



CITY OF BURTON

ZONING BOARD OF APPEALS

JANUARY 19, 2023

Council Chambers

Regular Meeting

5:00 PM

**4303 S. CENTER ROAD
BURTON, MI 48519**

ATTENTION APPLICANT:

In order to prove you are entitled to a variance, you should be prepared to show how your property meets the conditions listed:

1. The difficulty must be unique to your property and not generally shared by others in the same zoning district, and would constitute a hardship.
2. The variance will not adversely affect the public health, safety and welfare, or be contrary to the spirit and intent of the Ordinance.

The burden of demonstrating that the above conditions exist on your property falls on you, the applicant. The Zoning Board of Appeals will not argue or present your case for you.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

C. STAFF PRESENT

D. AUDIENCE PARTICIPATION

Now is the time set-aside for members of the audience to address the Zoning Board of Appeals. I would ask each individual to give their name and address for the record and to limit their comments to three (3) minutes and to speak on the topics germane to City business.

E. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Dec 15, 2022 5:00 PM

F. VARIANCE

1. ZBA #22-22

By: Service Meds – MMAD LLC
G-3085 S. Dort Hwy., Burton, MI

Re: G-3085 S. Dort Hwy., Burton, MI
59-28-501-151, Zoned C-2 (General Business)

For: To conduct a medical, adult use marijuana provisioning center within 200' of more than one residential home.

G. BOARD DISCUSSION

The next regularly scheduled meeting will be held on Thursday, February 16, 2023, at 5:00 p.m.



CITY OF BURTON

ZONING BOARD OF APPEALS

DECEMBER 15, 2022

Council Chambers

Regular Meeting

5:00 PM

**4303 S. CENTER ROAD
BURTON, MI 48519**

This meeting was opened by Chairman Steve Welch at 5:04 PM.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Vaughn Smith	Council Representative	Present	
Kevin Burge	Planning Representative	Present	
Gary Kautz	Alt. Commissioner	Present	
Scott Hynes	Commissioner	Absent	
Tim Rapacz	Vice Chairperson	Present	
Michaeline Ward-Terry	Commissioner	Excused	
Steve Welch	Chairman	Present	
Joey Richvalsky	Alt. Commissioner	Present	
Rick Fuhst	Commissioner	Present	

C. STAFF PRESENT

Leandra Swayne, DPW Clerk Code/Building
Amber Abbey, Deputy DPW Director
Tonya Walton, Clerk's Office
Joy Roe, Clerk's Office

D. AUDIENCE PARTICIPATION

None.

E. APPROVAL OF MINUTES

- Zoning Board of Appeals - Regular Meeting - Nov 17, 2022 5:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Tim Rapacz, Vice Chairperson
SECONDER:	Rick Fuhst, Commissioner
AYES:	Smith, Burge, Kautz, Rapacz, Welch, Richvalsky, Fuhst
ABSENT:	Hynes
EXCUSED:	Ward-Terry

F. VARIANCE

- ZBA #22-23
By: Lyle Demo & Tom Marks – TK Auto Buyers

2422 Blarney Dr., Davison, MI 48423

Re: G4307 S. Saginaw St., Burton, MI
59-32-552-003, Zoned C-2 (General Business)

For: Reconsideration of stipulations placed on case 20-01 and to still conduct the M-1 use (light industrial zone) in a C-2 (general business zone) for used auto sales, B & C license that was approved on February 20, 2020.

Tom Marks, G4307 S. Saginaw St. stated we received approval when we were here last time, but there were some stipulations. We got an architect involved and he told us the stipulation we agreed to couldn't be done to the building. To put a brick edge on the front of the building was cost prohibitive and to find another material. He presented three other materials which were hardie board, metal, or resurface with the T1-11 again. We want to go with the hardie board. We were told to come back before the board and get approval for the front of the building. Also, there is a door on the front we need the use of and we would like to review using that front door. We would put a new door in. So, we would like to get approval for it. Also, they said the parking lot has to be paved or we can't use it. We would like to get some kind of guideline on when the parking lot can be paved. Our goal is to get municipal approval. We are in the middle of the transition, and I know we received the approval, but it is another process for the state. It really isn't approval until we get the municipal signature submitted to the state. It is imperative we get the signature. We want to proceed with all of this, and our architect said we have to come up with a better plan for the front. We went in front of the DDA Board, and they liked what we submitted. We have a contractor ready to work, but the paving of the parking lot couldn't be done because of the season. We aren't opposed to paving it, we just couldn't do it right now.

