



MEMORANDUM

301 W. MAIN ▪ OWOSSO, MICHIGAN 48867-2958 ▪ WWW.CI.OWOSSO.MI.US

DATE: March 4, 2019

TO: Mayor Eveleth and Owosso City Council members

FROM: Amy Cyphert, Assistant City Manager & Community Development Director

SUBJECT: **Medical Marihuana Regulations Amendments**

RECOMMENDATION:

The Planning Commission recommends setting a public hearing for March 18, 2019 to receive citizen comment regarding the adoption of amendments to the City's existing Medical Marihuana Facilities zoning ordinances.

BACKGROUND:

A public hearing was held by the Planning Commission on Monday, February 25, 2019 at its regularly scheduled meeting to receive citizen comment regarding draft ordinance language to amend the buffer zone requirements for Medical Marihuana Facilities.

One public comment was made questioning when the lottery would be scheduled.

Once the amendments are adopted, Council will be responsible for setting a 30 day window to receive applications for provisioning centers. Staff will do a lottery drawing for these specific applications after the 30 day window is closed, recording the names of all applicants in the order they are drawn.

FISCAL IMPACTS: None

Document originated by: Amy Cyphert, Assistant City Manager & Community Development Director

Attachment:
Amendments of the Zoning Ordinance

RESOLUTION NO.

**AUTHORIZING SETTING A PUBLIC HEARING TO
AMEND VARIOUS SECTIONS OF CHAPTER 38, ZONING,
OF THE CODE OF THE CITY OF OWOSSO
AMENDING BUFFER ZONE REQUIREMENTS
FOR MEDICAL MARIHUANA RELATED FACILITIES**

WHEREAS, Section 205 of PA 281 of 2016 (MCL 333.27205) provides that “[a] marihuana facility shall not operate in a municipality unless the municipality has adopted an ordinance that authorizes that type of facility”; and

WHEREAS, Section 205 of PA 281 of 2016 further provides that “[a] municipality may adopt other ordinances relating to marihuana facilities within its jurisdiction, including zoning regulations...”; and

WHEREAS, City Council adopted Ordinance No. 793 to add Chapter 16.5, Medical Marihuana Facilities Licensing-police Power Ordinance, and amend various sections of Chapter 38, Zoning, of the Code of the City of Owosso to authorize and regulate medical marihuana related facilities on July 2, 2018;

WHEREAS, the Owosso Planning Commission has met, discussed and authored amendments to the buffer zone requirements for medical marihuana facilities; and

WHEREAS, the Planning Commission held a public hearing on February 25, 2019 at its regularly scheduled meeting regarding the proposal to amend various sections of Chapter 38, Zoning, in which one citizen comment was received; and

WHEREAS, the Planning Commission further recommends adoption of the following amendments to the Zoning Ordinance for medical marihuana related facilities; and

WHEREAS, the City Council is required to hold a public hearing to receive citizen comment regarding any and all proposed ordinance amendments.

NOW, THEREFORE, BE IT RESOLVED, THAT THE CITY OF OWOSSO ORDAINS THAT:

SECTION 1. AMENDMENT. That Section 38-197, Principal uses permitted, of Chapter 38, Zoning, Article IX, *B-1 Local Business District* of the Code of Ordinances is hereby amended to read:

Sec. 38-197. - Principal uses permitted. (B-1, Local Business District)

In a B-1 district, no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this chapter:

- (11) A marihuana provisioning center as authorized by the city of Owosso’s Medical Marihuana Facilities Licensing - Police Power Ordinance, Chapter 16.5.

- a. Provisioning centers shall be subject to the following standards:

6. Buffer Zones. A provisioning center may not be located within the distance specified from the uses below as determined by the city of Owosso. Distance shall be measured as stipulated in the Michigan Liquor Control Act. ~~as follows: The distance between the school building and the contemplated location must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the school building nearest to the~~

~~contemplated location and from the part of the contemplated location nearest to the school building.~~

- i. A provisioning center may not be located within 200 feet of the real property comprising or used by a public or private elementary, vocational, or secondary school. **The distance between the school building and the provisioning center must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the school building nearest to the provisioning center and from the part of the provisioning center nearest to the school building.**
- ii. A provisioning center may not be located within 100 feet of a residentially zoned ~~property~~-structure. **The distance between the residential zoned structure and the provisioning center must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the residentially zoned structure nearest to the provisioning center and from the part of the provisioning center nearest to the residentially zoned structure.**
- iii. **A provisioning center may not be located within 100 feet of a vacant residentially zoned parcel. The distance between the residential zoned vacant parcel and the provisioning center must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the intersection of the minimum front or rear yard and side yard setback requirement nearest to the provisioning center and from the part of the provisioning center nearest to the intersection of the minimum front or rear yard and side yard setback requirement.**
- ii-iv. **No parcel containing a medical marijuana provisioning center shall be located within 100 feet of a parcel on which another medical marijuana provisioning center is located. The distance between two medical marijuana provisioning centers must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the nearest part of each provisioning center to the other provisioning center.**

