

ORDINANCE NO. 30-1020

AN ORDINANCE TO ADD DEFINITIONS TO APPENDIX A, ARTICLE II; AND TO AMEND APPENDIX A, SECTIONS 4.01, 4A.14, 5.01, AND 17.02 RELATING TO COMPLIANCE WITH ALL LAWS, SIGNS, USES PERMITTED IN R-1-A ZONES, AND INDUSTRIAL STANDARDS.

THE CITY OF WARREN ORDAINS:

SECTION 1. That Appendix A, Article II of the Code of Ordinances of the City of Warren, Michigan, is hereby amended by adding sections, to be numbered 2.93, 2.94, 2.95, 2.96, 2.97, 2.98, and 2.99 to the Zoning Ordinance,

WHICH SHALL READ AS FOLLOWS:

Section 2.93 – Medical Marihuana Facility.

An indoor facility located in a permissible industrial area which is used by no more than a total combination of seven registered primary caregivers or registered qualifying patients to store, grow, cultivate or process medical marihuana, and the total combined occupation of all such caregivers or patients does not exceed the aggregate of 12,000 square feet. The facility would be used by the registered primary caregivers and registered qualifying patients occupying the facility, who are authorized to grow marihuana plants in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*, as amended, and use the facility exclusively for:

- (a) storing, growing, cultivating, or processing marihuana into a usable form;
- (b) registered primary caregivers to legally transfer marihuana to their registered qualifying patient; or
- (c) storing, growing, cultivating, and processing marihuana into a usable form and the legal transfer of the marihuana from registered primary caregivers to their registered qualifying patient, as long as the transfer of marihuana occurs in a room separate from the storage, growth, cultivation, or processing.

Section 2.94 – Registered Qualifying Patient or Patient.

A person who possesses a valid Michigan Department of Community Health (MDCH) registry patient identification card as provided for in MCL 333.26426(a)-(f), as amended.

Section 2.95 – Registered Primary Caregiver or Primary Caregiver.

A person who possesses a valid Michigan Department of Community Health (MDCH) registry caregiver identification card as provided for in MCL 333.26426(a)-(f), as amended.

Section 2.96 – Debilitating Medical Condition.

A medical condition as defined by MCL 333.26423(b), as amended.

Section 2.97 - School.

The buildings, grounds, or facilities, or any portion thereof, owned, occupied by, or under the custody or control of public or private institutions for the primary purpose of providing educational instruction to students at or below the twelfth grade level.

Section 2.98 - Recreational facility.

Any public building or field used for the primary purpose of sports or recreation.

Section 2.99 – Library.

Any public or private library that is identified as such on the outside of the facility.

SECTION 2. That Appendix A, Article IV, Section 4.01 of the Code of Ordinances of the City of Warren, Michigan,

WHICH PRESENTLY READS AS FOLLOWS:

Section 4.01. Compliance with all laws.

(a) No building or land, or part of any building or land, located in any zoning district as herein established, shall be used, altered, constructed or reconstructed except in conformity with all applicable provisions of this Ordinance, all provisions which apply to the district in which it is located, and all applicable state and federal laws. Uses not expressly permitted within a specified zoning district are not permitted uses within that zoning district.

(b) Uses for enterprises, businesses, facilities or similar purposes that are unlawful according to any federal, state or local law are prohibited. A violation of this provision shall be a misdemeanor which upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment for a term not to exceed ninety (90) days, or both, plus costs and other court imposed sanctions.

IS HEREBY AMENDED TO READ AS FOLLOWS:

Section 4.01. Compliance with all laws; uses not expressly permitted are prohibited; illegal operation of a business is a misdemeanor.

(a) A building or land shall only be used, altered, constructed or reconstructed if it complies with:

- (1) all applicable provisions of the Code of Ordinances, including Appendix A, Zoning; and
 - (2) all other applicable laws.
- (b) Uses not expressly permitted within a specified zoning district are prohibited in that district.
- (c) Unless otherwise provided, a person operating a business in violation of any applicable law is guilty of a misdemeanor punishable by imprisonment for not more than ninety (90) days or a fine of not more than five hundred dollars (\$500.00), or both.