Mr. Welch asked if anyone in the audience wishes to address the board either for or against this.

Justin Gerstenberger 2169 Judd Road stated I am for this. I can speak for Lyle's character as a person, and he is a great guy. Whatever you tell him to do, they will do it. It will be good for the community. I have known him for years. I am also here because I received a flyer in the mail about a dispensary and today is the day for it.

Mrs. Abbey addressed this concern. We apologize, there was a typo in the notification, and we removed it from the agenda. It will be in next month's meeting with the correct information and the address of the location. It is on Dort Hwy and not on Kenneth. It was the address that was incorrect. We probably should have made an announcement because I forgot the notices did go out to the residents, so I apologize. It will be for next month and you will get a whole new notice.

Mr. Welch asked for the recommendation from the administration.

Mrs. Swayne stated in February of 2020 is when this case came before you to conduct an M1 use in a C2 Zone which was approved with stipulations. I provided the minutes for you to see and review. I think the board examined this case very thoroughly and you placed stipulations where they were needed. When the applicant came into the office, he wanted us to sign his licenses for the approval and that's why we are here today because we are enforcing the stipulation. Once we sign the license, it is a state license, the City of Burton cannot remove the license due to the zoning laws. For the overhead door, it is part of the DDA's vision for the frontage of the buildings not to have an overhead door facing the street. That is a vision put in

place for a reason. We wouldn't object to the change of the facade. It doesn't have to be brick unless you are going to put the stipulation it must be brick. We are not objecting to that. We do not have a recommendation for approval because the first approval in 2020 with the stipulations, we believe are reasonable and it stays with the vision of what we want the DDA District to look like. You do need to choose A, B, or C that they presented to you for the facade change. They did provide a drawing, just want to make it clear it is not a site plan review. For the parking lot concerns, you may want to request for a full site plan review to go before the Planning Committee.

Mr. Burge asked the applicant if the construction manager told him why you can't put brick there.

Mr. Marks answered saying the front of the building is block and they would have to dig up the foundation for the brick edge. It is major construction and there are other ways to comply that wouldn't have to be brick. And cost wise, it is a major project to tear up the entire front of the building.

Mr. Burge asked if the hardy board is brown?

Mr. Marks stated that it comes in 20 different colors, it is permanent color. It is on the list of materials that other business use in Burton. It is a composite board that is colored all the way through and used outside. It is a fiber board that has uniform color and looks like textured plywood.

Discussion ensued about the owner of the building and getting this approval, what would happen if it doesn't get approved, and the front garage door.

Mr. Welch the administration, is it reasonable to pave now or is it too cold to consider?

Mrs. Abbey replied that isn't something on the agenda. He isn't asking for a variance for the parking. I don't think that should be addressed by this board because you don't have that right. This is more of a site plan review item. If that is something you think is appropriate, let's put it in front of the Planning Commission for a full site plan review. That would give a guarantee the parking lot does get paved. As an administrative approval it is still required to get paved. I wouldn't be able, as an administrator, to make stipulations to allow him temporary occupancy while he waits for it to get paved.

Mr. Welch stated so what we are addressing here today is to sign the permit, the door, and the facade.

Mrs. Abbey stated if you all want him to go before the Planning Commission for a full site plan review, not this hand drawn plan because it doesn't meet our requirements, the Planning Commission can enforce the paved parking. If not, I'm going to do it as an administrative approval, and he is going to be required to do the parking places before occupancy because that is what our ordinance says he has to do.

Discussion about the DDA vision plan, a full site plan review, the material used on the outside of the building, and what the DDA said to do with the building.

Mr. Rapacz made an amendment to the motion. I would like to grant a motion to allow them to conduct an M-1 light industrial use in a C-2 general business zone for used vehicle sales-with contingencies that retail takes place inside the front of the

building, no cars would be parked outside, and the Saginaw Street improvements would be made before licensing which means the frontage of the store would be done first. The Saginaw Street improvements would be decided by a full site plan review conducted by the Planning Commission upon approval of this request.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Tim Rapacz, Vice Chairperson
SECONDER:	Joey Richvalsky, Alt. Commissioner
AYES:	Smith, Burge, Kautz, Rapacz, Welch, Richvalsky, Fuhst
ABSENT:	Hynes
EXCUSED:	Ward-Terry

G. BOARD DISCUSSION

None.

