

## 6.16 Medical Marijuana - Compassion Centers

### 6.16.1 Purpose and Intent

The 2017 North Dakota Legislature enacted Senate Bill 2344, relating to the implementation of the North Dakota Compassionate Care Act. NDCC § 19-24.1 and NDAC § 33-44-01 regulates medical marijuana dispensaries and manufacturing facilities for the cultivation, propagation, and distribution of medical marijuana in North Dakota.

All persons, entities, or organizations wishing to establish a Medical Marijuana Compassion Center within Billings County must apply for and be granted a conditional use permit for said use and have a license from the North Dakota Department of Health, Division of Medical Marijuana.

- a) Marijuana is classified as a Schedule I Controlled Substance by both North Dakota and federal law and the use, cultivation, manufacturing, production, distribution, possession and transportation of marijuana remains illegal under state and federal law;
- b) The county commission does not have the authority to, and nothing in this chapter is intended to, authorize, promote, condone or aid the production, distribution or possession of medical marijuana in violation of any applicable law;
- c) The county commission intends to regulate the use, acquisition, cultivation, manufacturing, and distribution of usable medical marijuana in a manner that is consistent with North Dakota statutes. The regulations are intended to apply to all medical marijuana operations in the county by any medical marijuana business permitted under state law. Medical marijuana cultivation and production can have an impact on health, safety, and community resources, and this chapter is intended to permit state-licensed Medical Marijuana Manufacturing Facilities where they will have a minimal negative impact;
- d) To the extent that Compassion Centers are registered and authorized by the State of North Dakota, this commission desires to provide for their licensing and regulation to protect the public health, safety and general welfare of the citizens of Billings County;
- e) This chapter is to be construed to protect the public over medical marijuana business interests. Operation of a compassion center is a revocable privilege and not a right in the county. There is no property right for an individual or business to have medical marijuana in the county;

- f) Medical marijuana is a heavily regulated industry in the state and county, and the county has a zero tolerance policy for violations of this chapter;
- g) The purpose of this chapter is to protect the public health, safety, and welfare of the residents and patients of the county by prescribing the manner in which medical marijuana businesses can be conducted in the county. Further, the purpose of this chapter is to:
  - 1) Provide for a means of cultivating, manufacturing and distributing of usable marijuana to patients who qualify to obtain, possess, and use marijuana for medical purposes as prescribed by state law.
  - 2) Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, neighborhood and patient safety, security for the business and its personnel, and other health and safety concerns.
  - 3) Impose fees to cover the cost to the county of licensing medical marijuana businesses in an amount sufficient for the county to cover the costs of the licensing program.
  - 4) Create regulations that address the particular needs of the facilities, patients and residents of the county and comply with laws that may be enacted by the state regarding medical marijuana.

#### **6.16.2 Permitted Districts and Excluded Districts**

- a) Compassion centers classified as medical marijuana manufacturing facilities may be allowed as a conditionally permitted use in the following non-residential zoning districts:
  - 1) Agricultural District
  - 2) Industrial District
- b) Compassion centers classified as medical marijuana dispensaries are NOT a permitted use in any zoning district under the authority of Billings County.

### 6.16.3 Annual Permit Fee

As authorized by the Board of County Commissioners, the Planning and Zoning Director is to establish an annual permit fee to offset costs associated with policing, site inspections, monitoring, storage of media, and/or regulating medical marijuana facilities involved in the cultivation, propagation, manufacturing, processing, refining, distribution, delivery, supply, sale or handling of Medical Marijuana. No portion of the fee is refundable if a permit is denied or operation of the compassion center is discontinued for any reason.

