

City of Hazel Park
Oakland County, Michigan
Ordinance No. 01-18

AN ORDINANCE TO AMEND TITLE 17, ZONING, BY ADDING CHAPTER 17.21, MEDICAL MARIHUANA FACILITIES AND GROWING OPERATIONS, SECTIONS 17.21.010 THROUGH 17.21.090 TO PROVIDE FOR ZONING REQUIREMENTS IN ADDITION IN COORDINATION WITH THE LICENSING ORDINANCE FOR MEDICAL MARIHUANA FACILITIES AND GROWING OPERATIONS UPON ADMINISTRATIVE REVIEW OF SITE PLAN AND SPECIAL USE PERMIT APPROVAL BY THE CITY COUNCIL, AND TO REPEAL ANY ORDINANCE IN CONFLICT HEREWITH.

The City of Hazel Park Ordains:

PART 1. AMENDMENT.

This Ordinance hereby amends Title 17, Zoning, to add Chapter 17.21 Medical Marihuana Facilities and Growing Operations, Sections 17.21.010 to 17.21.090 to provide for permitted uses upon administrative review of site plan and special use permit approval by the City Council, to read as follows:

SECTION 17.21.010 PURPOSE.

This Ordinance is being enacted specifically pursuant to an invitation in the state law, and with the recognition that the state law may be at odds with the federal regulatory scheme relating to marihuana. It is the intent of the city to provide for such authorization in a manner which will retain the integrity of neighboring properties and to retain property values and provide for the aesthetic quality of the community at large. In fashioning and administering the provisions of this Chapter, attempt has been made to balance these potentially competing interests.

Recognizing that the number of providers which may be authorized by the state to establish and operate a medical marihuana facility and/or growing operation pursuant to Michigan Public Act 281 of 2016, Medical Marihuana Facilities Licensing Act, it is the further purpose and intent of this ordinance to:

- A. Facilitate adequate and efficient provision of sites for medical marihuana facilities under the Act, and ensure that these facilities are situated in appropriate locations and relationships to other land uses, structures and buildings.
- B. Establish predetermined zoning districts and locations considered best for the establishment of medical marihuana facilities, subject to applicable standards and requirements provided herein and Chapter 5.04 of the Hazel Park Municipal Code of Ordinances.
- C. Limit inappropriate physical and aesthetic overcrowding of medical marihuana facilities and grow operations and avoid adverse impact upon existing population, transportations systems and other public services and facility needs.

- D. Minimize the adverse impacts of medical marihuana facilities and grow operations on neighboring properties, including possible removal of unused facilities in a timely manner.
- E. Eliminate any negative visual impact of medical marihuana facilities and/or grow operations. This contemplates the establishment of as few structures as reasonably feasible, and the use of structures which are designed for compatibility of the proposed operation.
- F. The city finds that the presence of numerous medical marihuana facilities and/or grow operations would decrease the attractiveness and destroy the character and integrity of the city. This in turn would have an adverse impact upon property values. Therefore, it is necessary to minimize the adverse impact by limiting the number, zoning districts, and provide for the architectural and other aesthetic appeal, recognizing that the absence of regulation would result in a material impediment to the maintenance of and promotion of property values, and further recognizing that this economic component is an important part of the public health, safety and welfare.

SECTION 17.21.020 DEFINITIONS:

1. **Provisioning Center:** means an authorized commercial entity that purchases or transfers marijuana from a grower or processor and sells or transfers only to registered qualifying patients or registered primary caregivers.
 - a. All sales or transfers of marihuana to a registered primary caregiver or registered patient shall be made only after it has been tested and bears the label required for retail sale. All transfers of marihuana to a provisioning center from a separate marihuana facility shall be by means of a secure transporter.
2. **Grower:** means a licensed commercial entity, located within the State of Michigan, that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.
3. **Safety compliance facility:** means a facility authorized to receive marihuana from, test marihuana for, and return marihuana to a licensed marihuana facility.
4. **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.
5. **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.
6. **Person:** means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
7. **Marihuana Facility:** means a location at which a license holder is licensed to operate under the Medical Marihuana Facilities Licensing Act. (Michigan Public Act 281 of 2016).

8. **Facility:** means process, secure transporter, provisioning center and/or safety compliance facility.