The next regularly scheduled meeting will be held on Thursday, January 19, 2023, at 5:00 p.m.

Minutes Acceptance: Minutes of Dec 15, 2022 5:00 PM (Approval of Minutes)



Burton Zoning Board of Appeals

4303 S. Center Road
Burton, MI 48519

SCHEDULED

AGENDA ITEM (ID # 5582)

Meeting: 01/19/23 05:00 PM
Department: Department of Public Works
Category: Variance
Prepared By: Leandra Swayne
Department Head: Charles Abbey

F.1

DOC ID: 5582

ZBA #22-22

By: Service Meds – MMAD LLC
G-3085 S. Dort Hwy., Burton, MI

Re: G-3085 S. Dort Hwy., Burton, MI
59-28-501-151, Zoned C-2 (General Business)

For: To conduct a medical, adult use marijuana provisioning center within 200’ of more than one residential home.

ATTACHMENTS:

- Backup 22-22 (PDF)

BSA ✓



City of Burton
Department of Public Works
4093 Manor Drive
Genesee County, Burton, Michigan 48519
(810) 742-9230

Date Filed: 11-11-22
Fee Paid: \$450.00
Receipt #:
Check #: 7245
Received by: [Signature]
Date Mailed: 11-23-22

5563 12-19

APPLICATION FOR ZONING BOARD OF APPEALS HEARING:

ZBA Case #: 22-22 5 Votes Required JANUARY 19TH 2023

DATE OF ZONING BOARD OF APPEALS HEARING: DECEMBER 15, 2022 AT 5 P.M.

PLEASE PRINT

APPLICANTS NAME: "Service Meds" (MMAD LLC)

APPLICANTS ADDRESS: 6-3085 S. Dort Hwy

CITY: Burton, MI

APPLICANTS PHONE: (810) 275-7042 Dennis Odom

APPLICANTS EMAIL: OdomDennis513@yahoo.com

ADDRESS AND PARCEL OR LOT NUMBER: 59-28-501-151

NOTE: ZBA meets on the 3rd Thursday of each month. All applications and associated drawings must be on file at least six (6) weeks prior to the meeting. Notification of property within 300' must be postmarked at least 15 days prior to the meeting. Including publication in local newspaper.

VARIANCE REQUESTED: Proximity to residential (1 residential houses within 200')
60' approx from nearest zone residential

I hereby certify that the proposed application is authorized by the owner of record and that I have been authorized by the owner to make this application as his agent. I agree the statements made on the attached application are true, and if found not to be true, any permit that may be issued may be void. Further, I agree to give permission to officials of the City of Burton to enter the property subject to this permit application for the purposes of inspections. Further I understand that this is an application and any fees paid will not be refundable regardless of the decision of the Commission. Mandatory attendance at the above meeting is acknowledged.

APPLICANTS SIGNATURE: Dennis E. Odom

Attachment: Backup 22-22 (5582 : ZBA #22-22)

APPLICANT:

Please explain your hardship or reason this variance is needed and attach to the application. Any information provided to the board will be public information and will be given to the board approximately 2 weeks prior to the meeting.

See attached letter.

Attachment: Backup 22-22 (5582 : ZBA #22-22)

OWNER ACKNOWLEDGMENT:

I, Dennis Odom am the owner of property known as: G-3085 S. Dort Hwy located in the City of Burton. I give permission to MMAD LLC - "Service Meds" to make an application to the Zoning Board of Appeals on behalf of my property. I understand unless specified by the Zoning Board of Appeals, any action taken by the board is permanently associated with this property in accordance with the State of Michigan Zoning Enabling Act.

