

ORDINANCE NO. 1102

AN ORDINANCE TO AMEND AND REENACT SECTIONS 1-0810.2, 4-428-A.3, 4-429.3, 12-0401, AND 12-0402, AND TO CREATE AND ENACT SECTION 4-429.8 OF THE REVISED ORDINANCES OF 1990 OF THE CITY OF WEST FARGO RELATING TO MEDICAL MARIJUANA AND COMPASSION CENTERS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF WEST FARGO, NORTH DAKOTA:

SECTION 1. Section 1-0810.2 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

1-0810. CONDITIONS OF PROBATION - REVOCATION.

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2. When imposing a sentence to probation, the court may impose such conditions as it deems appropriate, and may include any one or more of the following:
 - a. Work faithfully at a suitable employment or faithfully pursue a course of study or of vocational training that will equip him for suitable employment;
 - b. Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose;
 - c. Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation;
 - d. Support his dependents and meet other family responsibilities;
 - e. Make restitution or reparation to the victim of his conduct for the damage or injury which was sustained, or perform other reasonable assigned work. When restitution, reparation, or assigned work is a condition of the sentence, the court shall proceed as provided in Section 1-0811;
 - f. Pay a fine imposed after consideration of the provisions of Section 1-0808;
 - g. Refrain from possessing a firearm, destructive device, or other dangerous weapon unless granted written permission by the court;
 - h. Refrain from excessive use of alcohol, or any use of narcotics or of another dangerous or abusable drug without a prescription;
 - i. Promptly notify the court of any change in address or employment;

- j. Remain within the jurisdiction of the court, unless granted permission to leave by the court; and
- k. Refrain from associating with known users or traffickers in narcotics, marijuana, or other controlled substances, except medical marijuana as permitted under Chapter 19-24.1 of the N.D.C.C.

SECTION 2. Section 4-428-A.3 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

4-428-A.3. Conditionally Permitted Uses.

1. Grain elevators, seed cleaning, feed mixing and grinding plants.
2. Above-ground class 1 and 2 liquid storage tanks with a maximum tank size of 20,000 gallons and overall capacity of 200,000 gallons; and propane fuel tanks subject to no more than 30,000 container capacity (water gallons), subject to the following:
 - a. A minimum distance of 75 feet is maintained from property lines, as well as placement and screening to ensure both aesthetic and public safety purposes.
 - b. The use is reviewed and approved by the Fire Department for quantities and separation from other lots of record and buildings.
3. Eating and drinking establishments, and commercial and professional office buildings, single or multi-tenant, subject to the following:
 - a. The facilities have adequate separation from uses which may be injurious to health or pose life safety risks.
4. Indoor Personal Training Facilities, provided the facility has adequate separation from uses which may be injurious to health or pose life safety risk.
5. Compassion centers as described further in Section 4-429.8.

SECTION 3. Section 4-429.3 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

4-429.3. Conditionally Permitted Uses. The following uses may be permitted to the M District subject to the conditions hereinafter imposed for each use and subject further to review and approval by the City Commission as required by Section 4-550 of this ordinance dealing with conditional use permits:

1. Above ground class 1 and class 2 liquid storage tanks.
2. Wrecking and salvage yards when completely enclosed within a solid fence.
3. Stockyards.
4. Petroleum refining or storage.
5. Fertilizer manufacture.
6. Acid manufacture.
7. Cement, lime or gypsum manufacture.
8. Stockpiling of sand, gravel or fill dirt and any other materials.
9. Child Care Facility or Child Care Center which is connected to a business and is limited to handling children of employees of that business.
10. Landfills (but only outside of the limits of the City of West Fargo and within the City's extra-territorial jurisdiction as provided in section 4-130 of these ordinances).
11. Animal slaughter or rendering (but only outside of the limits of the City of West Fargo and within the City's extra-territorial jurisdiction as provided in Section 4-130 of these ordinances).
12. Temporary or permanent industrial wood burners, including air curtain destructors, subject to the following conditions:
 - a. For a permanent site, the site must be fenced with a sight obscuring fence and screened if necessary to keep materials out of sight.

