

CITY OF MASON

201 West Ash St.
Mason, MI 48854-0370

City Hall 517-676-9155
Fax 517-676-1330

PLANNING COMMISSION MEETING - COUNCIL CHAMBER with Mason City Council Members

Tuesday, February 10, 2015

6:30 p.m.

Agenda

1. Call to Order
2. Roll Call
3. Approval of Minutes: January 13, 2014
4. Unfinished Business
5. People from the Floor
6. Announcements
7. Regular Business
 - A. Joint Discussion with City Council – Medical Marihuana Ordinance
8. Unfinished Business
9. New Business
10. Correspondence
 - Planning & Zoning News, December 2014
11. Liaison Reports
12. Director's Report
13. Administrator Report
14. Adjournment

**CITY OF MASON
PLANNING COMMISSION MEETING
MINUTES OF JANUARY 13, 2015**

Reeser called the meeting to order at 6:30 p.m. in the Council Chambers at 201 W. Ash Street, Mason, Michigan.

Present: Commissioners: Barna, Brown, Fischer, Hagle, Reeser, Sabbadin, Scott, Waxman
Absent: Commissioner: Hude
Also present: Martin A. Colburn, City Administrator
Deborah J. Cwierniewicz, City Clerk

APPROVAL OF MINUTES:

Regular Minutes of December 9, 2014

The regular meeting Minutes of December 9, 2014.

UNFINISHED BUSINESS

None.

OATH OF OFFICE

Cwierniewicz administered the oath of office to Anne Klein Barna, Lori Hagle, and Tim Scott.

ELECTION OF CHAIRPERSON, VICE-CHAIRPERSON, AND SECRETARY

Cwierniewicz opened nominations for Chairperson.

Nomination by Sabbadin,
to elect Ed Reeser as Chairperson.

As there were no other nominations for Chairperson, Cwierniewicz closed the nominations.

ED REESER ELECTED CHAIRPERSON

Cwierniewicz opened nominations for Vice Chairperson.

Nomination by Waxman,
to elect John Sabbadin as Vice Chairperson.

As there were no other nominations for Vice Chairperson, Cwierniewicz closed the nominations.

JOHN SABBADIN ELECTED VICE CHAIRPERSON

Cwierniewicz opened nominations for Secretary.

Nomination by Sabbadin,
to elect Seth Waxman as Secretary.

As there were no other nominations for Secretary, Cwierniewicz closed the nominations.

SETH WAXMAN ELECTED SECRETARY

PEOPLE FROM THE FLOOR

Mayor Mike Waltz congratulated Commissioners Reeser, Sabbadin, and Waxman on their election. He welcomed newly appointed Commissioner Lori Hagle and Mayor Pro Tem Brown to the Planning Commission.

Reeser welcomed newly appointed Commissioner Lori Hagle to the Planning Commission.

ANNOUNCEMENTS

No announcements at this time.

REGULAR BUSINESS

Discussion – Medical Marihuana Ordinance

Discussion was held regarding the status of Medical Marihuana, legislatively as well as the City's current moratorium on medical marihuana operations, expiring on May 16, 2015. It was determined to hold a joint meeting between the Planning Commission and City Council with the City Attorney prior to the sub-committee beginning work sessions on the ordinance. The following members volunteered to serve on the sub-committee: Anne Barna, John Sabbadin, Tim Scott, and Seth Waxman, with Lori Hagle as the alternate member.

UNFINISHED BUSINESS

None.

NEW BUSINESS

None.

CORRESPONDENCE

Distributed.

LIAISON REPORTS

Brown informed commissioners regarding current City Council business.

DIRECTOR REPORT

No report at this time.

ADMINISTRATOR'S REPORT

Colburn informed the Commission regarding current City business.

ADJOURNMENT

The meeting adjourned at 7:16 p.m.

Deborah J. Cwierniewicz, City Clerk

Seth Waxman, Secretary

City of Mason

201 W. Ash St.
P.O. Box 370
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www.mason.mi.us



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MEMORANDUM

TO: Planning Commission

FROM: David E. Haywood, Zoning & Development Director 

RE: Discussion – Medical Marihuana

DATE: February 5, 2015

Since the January Planning Commission meeting the City Council has agreed to meet and discuss the current status of the Michigan Medical Marihuana Act and its potential impact on the Mason community. The purpose of the joint discussion is to receive comments and concerns from the City Council on the issue prior to the initiation of the procedure to draft a proposed ordinance. City Attorney, Tom Hitch, will be in attendance and provide a brief report on the current status of the law, case-law/litigation, pending bills and options that might be available to us.