SECTION 17.21.030 Zoning Districts:

The following uses may be permitted, in accordance with state law, the Hazel Park Licensing Ordinance Chapter 5.04, and the requirements of this Ordinance in the following districts:

1. Location:

- a. Growers: M-1, LB-M Zoning Districts
- b. Processors: BC-1 and BC-2, LB-M, LB (except as set forth below in subsection (f)), M-1 Zoning Districts
- c. Secure Transporter: LB-M, LB (except as set forth below in subsection (f)) CB, BC-1, BC-2, Zoning Districts
- d. Safety Compliance facility: LB-M, LB (except as set forth below in subsection (f)), CB, BC-1, BC-2, Zoning Districts
- e. Provisioning Center: BC-1, BC-2, LB-M, LB (except as set forth below in subsection (f)) Zoning Districts.
- f. Except by special resolution of City Council, no medical marihuana facility shall be permitted in the culinary and retail portion of John R located within the Local Business District. Unless a special resolution is approved by City Council, medical marihuana facilities shall be prohibited on John R from Tucker Avenue to Garfield Avenue.

2. Area, Height, Bulk and Placement Requirements.

- a. LB District see 17.44.060
- b. CB District see 17.46.060
- c. BC-1 District see 17.48.060
- d. BC-2 District see 17.50.050
- e. M-1 District see 17.52.070
- f. LB-M District see 17.45.060

SECTION 17.21.040 General Requirements;

A. All medical marihuana facilities and/or grow operations which are permitted, in accordance with state law, upon approval of a special use permit pursuant to Chapter 5.04 of the Code of Ordinances are subject to the following:

1. **Home or accessory use prohibited:** A marihuana facility, grow operation or activities associated with the licensed growing, processing, testing, transporting or sales of marihuana, may not be permitted as a home business or accessory use nor may they include accessory uses except as otherwise provided in this ordinance.

2. **Other Activities:** Marihuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the provisioning center.
3. **Signage requirements** for marihuana facilities, shall be as specified herein:
 - a. **Provisioning Center:** Signage shall be limited to one sign, no larger than 75 square feet on the front of the building and shall not use the word marihuana/marijuana, cannabis, leaf, bud or any other word or phrase which would depict marihuana/marijuana; nor may pictures of a leaf or leaves, or other images which closely resembles a leaf or leaves, green cross or any other rendering which would depict marihuana/marijuana be displayed on a sign or any part of the building. Signs shall not be back lit.
 - b. **All other marihuana facilities and grow operations:** Signs shall be limited to one sign located on the front of the building, 50 square feet and shall be limited to the name of the Lab, Corporation, Limited Liability Company, or partnership and address only.
 - c. All other **advertisement** or signs are prohibited on the premises, including, but not limited to, vehicle signs, sandwich board signs, portable signs or banners.
4. **Canopy or decorative awning required:** Except by waiver of City Council, all marihuana/marijuana facilities and grow operations regulated by this ordinance shall have a canopy or decorative awning over the entrance(s) to the building. The canopy shall extend over any sidewalk area in the front of the building.
5. **Bay doors:** Processing, secured transportation facilities and grow operations shall have bay doors in which a secure transport vehicle can enter to deliver or pick up or store marihuana/marijuana. Unless required by the Medical Marihuana Facilities Licensing Act or State Administrative Rule, Provisioning Centers and Safety Compliance facilities shall not be required to have bay doors.
6. Medical Marihuana facilities or grow operations shall provide with their site plan a construction or remodeling detail including the paving or re-paving of all parking areas and a detailed lighting and landscaping plan. All landscaping must be irrigated. Parking blocks shall not be allowed. Overnight storage of vehicles shall not be allowed except for secure transportation vehicles.

7. All site plans and applications shall designate the alternate uses for which the proposed building and or structures may be utilized should a license not be granted or if a license once granted is not renewed or revoked.
8. No equipment or process shall be used in any medical marihuana facility or grow operation which creates noise, dust, vibration, glare, fumes, odors or electrical interference detectable to the normal senses beyond the property boundary.
9. Access to a marihuana facility or grow operation is restricted to the licensee(s), employee(s) of the licensee, and registered qualifying patients and registered primary caregivers with valid registry cards, if applicable, city personnel, police and fire. A separate waiting area may be created for visitors not authorized to enter the facility.
10. The marihuana facility or grow operation must be at a fixed location. Mobile facilities and drive throughs are prohibited. Any sales or transfers of marihuana product by internet or mail order, consignment or at wholesale are prohibited.
11. A state and city license must be framed under a transparent material and prominently displayed in the facility.
12. All doors and windows shall have commercial grade, non-residential door locks.
13. All facilities and grow operations shall install and maintain an alarm system and shall have a video surveillance system, that at a minimum, consists of digital or network video recorders, cameras capable of meeting the recording requirements of the Act, video monitors, digital archiving devices and a color printer capable of delivering still photos. Recordings shall at a minimum be in the following areas: any areas where marihuana products are weighed, packed, stored, loaded and unloaded for transportation, prepared, or moved within the facility, limited-access areas and security rooms and transfer areas between rooms, entrance and exits areas from both interior and exterior vantage points, points of sale or areas where products are displayed.