### 6.16.4 Definitions

The definitions contained in NDCC § 19-24.1 Medical Marijuana, NDAC § 33-44-01 Medical Marijuana, and any regulations administered by the North Dakota Department of Health Division of Medical Marijuana, as amended from time to time, are incorporated into this Section by reference. All other applicable definitions are defined in Section 2.3 of this Ordinance and below:

- 1) **Advertising** – the act of providing consideration for the publication, dissemination, solicitation, or circulation, of visual, oral, or written communication; to induce directly or indirectly any person to patronize a particular Compassion Center, or to purchase a particular Medical Marijuana Product, Medical Marijuana Cannabinoid Product, Marijuana Strain, etc. “Advertising” includes marketing, but does not include packaging and labeling. “Advertising” proposes a commercial transaction or otherwise constitutes commercial speech.
- 2) **Alarm Installation Company** – a person engaged in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing a Security Alarm System in a Licensed Premises.
- 3) **Child Care Center** – an entity that regularly provides child day care and early learning services for a group of children for periods less than twenty-four hours licensed by the North Dakota Department of Human Services.
- 4) **Child - Resistant** – special packaging that is:
  - a) Designed or constructed to be significantly difficult for children to open and not difficult for normal adults to use properly.
  - b) Opaque so that the packaging does not allow the product to be seen without opening the package material;
  - c) Resealable for any product intended for more than a single use containing multiple servings.

- 5) **Compassion Center Agent** – a principal officer, board member, member, manager, governor, employee, volunteer, or agent of a compassion center.
- 6) **Container** – a sealed, hard or soft bodied receptacle in which usable marijuana is placed.
- 7) **Contaminated** – made impure or inferior by extraneous substances.
- 8) **Edible Medical Marijuana – Infused Product** – any Medical Marijuana-Infused Product that is intended to be consumed orally, including, but is not limited to, any type of food, drink, or pill.
- 9) **Elementary School** – a school for early education that provided the first four to eight years of basic education and recognized by the North Dakota state superintendent of public instruction.
- 10) **Enclosed, locked facility** – a closet, room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access limited to individuals authorized under this chapter or rules adopted under this chapter.
- 11) **Flammable Solvent** – A liquid that has a flash point below 100 degrees Fahrenheit.
- 12) **Flowering** – the reproductive state of Cannabis in which the plant is in a light cycle intended to stimulate production of flowers, trichomes, and cannabinoids characteristic of marijuana.
- 13) **Greenhouse** –An enclosed structure with transparent or translucent, rigid glazing on walls and roof used for growing plants and vegetation under a controlled environment.
- 14) **Grow Room** – a designated fully enclosed, locked, interior space within a Compassion Center used for propagating, cultivating, or growing medical marijuana.
- 15) **Hazardous Waste** – the same as defined in North Dakota Century Code chapter 23-20.3.
- 16) **Immature Plant** – A nonflowering Medical Marijuana plant that is no taller than eight inches and no wider than eight inches produced from a cutting, clipping, or seedling and that is in a growing container that is no larger than two inches wide and two inches tall that is sealed on the sides and bottom.

- 17) **Laboratory** – a laboratory selected by the North Dakota Department of Health, Division of Medical Marijuana in accordance with NDAC § 33-44-01-36 to sample and conduct tests in accordance with these rules.
- 18) **Licensed Premises** – the premises specified in an application for a license pursuant to NDAC § 33-44-01 that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, store, transport, or test Medical Marijuana in accordance with the provisions of the state statutes and these rules.
- 19) **Licensee** – any person licensed or registered by the North Dakota Department of Health, Division of Medical Marijuana pursuant to NDAC § 33-44-01.
- 20) **Limited Access Area** – a building, room, or other contiguous area upon the Licensed Premises where the Medical Marijuana is grown, cultivated, stored, dried, weighed, trimmed, extracted, packaged, sold, or processed for sale, under control of the Licensee.
- 21) **Marijuana** - any species in the genus Cannabis, including but not limited to Cannabis sativa, Cannabis indica, and Cannabis ruderalis. Means all parts of the plant of the genus cannabis; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, the seeds of the plant, or the resin extracted from any part of the plant.
- 22) **Marijuana Strain** – a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, or potency.
- 23) **Mature Plant** – A Medical Marijuana plant that is taller than eight inches and is in a vegetative or flowering cycle.
- 24) **Medical Cannabinoid Product** – a product intended for human consumption or which contains cannabinoids.
  - a) Medical cannabinoid products are limited to the following forms:
    - (1) Cannabinoid tincture;
    - (2) Cannabinoid capsule;
    - (3) Cannabinoid transdermal patch; and
    - (4) Cannabinoid topical.

