

ORDINANCE NO. 1217

CITY OF FERNDALE
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND ARTICLE VIII, USE REGULATIONS, SECTION 24-165 TO THE ZONING ORDINANCE NO. 1087, OF THE FERNDALE CODE OF ORDINANCES.

THE CITY OF FERNDALE ORDAINS:

Part I.

The City of Ferndale Zoning Ordinance, being Ordinance No. 1087, Section 24-165 is amended as follows:

Sec. 24-165. Medical Marihuana Facility, Provisioning Center and Safety Compliance Facility.

(A) Applicability and Enabling Provision.

(1) Pursuant to Section 205(1) of the Medical Marihuana Facilities Act, Act 281 of 2016, as amended, the city shall authorize the following types of marihuana facilities.

(2) The city shall limit the number of facilities authorized under this ordinance for each category of marihuana facilities and may revise those categories and limits, by ordinance amendment, from time to time:

- a. Growers – the city shall not authorize any growers within the city.
- b. Processors – the city shall not authorize any processors within the city.
- c. Provisioning Centers – the city shall authorize not more than three (3) provisioning center within the city.
- d. Secure Transporters – the city shall not authorize any secure transporters within the city.
- e. Safety Compliance Facility – the city shall authorize not more than one (1) safety compliance facility within the city.

(3) No person or entity that was open or operating any facility purporting to grow, produce, manufacture, test, sell, transfer or transport medical marihuana or marihuana prior to the adoption of this ordinance shall be considered a lawful use or lawful nonconforming use to conduct activity as a provisioning center or safety compliance facility under this ordinance.

(4) This ordinance does not apply to, or regulate, any protected patient or caregiver conduct pursuant to Initiated Law 1 of 2008.

(B) A medical marihuana facility shall be subject to the following requirements:

(1) Primary caregivers and/or qualified patients at the medical marihuana facility must be legally registered by the Michigan Department of Community Health (MDCH) to assist qualified patients with the medical use of marihuana in accordance with the Michigan Medical Marihuana Act, as amended.

(2) A medical marihuana facility shall not be allowed within 500 feet of an educational institution, nursery school, or child care center, or another medical marihuana facility provisioning center or safety compliance facility.

(3) A medical marihuana facility shall be available for reasonable inspection, during business hours, by the city code enforcement official or police to confirm the medical marihuana facility is operating in accordance with all applicable laws, including state law and city ordinances.

(4) The facility shall open no earlier than 9:00 a.m. and close no later than 9:00 p.m. Monday through Sunday.

(5) A medical marihuana facility shall not be permitted to have drive-thru facilities.

(6) No use of medical marihuana shall be permitted at a medical marihuana facility.

(7) No patients shall be allowed in a medical marihuana facility after hours.

(8) The parking requirements for a medical marihuana facility shall be consistent with the parking requirements for medical clinics and not subject to any parking waiver under the zoning ordinance.

(9) A security plan and floor plan shall be submitted with applications for a medical marihuana facility. The medical marihuana facility shall identify the chemical storage, space and other critical aspects of the layout. The security and floor plan shall be a confidential document by the city exempt from disclosure under the Freedom of Information Act.

(10) A waste disposal plan shall be included with all applications for a medical marihuana facility detailing plans for any chemical, water and/or plant waste disposal.

(C) A provisioning center and safety compliance facility, in accordance with the provisions of state law, shall be subject to the following requirements:

(1) Prior to opening, a provisioning center or safety compliance facility must be licensed by the State of Michigan as required by the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, being MCL 333.27101 et seq. and then must be at all times

in compliance with the laws of the State of Michigan, including but not limited to the Michigan Medical Marihuana Act, MCL 333.26421 et seq., and the Marihuana Tracking Act, Act 282 of 2016, being MCL 333.27901 et seq. and all other applicable rules promulgated by the State of Michigan.

(2) The provisioning center or safety compliance facility must be at all times be in compliance with all applicable laws, ordinances and regulations of the city.

(3) The provisioning center or safety compliance facility shall be subject to inspection at any time by the police department or the department of state police consistent with state law.

(4) A provisioning center or safety compliance facility shall be available for inspection, during business hours, by the city manager or the city manager's designee, code enforcement official, and police to determine whether the provisioning center or safety compliance facility are operating in accordance with all applicable laws, including state law and city ordinances.

(5) A provisioning center or safety compliance facility shall not be allowed within 500 feet of an educational institution, nursery school, or child care center, or another provisioning center or safety compliance facility or medical marihuana facility.