SECTION 17.21.050 Specific Requirements for each Facility or grow operation.

1. Marihuana growers and processors requirements: shall be subject to the following standards:

Standards:

- a. **Lighting:** Decorative ornamental lighting on the exterior of the building at all ingress and egress doors. Parking lot lighting shall be shielded and in accordance with 17.28 of the zoning ordinance.

- b. **Security:** There must be a security presence in place on the property at all times, by security guard(s) and security cameras.
- c. **Odor:** As used in this section, building means the building or portion thereof, used for marihuana production or marihuana processing.
 - i. 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.
 - ii. 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.
 - iii. 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.
 - iv. Negative air pressure shall be maintained inside the building.
 - v. 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.
 - vi. Generators shall be in place to operate the air filtration system in case of electrical outage and shall be housed in a containment area to prevent noise emanating to areas outside of the containment shelter.
- d. **Sprinkler Systems:** shall be shown on the site plan.
- e. **Chemicals** used in growing and processing shall be listed on the site plan and shall be kept in a separate locked storage area inside the facility. A copy of the chemical safety instructions shall be provided.
- f. **Landscaping plan:** Decorative landscaping shall be provided and all landscaping shall be irrigated.
- g. **Parking:** One parking space per employee and add three additional spaces for delivery vehicles. Ingress and egress lanes

to the bay doors shall be clearly marked to allow entry of secure transport vehicles.

h. **Waste disposal and Chemical disposal and plant waste disposal plan** required. All disposal areas and dumpsters shall be enclosed by a decorative masonry or brick wall on three sides and a wrought iron gate to provide access by the employees and waste hauler. Dumpsters shall have a locking mechanism to prevent unauthorized access.

i. **Outdoor Storage or discharge** of toxic, flammable or hazardous materials into city sewer or storm drains prohibited.

j. **Noise** shall not be emitted beyond the interior of the structure.

k. **Electrical:** all electrical working equipment shall comply with the latest edition of N.E.C., local and state codes, ordinances and regulations, including the occupational safety and health act (OSHA), and BOCA. Sufficient upgrades on the poles and in the structure(s) shall be in place so as not be a drain on neighboring properties.

l. **Co-Location:** A grower and processor may operate as separate marihuana facilities at the same location provided the state has authorized the proposed operation at the same location and application for separate State and city operating licenses along with the required fees for each license has been provided and granted. The facilities shall have distinct and identifiable areas with designated structures that are contiguous and specific to the state operating license; have separate entrances and exits, inventory, record keeping.

2. Provisioning Centers shall be subject to the following standards:

a. **Hours:** 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 8 am and 8 pm.

b. **Indoor Activities:** All activities of a provisioning center, including transfer of marihuana, shall be conducted within the structure and out of public view. A provisioning center shall not have a walk-up window or drive thru window service.

c. **Landscaping Plan:** Decorative landscaping shall be provided and all landscaping shall be irrigated.

d. **Waste disposal and Chemical disposal** and plant waste disposal plan required. All disposal areas and dumpsters shall be enclosed by a decorative masonry or brick wall on three sides and a wrought iron gate to provide access by the employees and waste hauler. Dumpsters shall have a locking mechanism to prevent unauthorized access.

e. **Odor:** As used in this subsection, building means the building, or portion thereof, used for a provision center.

i. 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.

