

Ordinance 262

AN ORDINANCE TO ADD A NEW SECTION TO CHAPTER 20 OF THE CITY OF WAYLAND ZONING ORDINANCE, TO REGULATE MARIJUANA BUSINESSES AS SPECIAL USES IN VARIOUS ZONING DISTRICTS AND TO PROVIDE PENALTIES FOR VIOLATIONS

WHEREAS, in November 2018 Michigan voters approved Proposal 1 which allowed for the sale and use of recreational marijuana; and

WHEREAS, Voters in the City of Wayland overwhelmingly supported the passage of Proposal 1; and

WHEREAS, The City of Wayland sees the benefits to supporting the creation of adult-use/recreational marijuana businesses in the City of Wayland; and

WHEREAS, the law and subsequent rules created by the State of Michigan allows municipalities to regulate the sales, growth, transporting, and processing of marijuana plants and products both via licensing regulations and by zoning regulations; and

WHEREAS, the City Planning Commission has reviewed the potential license types and determined appropriate land use regulations for each license type, and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAYLAND, MICHIGAN, WITH A MAJORITY OF ITS MEMBERS CONCURRING THAT:

Section 1. That a new section is added to the Wayland Zoning Ordinance

A. Definitions

- a. *Co-located marijuana business* means a marijuana business with 2 or more types of state operating licenses operating within a single location.
- b. *Adjacent property* means any property that borders said property or when separated by street or public right of way would be bordering the property by at least 50% of its frontage should separating street or right of way be removed.
- c. *Designated consumption establishment* means a business licensed as a designated consumption establishment under the MRTMA.
- d. *Excess marijuana grower* means a business licensed as an excess marijuana grower under the MRTMA.
- e. *Grower* means a business licensed as a grower under either the MRTMA.
- f. *LARA* means the department of licensing and regulatory affairs and any successor agency to the department.
- g. *Marijuana* means, depending on the context, the same thing as “marihuana” as defined the MRTMA.

- h. *Marijuana business* is a land use involving one or more licenses issued under the MRTMA.
- i. *Microbusiness* means a business licensed as a marijuana microbusiness under the MRTMA.
- j. *MRTMA* means the Michigan regulation and taxation of marihuana act, 2018 IL 1, as amended MCL 333.27951 *et seq.*
- k. *Processor* means a business licensed as a processor under either the MRTMA.
- l. *Retailer* means a business licensed as a retailer under the MRTMA.
- m. *Safety compliance business* means a business licensed as a safety compliance facility under the MRTMA.
- n. *Secure transporter* means a business licensed as a secured transporter under the MRTMA.
- o. *Stacked grower licenses* means two or more grower licenses issued to a single person under the MRTMA.
- p. *State operating license* or *license* means a license that is issued under the MRTMA or any rule promulgated by the State.
- q. *Temporary marijuana event* means an event where the onsite sale or consumption of marijuana products, or both, are authorized at the location indicated on a state operating license issued under the MRTMA during the specified dates.
- r. "Class A grower" means a grower of not more than 100 marihuana plants.
- s. "Class B grower" means a grower of not more than 500 marihuana plants.
- t. "Class C grower" means a grower of not more than 2,000 marihuana plants.

B. Regulations and Conditions: Marijuana businesses are permitted as special uses in the zoning districts as outlined below, **subject to the provisions of this Section and Section 20-127–Standards for Special Use:**

Facility Type	Permitted Zoning Districts
Growth (all sizes)	I-1 and I-2
Processing	I-1 and I-2
Safety Compliance/Testing	I-1 and I-2
Secure Transporter	I-1 and I-2
Retail/Dispensaries	CBD, B-1, B-2, B-3
Microbusiness	CBD, B-1, B-2, B-3

- a. All Marijuana businesses must comply with the MRTMA, and any applicable rules promulgated under State statute.
- b. Co-located marijuana businesses and stacked grower licenses may be permitted subject to the rules and regulations contained in this ordinance.
- c. No marijuana business may operate without first obtaining final authorization for each applicable state operating license from the City Manager as set forth in the City of Wayland Adult-Use Marijuana Licensing Ordinance.
- d. Marijuana businesses (including both the building and surrounding site) shall be sufficiently designed in a manner to minimize light spillage, odor, and noise (including noise associated with truck traffic or other machinery), affecting adjacent properties.
- e. Special Use Permit applicants must provide a plan for the storage and disposal of marijuana or chemicals associated with marijuana cultivation, so as to minimize the risk

of theft or harm resulting from chemical exposure. At no time should byproducts be deposited into the ground.