Background

On November 17, 2014 the City Council acted to extend the moratorium on medical marihuana operations and dispensaries for an additional 180 days. Additionally, they took action to defer the issue to the Planning Commission for further review and recommendation. Attached are copies of Ordinance No. 196 (established a regulatory/licensing structure for medical marihuana operations and dispensaries) and City Council Resolution No. 2014-53 (declared a 180 day moratorium on issuance of licenses).

Next Steps

Upon receiving comments from City Council, the Planning Commission should convene the ordinance subcommittee created in January to begin the process of research, public input, draft language, etc.

Introduced March 17, 2014
First Reading: March 17, 2014
Adopted: March 17, 2014
Effective: March 17, 2014
Posted: March 19, 2014

**CITY OF MASON
ORDINANCE NO. 196**

**AN ORDINANCE TO AMEND CHAPTER 10 - BUSINESSES - OF
THE CODE OF THE CITY OF MASON BY ADDING ARTICLE III
WHICH DEFINES MEDICAL MARIHUANA OPERATIONS AND
DISPENSARIES, REQUIRES A LICENSE AND SETS FORTH
THE REQUIREMENTS TO OBTAIN A LICENSE AND THE
EFFECT OF HAVING A LICENSE WITHIN THE CITY OF MASON**

THE CITY OF MASON ORDAINS:

Article III of Chapter 10 - Businesses - of the Code of City of Mason and sections 10-70, 10-71, 10-72, 10-73, 10-74 and 10-75 are hereby added to the Code of the City of Mason to read as follows:

ARTICLE III - MEDICAL MARIHUANA

Sec. 10-70. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Michigan Medical Marihuana Act.

Dispensary means a structure, lot or premises from which two or more primary caregivers sell, deliver or otherwise dispense medical marihuana to patients.

Marihuana means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

Patient means any person to whom a primary caregiver delivers marihuana pursuant to the Act.

Primary caregiver means a person who is licensed and defined under the act as a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has never been convicted of a felony involving illegal drugs.

Primary caregiver operation means a structure, lot or premises from which a primary caregiver sells, delivers or otherwise dispenses medical marihuana to a patient.

Qualifying patient means a person who has been diagnosed by a physician as

having a debilitating medical condition.

Registry identification card means a document issued by the department of community health that identifies a person as a registered qualifying patient or registered primary caregiver.

Usable marihuana means the dried leaves and flowers of the marihuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant.

Sec. 10-71. Required; fee; application.

(a) No person shall operate a primary caregiver operation or operate or assist in the operation of a dispensary without having first obtained and without being in possession of a valid license issued by the city clerk.

(b) Application shall be made annually on forms provided by the city clerk which shall require the full legal name and date of birth of each caregiver and address of the intended location of the primary caregiver operation or dispensary, a copy of each caregiver's registry identification card, the number of registered patients for each caregiver and the maximum amount of usable marihuana and maximum number of marihuana plants the caregiver operation or dispensary may have on the property at any one time. The application shall state whether any electrical devices designed to assist in the growing of medical marihuana will be used in conjunction with the license, whether any structural modifications have been made or are intended to be made in conjunction with the license. The application shall be accompanied by any required building, electrical or plumbing permits.

(c) The initial application fee shall be \$100.00 for each primary caregiver operation and \$100.00 per caregiver for each dispensary. Renewal fees shall be established by annual budget resolution of the city council.

Sec. 10-72. Conditions of issuance.

The city clerk shall not issue an initial or renewal license until such time as all of the following conditions have been met:

(a) A completed application has been submitted to the clerk with the required fees that accurately states the lawful amount of usable marihuana and marihuana plants an applicant may have on the property at any one time.

(b) Proof that an annual inspection has been conducted by the Mason police department and the police department certifies that the facility is in conformity with the state law and city ordinances. The police department may, as part of its inspection, require building officials and/or the fire department inspect the property prior to certification to ensure that it is in conformity with state law and city ordinances should the police suspect, during their inspection, that unreported or non-permitted structural alterations have been made, unreported or non-permitted electrical modifications have been made, unreported or non-permitted electrical devices are being used, otherwise

unsafe electrical connections or overloaded circuits are present or unreported or unpermitted plumbing modifications have been made in conjunction with the license.

(c) Where the application identifies electrical devices are being used or intended to be used to assist in the growing of medical marihuana, proof that the fire department has inspected and approved the use or proposed use and that any necessary permits for electrical alterations have been obtained.

(d) Where the application identifies structural modifications have been made or are intended in conjunction with the license, proof that the appropriate building code officials have inspected the property and issued the necessary permits.

Sec. 10-73. Conduct of licensee.

(a) Each licensee shall, as a condition of obtaining and maintaining a license, agree to comply at all times with all applicable local and state building, zoning, fire, health, and sanitation statutes, ordinances, and regulations.

