

CITY OF CHEBOYGAN
CHEBOYGAN COUNTY, MICHIGAN
TO AMEND THE CITY OF
CHEBOYGAN, MICHIGAN CODE OF ORDINANCES TITLE XI, BUSINESS
REGULATIONS BY ADDING CHAPTER 121, MEDICAL MARIHUANA FACILITIES

AN ORDINANCE TO AUTHORIZE AND REGULATE THE ESTABLISHMENT OF
MEDICAL MARIHUANA FACILITIES PURSUANT TO THE MEDICAL MARIHUANA
FACILITIES LICENSING ACT BEING PUBLIC ACT 281 OF 2016

At a regular meeting of the City Council of the City of Cheboygan, Cheboygan County, Michigan, held at the Cheboygan City Hall on Tuesday, _____, 2020 at 7:00 p.m. Council Person _____ moved to adopt the following Ordinance, which motion was seconded by Council Person _____, motion carried.

THE CITY OF CHEBOYGAN ORDAINS:

Section 121.01 Purpose

- A. An Ordinance to implement the provisions of the Michigan Marihuana Facilities Licensing Act, Public Act 281 of 2016, which authorizes the licensing and regulation of Commercial Medical Marihuana Facilities and affords the City the option whether or not to allow Commercial Medical Marihuana Facilities; to regulate Commercial Medical Marihuana Facilities by requiring a Permit and compliance with requirements as provided in this Ordinance, in order to maintain the public health safety and general welfare of the community at large; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons.

- B. Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marijuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333 .27101 et seq.; the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the state of Michigan.

- C. As of the effective date of this ordinance, marijuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., which makes it unlawful to manufacture, distribute, or dispense marijuana, or process marijuana with intent to manufacture, distribute, or dispense marijuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws.

Section 121.02 Definitions

For the purposes of this ordinance:

- A. Any term defined by the Michigan Medical Marihuana Act, MCL 333 .26421 et seq., shall have the definition given in the Michigan Medical Marihuana Act.

- B. Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in the Medical Marihuana Facilities Licensing Act.
- C. Any term defined by the Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marihuana Tracking Act.
- D. "Grower" means a licensee that is a commercial and/or agricultural entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.
- E. "Licensee" means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- F. "Marijuana" or "marihuana" means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.
- G. "Marijuana facility" means enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, or marijuana safety compliance facility. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.
- H. "Permit" means a current and valid Permit for a Commercial Medical Marihuana Facility issued under this Ordinance, which shall be granted to a Permit Holder only for and limited to a specific Permitted Premises and a specific Permitted Property.
- I. "Permitee" means a person holding a City of Cheboygan operating Permit issued under the provisions of this Ordinance.
- J. "Permit Holder" means the Person that holds a current and valid Permit issued under this Ordinance.
- K. "Permitted Premises" means the particular building or buildings within which the Permit Holder will be authorized to conduct the Facility's activities pursuant to the Permit.
- L. "Permitted Property" means the real property comprised of a lot, parcel or other designated unit of real property where the Permitted Premises is situated at the time the permit is issued .
- M. "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, or other legal entity.

- N. "Processor" means a licensee that is a commercial entity located in Michigan that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.
- O. "Provisioning center" means a licensee that is a commercial entity located in Michigan that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.
- P. "Safety compliance facility" means a licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.
- Q. "Secure transporter" means a licensee that is commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

Section 121.03 Authorization of Facilities and Fee

- A. The maximum number of each type of marihuana facility allowed in the City of Cheboygan shall be as follows:

<u>Facility</u>	<u>Number</u>
Grower:	
Class A - 500 marijuana plants	5
Class B - 1,000 marijuana plants	5
Class C - 1,500 marijuana plants	5
Processor	5
Secure transporter	5
Provisioning Center	5
Safety compliance facility	5

- B. At least every year after adoption of this ordinance, City Council shall review the maximum number of each type of marihuana facilities allowed and determine whether this maximum number should be changed. The review and its findings shall be recorded in the minutes of the relevant meeting of the City Council.
- C. A nonrefundable fee shall be paid by each marihuana facility Permitted under this ordinance in an annual amount of not more than \$5,000.00 as set by resolution of the City Council.

Section 121.04 Requirements and Procedure for Issuing Permits

- A. No person shall operate a marihuana facility in the City of Cheboygan without a valid marijuana facility Permit issued by the City pursuant to the provisions of this ordinance. Application for each Medical Marihuana Facility Permit required by this ordinance shall be

made in writing to the City Clerk, and must be approved by the City Council after receiving recommendation submitted by the Planning Commission, and approved by the State of Michigan, prior to commencing operation. Upon the expiration of an existing Permit, a Permit will be renewed by the City for one (1) year if (1) there are no uncured administrative and/or legal violations in the prior year, including no taxes owed; (2) the applicant has paid the annual Permit fee for the renewal period; (3) any Stakeholder changes have been fully disclosed to the City; and (4) the applicant has paid and received the renewal of its State license.

- B. An application for a Medical Marihuana Facility Permit required by this Ordinance shall contain the following:
 - 1. The appropriate non-refundable permit application fee in the amount determined by the City.
 - 2. A full copy of the applicant's current license as issued by the State of Michigan for the type of facility the applicant is applying for.