SECTION 3. That Appendix A, Article IV-A, Division III, Section 4A.14 of the Code of Ordinances of the City of Warren, Michigan,

IS HEREBY AMENDED TO READ AS FOLLOWS:

Section 4A.14. Prohibited signs.

The following types of signs are prohibited in all districts:

- a) Signs that utilize flashing, blinking, intermittent or moving lights or exposed incandescent light bulbs.
- b) Exterior rope lighting, except temporary lighting.
- c) Festoon signs.
- d) Signs imitating or resembling official traffic or government signs or signals that are made of the same material, and are of similar size and shape and color.
- e) Signs attached to trees, telephone poles, public benches, streetlights, or placed on any public property or public right-of-way, unless otherwise provided by ordinance.
- f) Roof signs.
- g) Abandoned signs.
- h) Obsolete signs.
- i) Signs in parking districts (P) greater than two (2) square feet in size.
- j) Off-premise signs other than billboards, election and special events or activities signs as regulated in this ordinance.
- k) Except as provided in this Appendix, any billboard containing any tobacco advertisement in any publicly visible location on or within 500 feet of the perimeter of any school premises, playground, or playground area in a public park.
- l) A sign advertising alcoholic liquor as prohibited in Warren Code of Ordinances, Chapter 4, Article II, Section 4-9A.
- m) Inflatable signs, except as permitted in Warren Code of Ordinances, Appendix A, Article IV-A, Division V, Section 4A.42.
- n) Feather flag signs.

- o) A signs that contains the word or phrase “marihuana” or “marihuana facility” or another word slang word or pseudonym commonly known to mean marihuana or an illegal controlled substance.

SECTION 4. That Appendix A, Article V, Section 5.01 of the Code of Ordinances of the City of Warren, Michigan,

WHICH PRESENTLY READS, IN RELEVANT PART, AS FOLLOWS:

Section 5.01 - Uses permitted.

In all R-1-A Districts, no building or land, except as otherwise provided in this Ordinance, shall be erected or used except for one (1) or more of the following specified uses:

- (m) Reserved.

IS HEREBY AMENDED TO READ AS FOLLOWS:

Section 5.01 - Uses permitted.

In all R-1-A Districts, no building or land, except as otherwise provided in this Ordinance, shall be erected or used for one (1) or more of the following specified uses:

- (m) Growing, storing, or cultivating marihuana or processing or manufacturing marihuana into a usable form, except that such uses may be permitted if all of the following conditions are satisfied:
 - (1) the use, storage, cultivation, growth, manufacturing or processing of the medical marihuana is in compliance with the Michigan Medical Marihuana Act, MCL 333.264231 *et seq.* as amended, including but not limited to the requirements stated in Section 4, MCL 333.26424, as amended, and in accordance with all applicable ordinances and regulations, including the Fire Protection Code and Article VI of Chapter 22 of the Code of Ordinances;
 - (2) the dwelling is registered with the Department of Buildings and Safety Engineering and has passed an administrative safety inspection for electrical, heating, plumbing, storage, and disposal of materials or water used in connection with the marihuana;
 - (3) the dwelling has a filtration for its ventilation system or unit to prevent the emission of odors upon neighboring properties, and which has been inspected by and meets with the satisfaction of the Department of Buildings and Safety Engineering;
 - (4) no more than one person may grow, cultivate, manufacture, store or process marihuana in each dwelling structure;
 - (5) the growth, cultivation, manufacture, or storage of medical marihuana occurs solely at the property under exclusive control, through written

- lease, contract or deed in favor a qualifying patient who occupies the property as his or her principal residence;
- (6) the legal owner or property manager of the residential dwelling authorizes the use, storage, cultivation, growth, or processing of the marihuana;
 - (7) no more than one (1) person per residential dwelling may cultivate, grow, manufacture or process marihuana on the premises who otherwise meets the standards in this section.
 - (8) The uses permitted in this subsection (m) are allowed only in the residential districts classified as R-1-A, R-1-B, R-1-C, R-1-P, R-2 and R-3, unless expressly permitted elsewhere in this Code.
 - (9) No use, storage, growth, cultivation or processing of marihuana is permitted in Downtown Center District as described in Appendix A of the Code of Zoning Ordinances, Section 21-B.