- f. No marijuana may be stored overnight outside of an enclosed building. By way of example and without limitation, it is unlawful to store marijuana overnight in an outdoor waste bin.
- g. No licensed facility shall be located immediately adjacent to any R-1 or R-2 Zoned property.
- h. The outdoor storage of trash or rubbish shall be appropriately screened.
- i. Signage for Marijuana businesses shall be approved with the general provisions set forth in Chapter 20 Section XIX of the City of Wayland Zoning code as well as the following additional regulations.
 - i. Permitted Signage
 - 1. Signage may indicate the licensee's business or trade name, stating the location, identifying the nature of the business (type of license) directional information, contact information, and business hours.
 - 2. Signage stating that possession and use of marijuana products must be done in accordance with applicable State Laws.
 - ii. Prohibited Signage
 - 1. Signage may not advertise with the word(s) marijuana, marijuana or cannabis, or any other word, phrase or symbol commonly understood to refer to marijuana.
 - 2. Signage may not use advertising that is misleading, deceptive, or false or that, as evidenced by the content of the advertising material or by the medium in which the advertising materials is disseminated is designed to appeal to minors.
 - 3. Use of images depicting an image or visual representation of usable marijuana, marijuana-infused products, or marijuana concentrates, or an image that indicates the presence of a product such as smoke.
 - 4. With the exception of directional signage there can be no indication of type of business on signage that is in a direct line of sight from the entrance/exit of any public or private school
 - a. "Directional Signage" shall include signage that indicates the hours of operation, entrance/exit, location of parking, designated delivery area, etc.
- j. The cultivation and processing of marijuana must be conducted in a manner that minimizes adverse impacts on the public sanitary sewer and natural environment. The applicant shall submit, for review and comment, all pertinent information relating to the applicant's proposed sewer discharges to the City sanitary sewer and any other proposed methods of byproduct disposal or reuse.
- k. Marijuana businesses must control and eliminate odor as follows:

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- i. The building must be equipped with an activated air scrubbing and carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter and air scrubbing system.
 - ii. The filtration system must consist of one or more fans, activated carbon filters and be capable of scrubbing the air prior to leaving any building. At a minimum, the fan(s) must 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 air scrubbing and filtration system must be maintained in working order and must be in use at all times. The filters must be changed per manufacturers' recommendation to ensure optimal performance.
 - iv. Negative air pressure must be maintained inside the building.
 - v. Doors and windows must remain closed, except for the minimum time length needed to allow people to enter or exit the building.
 - vi. An alternative odor control system is permitted if the special use applicant submits a report by a mechanical engineer licensed in the state of Michigan sufficiently demonstrating that the alternative system will eliminate odor as well or better than the air scrubbing and carbon filtration system otherwise required.
- l. For growers and excess growers
- i. Cultivation must occur within an enclosed building with exterior facades (not including windows) consisting of opaque materials typical of an industrial or commercial building. Windows shall be arranged in such a way that marijuana plants are not visible from the exterior of the building.
 - ii. The roof of the building may be constructed of a rigid transparent or translucent material designed to let in light, such as glass or rigid polycarbonate or fiberglass panels. Films or other non-rigid materials cannot be used to construct any component of the building's exterior structure.
- m. For provisioning centers, retailers, and microbusinesses
- i. Provisioning centers, retailers, and microbusinesses may not be open to customers between the hours of 11:00 p.m. and 8:00 a.m.
 - ii. Provisioning centers, retailers, and microbusinesses may not receive deliveries between the hours of 12:00 a.m. and 6:00 a.m.
 - iii. The exterior appearance of a provisioning center, retailer, or microbusiness must be compatible with surrounding businesses with respect to façade type, ground floor opacity, size and placement of signage, site layout, etc.
 - iv. The interior of the building must be arranged in a way such that neither marijuana, marijuana-infused products, nor paraphernalia are visible from the exterior of the building.
- n. Prohibited Locations
- i. The lot on which any marijuana licensed facility is located must be at least 200 feet from a lot that, as of the date of the applicant's special use application, contains:
 - 1. A public or private school providing education in kindergarten or any grade 1 through 12

- 2. A facility owned by Wayland Union Schools that is used (or planned for use) to provide childcare or educational services to children under 12 years of age.
- ii. The 200-foot buffer shall be computed by measuring a straight line from the nearest property line on the lot used as described in subsections (1) and (2) above to the nearest property line of the lot used by a marijuana licensing facility. This buffering requirement modifies and supersedes the default requirements in Section 9 of the MRTMA.

o. Violations

- i. Any violations of this ordinance shall be subject to the enforcement and penalties as set forth in 20.804 of the City of Wayland Zoning Ordinance.
- ii. If at any time an authorized marijuana business violates this section, any condition imposed through a special use permit, or any other applicable city ordinance, the City Council may request that LARA revoke or refrain from renewing the business's state operating license. Additionally, the special use permit may be revoked pursuant to the generally applicable process provided in this zoning ordinance.

At a regularly scheduled meeting of the Wayland City Council, Allegan County, Michigan, held on _____ in Wayland City Hall located at 103 South Main Street, Wayland, Michigan this Ordinance was offered for adoption by _____ and seconded by _____.

Yeas:

Nays:

Mayor Timothy Bala

City Clerk, LeeAnn Clausen