(b) The premises shall be operated and maintained at all times consistent with responsible business practices and so that no excessive demands will be placed upon public health or safety services, nor any excessive risk of harm to the public health, safety, or sanitation.

(c) The premises shall at all times be operated in compliance with all applicable provisions of this code and the act.

(d) The licensee shall immediately notify the city clerk of any changes in the names or additions and reductions in the number of primary caregivers operating from any structure, lot or premises within the city and pay the appropriate application fee for each increase in the number of primary caregivers.

Sec. 10-74. Effect of license; suspension, penalty.

(a) A license is valid only for the location identified on the license and cannot be transferred to another location within the city without a new application.

(b) Conducting a primary caregiver operation or a dispensary is a violation of federal law. A license does not prohibit prosecution by the federal government of its laws. Nor does a license prohibit prosecution by state authorities for violations of the act or other violations not protected by the act. A valid license shall not be construed as providing any protection beyond prosecution by the city of Mason for conducting a primary caregiver operation or a dispensary without a license.

(c) Compliance with city ordinances and state statutes is a condition of maintenance of a license and a license may be suspended for cause pursuant to the provisions of this chapter.

(d) Suspension of a license is not an exclusive remedy and nothing contained herein is intended to limit the city's ability to prosecute code violations that may have been the

cause of the suspension or any other code violations not protected by this act.

(e) No person who has not been identified as a primary caregiver on an application with the city clerk, or subsequent filing with the city clerk pursuant to the requirements of this article, shall be deemed to be licensed.

(f) Any changes to the act or any decisions by a court of competent jurisdiction which would render a license issued under this article void or otherwise ineffective, shall result in the immediate expiration of any license issued under this section.

(e) Each day that a person shall conduct a primary caregiver operation or a dispensary without a license shall constitute a separate offense.

Sec. 10-75. Confidentiality.

Names and addresses of applicants and any licensed primary caregivers under this article shall be confidential information and shall be maintained as confidential records not subject to disclosure, except to other authorized employees of various city departments as is necessary to perform their official duties under this article. No records or information shall be released except upon order of a court of competent jurisdiction.

Declaration of need to be effective immediately

This ordinance is declared to be immediately necessary for the preservation of the public peace, health and safety and shall be effective upon adoption.

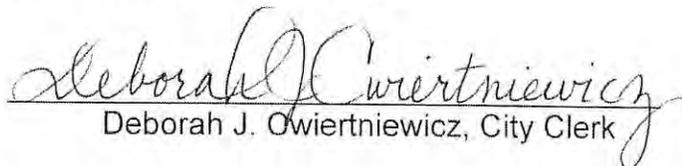
Number of council members present 6.

Number of affirmative votes 6.

The foregoing Ordinance was moved for adoption by Council Member Naeyaert and seconded by Council Member Droscha with a vote thereon being: YES (6) NO (0), at a regular meeting of the City Council held pursuant to public notice in compliance with the Michigan Open Meetings Act, on the 17th day of March, 2014. Ordinance No. 196 declared adopted this 17th day of March, 2014.



Leon R. Clark, Mayor



Deborah J. Owertniewicz, City Clerk

City of Mason

201 W. Ash St.
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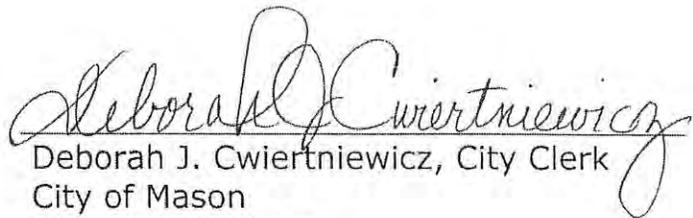
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CERTIFICATE OF POSTING

I, Deborah J. Cwierniewicz, City Clerk of the City of Mason, do hereby certify that on March 19, 2014 at approximately 12:00 p.m. Ordinance No. 196 was posted at the following conspicuous locations in the City of Mason, Michigan.

