

ARTICLE XXV. Commercial Cannabis Overlay District

DRAFT

The City of Charlotte hereby Ordains this Ordinance that shall be known as the “*City of Charlotte Commercial Cannabis Zoning Overlay District Ordinance*”.

§ 82-517 Title; Commercial Cannabis Overlay Districts Established.

This section shall be known as the “*City of Charlotte Commercial Cannabis Overlay Districts*”. The overlay districts, designated as Commercial Cannabis Overlay District # 1, Commercial Cannabis Overlay District # 2, Commercial Cannabis Overlay District # 3 (North) and Commercial Cannabis Overlay District # 3 (South) are hereby established.

§ 82-518 Purpose and Objectives.

The purposes of the Commercial Cannabis Overlay Districts are to:

- A) Accommodate the processing, retail sale, testing, and secure transportation of cannabis / marijuana products within certain districts within the city limits of the City of Charlotte under the Medical Marihuana Facilities Licensing Act, PA 281 of 2016 (“MMFLA”) as amended, and the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (“MRTMA”), as amended.
- B) Require concentration of processing, retail sale, testing, and secure transportation of cannabis / marijuana products within a smaller geographic area that may reduce noise, odor, vehicle traffic congestion, excessive parking needs, security, fire, and police response.
- C) To promote that neighborhood character is preserved, commercial activities developed and increased, employment opportunities expanded, and positive planned land use developed.

§ 82-519 Definitions.

See *Definitions* contained in the Charlotte Commercial Cannabis / Marijuana ordinance used where applicable and are hereby incorporated.

§ 82-520 Limits on marihuana operations licenses and locations; other requirements.

- A) The concentration of any specific use within a smaller geographic area can be burdensome for reasons of noise, odor, vehicle traffic congestion, excessive parking needs, security, fire, and police response. It the intent of this ordinance to ensure that quality of life is not impaired, neighborhood character is preserved, commercial activities developed and increased, employment opportunities expanded, and positive planned land use developed.
- B) The City Council and Planning Commission are prohibited from waiving any portion of this ordinance, except where amended by City ordinance.
- C) The maximum number of each type of marihuana operation and establishment type under the MMFLA and MRTMA permitted in the City is governed by the applicable zoning district and zoning regulations or as set forth in the table below and the zoning ordinance. Marihuana operations, facilities and establishments not specifically authorized in the table are prohibited.

Provisions of this section do not apply to the medical use of marihuana in compliance with the Michigan Medical Marihuana Act (MMMA).

D) Table of marihuana establishments:

| | |
|--|---|
| Type of Marihuana/Cannabis Operations and Establishments | Unlimited number of Permitted Licenses within Cannabis Overlay Districts as designated below. |
| Marihuana Retailer / Provisioning Center | Restricted to Cannabis Overlay Districts 2-3 (North and South) |
| Marihuana Safety Compliance Facility | Restricted to Cannabis Overlay District 1 |
| Marihuana Secure Transporter | Restricted to Cannabis Overlay Districts 1-3 |
| Marihuana Processor | Restricted to Cannabis Overlay Districts 1-3 (North and South) |
| Marihuana Grower | Not Permitted |
| Excess Marihuana Grower License | Not Permitted |
| Marihuana Microbusinesses | Not Permitted |
| Designated Consumption Establishment | Not Permitted |
| Marihuana Related Temporary Event | Not Permitted |
| No other marihuana/cannabis licenses permitted | 0 |

E) Cannabis operations and establishment license designations permitted under this ordinance are governed by type, under section D), and additional requirements as established under the *City of Charlotte Commercial Cannabis Ordinance*".