- b) “Medical cannabinoid product” does not include:
- (1) A cannabinoid edible product;
  - (2) A cannabinoid concentrate by itself; or
  - (3) The dried leaves or flowers of the plant of the genus cannabis by itself.
- 25) **Medical Marijuana** - Means a product intended for human consumption or use which contains cannabinoid concentrate containing, derived from, or containing a derivative of Marijuana in any form, including but not limited to plants, seeds, and resins or any Medical Marijuana Product.
- 26) **Medical Marijuana Compassion Center** – means a manufacturing facility or dispensary, any facility engaged in the cultivation, manufacturing, acquiring, possession, storage, delivery, transfer, transport, sale, supply, or dispensing of Medical Marijuana or related products to a Medical Marijuana Qualifying Patient or Medical Marijuana Registered Designated Caregiver, including but not limited to a Medical Marijuana Cultivation and/or Manufacturing Facility and a Medical Marijuana Dispensary.
- 27) **Medical Marijuana Dispensary** – an entity registered with the North Dakota Department of Health under this chapter to acquire, possess, store, deliver, transfer, transport, sell, supply, or dispense Medical Marijuana or related products and educational materials to a Medical Marijuana Qualifying Patient or Medical Marijuana Registered Designated Caregiver.
- 28) **Medical Marijuana Manufacturing Facility** - an entity registered with the North Dakota Department of Health to acquire, possess, cultivate, or transport Medical Marijuana for the purpose of manufacturing Medical Marijuana or for the delivery, supply, or sale of Medical Marijuana to a Medical Marijuana Dispensary. Facilities may be indoor, outdoor, or a combination of both.
- 29) **Medical Marijuana Indoor Production or “Indoor Grow”** – producing marijuana in any manner utilizing artificial lighting on mature marijuana plants; or, production other than “outdoor production”.
- 30) **Medical Marijuana Outdoor Production or “Outdoor Grow”** – producing marijuana in an expanse of open or cleared ground; or, in a greenhouse, hoop-house, high-tunnel, membrane structure or similar non-rigid structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources.

- 31) **Medical Marijuana Processing** – or “process” means the compounding or conversion of marijuana into a medical marijuana product.
- 32) **Medical Marijuana Product** – a cannabinoid concentrate or a medical cannabinoid product.
- 33) **Medical Marijuana Registered Designated Caregiver** - an individual who is registered with the North Dakota Department of Health who agrees to manage the well-being of a Medical Marijuana Qualifying Patient with respect to the Medical Marijuana Qualifying Patient's medical use of Marijuana.
- 34) **Medical Marijuana Transporter** – a person that is licensed to transport Medical Marijuana, Medical Marijuana Products, and Medical Cannabinoid Products from the Medical Marijuana Manufacturing Facility to a Medical Marijuana Dispensary in North Dakota, but is not authorized to sell, give away, buy, or receive complimentary Medical Marijuana, Medical Marijuana Products, or Medical Cannabinoid Products, or any other medical marijuana-infused products under any circumstances.
- 35) **Medical Marijuana Qualifying Patient** - a person who has been diagnosed with a debilitating medical condition by a physician licensed to practice medicine in the State of North Dakota and who has in that person’s possession a current, valid photo identification issued by the State of North Dakota or the United States of America and a current, valid document issued by the North Dakota Department of Health to that person and authorizing that person to possess and use Medical Marijuana
- 36) **Medical Marijuana Waste** – unused, surplus, returned, or out-of-date usable marijuana; recalled usable marijuana; contaminated marijuana; or plant debris of the plant of the genus cannabis, including dead plants, trimmings, and all unused plant parts and roots.
- 37) **Monitoring** – the continuous and uninterrupted attention to potential alarm signals that could be transmitted from a Security Alarm System located at a Compassion Center, for the purpose of summoning a law enforcement officer to the premises during alarming conditions.
- 38) **Paraphernalia** – items used for storage or use of usable marijuana, marijuana concentrates, or marijuana infused products, such as, but not limited to, lighters, roach clips, pipes, rolling papers, bong, and storage containers. Items within a compassion center used for growing, cultivating, and processing medical marijuana, such as, but not limited to butane, lights, and chemicals are not considered “paraphernalia.”

