

**CITY OF ALLEGAN  
ALLEGAN COUNTY, MICHIGAN**

**ORDINANCE NO. 485**

**AN ORDINANCE TO AMEND CHAPTER 31 OF THE ALLEGAN CITY CODE  
TO ALLOW MARIJUANA BUSINESSES OPERATED IN ACCORDANCE WITH  
STATE LAW AND THE CITY'S ZONING ORDINANCE**

The City of Allegan ordains:

Section 1. Amendment. Chapter 31 of the Allegan City Code of Ordinances is hereby amended to read as follows:

**Chapter 31 - Marijuana Businesses  
Division 1 - General**

**Sec. 31-1. Definitions.**

The following words and phrases have the meanings ascribed to them when used in this chapter:

- (a) *Co-located business* means a marijuana business with 2 or more types of state operating licenses operating within a single location.
- (b) *Designated consumption establishment* means a business licensed as a designated consumption facility under the MRTMA.
- (c) *Excess marijuana grower* means a business licensed as an excess marijuana grower under the MRTMA.
- (d) *Grower* means a business licensed as a grower under either the MMMFLA, the MRTMA, or both.
- (e) *LARA* means the department of licensing and regulatory affairs and any successor agency to the department.
- (f) *Location-specific step* means the portion of the application for a state operating license under the MMMFLA and the MRTMA that follows the prequalification step and pertains to the details of the proposed location.
- (g) *Marijuana* means, depending on the context, the same thing as “marihuana” as defined in the MMMFLA, the MRTMA, or both.
- (h) *Marijuana business* or *business* is a business involving one or more licenses issued under the MMMFLA, the MRTMA, or both.
- (i) *Microbusiness* means a business a business licensed as a marijuana microbusiness under the MRTMA.
- (j) *MMMA* means the Michigan medical marihuana act, 2008 IL 1, as amended MCL 333.26424 *et seq.*
- (k) *MMMFLA* means the Michigan medical marihuana facilities licensing act, 2016 PA 281, as amended, MCL 333.27102 *et seq.*
- (l) *MRTMA* means the Michigan regulation and taxation of marihuana act, 2018 IL 1, as amended MCL 333.27951 *et seq.*
- (m) *Prequalification step* means the portion of the application for a state operating license under the MMMFLA or MRTMA pertaining to the applicant’s financial background and the criminal history of the applicant and other associated persons.

- (n) *Processor* means a business licensed as a processor under either the MMMFLA, the MRTMA, or both.
- (o) *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.
- (p) *Retailer* means a person licensed under the MRTMA to obtain marijuana from marijuana establishments and to sell or otherwise transfer marijuana to marijuana establishments and to individuals who are 21 years of age or older.
- (q) *Safety compliance business* means a person licensed as a safety compliance facility under the MMMFLA, the MRTMA, or both.
- (r) *Secure transporter* means a person licensed as a secured transporter under the MMMFLA, the MRTMA, or both.
- (s) *Stacked grower licenses* means two or more grower licenses issued to a single person to *under the MMMFLA or MRTMA*.
- (t) *State operating license or license* means a license that is issued under the MMMFLA or MRTMA to operate as a grower, processor, secure transporter, provisioning center, retailer, safety compliance facility, or microbusiness.
- (u) *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.

## **Division 2 - Permanent Business Types**

### **Sec. 31-2. Authorization Required.**

- (a) The following marijuana businesses may be authorized to operate in the City of Allegan pursuant to this division: growers, excess growers, microbusinesses, processors, provisioning centers, retailers, safety compliance facilities, and secure transporters. Designated consumption facilities are prohibited in the City.
- (b) No business listed in subsection (a) may operate in the City of Allegan without a final authorization granted by the City Clerk pursuant to Section 31-3. A proposed business is not eligible for a state operating license until the clerk grants final authorization.

### **Sec. 31-3. Application Process.**

- (a) *Submission.* A person may apply for authorization to operate a marijuana business listed subsection (a) within the City by submitting the following items to the City on a standardized application form prepared by the City Clerk. These items may be submitted to the Clerk before applying for requisite zoning approvals:
  - (1) A copy of official paperwork issued by LARA indicating that the applicant has successfully completed the prequalification step of the application for a state operating license.
  - (2) A signed statement from the applicant indicating:
    - (A) The current property owner of record for the proposed business location;
    - (B) If the current property owner is different than the applicant (e.g. where the applicant has a lease, option, land contract, or other future interest in the property), the property owner's signature is required in addition to the applicant's. Only one application shall be submitted per property. Co-located businesses may be requested on a single application;
    - (C) The address, tax identification number, and zoning designation of the proposed business

location;