SECTION 5. That Appendix A, Article XVII, Section 17.02 of the Code of Ordinances of the City of Warren, Michigan,

IS HEREBY AMENDED TO ADD SECTION 17.02(aa) AS FOLLOWS:

Section 17.02 – Industrial standards.

All uses not herein expressly prohibited shall comply with the following table of standards.

	M-1	M-2	M-3	M-4
(aa) Medical Marihuana Facility as defined by Section 2.93 of this Zoning Ordinance	Yes	Yes	Yes	No
	A Medical Marihuana Facility is exclusively permitted in M-1, M-2 and M-3 zones, if the facility, the owner, and any occupants meet all of the following requirements:			
	(1) Compliance with all applicable laws, including but not limited to:			

	<p>(a) the requirements stated in Section 4 of the Michigan Medical Marihuana Act, MCL 333.26421, <i>et seq.</i> as amended, including the requirement that the marihuana be contained in an enclosed, locked facility or other closed area equipped with locks or other security devices that permit access only by the registered primary caregiver or his or her qualifying patient, and such facility must be separately used and maintained by each occupying caregiver or patient; and</p> <p>(b) all local ordinances and regulations, including the Fire Protection Code and Article VI of Chapter 22 of the Code of Ordinances.</p>
	<p>(2) With the exception of growing marihuana plants outdoors as permitted by MCL 333.26423(d), all activity related to the marihuana is conducted inside the facility.</p>
	<p>(3) No open storage is permitted on the property.</p> <p>(4) The facility is registered with the Division of Building Inspection, and as part of its Certificate of Compliance, is inspected by Zoning, Electrical, Building, Mechanical, and Plumbing Inspectors, and the Fire and Police Departments for compliance with applicable laws, local ordinances and codes, including this ordinance. The facility must pass annual safety inspections for compliance with the requirements of this ordinance.</p>
	<p>(5) The facility maintains:</p>
	<p>(a) Copies of a MDCH issued registry identification card for:</p>
	<p>(i) Each registered primary caregiver or registered qualifying patient storing, growing, transferring, cultivating, or processing marihuana at the facility; and</p> <p>(ii) Each registered qualifying patient legally registered to a registered primary caregiver who is storing, cultivating, growing, processing, or transferring marihuana at the facility.</p>
	<p>(b) A daily log of the amount and location of the marihuana on the premises for each registered primary caregiver and each patient;</p>
	<p>(c) A daily log of all transfers; and</p>
	<p>(d) Any other written records necessary to show compliance with applicable state and local laws.</p>
	<p>(6) The facility possesses and regularly uses an effective filtration system which:</p> <p>(a) effectively contains the odors associated with storing, transferring, cultivating, growth, or processing marihuana, within the facility; and</p> <p>(b) is approved by the Building Division.</p>
	<p>(7) No one processes or transfers marihuana on the property between the hours of 11:00 p.m. and 8:00 a.m.</p>