SECTION 2. AMENDMENT. That Section 38-217, Principal uses permitted, of Chapter 38, Zoning, Article X, *B-2 Planned Shopping Center District*, of the Code of Ordinances is hereby amended to read:

Sec. 38-217. - Principal uses permitted. (B-2, Planned Shopping Center District)

In a B-2 district, no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this chapter:

- (4) A marihuana provisioning center as authorized by the city of Owosso's Medical Marihuana Facilities Licensing - Police Power authorizing ordinance.

- a. Provisioning centers shall be subject to the following standards:
6. Buffer Zones. A provisioning center may not be located within the distance specified from the uses below as determined by the city of Owosso. Distance shall be measured as stipulated in the Michigan Liquor Control Act. ~~as follows: The distance between the school building and the contemplated location must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the school building nearest to the contemplated location and from the part of the contemplated location nearest to the school building.~~
- i. A provisioning center may not be located within 200 feet of the real property comprising or used by a public or private elementary, vocational, or secondary school. **The distance between the school building and the provisioning center must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the school building nearest to the provisioning center and from the part of the provisioning center nearest to the school building.**
 - ii. A provisioning center may not be located within 100 feet of a residentially zoned ~~property~~ structure. **The distance between the residential zoned structure and the provisioning center must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the residentially zoned structure nearest to the provisioning center and from the part of the provisioning center nearest to the residentially zoned structure.**
 - iii. **A provisioning center may not be located within 100 feet of a vacant residentially zoned parcel. The distance between the residential zoned vacant parcel and the provisioning center must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the intersection of the minimum front or rear yard and side yard setback requirement nearest to the provisioning center and from the part of the provisioning center nearest to the intersection of the minimum front or rear yard and side yard setback requirement.**
 - iv. **No parcel containing a medical marijuana provisioning center shall be located within 100 feet of a parcel on which another medical marijuana provisioning center is located. The distance between two medical marijuana provisioning centers must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the nearest part of each provisioning center to the other provisioning center.**

SECTION 3. AMENDMENT. That Section 38-242, Principal uses permitted, of Chapter 38, Zoning, Article IX, *B-3 Central Business District* of the Code of Ordinances is hereby amended to read:

Sec. 38-242. - Principal uses permitted. (B-3, Central Business District)

In a B-3 district, no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this chapter:

- (9) A marihuana provisioning center as authorized by the city of Owosso's Medical Marihuana Facilities Licensing - Police Power authorizing ordinance.
 - a. Provisioning centers shall be subject to the following standards:
 6. Buffer Zones. A provisioning center may not be located within the distance specified from the uses below as determined by the city of Owosso. Distance shall be measured as stipulated in the Michigan Liquor Control Act. ~~as follows: The distance between the school building and the contemplated location must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the school building nearest to the contemplated location and from the part of the contemplated location nearest to the school building.~~
 - i. A provisioning center may not be located within 200 feet of the real property comprising or used by a public or private elementary, vocational, or secondary school. **The distance between the school building and the provisioning center must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the school building nearest to the provisioning center and from the part of the provisioning center nearest to the school building.**
 - ii. A provisioning center may not be located within 100 feet of a residentially zoned ~~property~~ **structure.** **The distance between the residential zoned structure and the provisioning center must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the residentially zoned structure nearest to the provisioning center and from the part of the provisioning center nearest to the residentially zoned structure.**
 - iii. **A provisioning center may not be located within 100 feet of a vacant residentially zoned parcel. The distance between the residential zoned vacant parcel and the provisioning center must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the intersection of the minimum front or rear yard and side yard setback requirement nearest to the provisioning center and from the part of the provisioning center nearest to the intersection of the minimum front or rear yard and side yard setback requirement.**
 - iv. **No parcel containing a medical marijuana provisioning center shall be located within 100 feet of a parcel on which another medical marijuana provisioning center is located. The distance between two medical marijuana provisioning centers must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the nearest part of each provisioning center to the other provisioning center.**

SECTION 4. AMENDMENT. That Section 38-267, Principal uses permitted, of Chapter 38, Zoning, Article XII, *B-4 General Business District* of the Code of Ordinances is hereby amended to read:

Sec. 38-267. - Principal uses permitted. (B-4, General Business District)

In a B-4 district, no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this chapter:

(10)A marihuana provisioning center as authorized by the city of Owosso's Medical Marihuana Facilities Licensing - Police Power authorizing ordinance.

a. Provisioning centers shall be subject to the following standards:

6. **Buffer Zones.** A provisioning center may not be located within the distance specified from the uses below as determined by the city of Owosso. Distance shall be measured as stipulated in the Michigan Liquor Control Act. ~~as follows: The distance between the school building and the contemplated location must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the school building nearest to the contemplated location and from the part of the contemplated location nearest to the school building.~~
 - i. A provisioning center may not be located within 200 feet of the real property comprising or used by a public or private elementary, vocational, or secondary school. **The distance between the school building and the provisioning center must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the school building nearest to the provisioning center and from the part of the provisioning center nearest to the school building.**
 - ii. A provisioning center may not be located within 100 feet of a residentially zoned ~~property~~ **structure**. **The distance between the residential zoned structure and the provisioning center must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the residentially zoned structure nearest to the provisioning center and from the part of the provisioning center nearest to the residentially zoned structure.**
 - iii. **A provisioning center may not be located within 100 feet of a vacant residentially zoned parcel. The distance between the residential zoned vacant parcel and the provisioning center must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the intersection of the minimum front or rear yard and side yard setback requirement nearest to the provisioning center and from the part of the provisioning center nearest to the intersection of the minimum front or rear yard and side yard setback requirement.**
 - iv. **No parcel containing a medical marijuana provisioning center shall be located within 100 feet of a parcel on which**

another medical marijuana provisioning center is located. The distance between two medical marijuana provisioning centers must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the nearest part of each provisioning centers to the other provisioning center.

SECTION 5. AMENDMENT. That Section 38-292, Principal uses permitted, of Chapter 38, Zoning, Article XIII, *I-1 Light Industrial District*, of the Code of Ordinances is hereby amended to read:

Sec. 38-292. - Principal uses permitted. (I-1, Light Industrial District)

In an I-1 district, no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this chapter and subject further to the review and approval of the site plan by the planning commission in accordance with section 38-390:

~~(11) A marijuana provisioning center, grower, processor, safety compliance facility or secure transporter as authorized by the city of Owosso's Medical Marijuana Facilities Licensing - Police Power authorizing ordinance.~~

~~a. Any uses or activities found by the state of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by state law may not be permitted by the city of Owosso. In the event that a court with jurisdiction declares some or this entire article invalid, then the city of Owosso may suspend the acceptance of applications for Medical Marijuana Facilities Licenses pending the resolution of the legal issue in question.~~

~~b. The use or facility must be at all times in compliance with all other applicable laws and ordinances of the city of Owosso and State of Michigan.~~

~~c. The city of Owosso may suspend or revoke a Medical Marijuana Facilities License based on the finding that the provisions of the Medical Marijuana Facilities Licensing Act, all other applicable provisions of this zoning ordinance, the city of Owosso's police power authorizing ordinance, or the approved site plan are not met.~~

~~d. A marijuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales of marijuana, may not be permitted as a home business or accessory use nor may they include accessory uses except as otherwise provided in this ordinance.~~

~~e. Signage requirements for marijuana facilities, unless otherwise specified, are as provided in Chapter 26 - Signs of the Owosso Code of Ordinances.~~

(11) A marijuana provisioning center as authorized by the city of Owosso's Medical Marijuana Facilities Licensing - Police Power authorizing ordinance.

a. Provisioning centers shall be subject to the following standards:

1. Hours. A provisioning center may only sell to consumers or allow consumers to be present in the building space occupied by the provisioning center between the hours of 8:00 a.m. and 9:00 p.m.

2. Indoor Activities. All activities of a provisioning center, including all transfers of marijuana, shall be conducted within the structure and out of public view. A provisioning center shall not have a walk-up window or drive-thru window service.

3. **Other Activities.** Marihuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the provisioning center.
4. **Nonconforming Uses.** A provisioning center may not locate in a building in which a nonconforming retail use has been established in any district.
5. **Physical Appearance.** 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 immediate area.
6. **Buffer Zones.** A provisioning center may not be located within the distance specified from the uses below as determined by the city of Owosso. Distance shall be measured as stipulated in the Michigan Liquor Control Act as follows:
 - i. A provisioning center may not be located within 200 feet of the real property comprising or used by a public or private elementary, vocational, or secondary school. The distance between the school building and the provisioning center must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the school building nearest to the provisioning center and from the part of the provisioning center nearest to the school building.
 - ii. A provisioning center may not be located within 100 feet of a residentially zoned structure. The distance between the residential zoned structure and the provisioning center must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the residentially zoned structure nearest to the provisioning center and from the part of the provisioning center nearest to the residentially zoned structure.
 - iii. A provisioning center may not be located within 100 feet of a vacant residentially zoned parcel. The distance between the residential zoned vacant parcel and the provisioning center must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the intersection of the minimum front or rear yard and side yard setback requirement nearest to the provisioning center and from the part of the provisioning center nearest to the intersection of the minimum front or rear yard and side yard setback requirement.
 - iv. No parcel containing a medical marijuana provisioning center shall be located within 100 feet of a parcel on which another medical marijuana provisioning center is located. The distance between two medical marijuana provisioning centers must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the nearest part of each provisioning centers to the other provisioning center.

