and have little negative external influence to impose upon surrounding land uses.

The terms "medium industry" and "heavy industry" refer to those that have progressively more negative external effects on surrounding land uses. In addition to the actual manufacturing processes, the transportation system, employee and service vehicle traffic and the total socio-economic and environmental impact of the operation of the plant on surrounding land uses will be used to determine whether or not proposed uses are permitted in the IP district.

- (c) Uses licensed and permitted under Public Act 281 of 2016 being Medical Marihuana Growers, Processors, Safety Compliance Facilities, Provisioning Centers, and Processing Centers are permitted as a special use as long as the facility is licensed by the State and meets the following requirements:
- a. All medical marihuana licensed activities shall comply at all times with the Medical Marijuana Act, Public Act 281 of 2016 and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
 - b. Cultivation shall be conducted so as not to create dust, glare, noise, odors, or light spillage beyond the parcel and shall not be visible from an adjoining public way.
 - c. A medical marijuana cultivation facility shall not be located within 1,000 feet of an R-1 or R-2 residential zoning district or within 1,000 feet of any church, state-licensed day care facility, public library, public park, preschool, elementary school, middle school, high school or public recreation facility.
 - d. A medical marijuana cultivation facility shall obtain a zoning compliance certificate and if the applicant is not the owner of the parcel, such certificate shall include the property owners' consent to the use of the parcel as a medical marijuana cultivation facility.
 - e. No transfer of medical marijuana shall occur except medical marijuana plants pursuant to the Michigan Medical Marijuana Act.
 - f. No medical marijuana cultivation facility may be established, operated or maintained within 500 feet of any other medical marijuana cultivation facility.
 - g. Distance limitations shall be measured in a straight line from the respective parcel or lot line of both the subject parcels and/or parcels zoned R-1 or R-2, or occupied by special uses specified in this subsection (b)(8).
 - h. No person under 18 years will be admitted to the facility without his or her parent or legal guardian.

(d)(e) The following principal uses are prohibited in the IP district:

- (1) Manufacturing, refining or storage of asphalt, tar, concrete, gas, coke, coal, tar, petroleum products, hazardous chemicals, explosives and/or fertilizer.
 - (2) Forges, foundries and/or metal stamping plants.
 - (3) Tanning and curing of leather and hides.
 - (4) Stockyards, slaughterhouses and rendering plants.
 - (5) Junkyards and auto wrecking.
 - (6) Paper and pulp manufacturing.
 - (7) Processing of radioactive materials.
- (e) Commercial office buildings that have as their primary customer base typical industrial park tenants or have an established business relationship akin to typical industrial park tenants are permitted as a special use in the IP district, when approved. Such special use must be recommended by the Clare Industrial Development Corporation before being considered for approval by the city planning commission.
- (f) No vested rights. A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this section or any amendment of this section.

Passed by the City Commission of the CITY OF CLARE on _____, at its regular meeting with _____ commissioners in attendance, _____ voting aye, _____ nay. Adopted by the City Commission of the City of Clare this _____ day of _____, 2016.

Signed: _____, Chair.

I hereby certify that the foregoing was duly adopted by the CITY COMMISSION of CITY OF CLARE, Michigan, at its regular meeting on the _____ of _____, 2016, that of _____ members of the City Commission, _____ were in attendance and _____ voted for the adoption of the Ordinance. I further certify that the above and foregoing ordinance is recorded in Ordinances for the CITY OF CLARE.

Effective Date

This Ordinance shall take effect thirty (30) days following date of publication as required by law. All Ordinances or part Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Diane Lyon, Clerk