- b. The site is located a minimum of 2,640 feet from any residential or neighboring business structure.
 - c. The waste wood products may not be stored on a permanent or temporary site for more than two (2) months. For a permanent site, all waste wood products on site must be disposed of within a two (2) month period. At the time the site is completely cleared, another two-month cycle of storage may begin. An extension to the two-month period may be granted by the Fire Chief during the high fire risk times when burning is not allowed.
 - d. The use has received State Health Department and local Fire Department approval.
 - e. A permit for a temporary site may not exceed sixty (60) days, and only two (2) temporary permits may be granted for the same site in any year. The 60-day period may be extended by the Fire Chief if during that period burning is not allowed because of high risk conditions.
 - f. Other conditions as deemed necessary.
13. Indoor Personal Training Facilities, provided the facility has adequate separation from uses which may be injurious to health or pose life safety risk.
14. Compassion centers as described further in Section 4-429.8.

SECTION 4. Section 12-0401 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota is hereby amended and reenacted to read as follows:

12-0401. DEFINITIONS.

- 1. "Cannabinoid" means a chemical compound that is one (1) of the active constituents of marijuana.
- 2. "Marijuana" means all parts of the plant cannabis whether growing or not; the seeds thereof; the resinous product of the combustion of the plant cannabis; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, fiber, oil, or

cake, or the sterilized seed of the plant which is incapable of germination.

3. "Medical marijuana" means a cannabinoid concentrate or a medical cannabinoid product.
4. "Medical use of marijuana" means the acquisition, use, and possession of usable marijuana to treat or alleviate a qualifying patient's debilitating medical condition.
5. "Qualifying patient" means an individual who has been diagnosed by a health care provider as having a debilitating medical condition.
6. "Usable marijuana" means a medical marijuana product or the dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form. However, the term does not include the dried leaves or flowers unless authorized through a written certification and does not include a cannabinoid edible product. In the case of a registered qualifying patient who is a minor, "usable marijuana" is limited to pediatric medical marijuana.

SECTION 5. Section 12-0402 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

12-0402. POSSESSION OF MARIJUANA AND DRUG PARAPHERNALIA.

1. It shall be unlawful to possess marijuana within the jurisdiction of the City of West Fargo, North Dakota, unless permitted under Chapter 19-24.1 of the N.D.C.C. For purposes of this section, possession includes actual or constructive possession. Constructive possession shall mean the power and capability to exercise dominion and control over the marijuana.
2. It shall be unlawful to use or possess with the intent to use drug paraphernalia to ingest, inhale, or otherwise introduce marijuana into the human body, unless permitted under Chapter 19-24.1 of the N.D.C.C. Any person violating this section shall be guilty of a class B misdemeanor.

SECTION 6. Section 4-429.8 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby created and enacted to read as follows:

4-429.8. Compassion Centers-Location Restricted. The location of compassion centers, as hereinafter defined, shall be limited as hereinafter provided:


A. DEFINITIONS.

1. Compassion center: a medical marijuana manufacturing facility or dispensary.
2. Dispensary: an entity registered by the North Dakota State Department of Health as a compassion center authorized to dispense usable marijuana to a registered qualifying patient and a registered designated caregiver.
3. Manufacturing facility: an entity registered by the North Dakota State Department of Health as a compassion center authorized to produce and process and to sell usable marijuana to a dispensary.

B. LOCATION: Notwithstanding anything in this Zoning Ordinance to the contrary, a compassion center shall be permitted only in the LI District and M District, no other district shall be permitted, and then only if the compassion center meets the following conditions:

1. The compassion center is located no closer than one thousand two hundred fifty feet (1,250') from any pre-existing school, daycare facility, or any property zoned residential.
2. The business premises of the compassion center which are generally open to its patrons are open equally at the same time to members of the City police department and the City health officer who may wish to enter thereon provided the entry is in the course of the discharge of police duties and health inspection duties.

SECTION 7. Effective Date. This ordinance shall be in full force and effect from and after the date of its final passage and publication.


President of Board of City
Commissioners of the City of
West Fargo, North Dakota

ATTEST:



City Auditor

Date of First Reading: August 7, 2017

Date of Second Reading: October 2, 2017

Date of Publication: October 16, 2017