Formatted: In
Level: 4 + Num
at: 1 + Alignme
Indent at: 4.5"

Formatted: N
Numbering Styl
Alignment: Righ
at: 1.63", Tab

Formatted: N
Numbering Styl
Alignment: Righ
at: 1.63"

7. **Odor.** As used in this subsection, building means the building, or portion thereof, used for a provisioning center.
 - 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 building (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 the building.
 - v. Doors and windows shall remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
 - vi. An alternative odor control system is permitted if the special use 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 to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.

(12)Marihuana growers-, **processor, safety compliance facility or secure transporter as authorized by the city of Owosso’s Medical Marihuana Facilities Licensing - Police Power authorizing ordinance**and ~~marihuana processors~~ shall be subject to the following standards:

- a. Minimum Yard Depth/Distance from Lot Lines. Minimum yard depth/distance from lot lines shall adhere to measurement requirements as listed in Article XVI. –Schedule of Regulations for each zoning designation as listed.
- b. Indoor Growing and Processing. In the I-1 light industrial district, marihuana growing shall be located entirely within a fully enclosed, secure, indoor facility or greenhouse with rigid walls, a roof, and doors. Marihuana processing shall be located entirely within one or more completely enclosed buildings.
- c. Maximum Building Floor Space. The following maximum building floor space shall apply in the I-1 light industrial district:
 1. If only a portion of a building is authorized for use in marihuana growing or processing, a partition wall at least seven feet in height, or a height as required by the applicable building codes, whichever is greater, shall separate the marihuana growing or processing space from the remainder of the building. A partition wall must include a door, capable of being closed and locked, for ingress and egress between the marihuana growing or processing space and the remainder of the building.
- d. Lighting. Lighting shall be regulated as follows:
 1. Light cast by light fixtures inside any building used for marihuana growing or marihuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.

2. Outdoor marihuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.
- e. Odor. As used in this subsection, building means the building, or portion thereof, used for marihuana growing or marihuana processing.
1. 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.
 2. 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 building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
 3. 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.
 4. Negative air pressure shall be maintained inside the building.
 5. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
 6. An alternative odor control system is permitted if the 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 to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.
- f. Security Cameras. Security cameras must be used and shall be directed to record only the subject property and may not be directed to public rights-of-way as applicable, except as required to comply with licensing requirements of the state of Michigan. Recordings shall be kept for 90 days.
- g. Buffer Zones. **A provisioning center may not be located within the distance specified from the uses below as determined by the city of Owosso. Distance shall be measured as stipulated in the Michigan Liquor Control Act as follows:**
1. **A provisioning center may not be located within 200 feet of the real property comprising or used by a public or private elementary, vocational, or secondary school. The distance between the school building and the provisioning center must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the school building nearest to the provisioning center and from the part of the provisioning center nearest to the school building.**
 2. **A provisioning center may not be located within 100 feet of a residentially zoned structure. The distance between the residential zoned structure and the provisioning center must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the residentially zoned structure nearest to the provisioning center and from the part of the provisioning center nearest to the residentially zoned structure.**
 3. **A provisioning center may not be located within 100 feet of a vacant residentially zoned parcel. The distance between the residential zoned vacant parcel and the provisioning center must be measured along the**

Formatted: In
Level: 1 + Num
at: 1 + Alignme
Indent at: 0.75

Formatted: Ke

Formatted: N
Numbering Styl
Alignment: Left
1.25"

Formatted: N
Numbering Styl
Alignment: Left
1.25", Tab stop

center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the intersection of the minimum front or rear yard and side yard setback requirement nearest to the provisioning center and from the part of the provisioning center nearest to the intersection of the minimum front or rear yard and side yard setback requirement.

f.4. No parcel containing a medical marijuana provisioning center shall be located within 100 feet of a parcel on which another medical marijuana provisioning center is located. The distance between two medical marijuana provisioning centers must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the nearest part of each provisioning centers to the other provisioning center.

Formatted

SECTION 6. PUBLIC HEARING. A public hearing is set for Monday, March 18, 2019 at 7:30 p.m. for the purpose of hearing citizen comment regarding the proposed ordinance amendment.

SECTION 7. EFFECTIVE DATE. This amendment shall become effective twenty days after passage.

SECTION 8. AVAILABILITY. This ordinance may be purchased or inspected in the city clerk's office, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.