

CHAPTER 844

Medical Marihuana Cultivation Facility

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844.01 PURPOSE

The purpose of this Chapter is to license and regulate medical marihuana cultivation facilities to the extent they are permitted under the Michigan Medical Marihuana Act. The City does not intend that licensing and regulation under this chapter be construed as a finding that such businesses are legal under state or federal law. Although some specific uses of medical marihuana are allowed by the Michigan Medical Marihuana Act, marihuana continues to be classified as a Schedule 1 controlled substance under federal law and as such, growing, distributing, and possessing marihuana, other than as part of a federally authorized research program, as well as other activities as set forth in federal law is a violation of federal law. By requiring a license and compliance with requirements as provided in this Chapter, the City intends to protect to the extent possible the public health, safety, and welfare of the residents of and visitors to the City that may result from the activities of persons who unilaterally or on the advice of their own attorney determine that they may legally operate a medical marijuana cultivation facility. (Ord. 918. Passed 6-20-11)

844.02 DEFINITION.

- (a) "Owner" means any person who has equitable or legal title to any portion of the premises.
- (b) "Medical Marihuana Cultivation Facility" as used in this Chapter has the same meaning as defined in the Zoning Ordinance, Section 1320.07. (Ord. 881. Passed 8-16-10)

844.03 LICENSE REQUIRED.

No person shall operate a Medical Marihuana Cultivation Facility without first obtaining a license therefore as required by this chapter. (Ord. 881. Passed 8-16-10)

844.04 CONDITIONS FOR ISSUANCE.

A Medical Marihuana Cultivation Facility license shall be issued subject to the following conditions, which conditions, are in addition to conditions contained elsewhere in these Codified Ordinances:

- (a) A Medical Marihuana Cultivation Facility shall be inspected at the time of application; shall be compliant with applicable Building, Electrical, Fire, and Plumbing Codes; and shall be inspected yearly by the Police Chief or its designee.
- (b) The Application shall contain a diagram of the Medical Marihuana Cultivation Facility demonstrating the number of facilities within the premises to be utilized for cultivation of Medical Marihuana and compliance with the requirements of the Zoning Ordinance for a Medical Marihuana Cultivation Facility.

- (c) If the Applicant is not the Owner of the premises upon which the Medical Marihuana Cultivation Facility, the application shall include the Owner's consent to the use of the premises as a Medical Marihuana Cultivation Facility. (Ord. 881. Passed 8-16-10)

844.05 PROCEDURE FOR APPLICATION

Any person wishing to operate a Medical Marihuana Cultivation Facility shall file a Medical Marihuana Cultivation Facility license application with the City Clerk.

(Ord. 881. Passed 8-16-10)

844.06 LICENSE FEE

The annual license fee shall be established by resolution of the City Commission. (Ord. 881. Passed 8-16-10)

844.07 INSPECTIONS.

A Medical Marihuana Cultivation Facility shall meet all conditions of this chapter and other applicable ordinances and laws.

(Ord. 881. Passed 8-16-10)

844.08 REVOCATION OF LICENSE.

A license shall be revoked by the City Clerk if, upon receipt of written information or upon the Clerk's own investigation, the Clerk has reason to believe any of the following has occurred:

- (a) The Medical Marihuana Cultivation Facility has received a citation for a violation of the provisions of this chapter, the Traverse City Code, any statute of the State of Michigan, or federal law.
- (b) The Applicant has made a false material statement in the application or has otherwise become disqualified for the issuance of such a permit.
- (c) The Owner or Operator of, or any person occupying the Medical Marihuana Cultivation Facility has violated any provision of this Chapter, the Traverse City Code, any statute of the State of Michigan, or federal law, which violation has been documented by a written complaint certified by the City Clerk pursuant to §844.08.
- (d) The Medical Marihuana Cultivation Facility has been conducted in a manner adverse to the protection of the public health, safety or welfare of the City of Traverse City.

Immediately upon such revocation, written notice thereof shall be given by the City Clerk to the property owner in person or by certified mail addressed to his or her place of business or residence address set forth in the application. Immediately upon the giving of such notice, the permit shall become null and void. (Ord. 881. Passed 8-16-10)

844.09 COMPLAINTS; APPEALS.

If a written complaint is filed alleging that the Owner, Operator, or person occupying the Medical Marihuana Cultivation Facility has violated any provisions of this Chapter, the City Clerk shall promptly send a copy of the written complaint to the property owner, together with a notice that an investigation will be made as to the truth of the complaint. The property owner shall be invited to respond to the complaint and present evidence and respond to evidence produced by the investigation within twenty-one (21) days from the date of notice. If the City

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Clerk, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified.

If a permit is denied or revoked by the City Clerk, the applicant or holder of a permit may appeal to the City Manager within twenty-one (21) days from the date of the action appealed from. The City Manager shall hold a hearing and make a written determination, after presentation by the applicant and investigation by the City Clerk, as to whether or not the grounds for denial or revocation are true. If the City Manager determines that such grounds are supported by a preponderance of the evidence, the action of the City Clerk shall be sustained and the applicant may appeal the City Manager's decision to the City Commission within twenty-one (21) days from the City Manager's determination. Review by the City Commission shall be under the same standards of review as the determination by the City Manager and shall be in accordance with rules of procedure established by the City Commission. The City Commission's decision may be reviewed by a court of competent jurisdiction. (Ord. 881. Passed 8-16-10.)