

**\* Indicates an adjacent proposed change to include Class A Marihuana Microbusiness in Zoning Ordinance.**

**ORDINANCE NUMBER 2019.11/414**

**AN ORDINANCE  
AMENDING THE CITY OF BUCHANAN ZONING ORDINANCE;  
ARTICLE III-DEFINITIONS AND USE OF TERMS; ARTICLE X – C-2  
COMMERCIAL DISTRICT; ARTICLE XI – C3 CENTRAL BUSINESS DISTRICT;  
ARTICLE XII I-1 LIGHT INDUSTRIAL DISTRICT; ARTICLE XIII I-2 HEAVY  
INDUSTRIAL DISTRICT; ARTICLE XVIII SPECIAL PROVISIONS:**

**BE IT ORDAINED** by the City Commission of the City of Buchanan, Berrien County Michigan that based upon the majority recommendation of approval of the Planning Commission after its public hearing held on November 19, 2019 that the City of Buchanan Zoning Ordinance is amended as follows:

**ARTICLE III**

**DEFINITIONS AND USE OF TERMS**

Section 3.04 Definitions pertaining to Adult Use Marihuana.

**Licensee.** A person holding a state operating license issued under the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq.

**Marihuana.** That term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marihuana Tracking Act, MCL 333.27901 et seq., and the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et. seq.

**Marihuana establishment.** A marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, **Class A marihuana microbusiness**, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the State of Michigan. \*

**Marihuana grower.** A person, permittee/licensee that is licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

**Marihuana-infused product.** A topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption. \*

**Marihuana microbusiness - Class A. (See Below)**

**Marihuana microbusiness.** A person, permittee/licensee, licensed to cultivate not more than 150 Marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

**Marihuana processor.** A person, permittee/licensee that is licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

**Marihuana microbusiness - Class A.** A person, permittee/licensee that is licensed to cultivate not more than 300 marihuana plants; package marihuana; purchase marihuana concentrate and marihuana infused products from a licensed marihuana processor; sell or transfer marihuana or marijuana products to an individual 21 years of age or older; transfer marihuana to a marihuana safety compliance facility for testing; purchase or accept the transfer of marihuana seeds, tissue cultures, clones or marihuana plants from a licensed marihuana grower; and accept the transfer of marihuana plants from a registered primary caregiver only upon licensure IF the registered primary caregiver was an applicant for that class A marihuana microbusiness license.

**Marihuana retailer.** A person, Permittee/licensee licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

**Marihuana secure transporter.** A person, permittee/licensee that is licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

**Marihuana safety compliance facility.** A person, permittee/licensee licensed to test marihuana, including for potency and the presence of contaminants.

**MRTMA.** Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq. Any term defined in the MRTMA shall have the definition given in the MRTMA.

**Permit.** A current and valid Permit for a Marihuana Establishment issued by the City of Buchanan, which shall be granted to a Permit Holder only for and limited to a specific Permitted Premises and a specific Permitted Property.

**Permittee.** A person holding a City operating Permit issued under the provisions of Ordinance 2019.10/413.

**Permit Holder.** A Person that holds a valid Permit issued under the provisions of Ordinance 2019.10/413.

**Permitted Premises.** A particular building(s) within which the Permit Holder will be authorized to conduct the Establishment's activities pursuant to the Permit.

**Permitted Property.** The real property comprised of a lot, parcel or other designated unit of real property upon which the Permitted Premises is situated.

**Person.** An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, or other legal entity.

## ARTICLE X

### C-2 COMMERCIAL DISTRICT

#### Section 10.03 - Uses Permitted by Special Use Permit

- E. Adult Use marihuana retailer, designated consumption, and microbusiness establishments, including class A microbusiness establishment as authorized by City Ordinance 2019.10/413 . \*
- F. Temporary Marihuana Events as authorized by City Ordinance 2019.10/413 .

## ARTICLE XI

### C-3 CENTRAL BUSINESS DISTRICT

#### Section 11.03 - Uses Permitted by Special Use Permit

- E. Adult Use marihuana retailer, designated consumption establishments as authorized by City Ordinance 2019.10/413 .
- F. Temporary Marihuana Events as authorized by City Ordinance 2019.10/413 .

