

**CITY OF ALLEGAN
ALLEGAN COUNTY, MICHIGAN**

ORDINANCE NO. 484

**AN ORDINANCE TO ADD A NEW SECTION 1707.33 TO ARTICLE XVII OF
THE ALLEGAN CITY ZONING ORDINANCE, AND TO AMEND THE USE
TABLE IN SECTION 402.01, TO REGULATE MARIJUANA BUSINESSES AS
SPECIAL USES IN VARIOUS ZONING DISTRICTS AND TO PROVIDE
PENALTIES FOR VIOLATIONS**

The City of Allegan Ordains:

Section 1. Addition. A new Section 1707.33 is added to Article XVII of the Allegan City Zoning Ordinance to read as follows:

Sec. 1707.33. Marijuana Businesses.

A. *Definitions*. The following words and phrases have the meanings ascribed to them below when used in this section unless the context clearly indicates otherwise:

1. *Co-located marijuana business* means a marijuana business with 2 or more types of state operating licenses operating within a single location.
2. *Designated consumption establishment* means a business licensed as a designated consumption establishment under the MRTMA.
3. *Excess marijuana grower* means a business licensed as an excess marijuana grower under the MRTMA.
4. *Grower* means a business licensed as a grower under either the MMMFLA, the MRTMA, or both.
5. *LARA* means the department of licensing and regulatory affairs and any successor agency to the department.
6. *Marijuana* means, depending on the context, the same thing as “marihuana” as defined in the MMMFLA, the MRTMA, or both.
7. *Marijuana business* is a land use involving one or more licenses issued under the MMMFLA, the MRTMA, or both.
8. *Microbusiness* means a business licensed as a marijuana microbusiness under the MRTMA.
9. *MMMA* means the Michigan medical marihuana act, 2008 IL 1, as amended MCL 333.26424 *et seq.*
10. *MMMFLA* means the Michigan medical marihuana facilities licensing act, 2016 PA 281, as amended, MCL 333.27102 *et seq.*
11. *MRTMA* means the Michigan regulation and taxation of marihuana act, 2018 IL 1, as amended MCL 333.27951 *et seq.*
12. *Public or private school* means a “public school,” “public school academy,” or “nonpublic school,” other than a home school, as those terms are used in the Michigan Revised School Code, 1976 PA 451, as amended, MCL 380.1. The term “home school” means a program in which a child is being educated: (a) in his or her home; or (b) in another private facility if such education is provided primarily by his or her parent or legal guardian.

13. *Processor* means a business licensed as a processor under either the MMMFLA, the MRTMA, or both.
 14. *Provisioning center* means a business licensed as a provisioning center under the MMMFLA. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through LARA's marijuana registration process in accordance with the MMMA is not a provisioning center for purposes of this section.
 15. *Retailer* means a business licensed as a retailer under the MRTMA.
 16. *Safety compliance business* means a business licensed as a safety compliance facility under the MMMFLA, the MRTMA, or both.
 17. *Secure transporter* means a business licensed as a secured transporter under the MMMFLA, the MRTMA, or both.
 18. *Stacked grower licenses* means two or more grower licenses issued to a single person under the MMMFLA or MRTMA.
 19. *State operating license or license* means a license that is issued under the MMMFLA or MRTMA or any rule promulgated pursuant to either statute.
 20. *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.
- B. *Regulations and Conditions.* Marijuana businesses are permitted as special uses in the zoning districts indicated in the Table of Uses in Section 402.01, subject to the following regulations and conditions:
1. Marijuana businesses must comply with the MMMFLA, the MRTMA, and any applicable rules promulgated under either statute.
 2. Co-located marijuana businesses and stacked grower licenses may be permitted, subject to the regulations in this section, the Table of Uses in Section 402.01, and any applicable rules promulgated by LARA.
 3. No marijuana business may operate without first obtaining final authorization for each state operating license from the city clerk pursuant to Chapter 31 of the City Code.
 4. 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.
 5. Special use 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.
 6. 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.
 7. The outdoor storage of trash or rubbish shall be appropriately screened.
 8. Signage for marijuana businesses will be approved pursuant to the generally applicable procedures and standards provided in Chapter 23 of the City Code, with the following additional restrictions:
 - a. A marijuana business may display no more than two separate signs. Flyers, window decals, or other objects visible from and facing toward the exterior of the building are considered signs for purposes of this section.