- 39) **Pesticide** – a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; except that the term “pesticide” shall not include any article that is a “new animal drug” as designated by the United States Food and Drug Administration.
- 40) **Plant Canopy** – the square footage dedicated to live plant production, such as maintaining mother plants, propagating plants from seed to plant tissue, clones, vegetative or flowering area. Plant canopy does not include areas such as space used for storage of fertilizers, pesticides, or other products, quarantine, office space, etc. Plant canopy is measured from the perimeter dimensions of the area encompassing the plant vegetation.
- 41) **Playground** - a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.
- 42) **“Producing,” “produce,” or “production”** - the planting, cultivating, growing, trimming, or harvesting of the plant of the genus cannabis or the drying of the leaves or flowers of the plant of the genus cannabis.
- 43) **Propagation** – the reproduction of Medical Marijuana plants by seeds, cutting, or grafting.
- 44) **Public Park** – an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a charitable nonprofit organization, city, county, state, federal government, or other park district.
- 45) **Recreation Center or Facility** – a supervised center that provides a broad range of public activities and events owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government or other park district.
- 46) **Secondary School** – a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the North Dakota state superintendent of public instruction.
- 47) **Security Alarm System** – a device or series of devices, intended to summon law enforcement personnel during, or as a result of, an alarm condition. Devices may include hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual, or

electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in progress).

- 48) **Shipping Container** – a hard sided container with a lid or other enclosure that can be secured in place, and the container is used solely for the transport of Medical Marijuana or Medical Marijuana-Infused Product in bulk, or in a quantity for other Medical Marijuana Businesses.
- 49) **THC** – tetrahydrocannabinol
- 50) **THCA** – tetrahydrocannabinolic acid
- 51) **Unrecognizable** – marijuana or Cannabis plant material rendered indistinguishable from any other plant material.
- 52) **Vegetative** – the state of the Cannabis plant during which plants do not produce resin or flowers and are bulking up to a desired production size for Flowering.

#### 6.16.5 Compassion Centers - General Requirements

In addition to the requirements applicable to all Conditional Use Permit applications, an application for a Conditional Use Permit for a Compassion Center must include the following:

- a) Proof of insurance:
  - 1) The minimum amount of third-person insurance coverage for a Compassion Center shall be one million dollars (\$1,000,000.00) per occurrence, two million dollars (\$2,000,000.00) general aggregate for bodily injury and property damage arising out of licensed activities and one million dollars (\$1,000,000.00) products and completed operations aggregate, commercial automobile coverage in a minimum of one million dollars (\$1,000,000.00) and excess liability in a minimum of three million dollars (\$3,000,000.00).
  - 2) Additional insured: The County shall be named as an additional insured on all general liability, umbrella, and excess insurance policies required under this section. All insurance policies required under this section shall be primary over any other valid and collectible insurance.