- (D) The type or types of state operating licenses that the applicant is seeking at the proposed business location (*e.g.*, medical grower, adult-use grower, provisioning center, etc.); and
  - (E) If the proposed business involves stacked grower licenses, the number of licenses sought; and
- (3) An advance of the annual administrative fee established in Section 31-5(d).
- (b) *Initial receipt period set by resolution.* For provisioning centers, retailers, and microbusinesses, the City shall establish, by resolution, an initial application receipt period at least 1 month in length.
- (c) *Clerk action upon receipt.* The city clerk will accept and receive any application that includes the required items listed above, unless the city has already received an application for the same location (other than an application for a proposed co-located business) from another applicant. Upon receiving a complete application, the clerk will time- and date-stamp the application and inform the applicant of the date, time, and location of any drawing that may be conducted pursuant to subsections (d) and (e).
- (d) *Conditional authorization.* The city clerk will conditionally authorize applications as follows:
- (1) If, after close of business on the end date of the initial receipt period, the City has received complete applications for 2 or more locations proposed as provisioning centers, retailers, or microbusinesses such that, if all were granted, there would be a violation of the 1,000-foot separation requirement in Section 1707.33 of the zoning ordinance, the clerk will conduct a drawing or drawings to randomly select one or more of those applications for conditional authorization. The drawings shall be conducted in accordance with subsection (e) below.
  - (2) After the initial receipt period is over, the clerk will continue to accept complete applications for provisioning centers, retailers, or microbusinesses and will conditionally authorize such applications if the proposed location is not within 1,000 feet of the location proposed in an application that has already been conditionally authorized.
  - (3) For any business type other than provisioning centers, retailers, or microbusinesses, the clerk will conditionally authorize complete applications upon receipt.
- (e) *Drawing procedure.* The drawings described in subsection (d)(1) will be noticed and conducted as a public meeting. The first drawing shall include all applications with proposed locations that are within 1,000 feet of a location proposed in another application, and will randomly select one of all such applications for conditional authorization. Any application with a proposed location within 1,000 feet of the location proposed in the selected application will then be eliminated from contention. If there are any applications remaining in contention following this elimination procedure, an additional drawing will then be conducted. This process will continue until there are no remaining applications in contention. For purposes of the drawing, proposed co-located businesses shall be given a single entry in each drawing.
- (f) *Final authorization.* The Clerk will grant final authorization for the business if the conditionally authorized applicant:
- (1) Obtains all required zoning approvals for the business within 12 months of receiving conditional authorization; and
  - (2) Obtains the requisite state operating license within 18 months of receiving conditional authorization.
- (g) *Expiration of conditional authorization.* If the applicant for a conditionally authorized business fails to satisfy any of the deadlines established above, the conditional authorization will expire.

**Sec. 31-4. Relocation of Businesses, Transfers of Licenses, and Expansion of Grow Operations.**

- (a) An existing business may be moved to a new location in the City, subject to applicable zoning regulations and required approvals by LARA.
- (b) A license for an existing business may be transferred to a new licensee that intends to continue operating at the same location, subject to approval by LARA.
- (c) No further City approvals are required for the relocations and license transfers described in this section.
- (d) A licensee may expand growing operations by upgrading the class of the license (e.g., from class A to class B, or from class B to Class C, or from Class C to excess grower), or by obtaining a stacked license. To do so, the licensee must submit a new application to the City satisfying the requirements in Section 31-3(a), which shall include payment of any additional annual administrative fee that will be owed due to the addition of stacked licenses. The application shall be conditionally approved upon receipt of all required materials.

### **Sec. 31-5. General Regulations**

- (a) *Submission of supplementary information to the City.* Applicants who have received conditional authorization and licensees operating in the City must provide the Clerk with copies of all documents submitted to LARA in connection with the license application, subsequent renewal applications, or investigations conducted by LARA. The documents must be provided to the Clerk within 7 days of submission to LARA, and may be submitted by electronic media unless otherwise requested by the Clerk.
- (b) *Compliance with applicable laws and regulations.* Marijuana businesses must be operated in compliance with the MMMFLA and/or MRTMA, as applicable, all applicable rules promulgated by LARA, all conditions of the business's state operating licenses, and all applicable ordinances and codes, including the City's zoning ordinance. Compliance with the foregoing does not create immunity from prosecution by federal authorities or other authorities of competent jurisdiction.
- (c) *No consumption on premises.* No smoking, inhalation, or other consumption of marijuana shall take place on or within the premises of any marijuana business approved under this division, except for designated marijuana consumption establishments. It shall be a violation of this chapter to engage in such behavior, or for a person to knowingly allow such behavior to occur. Evidence of all of the following gives rise to a rebuttable presumption that a person allowed the consumption of marijuana on or within a premises is in violation of this section:
  - (1) The person had control over the premises or the portion of the premises where the marijuana was consumed;
  - (2) The person knew or reasonably should have known that the marijuana was consumed; and
  - (3) The person failed to take corrective action.
- (d) *Annual fee.* A licensee must pay a fee an annual fee, set by resolution of the City Council, for each license used within the City in order to help defray administrative and enforcement costs. The initial annual fee(s) must be paid to the Clerk when the application for approval is submitted. In each subsequent year, fees are due on the date on which the licensee submits an application to LARA for renewal of the state operating license.

### **Sec. 31-6. Violations and penalties.**

- (a) *Request for revocation of state operating license.* If at any time an authorized business violates this chapter or any other applicable ordinance, the City may request that LARA revoke or refrain from renewing the business's state operating license.
- (b) *Civil infraction.* It is unlawful to disobey, neglect, or refuse to comply with any provision of this chapter. A violation of this chapter is a municipal civil infraction and a nuisance per se. Each day

the violation continues shall be a separate offense. Notwithstanding any other provision of this ordinance to the contrary, violators shall be subject to a fine of up to \$500.

(c) *Other remedies.* The foregoing sanctions are in addition to the City's right to seek other appropriate and proper remedies, including actions in law or equity.

### **Division 3 - Temporary Marijuana Events**

#### **Sec. 31-10. Temporary marijuana events prohibited.**

Temporary marijuana events are prohibited in the City.

Section 2. Publication and Effective Date. The City Clerk shall cause this ordinance to be published in a newspaper of general circulation in the City, and the ordinance shall be effective 20 days after enactment or upon publication, whichever is later.

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

NAYS: Council member Hanse, Galloway

ABSTAIN:

ABSENT:

### **CERTIFICATION**

This is a true and complete copy of Ordinance No. 485 adopted at a regular meeting of the Allegan City Council held on Monday, March 9, 2020.

*Traci Perrigo*

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Traci Perrigo, Mayor

*Christopher Tapper*

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Christopher Tapper, Clerk