## **ARTICLE XII**

### **I-1 LIGHT INDUSTRIAL DISTRICT**

#### **Section 12.03 – Uses Permitted by Special Use Permit.**

- H. Adult Use marihuana grower, processor, retailer, secure transporter establishments and safety compliance facility as authorized by City Ordinance 2019.10/413.
- I. Temporary Marihuana Events as authorized by City Ordinance 2019.10/413

## **ARTICLE XIII**

### **I-2 HEAVY INDUSTRIAL DISTRICT**

#### **Section 13.03 – Uses Permitted by Special Use Permit.**

- G. Adult Use marihuana grower, processor, retailer, secure transporter establishments and safety compliance facility as authorized by City Ordinance 2019.10/413.
- H. Temporary Marihuana Events as authorized by City Ordinance 2019.10.413

## **ARTICLE XVIII**

### **SPECIAL PROVISIONS INCLUDING HOME OCCUPATIONS**

#### **Section 18.11 – Marihuana Establishments – All Types.**

- 1. An adult use marihuana establishment, in accordance with the provisions of state law, may be permitted by the issuance of a special use permit pursuant to Article XX in the specified zones, provided that:
  - A. No adult use marihuana establishment shall be located within one Thousand (1,000) feet of real property comprising a public elementary, vocational, or secondary school.
  - B. No adult use marihuana establishment shall be located within Five Hundred (500) feet of real property comprising a church, or a public park with activities designed specifically for youth.
  - C. In the consideration of granting a special use permit, the setback from any residential *use (City and/or Township)* shall be evaluated as it relates to the surrounding areas.
  - D. Any uses or activities found by the State or a court with jurisdiction to be unconstitutional or otherwise not permitted by state law may not be permitted by the City of Buchanan. In the event that a court with jurisdiction declares some of all of this article invalid, then the City of Buchanan may suspend the acceptance of applications for special use permits pending the resolution of the legal issue in question.
  - E. All special use approvals for marihuana establishments are contingent upon the approval of the marihuana establishment's application(s) by the City and the State.
  - F. The use or establishment must be at all times in compliance with all other applicable laws and ordinances of the City.

- G. The City of Buchanan may suspend or revoke a special use permit based on a finding that the provisions of the special use standards in this section, all other applicable provisions of this zoning ordinance, City Ordinance 2019.10/413, or the terms of the special use permit and approved site plan are not met.
  - I. Signage requirements for marijuana establishments, are as provided in the City's Sign ordinance, being Chapter 76 in the City Code of Ordinances, and in the City Ordinance 2019.10/413.
  - J. No marihuana establishment shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable beyond the boundaries of the property on which the marihuana establishment is operated.
2. Marihuana growers and processors shall also be subject to the following standards:
- A. The minimum operational standards of growers and processors found in the City Ordinance 2019.10/413.
  - B. All applicable regulations of Articles XII and XIII, including but not limited to accessory buildings and structures, parking requirements, signs, visual screening requirements, building height regulations, and yard, setback and lot area requirements.
  - C. All marihuana growing and processing shall be located entirely within an enclosed, locked facility which shall include one or more completely enclosed buildings.
  - D. If only a portion of a building used for marihuana production, a partition wall from floor to ceiling shall separate the marihuana production space from the remainder pf the building. A partition wall must include a door capable of being closed and locked from both sides for ingress and egress between the marihuana production space and the remainder of the building.
  - E. Light cast by light fixtures inside any building used for marihuana production or processing shall not be visible outside the building from *dusk* to *dawn* the following day.
3. Retailers, designated consumption establishments and microbusinesses, including class a microbusinesses, shall also be subject to the following standards: \*
- A. All applicable regulations of Articles X and XI, including but not limited to accessory buildings and structures, parking requirements, signs, visual screening requirements, building height regulations, and yard, setback and lot area requirements. \*
  - B. Retailers and any microbusinessXX shall only sell to consumers or allow consumers to be present in the establishment between the hours of 9:00 a.m. and 9:00 p.m.
  - C. Designated Consumption Establishments shall only operate during the hours permitted on their approved City Permit.
  - D. All activities of a retailer, any microbusiness and designated consumption establishment, including all transfers of marihuana shall be conducted within the establishment and out of public view. A retailer, any microbusiness and/or designated consumption establishment shall not have a walk-up window or a drive thru window service. \*

- E. The exterior appearance of the structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment of property values within the zoning district.

This Ordinance shall become effective ten (10) days after its enactment.

Proposed by Commission Member: Toerne

Supported by Commission Member: Moore

Roll Call Vote:

Ayes: Weedon, Toerne, Moore, Downey, Denison

Nays: none

Abstain: none

Absent: none

MADE, PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF BUCHANAN, BERRIEN COUNTY, MICHIGAN, ON THE 25<sup>th</sup> DAY OF November 2019, AND PUBLISHED IN THE NILES DAILY STAR NEWSPAPER ON Friday, November 29, 2019.

By: \_\_\_\_\_  
Patricia A. Moore, Mayor

By: \_\_\_\_\_  
Brenda J. Hess, City Clerk

CERTIFICATION

I hereby certify that the above is a true and complete copy of an ordinance adopted by the City Commission of the City of Buchanan, County of Berrien, State of Michigan, at a regular meeting held on the 25<sup>th</sup> day of November 2019, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976 as required by said act.

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Brenda J. Hess, City Clerk