- 1) The operations at a licensed cannabis facility shall be conducted in compliance with the MMFLA and the MRTMA, and any rules promulgated pursuant to other laws, rules, and regulations of the state of Michigan and the City of Charlotte.
- 2) Cannabis facilities and establishments shall be subject to City ordinance and the City Zoning Ordinance, where applicable.
- 3) *Marihuana [cannabis] retail establishment license and Provisioning Center (collectively, "retail")*. Cannabis retail establishments shall comply with all of the provisions of the MMFLA and MRTMA and applicable LARA rules and regulations and City ordinance, as amended.
- 4) *Marihuana [cannabis] processor license*. Cannabis processor shall comply with all of the provisions of the MMFLA and MRTMA and applicable LARA rules and regulations and City ordinance. The city will restrict locations and only one cannabis processor licensee under the MMFLA and MRTMA shall be permitted on one continuous property.
 - a. All processor operations must be within an enclosed, secured structure.
 - b. The location of this establishment shall be permitted up to, but not beyond, any applicable lot coverage limitations set forth in the City of Charlotte Zoning Ordinance.
 - c. An approved security plan.
 - d. Enter all transactions, current inventory, and other information as required by the MRTMA, LARA rules, the Marihuana Tracking Act, and all other applicable laws and regulations.

- e. Transfer cannabis and cannabis-infused products only by means of a secure transporter, or in compliance with LARA rules.
 - f. Processor shall not produce any products other than useable cannabis products intended for human consumption.
 - g. Odor control. Cannabis operations shall be subject to the provisions of this ordinance and city resolution.
 - 5) *Marihuana secure transporter license*. Marihuana secure transporter shall comply with all of the provisions of the MMFLA, MRTMA, and applicable LARA rules and regulations and City ordinance.
 - 6) *Marihuana safety compliance facility license*. Marihuana safety compliance facility shall comply with all of the provisions of the MMFLA and MRTMA and applicable LARA rules and regulations and City ordinance.
- F) *Zoning districts permitted for cannabis operations and geographic boundaries*. Special regulations of cannabis operations have been deemed necessary to limit the intensity and density of this use. Processor, retail establishments, safety compliance facility, and secure transporter licensees, shall be a special land use and restricted to and only permitted within the following city cannabis zoning districts within the permitted geographic boundaries, identified by legal descriptions and zoning maps, that may be amended as necessary by city resolution.
- 1) Cannabis Overlay District #1,
[insert map, legal description, sketch]
 - 2) Cannabis Overlay District #2,
[insert map, legal description, sketch]
 - 3) Cannabis Overlay District # 3 (North)
[insert map, legal description, sketch]
Cannabis Overlay District # 3 (South)
[insert map, legal description, sketch]
- (*See, Attachment A: Cannabis Overly District Maps, sketches, and legal descriptions.)
- G) *Separation distance measurements*. The distances described in this subsection shall be computed by measuring a straight line from the nearest property line of the parcel used for the purposes stated in this subsection to the nearest property line of the parcel used as a cannabis operations facility.
- H) *Applicability*. The location and co-location of authorized cannabis operations shall be determined as follows:
- 1) The following minimum-distancing regulations shall apply to cannabis operations. Processor and Retail licensees shall not be located within:

- a. Five Hundred feet of a childcare center or a school,
- 2) Minimum-distancing regulations do not include secure transporters or safety compliance facilities.
- 3) A cannabis operations licensee shall not operate at any place in the city other than the address provided in the application on file with the City Clerk.
- 4) *Co-location and stacked licenses.* There may be only one state operating license per parcel, except co-location of one retail license and one processor license are permitted per parcel.
- 5) *Zoning application requirements.* Each zoning application shall be accompanied by a detailed site plan and any information necessary to describe the proposed use or change of use. Each request shall be considered a new application, including those for class change, stacking, expansion, transfers or other modifications that require planning department review or special land use approval. If more than one use is being requested for a parcel at the same time (e.g., co-location) only one application shall be processed. Only one application shall be processed per parcel at a time; once a zoning application is submitted, any other zoning applications for the same parcel will be rejected until the first zoning application is decided. All items must be satisfactorily completed for a zoning application to be considered eligible for review.
 - a. *Verification.* A signed statement by the applicant indicating the proposed cannabis operations type, including if the proposed type involves co-location and the number of licenses.
 - b. *Consent.* A notarized statement by the property owner that acknowledges use of the property for a cannabis operations facility and agreement to indemnify, defend and hold harmless the City, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising out of, or in connection to, the operation of a cannabis operations facility. Written consent shall also include approval of the owner and operator for the city to inspect the facility at any time during normal business hours to ensure compliance with applicable laws and regulations.
 - c. *LARA.* A copy of official paperwork issued by LARA indicating that the applicant has successfully completed the prequalification step of the application for the state operating license associated with the proposed land use, or proof that the applicant has filed such application for the prequalification step with LARA, including all necessary application fees.
 - d. *Required LARA Cannabis facility plans, and security plans shall be submitted.* Copies of all documents submitted to LARA in connection with the initial license application, subsequent renewal applications, or investigations conducted by LARA shall be made available upon request when such information is necessary and reasonably related to the application review.
- 6) A comprehensive operation plan for the cannabis establishment which shall comply with the requirement set forth under the *City of Charlotte Commercial Cannabis Ordinance*.
- 7) *Site plan.* Existing and proposed site changes must be submitted that demonstrate compliance with this ordinance and city ordinances and codes.
- 8) *Sign and lighting plan.* A sign and lighting plan for the exterior of the building and any interior signs that will be visible to the public from the public right-of-way shall be submitted with sizes, lighting, and locations. All lighting fixtures visible to the public shall be identified by location, type, and intensity.
- 9) *Radius.* A map, drawn to scale, containing all childcare centers, schools.