ii. 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 by width multiplied by width multiplied by heights divided by three. The filter(s) shall be rated for the applicable CFM.
- iii. 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.
 - iv. Negative air pressure shall be maintained inside the building.
 - v. Doors and windows shall remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
 - vi. Generators shall be in place to operate the air filtration system in case of electrical outage and shall be housed in a containment area to prevent noise emanating to areas outside of the containment shelter.
- f. **Windows:** shall be free and clear of all advertising, shelves or inventory or the like which would impair the view to the exterior of the premises.
- i. Windows shall be opaque to the exterior; *Opaque* means that the Glass transmits light but does not allow a view of objects on the other side.
 - ii. Security shutters shall be required on the interior of all windows and be designed so as to give the appearance of shutters or window shades.
- g. **Lighting:** Decorative ornamental lighting on the exterior of the building at all ingress and egress doors. Parking lot lighting shall be shielded and in accordance with Chapter 17.28.
- h. **Parking:** Parking shall be in accordance with Chapter 17.28 of the Zoning Ordinance. Parking blocks are prohibited. Ingress and egress lanes to the bay doors shall be clearly marked to allow entry of secure transport vehicles.
- 1. The building shall be equipped with a bay door for access into the structure of a secure transport vehicle.
 - 2. Ingress and egress lanes to the bay doors shall be clearly marked to allow entry of secure transport vehicles.
- i. **Floor Plan:** Security and floor plan required on site plan.
- j. **Security:** There must be a security presence in place on the property at all times, by licensed security guard(s) and security cameras.
- k. **Separate room:** to ensure the safety, security and integrity of the operation of marihuana facilities, a provisioning center shall have a separate room that is dedicated as the point of sale area for the transfer or sale of marihuana product as provided in the Act. The provisioning center shall keep marihuana products behind a counter or other barrier to ensure a registered qualifying patient or registered primary caregiver does not have direct access to the marihuana products.

3. **Safety Compliance Facility** shall be subject to the following standards:

- a. All activities of a marihuana safety compliance facility shall be conducted within the structure and out of public view.
- b. A list of all chemicals used in testing shall be provided on the site plan and a copy of all safety instructions and precautions shall be included.
- c. **Parking:** Ingress and egress lanes to the bay doors shall be clearly marked to allow entry of secure transport vehicles. See Chapter 17.28 of the Zoning Ordinance for parking requirements.
- d. **Lighting:** Decorative ornamental lighting on the exterior of the building at all ingress and egress doors. Parking lot lighting shall be shielded and in accordance with Chapter 17.28 of the zoning ordinance.
- e. **Chemical waste and plant disposal** plan must be provided.
- f. **Waste disposal and Chemical disposal** and plant waste disposal plan required. All disposal areas and dumpsters shall be enclosed by a decorative masonry or brick wall on three sides and a wrought iron gate to provide access by the employees and waste hauler. Dumpsters shall have a locking mechanism to prevent unauthorized access.
- g. **Security:** There must be a security presence in place on the property at all times, by security cameras.
- h. **Landscaping plan:** Decorative landscaping shall be provided and all landscaping shall be irrigated.

4. **Secure Transporter** shall be subject to the following standards:

- a. **Parking layout:** Parking lots shall be paved and clearly marked for each vehicle required as provided herein. The number of parking spaces required shall be determined by the number of employees and number of transport vehicles and one additional handicapped parking space shall be provided. Parking blocks are prohibited. For additional requirements see Chapter 17.28 of the zoning ordinance.
- b. **Storage:** Marihuana and Marihuana supplies, materials or money shall not be kept in any secure transport vehicle overnight. Outdoor storage, excluding transport vehicles is prohibited.
- c. **Security:** There must be a security presence in place on the property at all times by security cameras. Licensed security personnel shall be required at all times when marihuana is being stored at the facility.
- d. **Landscaping plan:** Decorative landscaping shall be provided and all landscaping shall be irrigated.
- e. **Lighting plan:** Decorative ornamental lighting on the exterior of the building at all ingress and egress doors. Parking lot lighting shall be shielded and in accordance with Chapter 17.28 of the zoning ordinance.

SECTION 17.21.060 APPLICATION PROCESS:

During the first year, Applications for Special Use Permit, Site Plans and Applications for Medical Marihuana Facilities and Grow Operation Licenses must be submitted by applicants along with the required fees between February 1, 2018 and February 28, 2018. Applications will not be accepted after February 28, 2018. Applications shall be held by the City for one (1) year after February 28, 2018. New applications shall not be accepted until a license becomes available and shall be taken on a first come basis.

A. One electronic and seven hard copies of the application for special use approval, facility and site plan shall be submitted to the Hazel Park Building Department on such forms and containing such information that the City shall prescribe, along with the required application fee.

