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CHAPTER 880

Marihuana Ordinance

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Sec. 880.01. Purpose.

The City of Negaunee recognizes a compelling interest in establishing standards and procedures for the operation of Medical and Adult-Use Marihuana Establishments within the City for Negaunee. Such standards are an important factor supportive of the general health, safety and welfare of all of the citizens of the City of Negaunee.

Sec. 880.02. Scope.

- (1) This code shall apply to any properties that are licensed to conduct Marihuana cultivation, processing, transporting, or any other licensed Marihuana establishment activity within the city limits.
- (2) This chapter does not apply to personal use and cultivation of Marihuana as allowed by state law.
- (3) This chapter shall be enforced by the City Manager or his/her authorized representatives. The City Manager may utilize additional personnel to assist with the enforcement including individuals with specialized technical training or experience

necessary to evaluate the condition of Marihuana properties and determine compliance with this chapter.

(4) By enacting this ordinance, the City of Negaunee does not intend to encourage or promote the establishment of any business or operation, or the commitment of any act, that constitutes or may constitute a violation of Federal Law. As of the date of the enactment of this ordinance, the use, possession, distribution, and sale of Marihuana is illegal under Federal law and those who engage in such activities do so at their own risk of criminal prosecution.

Sec. 880.03. Definitions.

All words and phrases used in this code shall be given their ordinary and common meaning unless defined herein, and all words and phrases, defined or not, shall be interpreted so as to further the purpose as set forth in Section 880.01 herein.

The following words and terms shall mean:

ACCESORY BUILDING OR STRUCTURE means a subordinate building or portion of a main building or structure, the use of which is incidental to that of the main building or structure. The accessory building or structure shall be located on the same property as the main building or structure.

BUILDING means any structure used, designed or intended for the protection, shelter or enclosure of persons, animals or property.

CULTIVATE means to propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.

DEPARTMENT means the Michigan Department of Licensing and Regulatory Affairs (LARA).

ERECTED means built, constructed, reconstructed, moved upon or any physical operation on the premises required for a building. Excavations, fill, drainage and the like shall be considered part of erection.

INDUSTRIAL ZONE means the City's Industrial District.

LICENSEE means any person holding a state license from the state of Michigan Marijuana Agency.

LOT means land occupied or to be occupied by a building and its accessory buildings, including such open spaces as are required under this Zoning Code, and having its frontage upon a public street or any private way used for street purposes. "Lot" shall also mean a parcel of land.

MARIHUANA means all parts of the plant of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds

or resin, including marihuana concentrate and marihuana-infused products. For purposes of this act, marihuana does not include:

(A) the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;

(B) industrial hemp; or

(C) any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

MARIHUANA ACCESSORIES means any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.

MARIHUANA ESTABLISHMENT means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the department.

MARIHUANA GROWER means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

MARIHUANA-INFUSED PRODUCT means a topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.

MARIHUANA MICROBUSINESS means a person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

MARIHUANA PROCESSOR means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

MARIHUANA RETAILER means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

MARIHUANA SECURE TRANSPORTER means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

MARIHUANA SAFETY COMPLIANCE FACILITY means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

MMFLA means the MICHIGAN MEDICAL FACILITIES LICENSING ACT.

MRTRA means the MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT.

MUNICIPALITY means a city, village, or township.

PERSON means an individual, corporation, limited liability company, multi-level ownership enterprise, partnership of any type, trust, or other legal entity.

PLANNING COMMISSION means The Planning Commission of the City of Negaunee.

PROCESS OR PROCESSING means to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

RESIDENTIAL ONE, R-1 means the City's Residential Single-Family District.

SCHOOL means any public or private building that is primarily used for academic education.

STATE LICENSE means a license issued by the department that allows a person to operate a marihuana establishment.

STRUCTURE means anything constructed or erected, the use of which requires permanent location on the ground.

SPECIAL LAND USES are those uses of land which are essentially compatible with the uses permitted in a zoning district, but which possess characteristics or locational qualities which require individual review and restriction in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land.

UNREASONABLY IMPRACTICABLE means that the measures necessary to comply with the rules or ordinances adopted pursuant to this act subject licensees to unreasonable risk or require such a high investment of money, time, or any other resource or asset that a reasonably prudent businessperson would not operate the marihuana establishment.

Sec. 880.04. Registration and Selection of Marihuana Establishments.

(1) Registration of Marihuana Establishments with the City of Negaunee is required in order to ensure compliance with this Code, MRTRA and the rules set forth by LARA.

(2) Registration will be required after a Special Land Use Permit has been reviewed by the Planning Commission and approved, and all appeals, if any, have been exhausted. A copy of the proposed Marihuana Establishment Plan must be included in a Special Land Use permit application.

(3) The cost of registration shall be no more than \$5,000 and will be set by the City Council at an amount that will not be unreasonably impracticable and shall be established by the City Council and placed on the fee schedule. Any such fees may be adjusted from time to time as the City Council deems fit by way of resolution.