§ 82-521 Odor control.

- A) No person, tenant, occupant, or property owner, who cultivates, grows, processes, or uses cannabis for any purpose shall propagate or permit the emission of objectionable odors that may cause or result in a nuisance to the public or that endanger the health, safety and welfare of the public, to emanate from any source on the property to result in such detectable odors that leave the premises upon which they originated.
- B) An odor is per se objectionable if odor is detectable in the ambient air that is greater than a 7/1 dilution threshold (D/T) for two samples not less than 15 minutes apart during a one-hour period measured by a field olfactometer device at the boundaries of the property as determined at the street right-of-way, or property line.
- C) A processor shall install and maintain in operable condition a system which precludes the emission of objectionable cannabis odor emanating from the premises.
- D) Ventilation, by-product and waste disposal, and water management (supply and disposal) for the facility shall not produce contamination of air, water, or soil; or reduce the expected life of the building due to heat and mold; or create other hazards that may negatively impact the structure and/or surrounding properties.
- E) Air contaminants must be controlled and eliminated by the following methods:
 - 1) The building must be equipped with an activated air scrubbing and carbon filtration system that eliminates all air contaminants prior to leaving the building.
 - 2) Fan(s) must 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.
 - 3) The filter(s) shall be rated for the applicable CFM.
 - 4) An air scrubbing and filtration system must be maintained in working order and must be in use at all times. Filters must be changed per manufacturers' recommendation to ensure optimal performance.
 - 5) Doors and windows must remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
 - 6) A variance may be granted for an alternative odor control system, in accordance with the Michigan Mechanical Code, if a mechanical engineer licensed in the State of Michigan submits a report that sufficiently demonstrates the alternative system will be equal to or better than the air scrubbing and carbon filtration system otherwise required.
- F) For purposes of this section, "air contaminants" means stationary local sources producing air-borne particulates, heat, odors, fumes, spray, vapors, smoke or gases in such quantities as to be irritating or injurious to health.
- G) A cannabis operation shall not be granted a state operating license until the findings and approvals of this section are completed.
- H) Prosecution for violation; civil penalty.
 - 1) Any person or entity failing to comply with this ordinance shall be responsible for a municipal civil infraction or district court citation and shall be subject to a civil fine as follows: \$100.00 initial violation, \$250.00 second violation, and \$500.00 third (or any subsequent) violation. Municipal civil infraction violations are made payable at the city municipal ordinance violation bureau. Repeat violations are determined based on the date of the commission of the violation. Each day that a violation continues shall be deemed to be a separate offense.
 - 2) In addition to the remedies described above, the city may institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, including injunctive relief.
 - 3) Jurisdiction for district court citations and legal action to enforce this ordinance, the City Code, and state law, vest in the state courts of Eaton County.

§ 82-522 Prohibited acts.