- | | |
|---|----------------------------|
| ▪ Bestsellers Bookstore | 356 South Jefferson Street |
| ▪ Kean's Store | 412 South Jefferson Street |
| ▪ Mason State Bank | 322 South Jefferson Street |
| ▪ Dart Bank | 368 South Park Street |
| ▪ Quality Dairy | 173 West Maple Street |
| ▪ Mason Area Chamber of Commerce | 148 East Ash Street |
| ▪ Dairy Hill | 601 East Ash Street |
| ▪ Mason Bowling Center | 801 North Cedar Street |
| ▪ City Hall | 201 West Ash Street |
| ▪ Capital Area District Library(Mason Branch) | 145 West Ash Street |

Date: March 19, 2014


Deborah J. Cwierniewicz, City Clerk
City of Mason
County of Ingham
State of Michigan

Introduced: Droscha

Second: Naeyaert

CITY OF MASON

CITY COUNCIL RESOLUTION NO. 2014-53

A RESOLUTION DECLARING AN ADDITIONAL TEMPORARY MORATORIUM ON THE ISSUANCE OF LICENSES FOR PRIMARY CAREGIVER OPERATIONS AND DISPENSARIES IN THE CITY OF MASON

November 17, 2014

WHEREAS, the People of the state of Michigan have adopted, by initiative, the Michigan Medical Marihuana Act (the "Act"); and

WHEREAS, the Act authorizes primary caregivers to assist qualifying patients in obtaining medical marihuana by allowing the primary caregiver to grow, possess, and deliver limited amounts of marihuana to the patients and receive compensation for doing so; and

WHEREAS, the Act's provisions have resulted in primary caregivers combining to form what has come to be termed "dispensaries" in adjacent municipalities in which multiple registered primary caregivers operate from a single building to create situations in which amounts of marihuana greater than the act would otherwise allow for a single primary caregiver are being possessed and stored on single lots and properties; and

WHEREAS, the Act does not regulate or even necessarily allow for dispensaries and many significant aspects of the operation of a dispensary could affect the health, safety and welfare of the citizens of the city of Mason; and

WHEREAS, the Act does not regulate many significant aspects of the operation of a primary caregiver that could affect the health, safety and welfare of the citizens of the city of Mason; and

WHEREAS, the City had previously adopted an ordinance which was understood to have the effect of prohibiting primary caregiver operations and dispensaries within the City; and

WHEREAS, the Michigan Supreme Court has determined such ordinances to be in conflict with the Act but also has stated that the use of Marihuana pursuant to the Act may be regulated; and

WHEREAS, the City of Mason intends to regulate primary caregiver operations and dispensaries to ensure the health, safety and welfare of its citizens; and

WHEREAS, the City of Mason, as part of the regulatory process, has adopted an ordinance requiring primary caregiver operations and dispensaries to be licensed; and

WHEREAS, in light of pending legislation, court rulings, and position statements of the Michigan Attorney General, the Michigan Sheriffs' Association, and the Michigan Association of Chiefs of Police, the City of Mason is in the process of considering and studying how to effectively regulate dispensaries and primary caregiver operations to meet the intent of the Act while preserving the health, safety and welfare of its citizens; and

WHEREAS, the City Council desires that no licenses be authorized or issued in the city of Mason for dispensaries or primary caregiver operations until the process is concluded to determine the appropriate and necessary regulations;

NOW, THEREFORE, BE IT RESOLVED that:

1. No applications for licenses for primary caregiver operations shall be accepted and no licenses shall be issued from the effective date of this resolution and while the moratorium enacted by this resolution or any subsequently adopted resolutions which may extend this moratorium shall remain in effect.

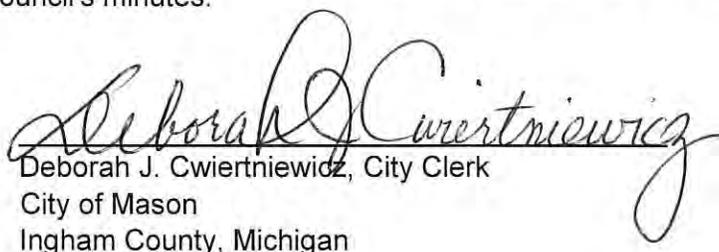
2. No applications for licenses for dispensaries shall be accepted and no licenses shall be issued from the effective date of this resolution and while the moratorium enacted by this resolution or any subsequently adopted resolutions which may extend this moratorium shall remain in effect.

3. This limited moratorium on the issuance of primary care giver operation licenses and dispensary licenses shall be effective for 180 days from passage.

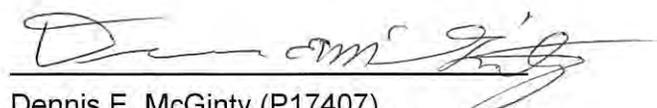
Yes (5) Brown, Droscha, Ferris, Mulvany, Naeyaert

No (2) Bruno, Clark

CLERK'S CERTIFICATION: I hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the Mason City Council at a public meeting held on November 17, 2014, the original of which is part of the Council's minutes.


Deborah J. Cwierniewicz, City Clerk
City of Mason
Ingham County, Michigan

Drafted by and approved as to form:


Dennis E. McGinty (P17407)
Mason City Attorney 601 Abbot Road
East Lansing, MI 48823