- b) List of all persons and entities with an ownership interest in the compassion center including all shareholders that hold any share in stock in the compassion center.
- c) A security plan depicting the location and configuration of the security cameras and surveillance equipment.
- d) The Billings County Sheriff's Department shall conduct an initial review of the application and security plan and provide a recommendation to the Planning & Zoning Board and Board of County Commissioners regarding the risk of crime or violence associated with the location and operation of the proposed compassion center.
- e) The Billings County Fire Chief shall conduct an initial review of the application and provide a recommendation to the Planning & Zoning Board and Board of County Commissioners regarding the risk and response of fire associated with the location and operation of the proposed compassion center.
- f) All electricity associated with the compassion center shall be grid connected and compliant with state and national electrical codes. All electrical work shall be certified by a North Dakota licensed electrical contractor. Use of generators for production of electricity for the compassion center is prohibited, with the exception of back-up generators connected to the security alarm system and surveillance system only.
- g) The estimated amount of electricity needed annually, reported in kilowatt hours (KWH), for the growing, manufacturing, and processing of medical marijuana and pre-authorization from a utility company or rural electric cooperative verifying that the site for the compassion center has or will have adequate electrical service and will not negatively affect the electrical service to other properties in the area.
- h) A complete description of the products and services to be produced or sold by the Medical Marijuana Compassion Center.
- i) A notarized statement acknowledging that the applicant understands applicable federal laws, any guidance or directives issued by the U.S. Department of Justice, the laws of the State of North Dakota and the laws and regulations of the county applicable thereto concerning the operation of a Compassion Center. The written statement shall also acknowledge that any violation of any laws or regulations of the State of North Dakota or of the county, or any activity in violation of any guidance or directives issued by the U.S. Department of Justice, in such place of business, or in connection therewith, or the commencement of any legal proceeding

relating to such Compassion Center by federal authorities, may render the license subject to immediate suspension or revocation.

- j) A notarized statement that the applicant will hold harmless, indemnify, and defend the county against all claims and litigation arising from the issuance of license and/or a conditional use permit including any claims and litigation arising from the Compassion Center, or operation or ownership of the Compassion Center.
- k) A notarized acknowledgement that the applicant is seeking a Medical Marijuana Compassion Center Conditional Use Permit and that the applicant understands and acknowledges that the burden of proving qualifications to receive such a Conditional Use Permit is at all times on the applicant; that the granting of a Conditional Use Permit for a Medical Marijuana Compassion Center is at the discretion of the county commission; and that the applicant agrees to abide by the decision of the county commission.
- l) All applicable state standards and requirements shall apply in the design and operations of any Compassion Center.
- m) The Planning and Zoning Director may require additional plans, documents, or other information prior to deeming the application complete.
- n) Property that is leased or purchased by the applicant for a Compassion Center must include a surveyed plat that conforms to the provisions for a Minor Subdivision in the Billings County Subdivision Ordinance.
- o) A Conditional Use Permit for a compassion center is considered temporary and shall be reviewed annually by the Board of County Commissioners for renewal. A permit renewal application must be submitted to the county not less than 30 days prior to the expiration of the permit.
- p) If the State of North Dakota or its electorate repeals the Compassionate Care Act or the act is otherwise declared void, all Medical Marijuana Compassion Center Conditional Use Permits issued by the county commission will be deemed to have immediately expired.
- q) Once a conditional use permit is obtained for a Compassion Center, any change in operation of the facility or in ownership shall require prior approval of the Board of County Commissioners.
- r) Any building modifications or alterations must be approved by the Planning and Zoning Director.

- s) Annual inspection – An annual inspection of the compassion center shall be conducted by the Billings County Planning & Zoning Department, Billings County Sheriff's Department and the Billings County Fire Chief prior to the annual renewal of the Conditional Use Permit.
- t) Evidence of a letter of credit in the amount of \$50,000 to be on file and renewed annually with the Planning and Zoning Department until close of business.

#### **6.16.7 Compassion Centers - Specific Requirements and Design Standards**

In addition to the requirements of the underlying zoning district, a compassion center shall meet the following specific requirements and design standards. Where the requirements of the applicable zoning district differ from the special provisions, the more stringent rules will apply.

- a) Compassion centers utilizing Indoor Medical Marijuana Production shall have a minimum lot size of five (5) acres, and structures shall conform to the Industrial District setback and yard requirements outlined in Section 5.5.5 of this Ordinance. Driveways, parking areas, on-site sewage systems, wells, stormwater facilities, and other associated utilities are exempt from this setback.
- b) Compassion centers utilizing Outdoor Medical Marijuana Production shall only be allowed in Agricultural Districts on lots of forty (40) acres or more, and structures and outdoor grows shall have a minimum setback of five hundred (500) feet from each adjacent property line. Driveways, parking areas, on-site sewage systems, wells, stormwater facilities, and other associated utilities are exempt from this setback.
- c) Setback Requirements - The following setback distances shall be measured from the parcel property line to the property line of the protected use:
  - 1) Compassion centers must be located a minimum of 2,640 feet (1/2 mile) from a public or private preschool, kindergarten, elementary, secondary or high school, public park, playground, public community center, dependent care facility, homeless shelter, recreation center, child care center, youth center, or place of worship.
  - 2) Compassion Centers must be located a minimum of 2,000 feet from any residential district, or any residential dwelling, trailer, recreational vehicle or recreational district.

