

## ORDINANCE NO. 367

### Medical Marijuana as a Home Occupation

#### THE CITY OF BESSEMER HEREBY ORDAINS:

Add to Section 9.11 Standards for Conditional and Special Land Uses, Q) Home Occupations

13) Medical marihuana. A registered primary caregiver, in compliance with the General Rules of the Michigan Department of Community Health, the Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26421 et seq., and the requirements of this chapter, shall be allowed as a home occupation. Nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with the Act and the General Rules. Also, since Federal law is not affected by the Act or the General Rules, nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under Federal law. The Michigan Medical Marihuana Act does not protect users, caregivers or the owners of properties on which the medical use of marihuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act. The following requirements for a registered primary caregiver shall apply:

- a) The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
- b) A registered primary caregiver must be located outside of a 1,000 foot radius from any school, including child care or day care facility, to insure community compliance with Federal "Drug Free School Zone" requirements, and from any church, park, playground, or drug rehabilitation facility.
- c) Upon request of the city administrator or his or her designee, the fire chief, or his or her designee may perform a fire inspection.
- d) Odor.
  - i. The building 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.
  - ii. 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 room (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
  - iii. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
  - iv. Negative air pressure shall be maintained inside any room where medical marijuana is being grown.

- v. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
  - vi. Carbon Monoxide detectors must be installed and maintained in the grow room, next to the grow room, and in all bedrooms.
  - vii. An alternative odor control system is permitted if the special use permit applicant submits and the municipality accepts a report 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 municipality may hire an outside expert at the cost of the applicant to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.
- 14) The medical use of marihuana as a home occupation shall be kept confidential, as provided in Section 6(h) of the Michigan Medical Marihuana Act, MCL 333.26426(h).
- 15) Marihuana dispensary, collective, compassion club or cooperative. It is unlawful to establish or operate a profit or nonprofit medical marihuana dispensary, collective, compassion club, or cooperative within the city.

This ordinance becomes effective fifteen (15) days after the date of its enactment.

Ordained and Enacted into an Ordinance at a regular meeting of the City Council of the City of Bessemer this 6<sup>th</sup> day of August, 2018

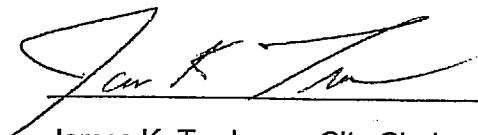
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Public Hearing: 7-16-18

Second Reading: 8-6-18

Published: 8-10-18

ATTEST:

  
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James K. Trudgeon, City Clerk