B. Applications and shall not be accepted unless a complete site plan has been submitted. See Section 17.60.080.

C. The facility plan shall include, but not be limited to:

1. The type of proposed marihuana facility or grow operation, location.
2. Diagram of the facility including, but not limited to, its size and dimensions; specifications; physical address; location of common entryways, doorways, or passageways; means of public entry or exit; limited access areas within the facility.
3. Floor plan and layout, including dimensions, maximum storage capabilities, number of rooms, dividing structures, fire walls, and entrances and exits.
4. Means of egress, including, but not limited to, delivery and transfer points.
5. Construction details for structures and fire-rated construction for walls.
6. Building structure information, including, but not limited to, new, pre-existing, free standing, or fixed. Building type information, including but not limited to, commercial, warehouse, industrial, retail, converted property, building, mercantile building, laboratory or center.
7. Zoning classification and information.
8. Proposed security plan.
9. Any other information required by this Ordinance or the City.

SECTION 17.21.070 REVIEW PROCESS:

A. Site Plans:

Applicants shall submit to the building department seven sealed sets of plans, including site management plans. See Section 17.60.080.

B. Special Use Application:

Applicants shall submit the application for special use in accordance with Section 17.21.060 simultaneously with the site plan.

C. License Application:

Applicants shall submit the application in accordance with Chapter 5.04 of the Hazel Park Municipal Code with the City Clerk's office, and provide a copy of said application with the Site Plan and Special Use Application.

D. Review by Planning Commission:

Applications and site plans shall be placed on the next available Planning Commission meeting for review by Commission members, Fire Chief, Police Chief and Planner. Comments, plans and applications shall be forwarded to the City Council. Approval of Site Plan and Special Use Permit does not guarantee issuance of a medical marihuana facility or grow operation license by the City.

E. Review by City Council:

Based upon the limited availability of licenses that will be issued by the City under the Medical Marihuana Facilities Licenses Act and Chapter 5.04 of the Municipal Code, Applications for Special Use Permit, Site Plans and Applications for Licenses must be submitted by applicants along with the required fee between February 1, 2018 and February 28, 2018. Applications, and Plans shall be transmitted to the City Council for approval based upon the number of licenses available for each category (see Ch 5.04).

When reviewing plans and applications the city council shall consider each applicant's submission and rate the plans and applications on a 0 to 10 score (0 does not comply and 10 meaning exceeds compliance requirements) considering the factors as provided in Ch 5.04 and the following:

1. Capitalization
2. Originality of building design and meeting applicable design standards set forth herein.
3. Landscape Plan
4. Lighting Plan
5. Adherence to all requirements set forth in Chapter 5.04
6. Waste disposal
7. Parking lot layout
8. Interior Design
9. Designation of alternate uses for property (building)
10. Community Involvement
11. Business History with Hazel Park
12. Business History of Applicant

Section 17.21.080 Grant or Denial

Any Special Use Permit and accompanying site plan not approved as a result of limited license availability will be held for a period of 12 months and reconsidered should a license become available. Applicant's will be notified should updated information be necessary.

Section 17.21.090 Expiration/Revocation of Special Use Approval

For any Special Use Permit and site plan approval issued the structure must be established and a certificate of occupancy issued within 6 months, or the licensee shall surrender the license if the use is not established within the required time. An extension of three to six months may be granted upon a showing of substantial progress in the construction of the use.

PART 2. REPEAL

This ordinance hereby repeals any ordinances in conflict herewith.

PART 3. SAVINGS CLAUSE

The amendments of Title 17 Zoning, Chapter 17.21 do not affect or impair any act, doing, offense committed, or right accruing, accrued or acquired or liability, penalty, forfeiture, or punishment pending or incurred prior to these amendments.

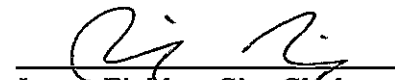
PART 10. SEVERABILITY- EFFECTIVE DATE-PUBLICATION

The various parts, sections and clauses of this Ordinance shall become effective ten (10) days after its adoption and shall be published within ten (10) days of its adoption by a brief notice in the newspaper circulated in the City stating the date of the enactment and the effective date of this Ordinance, a brief statement as to the subject matter of this Ordinance, and such other facts as the Clerk deems appropriate, 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 HAZEL PARK, OAKLAND COUNTY, MICHIGAN ON THE 4 DAY OF January _____ 2018.



Michael Webb, Mayor

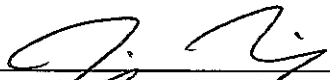


James Finkley, City Clerk

Date of Adoption: 1/4/18
Date of Publication: 1/17/18
Effective Date: 1/26/18

CERTIFICATE OF ADOPTION

It is hereby certified that the foregoing is a true and complete copy of an Ordinance passed at a regular meeting of the City Council of the City of Hazel Park, held on the 4 day of January, 2018.



James Finkley, City Clerk