	<p>(8) The facility is not occupied or used by more than a combination of seven registered primary caregivers or qualifying patients for the growth, cultivation, processing or manufacturing of medical marihuana, and no more than 12,000 square feet of the facility shall be occupied by the total combined aggregate of such caregivers and patients.</p> <p>(9) No one under the age of 18 is permitted on the premises, except for persons under the age of 18 who are registered qualifying patients and are accompanied by a parent or legal guardian.</p> <p>(10) The facility is not located in the Downtown District, "DDA District" as described in the Code of Ordinances Chapter 2.5, Section 2-112, or the Van Dyke TIFA Authority District as described in Exhibit A of the Resolution Establishing Tax Increment Finance Authority adopted September 23, 1986.</p>
	<p>(11) The facility is located at least 500 feet from the nearest lot line of any of the following:</p> <ul style="list-style-type: none"> (a) residential zoning districts, R-1-A, R-1-B, R-1-C, R-1-P, R-2, R-3, R-3-A, R-4, R-5 and any mixed residential zones including but not limited to a Planned Unit Development and the Downtown Center. (a) School; (b) Child care center or day care center; (c) Recreational facility; (d) Public library; (e) Public park.
	<p>(12) Measurement: For subsection (11), measurement shall be made in a straight line from the nearest point on the lot line of the premises containing the principle structure used as a Medical Marihuana Facility to the nearest point on the lot line of the property containing the uses specified in subsections (11) (a) (b), (c), (d), and (e).</p> <p>(13) The property is exclusively used for storage, cultivation, processing, or transfer of marihuana. Providing or selling any other service, commodity, or product on the premises is prohibited.</p> <p>(14) The owner of the facility must have:</p> <ul style="list-style-type: none"> (a) a license under Chapter 18 of the Code of Ordinances; and (b) Certificate of Compliance. <p>(15) Each owner-occupant, or tenant in the facility must have all of the following:</p> <ul style="list-style-type: none"> (a) a valid State of Michigan registry caregiver identification card or a State of Michigan registry patient identification card authorizing the patient to grow marihuana plants; (b) a license under Chapter 18 of the Code of Ordinances; and (c) a Certificate of Compliance.

- | | |
|--|--|
| | <p>(16) In addition to the requirements of Chapter 18, Certificate of Compliance application must include:
a waste disposal plan detailing plans for chemical disposal and plant waste and water disposal, subject to review and approval by the City Engineer, and in compliance with regulations of the MDEQ and codes and ordinances of the City of Warren including codes and ordinances pertaining to the discharge of water and by-products into the city sewer system;</p> <p>(17) A floor plan identifying the number of plants, chemical storage space, and other relevant aspects of the layout, subject to review and approval by the Building Inspection Division. To the extent permitted by law, floor plans will be kept confidential;</p> <p>(18) A heating system that is approved by the Building Division.</p> <p>(19) The area where a registered primary caregiver stores, cultivates, processes, or transfers marijuana is not used by any other registered primary caregivers for any purpose.</p> <p>(20) There is no storage of toxic, flammable, or hazardous materials on the premises.</p> <p>(21) There is no discharge of toxic, flammable, or hazardous materials into city sewer system.</p> <p>(22) No one uses or consumes marijuana on the property.</p> <p>(23) The marijuana is not visible to the public, and the plant materials are disposed of in secured areas and containers not accessible by the public.</p> <p>(24) The owner of the property must conspicuously post all required valid City-issued licenses, and any State of Michigan permit or certification inside the premises.</p> <p>(25) Any violation of these provisions will result in revocation of the license and other legal remedies and penalties.</p> <p>(26) If the growth, cultivation, or processing of marijuana leads to an event causing damage or injury to property or persons, including but not limited to an explosion, fire, or release of harmful substances, or violation of a state or local law, code or regulation, the owner and tenants are each responsible for reimbursing any costs associated with the emergency response, property repair, remediation and medical expenses caused by the event, and/ or prosecution.</p> |
|--|--|

SECTION 6. All other parts of Section 17.02 shall remain in full effect and unchanged by this ordinance.

SECTION 7. This Ordinance shall take effect on May 4, 2016.

I HEREBY CERTIFY that the foregoing Ordinance No. 30-1020 was adopted by the Council of the City of Warren at its meeting held on April 12, 2016.

PAUL WOJNO
City Clerk

Published: May 4, 2016