If I need to be contacted for any reason please contact me at:

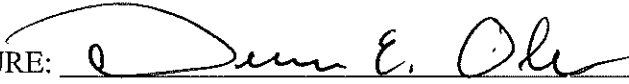
Owner Name: Dennis Odom

Address: G-3085 S. Dort Hwy

City: Burton MI

Phone: (810) 275-7042

Email: odom.dennis513@yahoo.com

SIGNATURE: 

DATE: 11-11-2022

Attachment: Backup 22-22 (5582 : ZBA #22-22)

MMAD LLC d/b/a "SERVICE MEDS"G-3085 DORT HWYVARIANCE EXPLANATION AND HARDSHIP LETTER

Dear Planning Commission Members,

My name is Dennis Odom and I am an Army Veteran and the current property and business owner located at G-3085 S Dort Hwy, Burton MI 48529. I have been the owner operator of the All American Pawn and Jewelry shop here for many many years.

Due to the recent years covid impact and economic recession and hardship, the pawn store business is failing. This strip of Dort Hwy was once the premier business corridor for the City of Burton and has been falling more and more into disrepair with abandoned buildings approaching blighted condition.

I respectfully request a variance before this commission to allow a medical and adult use marijuana provisioning center to be located within the 200 foot buffer from residential zone or use. There are 11 residential zoned properties within 300' of our property line and I have gotten the signatures from each and every owner in support of approving this variance to allow me to apply for and operate a state licensed provisioning center here. A copy of the petition with each signature in support of granting this variance is attached.

This variance request is unique to this property for several reasons and while it is a main commercial strip where such marijuana businesses are approved and located up and down Dort highway, there are no other nearby businesses or properties that would be negatively affected by the approval of this variance. To the contrary, approving this variance would accomplish a number of very positive things for the community and the City of Burton.

First, the pawn shop business is failing and is likely to go out of business due to the poor economic conditions and abandonment of neighboring business parcels over the last few years. This has bewen totally out of our control and the hardship created is not of our making. Rather than leave our building empty and subject to vandalism and vagrancy (as many of the nearby properties up and down dort highway next to us currently are) we propose that approving this variance would in fact clean the area up significantly. If you look up and down Dort Hwy from our property, all you can really see is the abandoned, dirty blighted properties. We aim to clean this area up by replacing the failing pawn shop with a high value, high revenue state licensed provisioning center. The hardship that has been created for our property is unique as we have done all we can to maintain the value of the real estate and operate a successful business only to have most all of the surrounding commercial properties be abandoned and left rotting which has significantly decreased our value and ability to operate a successful business here. The surrounding area falling into such economic despair is egregiously impacting our value and business interests. This hardship is specific to this particular strip of Dort Hwy, while other commercial strips are not suffering the same degradation. We believe this is the best way to save our value, eliminate the hardship of surrounding economic downturns and abandoned properties, and help revive the entire strip of commercial property on Dort Hwy for the City of Burton.

Secondly, It would hugely increase the value of the real estate, increasing the tax base and revenues generated for the City of Burton. The city is well aware of the economic benefits derived from its

approval of these provisioning centers and the monies they generate directly benefitting the City of Burton. The City collects six figures annually from regulating and approving marijuana businesses.

Third, It would create approximately 15 new high paying job positions for local residents. We expect these positions to be filled by local residents with the opportunity to earn \$20 per hour or more.

Fourth, It would physical and aesthetically improve the area with cleanup, new paint and property enhancements as well as we will add significant security features to help prevent crime within view of the property. We will work with local law enforcement to ensure a safe and positive environment.

Fifth, the security elements of the business would help the City to eliminate crime in the area and help as a neighborhood watch with our surveillance systems to protect the neighbors' homes that have each signed the petition in favor of granting us this variance request.

This board has granted such variances the same as we are requesting here in the interests of fairness and justice and equality in the past and this application for our variance meets that criteria as well. Granting our variance request would be in following the general spirit and intent of the ordinance and development code adopted by the City of Burton.

We propose to operate Service Meds, a veteran owned and catered medical and adult use provisioning center. As an army veteran, I know all too well the issues surrounding our servicemembers and veterans who have come to rely on medical marijuana for their treatment of PTSD and other related matters. It is our goal to cater to veterans and those in need of such services.

The blight of this strip of Dort Hwy was not created by us and the hardship associated with trying to run a failing business in such a blighted area is not our fault. However, we believe this plan will help fix that and can help to turn the entire strip of commercial property around. It has been proven fact that many other related businesses prefer to move in next to provisioning centers due to the economic boom and security provided by their state licensed operations.