Section 121.05 Permit Renewal

- A. A medical marijuana facility Permit shall be valid for one year from the date of issuance, unless revoked as provided by law.
- B. A valid medical marijuana facility Permit may be renewed on an annual basis by submitting a renewal application upon a form provided by the City of Cheboygan and payment of the annual Permit fee. Application to renew a marijuana facility Permit shall be filed at least thirty (30) days prior to the date of its expiration.
- C. The renewal application for a medical marihuana permit shall be subject to the same scrutiny and evaluation process as the inaugural permit application.

Section 121.06 Permits Generally

- A. To the extent permissible, all information submitted in conjunction with an application for a Permit or Permit renewal required by this Ordinance is confidential and exempt from disclosure under the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231 et. seq.
- B. Permittees may transfer a Permit issued under this Ordinance to a different location upon appropriate resolution approved by City Council. In order to receive approval to transfer a Permit location, the Permittee must make a written request to the City Clerk, indicating the current Permit location and the proposed Permit location. Upon receiving the written request, the City Clerk shall refer a copy of the written request to each of the following for their approval: Fire Department or their designee, the Police Department or their designee, the Zoning Administrator, the Planning Commission and the City Council.
- C. If state licensing authorities have approved of a permit transfer Permittees may transfer a Permit issued under this Ordinance to a different individual or entity upon receiving written approval

by the City Council. In order to request approval to transfer a Permit to a different individual or entity, the Permittee must make a written request to the City Clerk, indicating the current Permittee and the proposed Permittee. Upon receiving the written request, the City Clerk shall consider the request as a new application for a Permit and the procedures set forth in Section 3, Section 4, Section 5, and Section 6 shall be followed, and the annual permit fee paid.

- D. Permittee shall report any other change in the information required by this Ordinance to the City Clerk within ten (10) business days of the change. Failure to do so may result in suspension or revocation of the Permit.

Section 121.07 Minimum Operational Standards of Provisioning Centers

The following minimum standards for Provision Centers shall apply:

- A. Provisioning Centers shall at all times and in all circumstances operate in full compliance with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.

Section 121.08 Minimum Operational Standards of a Grower Facility

The following minimum standards for Grower Facilities shall apply:

- A. Grower facilities shall at all times and in all circumstances operate in full compliance with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.

Section 121.09 Minimum Operational Standards of Safety Compliance Facilities

The following minimum standards for Safety Compliance Facilities shall apply:

- A. Safety Compliance facilities shall at all times and in all circumstances operate in full compliance with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.

Section 121. 10 Minimum Operational Standards of Processor Facilities

The following minimum standards for Processor Facility shall apply:

- A. Processor facilities shall at all times and in all circumstances operate in full compliance with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time;

Section 121.11 Minimum Operational Standards of Secure Transporter

The following minimum standards for Secure Transporters shall apply:

- A. Secure Transporters shall at all times and in all circumstances operate in full compliance with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time;

Section 121.12 Location of Grower Facility, Safety Compliance Facility, Processor Facility, and Secure Transporter.

- A. No Grower Facility, Safety Compliance Facility, Processor Facility or Secure Transporter shall be located within One Thousand (1,000) feet of real property comprising a public or private elementary, or secondary school

Section 121.13 Location of Provisioning Centers

- A. No Provisioning Center shall be located within:
 - 1. One Thousand (1,000) feet of real property comprising a public or private elementary, or secondary school; or
 - 2. Five hundred (500) feet of a church or religious institution defined tax exempt by the City Assessor's Office.

Section 121.14 Denial and Revocation

- A. A Permit issued under this Ordinance may be revoked after an administrative hearing at which the City Council by majority vote of members present determines that any grounds for revocation under this Ordinance exist. Notice of the time and place of the Hearing and the grounds for revocation must be given to the holder of a Permit at least five days prior to the date of the hearing, by first class mail to the address given on the license application; a licensee whose license is subject of such Hearing may present evidence and/or call witnesses at the Hearing;
- B. A Permit applied for or issued under this Ordinance may be denied or revoked on any of the following basis:
 - 1. Any violation of this Ordinance;
 - 2. The Medical Marihuana Facility is determined by the City of Cheboygan to have become a public nuisance;
 - 3. The Michigan Medical Marihuana Licensing Board has denied, revoked or suspended the applicant's state license.

Section 121.15 Applicability

The provisions of this ordinance shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marijuana facility were established without authorization before the effective date of this ordinance.

Section 121.16 Enforcement

This Ordinance shall be enforced and administered by the City Manager, or such other City official as may be designated from time to time by resolution of the City Council.

Section 121.17 Severability

In the event that any one or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this Ordinance.

Section 121.18 Effective Date

This Ordinance shall become effective twenty (20) days after its enactment.

Moving Councilperson:

Supporting Councilperson:

Roll Call Vote:

Ayes:

Nays:

Abstain:

Absent:

MADE, PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CHEBOYGAN, CHEBOYGAN COUNTY, MICHIGAN, ON THE _____ DAY OF _____, 2020, PUBLISHED IN THE CHEBOYGAN DAILY TRIBUNE NEWSPAPER ON _____, 2020.

By: _____
Mayor Mark Bronson

By: _____
Bridget Brown, Clerk

I hereby certify that the above is a true and complete copy of an ordinance adopted by the City Council of the City of Cheboygan, County of Cheboygan, State of Michigan, at a regular meeting held on the _____ day of _____, 2020, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976 as required by said act.

Bridget Brown, City Clerk