(4) The City will begin to accept registration applications on January 1, 2020.

(5) Upon denial or revocation of a State license for a Marihuana Establishment which has been issued a license under these regulations, the local registration shall immediately be revoked.

(6) If a State license is suspended or revoked, the Licensee shall immediately cease operation of the Marihuana Establishment within the City until the State license is re-instated during the term of a valid local registration.

(7) Municipal registration is non-transferable and will be active for two (2) years from the date of approval, and must be renewed no more than 90 days prior to expiration. All license renewal applications must be submitted to the Planning & Zoning Administrator.

(8) The City shall create a selection process if multiple establishments apply for a limited number of registrations.

(9) Registrations for Microbusiness and Provisioning Centers are limited by population. Registration for Microbusinesses and Provisioning Centers are each limited to (1) per every 2,500 City residents (e.g., 0 - 2500 residents = 1 registration available; 2501 - 5000 residents = 2 registrations available; 5001 - 7,500 residents = 3 registrations available; etc.). Grower, Transport, Processing Facility, and Safety Compliance registrations are not subject to this population limitation.

Sec. 880.05. Minimum Standards.

(1) Except where the provisions expressly set forth in this ordinance are inconsistent with or conflict with the MMFLA and MRTRA, or the state administrative regulations promulgated pursuant thereto, all the provisions of the state code promulgated pursuant thereto, each as they are amended from time-to-time, are

adopted herein by this reference and apply to all applications received and registration by the City of Negaunee with respect to Marihuana Establishments.

(2) Compliance with all of the guidelines set forth within the MRTRA, MMFLA and the rules set by LARA is required.

(3) A Michigan State License Pre-Qualification letter must be received and presented to the City of Negaunee before a site plan review will be conducted by the City of Negaunee. No building, structure or accessory building shall be erected without prior approval of a site plan by the Planning Commission of the City of Negaunee, and all appeals, if any, have been exhausted.

Sec. 880.06. Operation, Limitations and Locations.

(1) All proposed Recreational and Medical Marihuana Establishments are considered Special Land Uses, as defined by Chapter 1260.02 of the City of Negaunee Zoning Ordinances, and subject to review and approval of the City of Negaunee Planning Commission, and as detailed in Chapter 1280.01 of the City of Negaunee Zoning Ordinance.

(2) Except as provided herein, Recreational and Medical Marihuana Establishments shall be permitted within the Industrial (I) Zoning Districts identified on the zoning map attached hereto as Exhibit A, and available on the City's website, except as provided here.

(3) No Recreational or Medical Marihuana Establishments shall be permitted to operate at a location that is within 1000 feet from any school, and must be no less than 250 feet from any Residential One (R1) Zoning District. The permissibility of a location for the Marihuana Establishment shall be determined at the time of the submittal of the first, completed application to the City.

(4) The distances referred to herein are to be computed by direct measurement from the nearest property line of the land used for the School to the nearest property line of the land used by the Marihuana Establishment(s) to conduct operations.

(5) Hours for on-site retail sales of marihuana are limited to 8:00 AM to midnight ET.

Sec. 880.07. Signage.

All signage must comply with the City of Negaunee's sign ordinance, Chapter 1284.

Sec. 880.08. Fire Safety.

All Recreational and Medical Marihuana Establishments must comply with all rules and guidelines regarding fire safety and compliance as set forth in the rules published by LARA, and as required by the City of Negaunee ordinances and zoning.

Sec. 880.09. Rules and Regulations.

The administrator of planning and zoning is hereby empowered to promulgate such rules and regulations as shall be necessary for the enforcement of this Chapter subject, however, to the approval of the City Manager and Negaunee City Council prior to becoming effective. When the rules and regulations made hereunder have been promulgated, adopted and approved, they shall be deemed incorporated herein, as if fully stated in this Chapter; and the violation of any of said regulations shall be deemed a violation of this Chapter. Copies of such rules and regulations, relevant maps, and any amendments or additions, shall be on file in the office of the Planning and Zoning Administrator for inspection by interested parties by appointment, as well as available on the City of Negaunee website.

Sec. 880.10. Section Headings, Severability; Repealer.

Section headings in this Ordinance are furnished for convenience only and shall not be considered to be part of this Ordinance. All other Ordinances, resolutions and orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed, and each section of the Ordinance and each subdivision of any section thereof is hereby declared to be independent, and the finding or holding of any section or subdivision thereof to be invalid or void shall not be deemed or held to affect the validity of any other section or subdivision.

Upon roll call, City of Negaunee Council Members:

Voting aye: Council Members Gladwell, Maino, Wallner, Karki, Kantola, Anderson and Mayor Kangas

Voting nay: None

Whereupon, this Ordinance was declared passed and adopted this 14th day of November, 2019.

This Ordinance shall be published as required by law, and shall be effective on the 25th day of November, 2019

CITY OF NEGAUNEE



By: David Kangas, Its Mayor

Attest:



By: Judy Iwanski, Its Clerk