- 3) Compassion Centers must be located a minimum of 2,000 feet from any federally owned properties, such as lands under the management of the US Forest Service, National Park Service, Bureau of Land Management, etc.
- d) Home occupation - A compassion center is prohibited as a home occupation. Marijuana may not be sold from any dwelling unit nor shall marijuana be grown, produced, or processed in a dwelling unit with the intent to sell. No compassion center shall be permitted within a building physically attached to a dwelling unit.
- e) Rural Home occupation - A compassion center is prohibited as a rural home occupation. Marijuana may not be sold from any dwelling unit nor shall marijuana be grown, produced, or processed in a dwelling unit with the intent to sell. No compassion center shall be permitted within a building physically attached to a dwelling unit.
- f) Hours of Operation - A compassion center may open no earlier than 8:00 a.m. and shall close no later than 7:00 p.m. on the same day, Monday through Saturday. A compassion center may open no earlier than 12:00 p.m. and shall close no later than 7:00 p.m. on Sunday.
- g) Medical Marijuana Production:
  - 1) Medical marijuana indoor production and processing shall be located entirely within one or more detached, fully enclosed, locked facilities.
  - 2) Medical marijuana outdoor production shall take place within a fully enclosed, locked greenhouse with rigid walls, roof, and doors. Polycarbonate panels or other rigid translucent material shall be used for glazing. Glass, polyethylene sheets, or other non-rigid cloth or plastic-based materials are prohibited for greenhouse glazing.
  - 3) Hoop-houses, high-tunnels, or other similar structures with glazing made of polyethylene sheets or other non-rigid plastic-based materials may only be allowed for temporary outdoor production of medical marijuana for a period of two (2) years from the date when all applicable local and state permits and licenses have been obtained. After this time, the structures must be removed and replaced with an indoor production facility or a greenhouse as described in the section above.

- h) Grow rooms, lighting and other electrical requirements:
- 1) Grow rooms for medical marijuana indoor production or enclosed medical marijuana outdoor production shall have a maximum mature plant density of 1 plant per 10 square feet of floor area to allow for adequate ingress and egress.
  - 2) The plant canopy may not exceed more than 50% of the grow room area. The area of the plant canopy is measured from the perimeter dimensions of the area encompassing the plant vegetation.
  - 3) Grow light fixtures for indoor medical marijuana production shall have a maximum electrical power rating of 1000 watts.
  - 4) Light cast by grow light fixtures inside any building used for medical marijuana production or processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
  - 5) Grow rooms for medical marijuana indoor production or outdoor production shall have electrical service metered separately from office areas and other accessory uses.
- i) Fencing:
- 1) Fencing shall be finished in a muted tone that blends with the surrounding natural landscape and shall not be constructed of repurposed materials such as tires, crates, pallets, rubbish etc. or temporary materials such as plastic sheeting, hay bales, tarps, etc.
  - 2) Outdoor marijuana production must be enclosed by a sight-obscuring wall or fence at least eight feet (8') high.
  - 3) Outdoor marijuana waste receptacles and compost piles must be enclosed by an eight feet (8') high solid, secured, non-combustible fence, constructed with materials such as concrete, concrete blocks, concrete masonry units (CMUs), or insulated concrete forms (ICFs).
- j) The security plan shall be approved by the County Sheriff's Department. The Plan shall include, but is not limited to, the following:
- 1) The location of all surveillance cameras and surveillance recording equipment including specifications.