To deny this variance request would place extreme hardship on me as the property and business owner for trying to keep a failing business open amongst the current run down and near blighted conditions of neighboring properties that have no developments or improvements planned at this time.

Approving this variance would not adversely affect anyone or anything, in fact it would **POSTIVELY** impact the health, morals, safety, order, convenience, prosperity and general welfare of the entire area and surrounding community.

Therefore, I respectfully request you approve this variance and allow us to invest in the City of Burton and be the first ones on this strip of Dort Hwy to make a positive impact and begin the economic turnaround for our property and lead others to invest and develop the nearby abandoned properties as well. Thank you very much for your consideration.

Respectfully submitted,

Dennis Odom

G-3085 S Dort Hwy

SUMMARY:

To: Zoning Board of Appeals Meeting

From: Leandra Swayne – Bldg. Dept.

Re: Provisioning center within 200’ of residential homes

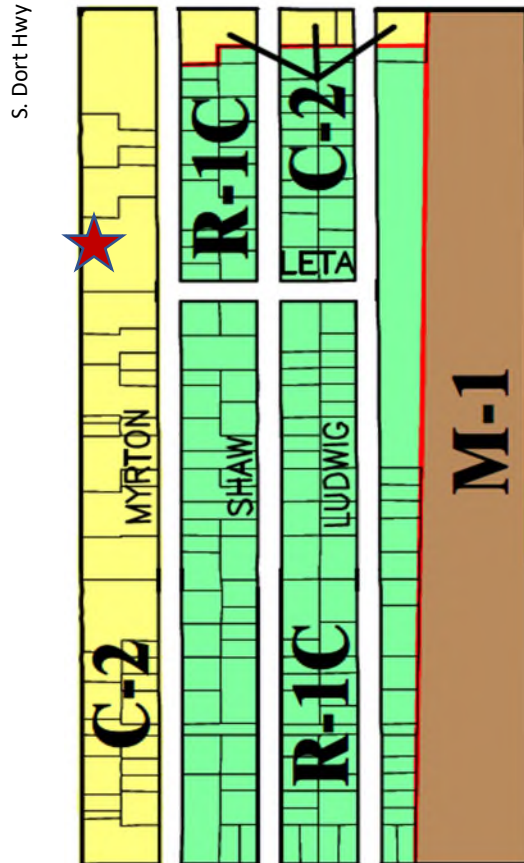
Owner/Applicant: Service Meds – MMAD LLC

Location: On S Dort Hwy South of Atherton

Zoning District: C-2 Zone General Business

Site Area: Approx. 1 acre

History break-down: In 2013 is when the Pawn Shop moved into the property. Previously to that, it was Angelo’s Coney Island. The surrounding area behind Dort Hwy to the east are residential properties.



Attachment: Backup 22-22 (5582 : ZBA #22-22)

Attached is the section of the City of Burton’s ordinance that is in place to regulate commercial medical marijuana transaction facilities.

CITY OF BURTON
GENESEE COUNTY, MICHIGAN

ORDINANCE NO. 2017-7-157

AN ORDINANCE TO AMEND CHAPTER 157, the ZONING ORDINANCE, OF THE CODE OF ORDINANCES OF THE CITY OF BURTON TO REGULATE COMMERCIAL MEDICAL MARIJUANA TRANSACTION FACILITIES

THE CITY OF BURTON ORDAINS:

SECTION I

Section 157.006 of Chapter 157 of the Code of ordinances of the City of Burton shall be amended by the removal and addition of the following:

§157.006 DEFINITIONS.

MEDICAL MARIJUANA PROVISIONING CENTER. A medical marijuana provisioning center (“Provisioning Center”) shall mean a commercial facility that purchases marijuana from a grower or processor and sells, supplies, or provides to registered qualifying patients directly or through the patients’ registered primary caregivers. Provisioning center includes any commercial property where marijuana is sold at retail to registered qualifying patients or registered primary caregivers.

MEDICAL MARIJUANA GROWING FACILITY. A medical marijuana growing facility (“Grow Facility” or “Growing Facility”) shall mean an industrial facility that cultivates, dries, trims, or cures and packages marijuana for sale to a processor or provisioning center

MEDICAL MARIJUANA PROCESSING FACILITY. A medical marijuana processing facility (“Processing Facility”) shall mean an industrial facility that purchases marijuana from a grower and that extracts resin from the marijuana or creates a marijuana infused products for sale and transfer in packaged form to a provisioning center.

