CITY OF KALAMAZOO, MICHIGAN

ORDINANCE NO. 1997

AN ORDINANCE TO AMEND SECTION 4.2 OF THE CITY OF KALAMAZOO ZONING ORDINANCE ADDRESSING MEDICAL MARIHUANA FACILITIES STANDARDS

THE CITY OF KALAMAZOO ORDAINS:

Section 1. Section 4.2 AA., Use Specific Standards, of the City of Kalamazoo Zoning Ordinance, being Appendix A to the Kalamazoo City Code, addressing zoning regulations for medical marihuana facilities is amended to read as follows:

“AA. Marihuana Facilities:

1. Applicable Standards for Grower facilities:
   a) Except as permitted by State regulatory rules for Class C growers, only one Medical Marihuana Grower facility license is allowed per parcel or lot.
   b) Class C Grower facilities are only allowed in Zone M-2.
   c) All Grower facilities and operations must be within an enclosed building, except cultivation may occur in an outdoor area provided that the area is contiguous with the facility building, fully enclosed by fences or barriers that block outside visibility of the marijuana plants from public view, with no marijuana plants growing above the height of the fence or barrier, and the fence is secured and only accessible to authorize persons and emergency personnel.
   d) Licensees may occupy the same premises if holding separate Grower and Processor licenses for the premises.
   e) Any building or unit housing medical marihuana operations and any outdoor cultivation area shall be located at least five hundred (500) feet from a residential zone district.

2. Applicable Standards for Processor facilities:
   a) Only one Medical Marihuana Processor facility license permitted per parcel or lot
   b) All Processing operations must be conducted within an enclosed building
   c) Licensees may occupy the same premises if holding a separate Grower and Processor licenses for the premises.
   d) Any building or unit housing medical marihuana operations shall be located at least five hundred (500) feet from a residential zone district.

3. Applicable Standards for Secure Transporter facilities:
   a) Secure Transporter facilities located in Zone CC are limited to a gross floor area of less than 3,500 square feet.
   b) Secure Transporter facilities located in Zone CC are only permitted
warehousing activity as an accessory to the principal permitted Secure Transporter use.

c) Secure Transporter facilities located in Zone CC shall be located at least five hundred (500) feet from all other licensed marihuana facilities in any zoning district.

4. Applicable Standards for Safety Compliance facilities:
   a) Safety Compliance facilities located in Zone CC are limited to a gross floor area of less than 3,500 square feet.
   b) All testing must be conducted within an enclosed building.
   c) Safety Compliance facilities located in Zone CC shall be located at least five hundred (500) feet from all other licensed marihuana facilities in any zoning district.

5. Applicable Standards for Provisioning Centers:
   a) Only one Provisioning Center license is permitted per parcel or lot.
   b) All Provision Center activities must be conducted within an enclosed building.
   c) A Provisioning Center is not allowed within six hundred sixty (660) feet of the following designated nodes: The intersection of E. Cork St. and S. Burdick St., the intersection of E. Cork St. and Portage St., and the intersection of W. Ransom St. and N. Westnedge Ave.
   d) A separation distance of one thousand (1000) feet is required from any other Provisioning Center and five hundred (500) feet from any other licensed medical marijuana facilities in any zoning district.
   e) A Medical Cannabis Dispensary is subject to the same standards required of Provisioning Centers.
   f) A Provisioning Center is not permitted on the same property or parcel or within the same building where any of the following are located: a package liquor store, a convenience store that sells alcoholic beverages, or a fueling station that sells alcoholic beverages.
   g) The sale, consumption, or serving of food to visitors is prohibited on provisioning Center premises.

   a) The location criteria contained in this Section is applicable to any proposed change in the location of an existing marihuana facility.
   b) A licensee shall not operate a marihuana facility at any place in the City other than the address provided in the application on file with the City Clerk.
   c) A licensee shall operate the licensed facility in compliance with all applicable State and City regulations for that type of facility.
   d) A licensee shall not operate a marihuana facility within one thousand (1,000) feet of an existing:
      1) private or public preschool, elementary, secondary, vocational or trade school, college or university;
      2) park or playground;
      3) public library; or
4) housing facility owned by a public housing authority.

e) A licensee shall not operate a marihuana facility within five hundred (500) feet of an existing:
   1) licensed child care center,
   2) place of worship or religious assembly,
   3) public pool or recreation facility,
   4) public or private youth center, or
   5) juvenile or adult halfway house, correctional facility or substance abuse rehabilitation or treatment center.

f) The distances described in this Section shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in this Section above to the nearest portion of the building or unit in which the medical marihuana facility is located.

g) A licensee shall not operate a marihuana facility within the boundaries of any residential zoning district or in a residential unit.

h) The separation distances contained in this Section are applicable to marihuana facilities and protected uses located in adjacent governmental jurisdictions.

i) Except as otherwise provided by this Section, it is unlawful to operate a medical marihuana business outside of an enclosed building. All medical marihuana commercial entity licenses shall be issued for a specific fixed location within an enclosed building. A medical marihuana commercial entity license may be issued only if the business qualifies as a use permitted as a matter of right in the zoning district where it is proposed to be located.

j) The provisions of this Section shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marihuana facility were established without authorization before the effective date of this ordinance.

k) Any marihuana facility in operation that does not possess both a currently valid state operating license issued pursuant to the Medical Marijuana Facilities Licensing Act and a City permit to operate a medical marijuana facility, is deemed an unlawful public nuisance and shall cease operations. Noncompliance with this provision will subject the owner and/or operator of the facility to applicable criminal and civil sanctions brought by the City Attorney for violation of this provision.

l) Nothing in this ordinance shall be construed to "grandfather" or provide any legal, equitable, or property right to the owner or occupier of property on which a medical marihuana facility is operating, before a City operating license for such facility or business is issued, to continue such use.

m) No medical marihuana facility shall be located within 250 feet of the municipal boundary shared by the City of Kalamazoo with the Charter Township of Kalamazoo except where the adjoining property in the township is similarly zoned to zoning districts with the City that permit marihuana facilities."

Section 2. Repealer. All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are repealed.
**Section 3. Severability.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the remaining portions of this ordinance.

**Section 4. Effective Date.** Pursuant to Section 13(a) of the City Charter, this ordinance shall take effect from and after 10 days from the date of its adoption.

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**CERTIFICATE**

The foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Kalamazoo at a regular meeting held on September 16, 2019. Public notice was given and the meeting was conducted in full compliance with the Open Meetings Act, (PA 267, 1976, M.C.L. § 15.261 et. seq). Minutes of the meeting will be available as required by the Act, and the ordinance was duly recorded, posted and authenticated by the Mayor and City Clerk as required by the Charter of said City.

Bobby Hopewell, Mayor

Scott Borling, City Clerk