- 2) The maintenance plan and monitoring records of the surveillance cameras and surveillance recording equipment certifying the equipment, technology, and software associated with the surveillance cameras and recording equipment are installed and maintained in good working condition, and used in an on-going manner.
  - 3) The maintenance plan and monitoring records of the security alarm system certifying the equipment, technology, and software associated with the security alarm system are installed and maintained in good working condition and used in an on-going manner. The annual review of the plan shall also include the dates, times, and locations of all tests and alarm activations.
- k) Parking Requirements:
- 1) One space per 250 square feet of floor area used for office, sales, or personal service operations.
  - 2) One space per 1,000 square feet of floor area used for cultivating, processing, storage, research and development, and/or testing facilities.
- l) Loading requirements - One loading space for every 10,000 square feet of floor area. One loading space minimum for medical marijuana manufacturing facilities.
- m) No drive-through, drive-up, or walk-up facilities shall be permitted.
- n) On-site consumption prohibited – Marijuana, alcohol, and other intoxicants must not be consumed, ingested, inhaled, and/or topically applied anywhere on the premises of the compassion center.
- o) No outdoor storage of usable medical marijuana or medical marijuana products on-site shall be permitted.
- p) Ventilation – Medical marijuana manufacturing facilities must ensure there is no emission of dust, fumes, vapors, or odors into the environment. It is the intent of this ordinance that no odor shall be detectable by a person with a normal sense of smell outside of any building or structure where marijuana is present. As used in this subsection, building means the building, or portion thereof, used for marijuana cultivation, production or 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 six (6) months or as manufacturer recommended.
  - 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 county accepts a report by a mechanical engineer licensed in the state of North Dakota demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The county may hire an outside expert at the applicant's expense, to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.
- q) Signage – Compassion centers may have up to two (2) signs identifying the facility by its licensed business name or trade name only. Advertising of the goods and/or services or images of paraphernalia are not permitted.
- r) Windows must remain unobstructed, allowing visibility into the facility. Window tint, decals or window signage of any kind are prohibited.
- s) Disposal – Medical marijuana waste shall be rendered unusable and unrecognizable and stored, secured, and managed in accordance with the North Dakota Department of Health, Division of Medical Marijuana and to these provisions:
- 1) Burning of medical marijuana waste is prohibited.
  - 2) Medical marijuana waste may be composted on site, provided the area is designated as a limited access area, securely fenced to prevent public access, obscured from public view, and the compost

piles are monitored and maintained regularly to prevent foul odors, pest infestation, and combustion hazards.

- t) All medical marijuana products sold in Billings County must be packaged in child-resistant packaging.
- u) Upon approval by the North Dakota Department of Health, an applicant with an approved Conditional Use Permit to operate a compassion center in Billings County must submit a copy of the entire application and all documentation of approval by the North Dakota Department of Health to the Billings County Planning and Zoning Department before authorization will be granted to begin construction or operation of said compassion center.

#### **6.16.8 Severability, Exclusions, and Exceptions**

- 1) The provisions of this chapter do not waive or modify any other provision of this ordinance with which the Medical Marijuana Compassion Center is required to comply. Nothing in this section is intended to authorize, legalize or permit the Compassion Center, operation or maintenance of any facility, building or use which violates any County ordinance or statute of the State of North Dakota regarding public nuisances, Medical Marijuana, or any federal regulations or statutes relating to the use of controlled substances.
- 2) This chapter shall be null and void if any determination is made, after the adoption of the ordinance enacting this chapter, by any court of competent jurisdiction, that NDCC § 19-24.1, is invalid, or shall be null and void to the extent any portion of such section is held invalid.
- 3) Should any section, subsection, clause or provision of this chapter for any reason be held to be invalid or factually unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter, it being hereby expressly declared that this chapter, and each and every section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, approved, adopted and/or ratified irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases of this chapter be declared invalid or unconstitutional.

The above Amendment was approved by the Billings County Board of County Commissioners on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

By: \_\_\_\_\_  
James R. Arthaud, Board Chairman

Attest: \_\_\_\_\_  
Marcia Lamb, County Auditor/Treasurer

DRAFT