MEDICAL MARIJUANA SAFETY COMPLIANCE FACILITY. A medical marijuana safety compliance facility (“Safety compliance facility” or “compliance facility”) shall mean an industrial facility that received marijuana from a marijuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marijuana to the marijuana facility.

MEDICAL MARIJUANA SECURE TRANSPORTER FACILITY. A medical marijuana secure transporter facility (“Secure Transporter Facility” or “Transporter Facility”) shall mean an industrial facility stores marijuana for the purpose of transporting marijuana between commercial medical marijuana transaction facilities.

SECTION II

Section 157.043 of Chapter 157 of the Code of Ordinances of the City of. Burton shall be amended by the removal and addition of the following:

§ 157.043 GENERAL BUSINESS DISTRICT, C-2

(C)(7) Medical Marijuana Provisioning Center, Shall be subject to all requirements as set forth in section 157.092 of this Code for site plan review provided that the provisioning center shall not be permitted:

- (a) Within five hundred (500) feet of any other commercial medical marijuana transaction facility;
- (b) Within two hundred (200) feet of a residential district or use;
- (c) Within one thousand (1000) feet of any school, nursery, licensed day care center or other building used for the care or instruction of children under 18 years of age;
- (d) Within one thousand (1000) feet of any church, house of worship or other religious facility or institution; and
- (e) Within one thousand (1000) feet of any public or municipal park.

SECTION III

Section 157.046 of Chapter 157 of the Code of Ordinances of the City of Burton, shall be amended by the removal and addition of the following:

§157.046 LIGHT INDUSTRIAL DISTRICT, M-1.

(B) (5) Medical Marijuana Provisioning Center, Shall be subject to all requirements as set forth in section 157.092 of this Code for site plan review provided that the provisioning center shall not be permitted:

- (a) within five hundred (500) feet of any other commercial medical marijuana transaction facility; if the same applicant has one parcel of land in which they have the ability to co-locate a provisioning center, a grow facility and/or processing center, there may be an exception given to permit these uses on that one parcel of land. Each facility will provide separate applications and will be given separate consideration along with individual annual fees.
- (b) Within two hundred (200) feet of a residential district Or use;
- (c) Within one thousand (1000) feet of any school, nursery, licensed day care center or other building used for the care or instruction of children under 18 years of age;
- (d) Within one thousand (1000) feet of any church, house of worship or other religious facility or institution; and
- (e) Within one thousand (1000) feet of any public or municipal park.

(B)(6) Medical Marijuana Growing Facility Shall be subject to all requirements as set forth in section 157.092 of this Code for site plan review provided that the grow facility shall not be permitted:

- (a) Within five hundred (500) feet of any other commercial medical marijuana transaction facility; if the same applicant has one parcel of land in which they have the ability to co-locate a provisioning center, a grow facility and/or processing center, there may be an exception given to permit these uses on that one parcel of land. Each facility will provide separate applications and will be given separate consideration along with individual annual fees.
- (b) Within two hundred (200) feet of a residential district or use;
- (c) Within one thousand (1000) feet of any school, nursery, licensed day care center or other building used for the care or instruction of children under 18 years of age;
- (d) Within one thousand (1000) feet of any church, house of worship or other religious facility or institution; and
- (e) Within one thousand (1000) feet of any public or municipal park.

(B)(7) Medical Marijuana Processing Facility: Shall be subject to all requirements as set forth in section 157.092 of this Code for site plan review provided that the processing facility shall not be permitted:

(a) Within five hundred (500) feet of any other commercial medical marijuana transaction facility; if the same applicant has one parcel of land in which they have the ability to co-locate a provisioning center, a grow facility and/or processing center, there may be an exception given to permit these uses on that one parcel of land. Each facility will provide separate applications and will be given separate consideration along with individual annual fees.

(b) Within two hundred (200) feet of a residential district or use;

(c) Within one thousand (1000) feet of any school, nursery, licensed day care center or other building used for the care or instruction of children under 18 years of age;

(d) Within one thousand (1000) feet of any church, house of worship or other religious facility or institution; and

(e) within one thousand (1000) feet of any public or municipal park.