(6) A provisioning center or safety compliance facility shall open no earlier than 9:00 a.m. and close no later than 9:00 p.m. Monday through Sunday.

(7) No use of medical marihuana shall be permitted at a provisioning center or safety compliance facility.

(8) Marihuana products shall not be smoked, ingested, or otherwise used in the building space or on the subject property occupied by a provisioning center or safety compliance facility.

(9) No patients shall be allowed in a provisioning center or safety compliance facility after hours.

(10) The parking requirements for a provisioning center or safety compliance facility shall be consistent with the parking requirements for medical clinics and not subject to any parking waiver under the zoning ordinance.

(11) A security plan and floor plan shall be submitted with applications for a provisioning center or safety compliance facility. The provisioning center or safety compliance facility shall identify the chemical storage, space and other critical aspects of the layout. The security and floor plan shall be a confidential document by the city exempt from disclosure under the Freedom of Information Act.

(12) A waste disposal plan shall be included with all applications for a provisioning center or safety compliance facility detailing plans for any chemical, water and/or plant waste disposal in compliance with state and local laws and regulations.

(13) If only a portion of a building is being used by a provisioning center or safety compliance facility the remainder of the building shall not be accessible or have an entrance or entry way into the provisioning center or safety compliance facility.

(14) A maximum floor area of 5,000 square feet of retail usable floor space for merchandise and service area open to the public may be used by a provisioning center on the subject property. A provisioning center may have not more than an additional 5,000 square feet of space that shall not be open to the public, for storage and other administrative uses necessary for the provisioning center.

(15) The provisioning center or safety compliance facility 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.

a. 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.

b. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress and egress the provisioning center or safety compliance facility.

c. An alternative odor control system may be proposed if the applicant submits a report certified 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 city may allow the alternative odor control system if it determines it will control odor as well as the activated carbon filtration system.

(16) Security cameras shall be required for ingress/egress to the provisioning center or safety compliance facility to record the subject property and shall also have cameras showing any point of sales.

(17) All activities of a provisioning center, including all transfers of marihuana, shall be conducted within the building and out of public view. A provisioning center shall not have a walk-up window or drive-thru window service.

(18) The exterior appearance of the building shall remain compatible with the exterior appearance of buildings or structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.

(19) Upon request, the city shall provide the following to the State of Michigan's Medical Marihuana Licensing Board:

- a. A copy of this ordinance;
- b. A copy of any additional ordinances that apply to the medical marihuana regulation in the city;

(20) Licensed medical marihuana patients or caregivers authorized by the State of Michigan under Initiated Law 1 of 2008 shall not be required to receive special use approval to conduct legal activities, within the limits established under the Michigan Medical Marihuana Act, in any zoning district, but must comply with all applicable city ordinances, including those governing odor, and all applicable State laws.

(21) The limits established in Sec. 24-165 (A)(2) of this ordinance regarding types and number of particular categories of marihuana facilities allowed shall be evaluated by the city manager or city manager's designee with a report and recommendation to Council regarding the types and limits of marihuana facilities allowed under Sec. 24-165 (A)(2) within six (6) months after the opening and operation of a marihuana facility authorized under Sec. 24-165 (A)(2).

Part II. Savings Clause.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law enforced when they are commenced.

Part III. Severability.

The various parts, sections and clauses of this ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.

Part IV. Repeal.

All regulatory provisions contained in other city ordinances which are inconsistent with the provisions of this ordinance, are repealed.

Part V. Effective Date; Publication.

This ordinance shall become effective seven (7) days after publication.

MADE, PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FERNDAL, OAKLAND COUNTY, MICHIGAN, THIS 14th DAY OF MAY, 2018.

DAVID COULTER, MAYOR

MARNE MCGRATH, CITY CLERK

Date of Adoption: 05/14/18

Date of Publication: 05/18/18

CERTIFICATE OF ADOPTION

I certify that the foregoing is a true and complete copy of the Ordinance passed at a meeting of the Ferndale City Council held on the 14th day of May, 2018.

MARNE MCGRATH, CITY CLERK

CITY OF FERNDALE
NOTICE OF ADOPTION
ORDINANCE 1217

The City of Ferndale has adopted Ordinance No. 1217 amending Section 24-165 to the Ferndale Zoning Ordinance, Ordinance No. 1087. This Ordinance shall become effective seven (7) days after publication. A true copy of the ordinance may be inspected or obtained at the office of the City Clerk.

MARNE MCGRATH, CITY CLERK