

Introduced: July 18, 2022
Adopted:
Effective:

CITY OF CHARLOTTE
ORDINANCE NO. 2022-03

AN ORDINANCE TO AMEND CHAPTER 15 –
BUSINESSES –OF THE CODE OF THE
CITY OF CHARLOTTE BY AMENDING ARTICLE IV MARIHUANA
ESTABLISHMENTS, TO ADD SECTION 15-76 MEDICAL MARIHUANA
CAREGIVER REGULATIONS.

Councilmember _____ moved that the following ordinance be referred to Planning Commission for public hearing and recommendation and then passed to a second reading:

THE CITY OF CHARLOTTE ORDAINS:

SECTION 1. ADD SECTION 15-76 MEDICAL MARIHUANA CAREGIVER REGULATIONS. Chapter 15, Article IV, Section 15-76 Medical Marihuana Caregiver Regulations shall hereby be added as follows.

§15-76 Medical marihuana caregiver regulations.

1) Intent. It is the intent of this section to give effect to the intent of the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq. (hereinafter “Act”) as approved by the electors. These provisions are designed to recognize the fundamental intent of the Act to allow the creation and maintenance of a private and confidential patient-caregiver relationship to facilitate the statutory authorization for the limited cultivation, storage, distribution and use of marihuana for medical purposes; and to regulate this fundamental intent in a manner that does not conflict with the Act. By permitting the operations of registered primary caregivers as a home occupation, rather than in a commercial setting, this promotes the Act’s purpose of ensuring that a registered primary caregiver is not assisting more than the five qualifying patients permitted in the Act with their medical use of marihuana, and a registered primary caregiver does not unlawfully expand its operations beyond five qualified patients, so as to become an illegal commercial operation in the nature of a marihuana collective, cooperative, or dispensary.

2) Remainder of article; effect of permit approval. In recognition of the unique nature of the medical marihuana caregiver as a home occupation provided for hereunder, the conditions and requirements set forth in Chapter 82, Section 82-107 for home occupations shall not be applicable to medical marihuana home occupations.

3) Regulations. The following standards and requirements shall apply to the location at which the medical use of marihuana is conducted by a primary caregiver.

- a. The medical use of marihuana shall comply at all times with the MMMA and the MMMA General Rules, as amended.
- b. A registered primary caregiver shall not possess marihuana, or otherwise engage in the medical use of marihuana, in a school bus, on the grounds of any preschool or primary or secondary school, or in any correctional facility.
- c. Not more than two registered primary caregivers, who shall also be full-time residents of the dwelling, shall be permitted to operate at any one property.
- d. The medical use of marihuana shall be conducted entirely within a dwelling or attached garage, except that a registered primary caregiver may keep and cultivate, in an "enclosed, locked facility" (as that phrase is defined by the MMMA), up to 12 marihuana plants for each registered qualifying patient with whom the registered primary caregiver is connected through the registration process established by the Department of Licensing and Regulatory Affairs, and up to 12 additional marihuana plants for personal use, if the primary caregiver is also registered as a qualifying patient under the MMMA.
- e. A sign identifying the home occupation by word, image or otherwise, or indicating that the medical use of marihuana is taking place on the premises, shall not be permitted; nor shall any vehicle having such a sign be parked anywhere on the premises.
- f. Except for lighting, heating, watering, drying or other equipment, or fertilizers, herbicides or other chemicals directly related to the medical use of marihuana, no other materials or equipment not generally associated with normal ownership, use, and maintenance of a dwelling shall be permitted.
- g. Distribution of marihuana or use of items in the administration of marihuana shall not occur at or on the premises of the primary caregiver. A qualifying patient shall not visit, come to, or be present at the residence of the primary caregiver to purchase, smoke, consume, obtain or receive possession of any marihuana.
- h. Except for the primary caregiver, no other person shall deliver marihuana to the qualifying patient.
- i. No one under the age of 18 years shall have access to medical marihuana.
- j. No on-site consumption or smoking of marihuana shall be permitted within the dwelling (or on the property) of a primary caregiver, except for lawful medical marihuana consumption by the primary caregiver if registered as a qualifying patient under the MMMA.
- k. Medical marihuana shall not be grown, processed, handled or possessed at the dwelling of the primary caregiver beyond that which is permitted by law.

l. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of a building or structure in which equipment and devices that support the cultivation, growing or harvesting of marihuana are located or used.

m. If marihuana is grown or located in a room with windows, all interior lighting shall be shielded to prevent ambient light from creating a distraction for adjacent properties.

n. Related merchandise or products shall not be sold or distributed from the dwelling or property of the primary caregiver, apart from the permitted quantity of medical marihuana.

o. To ensure compliance with all applicable requirements and laws, the portion of a building or other structure, such as a cultivation room, where energy use and heating requirements exceed typical residential limits and chemical storage occurs, are subject to inspection and approval by the zoning administrator or other authorized official.

p. The property, dwelling and all enclosed, locked facilities shall be available for inspection upon request by the zoning administrator, building official or law enforcement official.

4) Permit Required. The operations of a registered primary caregiver, as a home occupation, shall be permitted only with the prior issuance of a City of Charlotte permit.

a. A complete and accurate application shall be submitted on a form provided by the City and an application fee in an amount determined by resolution of the City Council shall be paid.

b. The permit application shall include the name and address of the applicant; the address of the property; proof, such as a driver's license, voter registration card or similar record showing that the dwelling is the applicant's full-time residence; a current state registration card issued to the primary caregiver; a full description of the nature and types of equipment which will be used in marihuana cultivation and processing; and a description of the location at which the use will take place. The zoning administrator may require additional information necessary to demonstrate compliance with all requirements. The zoning administrator shall review the application to determine compliance with this Ordinance, the MMMA and the MMMA General Rules. A permit shall be granted if the application demonstrates compliance with this Ordinance, the MMMA and the MMMA General Rules.

c. The use shall be maintained in compliance with the requirements of this Ordinance the MMMA and the MMMA General Rules. Any departure shall be grounds to revoke the permit and take other lawful action. If a permit is revoked, the applicant shall not engage in the activity unless and until a new permit is granted.

d. Information treated as confidential under the MMMA, including the primary caregiver registry identification card and any information about qualifying patients associated with the primary caregiver, which is received by the City, shall be maintained separately from public information submitted in support of the application. It shall not be distributed or otherwise made available to the public and shall not be subject to disclosure under the Freedom of Information Act.

e. It is unlawful to establish or operate a for-profit or nonprofit marijuana dispensary, collective or cooperative within the City, even if such use is intended for the medical use of marijuana.

f. The use of the dwelling or other permitted facility of a qualifying patient to cultivate medical marijuana in accordance with the MMMA, solely for personal use, does not require a permit under this subsection; however, all applicable state and City ordinance requirements must be met.

g. The provisions of this subsection do not apply to the personal use and/or internal possession of marijuana by a qualifying patient in accordance with the MMMA, for which a permit is not required.

5) Enforcement. Any violation of this section shall be considered a civil infraction.

SECTION 2. EFFECTIVE DATE. This ordinance shall become effective 20 days after publication.

Second, _____. Motion ____ () Yeas. () Nays. () Absent.

Dated: July 18, 2022

Michael Armitage, Mayor

Mary LaRocque, City Clerk