(B)(8) Medical Marijuana Safety Compliance Facility: Shall be subject to all requirements as set forth in section 157.092 of this Code for site plan review provided that the safety compliance facility shall not be permitted:

(a) Within five hundred (500) feet of any other commercial medical marijuana transaction facility;

(b) Within two hundred (200) feet of a residential district or use;

(c) Within one thousand (1000) feet of any school, nursery, licensed day care center or other building used for the care or instruction of children under 18 years of age;

(d) Within one thousand (1000) feet of any church, house of worship or other religious facility or institution; and

(e) within one thousand (1000) feet of any public or municipal park.

(B)(9) Medical Marijuana Secure Transporter Facility: Shall be subject to all requirements as set forth in section 157.092 of this Code for site plan review provided that the secure transporter facility shall not be permitted:

(a) Within five hundred (500) feet of any other commercial medical marijuana transaction facility;

(b) Within two hundred (200) feet of a residential district or use;

(c) Within one thousand (1000) feet of any school, nursery, licensed day care center or other building used for the care or instruction of children under 18 years of age;

(d) Within one thousand (1000) feet of any church, house of worship or other religious facility or institution; and

(e) within one thousand (1000) feet of any public or municipal park.

SECTION IV

Chapter 157 of the Code of Ordinances of the City of Burton shall be amended by the deletion and addition of Section 157.099 to provide as follows:

§157.099 COMMERCIAL MEDICAL MARIJUANA TRANSACTION FACILITIES

It is the intent of this section to regulate any commercial medical marijuana transaction facilities by the following requirements:

(A) Operational Limitations.

(1) A commercial medical marijuana transaction facility shall only operate between 8:00 a.m. and 8:00 p.m. Monday through Saturday and 12:00 noon and 6:00 p.m. Sunday.

(2) A commercial medical marijuana transaction facility shall comply at all times with each and every provision of the State of Michigan Medical Marijuana Act of 2008 (MCL 333.26421, et seq.) and House Bill 4209, 4210 and 4827.

(3) Any permitted activities conducted by a commercial medical marijuana transaction facility must be done inside a fully enclosed structure or building that is kept secured with locks to prevent unintended or uninvited access.

(4) Persons under the age of eighteen (18) years of age are not permitted to be on the property of any commercial medical marijuana transaction facility unless they possess a valid Medical Marijuana Registry Card issued by the State of Michigan or other state.

(5) Advertising and/or marketing for a commercial medical marijuana transaction facility, viewed from the exterior, shall not appeal to or have the effect of appealing to minors, this shall include but is not limited to signage, flyers, banners, etc. as permitted in Chapter 153.10 of the City Code of Ordinances.

(6) Any owners and/or operators of any commercial medical marijuana transaction facility who violates these sections shall be liable for all costs associated with the investigation, prosecution and enforcement of that violation.

(B) Site Plan Requirements.

(1) Any person who wished to operate any commercial medical marijuana transaction facility shall submit an application for site plan review to the City of Burton as set forth in Section 157.092, consistent with the zoning of the property, showing required locational limitations as set forth in Section 157.043(C)(7), Section 157.046 (B)(5), (B)(6), (B)(7), (B)(9), and (B)(10) as they apply, shall pay a nonrefundable fee as shall be established, and from time to time be amended by resolution of the Burton City Council, and which shall include the following:

(a) Security system details which shall include, at the minimum, audible and silent alarms and video surveillance cameras.

(b) Details regarding the building electrical system, power demands of specialized lighting and other necessary equipment, and method proposed to prevent excessive heat build-up and risk of fire within the building.

(c) Ventilation equipment details, including fresh air intake and filtration of exhaust air to prevent offensive odors from leaving the site.

(d) Proposed methods for controlling insects within the building and preventing insects from becoming a nuisance or health hazard, off the site.

(e) A description of the operation of the commercial medical marijuana transaction facility in sufficient detail to permit the City to determine if the operation, as described would be lawful and fully compliant with. The State of Michigan Medical Marijuana Act of 2008 (MCL 333.26421, et seq.) and House Bill 4209, 4210 and 4827.