It shall be unlawful for any cannabis business, entity, or person, to operate within the city's jurisdiction in violation of this ordinance, MMMA, MMFLA MRTMA, LARA rules and regulations.

§ 82-523 Compliance with law, environmental; other laws remain applicable.

The cannabis facility shall be compliant and subject to all relevant state law and federal environmental laws and regulations, and city ordinances and codes that may be adopted and enforced.

To the extent the State of Michigan adopts in the future recodification of the MMFLA and MRTMA, any additional or stricter law or regulation governing the sale or distribution of marihuana, cannabis, the recodification, additional or stricter regulation shall control the cannabis operation of any cannabis commercial entity in the city. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this ordinance, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder

§ 82-524 Violations and penalties.

- A) In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this ordinance, any person or cannabis operation, including, but not limited to, any licensee, manager or employee of a cannabis commercial entity, who violates any of the provisions of this ordinance, shall be responsible for a municipal civil infraction and a fine of \$500.00, or as permitted by law, as established by resolution.
- B) In addition, any person, including any person, customer or member of the public, who violates the provisions of section 4 of the MRTMA, MCL 333.27954, and who acts in a manner contrary to the acts prohibited therein, except as may be otherwise provided in MCL 333.27965, shall be guilty of a misdemeanor.
- C) Notwithstanding the above, to the extent any violation or penalty set forth herein may be deemed inconsistent with any state law, or inconsistent with any rule or penalty which is promulgated by the department, now or hereafter, including but not limited to those promulgated pursuant to MCL 333.27958, then the state law or department rule or penalty shall govern over the provisions of this ordinance, as determined by state preemption.
- D) A violation of this ordinance is deemed to be a nuisance, per se. In addition to any remedies available at law, the city may bring an action for an injunction or other process against any person to restrain, prevent or abate any violation of this ordinance and such other relief as may be provided by law.
- E) Each day on which any violation of this ordinance occurs or continues constitutes a separate offense, subject to separate sanctions. The paying of a fine or sanctions under this ordinance shall not exempt the offender from meeting the requirements of this ordinance.
- F) This ordinance shall be administered and enforced by the city or by such other person(s) as designated by the city.

§ 82-525 Severability.

It is the legislative intent of the City by adopting this Ordinance that all provisions hereof shall be liberally construed to protect the public health, safety and general welfare of the residents of the City and all other persons affected by this Ordinance. Consequently, should any provision of this Ordinance be held to be unconstitutional, invalid or of no effect, such holding shall not be construed as affecting the validity of any of the remaining provisions of this Ordinance or Zoning Code, it being the intent of the City Council that this Ordinance shall stand and remain in effect, notwithstanding the invalidity of any provision hereof. If any section, paragraph, clause, phrase or part of this Ordinance is held invalid by any court of competent jurisdiction or any agency, department or commission empowered by statute for such purposes, such decision shall not affect the validity of the remaining provisions of this Ordinance, and the application of those provisions to any person or circumstance shall not be affected thereby.

§ 82-526 Code Edits.

The editors of the Charlotte City Code are hereby authorized, subject to approval of the City Manager, or designee, to update and revise code section numbers to effectuate the provisions of this ordinance.

§ 82-527 Section Headings.

The section headings used in this ordinance are for convenience only and are not a part of this ordinance.

§ 82-528 Publication.

This ordinance shall be published in the _____, a newspaper of general circulation in the City of Charlotte qualified under state law to publish legal notices, within thirty (30) days after its adoption. This Ordinance shall be recorded in the Ordinance Book and such recording shall be authenticated by the signature of the Mayor and the City Clerk.

§ 82-529 Effective.

This Ordinance be effective publication upon the expiration of 30 days after publication.

Introduced by the Charlotte City Council this ____ day of _____, 2023.

Adopted by the Charlotte City Council this ____ day of _____, ____.

Motion by
Second by

Ayes:

Nays:

Absent:

Approved:

Michael Armitage, Mayor

I, Mary LaRocque, Clerk of the City of Charlotte, hereby certify that the foregoing Ordinance was adopted on the ____ day of _____, 2023 and published on the ____ day of _____, 2023 as provided by law.

Mary LaRocque, Clerk