

NOTICE OF PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CITY OF MORENCI ZONING ORDINANCE (Posted 9/25/2017)

The Morenci Planning Commission will hold a public hearing on October 19, 2017, at the City of Morenci Offices, 118 Orchard Street, Morenci, MI 49256, at 7:10 p.m., local time, to consider an amendment (proposed Ordinance 17-333) to Chapter 22 of the Morenci Code of Ordinances as it pertains to medical marihuana facilities in the I-2 and C-3 zoning districts in Morenci.

Copies of the amendment are available for inspection at the office of the City Administrator / Clerk, 118 Orchard Street, Morenci, MI 49256, during normal City business hours, 8:00 a.m. to 6:00 p.m., Monday through Thursday, excluding City holidays. A copy of the proposed ordinance is also available at www.CityofMorenci.org. Written comments concerning the proposed amendment may be submitted to the City Administrator / Clerk by first class mail or in person up to the meeting time.

CITY OF MORENCI

Ordinance 17-333

An ordinance to amend the City of Morenci Zoning Ordinance, to provide for creating a permitted use in Industrial Districts and Commercial Districts for the purpose of permitting medical marijuana facilities.

THE CITY OF MORENCI ORDAINS:

Section 1. Amendment to Article II, Section 22-27 Definitions.

Section 22-27, Definitions of Article II of the Morenci City Code is hereby amended to add the following definitions:

"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.

"Licensee" means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

"Marijuana" or "marihuana" means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.

"Marijuana facility" means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana 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 Marihuana Act, MCL 333.26421 et seq.

"Outdoor production" means growing marijuana in an expanse of open or cleared ground or in a greenhouse, hoop house, or similar non-rigid structure that does not utilize any artificial lighting, including but not limited to electrical lighting sources.

"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.

"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 in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.

"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.

"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. Zoning Districts

Section 2. Amendment to Article VIII, Section 22-177, Permitted Uses in the C-3 General Commercial District (C-3).

Section 22-177 of the Morenci City Code, is hereby amended to add the following permitted use in the General Commercial District (C-3):

- (1) A marijuana provisioning center as authorized by the City of Morenci Regulation of Medical Marijuana Facilities Ordinance subject to the provisions of Chapter 3, Article II.

Further, existing subsection (5) and (6) are renumbered subsections (6) and (7) respectively.

Section 3. Amendment to Article IX-A, Section 22-206, Permitted Uses in the Skyline Industrial District (I-2).

Section 22-206 of the Morenci City Code is hereby amended to add the following permitted uses in the Skyline Industrial District (I-2):

- (1) A marijuana grower as authorized by the City of Morenci Regulation of Medical Marijuana Facilities Ordinance subject to the provisions of Chapter 3, Article II.
- (2) A marijuana processor as authorized by the City of Morenci Regulation of Medical Marijuana Facilities Ordinance subject to the provisions of Chapter 3, Article II.

- (3) A marijuana secure transporter as authorized by the City of Morenci Regulation of Medical Marijuana Facilities Ordinance subject to the provisions of Chapter 3, Article II.
- (4) A marijuana safety compliance facility as authorized by the City of Morenci Regulation of Medical Marijuana Facilities Ordinance subject to the provisions of Chapter 3, Article II.

Further, existing subsections (7), (8) and (9) are renumbered subsections (10), (11) and (7) respectively.

Section 4. Amendment to Article XI-A, Supplemental Regulations.

Article XI-A, Supplemental Regulations, of the Morenci City Code is amended follows:

- 1. Section 22-253, Nonconforming lots, nonconforming uses of land, nonconforming structures and nonconforming uses of structures and premises is amended to add subsection (i) as follows:
 - (i) *Nonconformities Regarding Medical Marijuana Facilities.*
 - (1) No marijuana facility operating or purporting to operate prior to December 15, 2017, shall be deemed to have been a legally existing use nor shall the operation of such marijuana facility be deemed a legal nonconforming use under this Zoning Ordinance.
 - (2) A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this Zoning Ordinance or any amendment thereto.
 - (3) Discontinuation of a state medical marijuana facility license shall constitute prima facie evidence that a nonconformity has been discontinued.
 - (4) Article XI-A, Supplemental Regulations, of the Morenci City Code is amended to add Section 22-276-A which sets forth following development standards for medical marijuana facilities.
- 2. Section-22-276-A is added to Article XI-A as follows:

Sec. 22-276-A Marijuana grower, marijuana processor, marijuana provisioning center, Marijuana secure transporter, and Marijuana safety compliance facility.