(2) Once the application is approved and within 30 days, the applicant must then submit any further documentation necessary to receive a certificate of occupancy which shall include but is not limited to building permits, inspections, and audits as deemed necessary by the Department of Public Works. At this time the applicant must also pay an annual, nonrefundable license fee as shall be established, and from time to time be amended by resolution of the Burton City Council.

(3) Annual renewal of the application is required for any commercial medical marijuana transaction facility and must comply with 157.099 (E).

(4) All applicants must provide a copy of the State of Michigan approved operating license before certificate of occupancy can be issued.

(5) Any change of ownership of the property and/or facility or change of use will be considered a new application for all purposes of this ordinance, with the exception of 157.099 (F). In the case in which the existing facility has not vacated the new application will be secured from any new locational limitation.

(C) Periodic Inspections. All approved commercial medical marijuana transaction facilities shall submit and allow authorized City zoning and building inspection and/or law enforcement personnel to make unannounced, periodic inspections for purposes of verifying compliance with all requirements of this Ordinance and Section, and any reasonable conditions placed upon any special land use approval.

(D) Existing Facilities. Commercial medical marijuana transaction facilities (also known as “medical marijuana dispensaries” and “medical marijuana grow facilities”) that have been approved to operate prior to the enactment of this ordinance shall remain approved provided that the facility comply with the following:

(1) Within 90 days of the enactment of this Ordinance, the applicant shall submit an application for site plan review to the City of Burton as set forth in Section 157.099 (B)(1) – (B)(3) and the applicant must pay an annual, nonrefundable license fee as shall be established, and from time to time be amended by resolution of the Burton City Council

(2) Within 90 days of the acceptance of State operating licenses in accordance with MCL 333.27101, the applicant must apply to the State for an operating license as appropriate for the use.

(a) Medical Marijuana Dispensary – must apply for a Medical Marijuana Provisioning Center and;

(b) Medical Marijuana Growing Facility – must apply for a Medical Marijuana Growing Facility

(3) Once the State of Michigan operating licensed is secured, a copy must be submitted to the Department of Public Works and a new certificate of occupancy may be issued.

(4) Any change of ownership of the property and/or facility or change of use will be considered a new application.

(E) Annual Renewal. A site plan approval shall be issued for a 1-year period and is renewable annually.

(1) Except as set forth in this Ordinance, the Department of Public Works shall renew a license if all of the following requirements are met:

(a) The applicant submits a renewal application provided by the City of Burton and pay the an annual, nonrefundable license fee as shall be established, and from time to time be amended by resolution of the Burton City Council; and

(b) The application is received by the City on or before the expiration date of the current approval.

(2) It is the sole responsibility of the applicant to apply for renewal prior to the expiration. Upon or after the date of expiration the City of Burton shall notify the applicant at the last known address on file advising them they have 30 days to apply for renewal and pay any applicable late fees and the annual non-refundable fee. Failure to renew 30 days from date noticed mailed will revoke the facilities certificate of occupancy and require any future application to be considered new.

(3) Renewal shall be considered 1-year from the date in which the annual fee is paid and the site plan is approved.

(4) In its decision on an application for renewal, the City of Burton shall consider any input from the building official, code enforcement officer, fire department and/or police department.

(F) Securing locational limitations. Applications are considered on a first come basis for purpose of required locational limitations as set forth in Section 157.043(C)(7), Section 157.046 (B)(5).(B)(6), (B) (7), and (B) (8). Consideration is only taken when the complete application is submitted to the City of Burton and any required fees are paid in full. Consideration may be taken when there is a pending application to the Zoning Board of Appeals or Planning Commission, as appropriate. Application for a State operating license does not secure any position for locational limitations.

SECTION V

All other provisions of Chapter 157 shall be and are hereby ratified.

SECTION VI

This Ordinance shall be published in a newspaper of general circulation within the City of Burton, Genesee County, Michigan, and shall become effective upon publication.

SECTION VII

A copy of this Ordinance may be inspected at the City Clerk's office at the Burton City Hall, 4303 S. Center Road, Burton, Michigan, during regular business hours.

CITY OF BURTON


BY: PAULA ZELENKO, MAYOR


BY: RICHARD HAYMAN, ACTING CITY CLERK

Ordinance introduced on: November 14, 2017

Enacted: December 4, 2017

Effective date: December 14, 2017

Attachment: Backup 22-22 (5582 : ZBA #22-22)