- b. Signs must be affixed to the building on the premises and are subject to the dimensional regulations for the underlying zoning district.
 - c. Signage text shall be limited to identifying the licensee’s business or trade name, stating the location of the business, and identifying the nature of the business. For purposes of this section:
 - i. Stating the location of the business may include information such as the physical address or location, directional information, website address, email address, or phone number of the licensed business.
 - ii. Identifying the nature of the business may include information related to the operation of the business, what the business is engaged in, or the goods the business offers for sale.
 - d. Signs shall not contain depictions of marijuana plants or marijuana products. For purposes of this section:
 - i. A depiction of a marijuana plant means an image of visual representation of a cannabis leaf, plant, or the likeness thereof that suggests or represents a cannabis leaf or plant.
 - ii. A depiction of a marijuana product means an image or visual representation of useable marijuana, marijuana-infused products, or marijuana concentrates, or an image that indicates the presence of a product, such as smoke, etc.
 - e. Signs shall not contain images or text designed to appeal to persons under legal age to consume marijuana. By way of example but not of limitation, signs shall not include cartoon characters, images of youthful persons, or slang terminology for marijuana that may be designed to appeal to minors (e.g., “weed” or “kush”).
9. 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.
10. Marijuana businesses must control and eliminate odor as follows:
- a. 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.
 - b. 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.
 - c. 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.
 - d. Negative air pressure must be maintained inside the building.
 - e. Doors and windows must remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
 - f. 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.

11. For growers and excess growers:

- a. 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.
- b. 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.

12. For provisioning centers, retailers, and microbusinesses:

- a. Provisioning centers, retailers, and microbusinesses may not be open to customers between the hours of 9:00 p.m. and 9:00 a.m.
- b. Provisioning centers, retailers, and microbusinesses may not receive deliveries between the hours of 8:00 p.m. and 7:00 a.m.
- c. 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.
- d. 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.
- e. The lot on which a provisioning center, retailer, or microbusiness is located must be at least 1,000 feet from a lot that, as of the date of the applicant's special use application, contains:
 - i. A public or private school providing education in kindergarten or any grade 1 through 12; or
 - ii. A facility owned by Allegan Public Schools that is used (or planned for use) to provide childcare or educational services to children under 12 years of age.

The 1,000-foot buffer shall be computed by measuring a straight line from the nearest property line on the lot used as described in subsections (i) and (ii) above to the nearest property line of the lot used as a provisioning center, retailer, or microbusiness. This buffering requirement modifies and supersedes the default requirements in Section 9 of the MRTMA.

- f. The lot on which a provisioning center, retailer, or microbusiness is located must be at least 1,000 feet from another lot that contains any of those three business types. If at any given time the City has two pending applications that, if granted, would result in a violation of this subsection, the priority of those applications shall be determined as provided in Chapter 31 of the City Code.

C. *Prohibited business types.* Temporary marijuana events and designated consumption establishments are prohibited in the City.

D. *Penalties.* Notwithstanding any other provision to the contrary, penalties for violations of this section shall be as follows:

1. 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.
2. It is unlawful to disobey, neglect, or refuse to comply with any provision of this section or any condition of a special use permit issued pursuant to this section. A violation is a municipal civil infraction subject to a fine of \$500.
3. The foregoing sanctions are in addition to the city’s right to seek other appropriate and proper remedies, including actions in law or equity.

Section 2. Addition. The Table of Uses in Section 402.01 of the Allegan City Zoning Ordinance is amended to add the following use regulations for marijuana businesses:

	P = Permitted by Right S – Special Use * - See standards in Article XVII	R-1 Single Family Residential District – Low Density	R-2 Single Family Residential District – Med Density	R-3 Multiple Family Dwelling District	R-4 Mobile Home Residential District	PGL Public/Governmental Lands District	C-1 Central Business District	C-2 General Commercial District	C-3 Restricted Commercial District	M-1 Manufacturing District
*	Marijuana Growers, Excess Growers, Processors, Secure Transporters, or Safety Compliance Facilities (Medical and Adult Use)									S
*	Marijuana Provisioning Center (Medical)						S	S		
*	Marijuana Retailer (Adult Use)						S	S		
*	Marijuana Microbusiness (Adult Use)						S	S		S

Section 3. Effective Date. This ordinance shall become effective 20 days after its adoption or upon its publication, whichever occurs later.

YEAS: Council members; Bird, Mayor Pro Tem Andrus, Mayor Perrigo, Redding and McKenzie

NAYS: Council members; Hanse, Galloway

ABSTAIN:

ABSENT:

CERTIFICATION

As the duly appointed city clerk of the City of Allegan, Allegan County, Michigan, I certify this is a true and complete copy of an ordinance adopted by the Allegan City Council at its meeting of Monday, March 9, 2020

Traci Perrigo

Traci Perrigo, Mayor

Christopher Tapper

Christopher Tapper, City Clerk