- (a) A marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, and marijuana safety compliance facility, in accordance with the

provisions of state law, shall be subject to the following standards:

- (1) Any uses or activities found by the state of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by state law may not be permitted by the City. In the event that a court with jurisdiction declares some or all of this article invalid, then the City may suspend the acceptance of applications for conditional use permits pending the resolution of the legal issue in question.
- (2) At the time of application for a use permit the marijuana facility must be licensed by the state of Michigan and then must be at all times in compliance with the laws of the state of Michigan including but not limited to the Michigan Medical Marijuana Act, MCL 333.26421 et seq.; the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marijuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the state of Michigan.
- (3) At the time of application for a use permit the marijuana facility must be permitted by the City pursuant to the City's Medical Marijuana Facilities Ordinance, or have the City permit concurrently in process with the conditional use permit and site plan approval, and then must be at all times in compliance with the City's Medical Marijuana Facilities Ordinance.
- (4) The use or facility must be at all times in compliance with all other applicable laws and ordinances of the City.
- (5) The City may suspend or revoke a conditional use permit based on a finding that the provisions of the conditional use standards in this section, all other applicable provisions of this zoning ordinance, the City's Medical Marijuana Facilities Ordinance, or the terms of the conditional use permit and approved site plan are not met.
- (6) A marijuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales of marijuana, may not be permitted as a home business or accessory use nor may they include

accessory uses except as otherwise provided in this ordinance.

- (7) Buffer Zones. Such facilities may not be located within five hundred (500) feet of the real property comprising or used by a public or private elementary, vocational, or secondary school; a public or private college, junior college, or university; a licensed child care center or preschool; a public playground, public swimming pool, or public or private youth activity facility; religious institution; a public park, public outdoor recreation area, or public recreation facility; or a public library. The distance shall be measured as the shortest straight-line distance between the property line of the location of the above uses to the property line of the parcel on which provisioning center premises is located, whichever is less.
 - (8) Signage requirements for marijuana facilities, unless otherwise specified, are as provided in Chapter 22, Article XI-B of the City Zoning Ordinance.
- (b) Marijuana growers and marijuana processors shall be subject to the following standards:
- (1) Minimum Lot Size. The minimum lot size standard shall be one (1) acre.
 - (2) Minimum Yard Depth/Distance from Lot Lines. The minimum front and rear setbacks for any structure used for marijuana production shall be 50 feet. Side setbacks shall be 20 feet.
 - (3) Indoor Production and Processing. Marijuana production shall be located entirely within one or more completely enclosed buildings. No outdoor production or processing is permitted.
 - (4) Facilities shall be industrial-grade, and be compatible with other structures / buildings within the Skyline Industrial Park.
- (c) Provisioning centers shall be subject to the following standards:
- (1) Nonconforming Uses. A provisioning center may not locate in a building in which a nonconforming retail use has been established in any district.

- (2) Physical Appearance. The exterior appearance of the structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.
 - (3) Buffer Zones. A provisioning center may not be located within five hundred (500) feet of the real property comprising or used by a public or private elementary, vocational, or secondary school; a public or private college, junior college, or university; a licensed child care center or preschool; a public playground, public swimming pool, or public or private youth activity facility; religious institution; a public park, public outdoor recreation area, or public recreation facility; or a public library. The distance shall be measured as the shortest straight-line distance between the property line of the location of the above uses to the property line of the parcel on which provisioning center premises is located, whichever is less.
- (d) Marijuana Safety Compliance Facility shall be subject to the following standards:
- (1) A marijuana safety compliance facility shall be subject to the special regulations and standards applicable to medical laboratories and medical testing facilities in the ordinance.
 - (2) All activities of a marijuana safety compliance facility, including all transfers of marijuana, shall be conducted within the structure and out of public view.
- (e) Marijuana secure transporter shall be subject to the regulations and standards applicable to transportation and warehousing uses in the Zoning Ordinance and any buildings or structures used for the containment of stored materials shall be located no closer than fifty (50) feet from any property line.

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: _____
NAYS: _____
ABSENT: _____

Ordinance declared adopted on _____, 20__.

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 _____, 20__ and that it was published in the State Line Observer on _____, 20__.

Michael S. Sessions
Clerk for the City of Morenci