

CITY OF CHEBOYGAN  
CHEBOYGAN COUNTY, MICHIGAN  
TO ADD TO AND AMEND THE CITY OF  
CHEBOYGAN, MICHIGAN CODE OF ORDINANCES TITLE XI, BUSINESS  
REGULATIONS BY ADDING CHAPTER 122, RECREATIONAL MARIHUANA FACILITIES TO  
AUTHORIZE AND REGULATE THE ESTABLISHMENT OF RECREATIONAL MARIHUANA  
FACILITIES PURSUANT TO THE MICHIGAN REGULATION AND TAXATION OF  
MARIHUANA ACT MCL 333.27951 ET SEQ. AND RESCINDING ORDINANCE 100, ARTICLE  
IX

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

THE CITY OF CHEBOYGAN ORDAINS:

**Section 122.01 Purpose**

- A. To implement the provisions of the Michigan Regulation and Taxation of Marijuana Act MCL 333.27951 et. seq., which authorizes the regulation and taxation of Recreational Marihuana Use and Facilities, and to regulate Recreational Marihuana Facilities by requiring a Permit and compliance with requirements as provided in this Ordinance, and hereby rescinding the opt out ordinance adopted 11/12/2019, Chapter 100, Article IX.
- 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 Michigan Regulation and Taxation of Marijuana Act MCL 333.27951 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 122.02 Definitions**

- 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 Michigan Regulation and Taxation of Marijuana Act MCL 333.27951 et. seq. shall have the definition given in the Michigan Regulation and Taxation of Marihuana Act.
- D. Any term defined by the Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marihuana Tracking Act.
- E. "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.
- F. "Licensee" means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- G. "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.; the Marihuana Tracking Act, MCL 333.27901 et seq.; and the Michigan Regulation and Taxation of Marijuana Act MCL 333.27951 et. seq.
- H. "Marijuana facility" means enterprise at a specific location at which a licensee is permitted to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. and/or Michigan Regulation and Taxation of Marijuana Act MCL 333.27951 et. seq. including a marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, marijuana safety compliance facility or marijuana retail 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.;
- I. "Permit" means a current and valid Permit for a Commercial Recreational 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.
- J. "Permitee" means a person holding a City of Cheboygan operating Permit issued under the provisions of this Ordinance.
- K. "Permit Holder" means the Person that holds a current and valid Permit issued under this Ordinance.
- L. "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.
- M. "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.
- N. "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust or other legal entity.

- O. "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 retail sales facility.
- P. "Retail Sales Facility" means a permitted building in which a licensee that is a commercial entity operating under the auspices of the Michigan Regulation and Taxation of Marijuana Act MCL 333.27951 et. seq. located in Michigan that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to individuals who are 21 years of age or older. 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 retail sales facility for purposes of this article.
- Q. "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 or caregiver.
- R. "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.
- S. "Marihuana Establishment" means marihuana grower, safety compliance facility, processor, microbusiness, retailer, secure transporter, or any other type of marihuana related business licensed by the Michigan Department of Licensing and Regulatory Affairs.
- T. "Marihuana Retailer" means a person or entity licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.
- U. "Collated location" means a single location at which the sale of medical and recreational marijuana is permitted.

**Section 122.03 Authorization of Facilities and**

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

<u>Facility</u>	<u>Number</u>
Class A Grower	5
Class B Grower	5
Class C Grower	5
Marihuana Microbusiness	0
Designated Consumption Establishment	0
Marihuana Event Organizer	0
Temporary Marihuana Event	0
Marihuana Testing Facility	5
Excess Marihuana Grower	5
Retail Sales License	6

Processor	5
Secure transporter	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 under this Ordinance 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 recreational marihuana facility licensee permitted under this ordinance in an annual amount of not more than \$5,000.00 as set by resolution of the City Council.

**Section 122.04 Requirements and Procedure for Issuing Permits**

- A. No person shall operate a recreational marihuana establishment in the City of Cheboygan without a valid Permit issued by the City pursuant to the provisions of this ordinance. Application for each Recreational Marihuana Establishment Permit required by this ordinance shall be made in writing to the City Clerk, and must be approved by the Zoning Administrator and 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 for and received the renewal of its State license.
- B. An application for a Recreational Marihuana Establishment 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 or preapproval letter as issued by the State of Michigan for the type of recreational marijuana facility the applicant is applying for.
  - 3. Not more than a total of 6 recreational marihuana retailers may be authorized by the City, so long as each location is collated with a Michigan medical marihuana provisioning center authorized under the City Medical Marihuana Facilities Ordinance. For example, if 6 medical marihuana provisioning centers have already been authorized under the Medical Marihuana Facilities Ordinance and four of those facilities obtain recreational permits at 4 separate locations then only 2 additional marihuana retailers may be authorized under the Ordinance if they are collated with the remaining 2 separately located provisioning centers. Further, if there are only 4 active medical marihuana provisioning centers, then the number of recreational marihuana permit locations authorized by the city is also limited to 4, it being the intent that each medical marijuana facility have the ability to engage in retail sales of recreational marijuana but that a stand-alone recreational marijuana location, not paired with medical marijuana sales, not be allowed.

4. The Act in Section 9.4 (MCL 333.27959(4)) requires that the City establish a competitive process to select applicants who are best suited to operate in compliance with the Act and this Ordinance, when more than one applicant has applied for a single available license. Pursuant to this requirement the City requires that applicants provide the City with:
  - A. An estimate of the number and type of jobs that the marijuana establishments is expected to create and the amount and type of compensation expected to be paid for such jobs;
  - B. A business plan which contains, but is not limited to, the following:
    - i. The applicant's experience in operating other similarly permitted or licensed businesses and the applicant's general business management experience;
    - ii. The proposed ownership structure of the establishment, including percentage ownership of each person or entity;
    - iii. A current organizational chart that includes position descriptions and the names of each person holding each position;
    - iv. Planned tangible capital investment in the City, including if multiple permits are proposed, an explanation of the economic benefits to the City and job creation, if any, to be achieved through the award of such multiple permits, with supporting factual data;
    - v. Expected job creation from the proposed marijuana establishment(s);
    - vi. If a Marijuana Grower Establishment is proposed, the number of plants anticipated
    - vii. Financial structure and financing of the proposed marijuana establishment(s);
    - viii. Community outreach/education plans and strategies.

#### **Section 122.05 Permit Renewal**

- A. A recreational marijuana facility Permit shall be valid for one year from the date of issuance, unless revoked as provided by law.
- B. A valid recreational marijuana facility Permit may be renewed by the Zoning Administrator on an annual basis provided that substantial progress has been made towards opening an operating

facility 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 recreational marijuana facility Permit shall be filed at least thirty (30) days prior to the date of its expiration.

- C. The renewal application for a recreational marijuana permit shall be subject to the same scrutiny and evaluation process as the inaugural permit application.

### **Section 122.06 Permits Generally**

- A. Permittees may transfer a Permit issued under this Ordinance to a different location upon appropriate resolution approved by City Council and under following section “B”. 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.
- B. 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.
- C. 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 122.07**

All adult use recreational marijuana establishments as permitted under this Chapter shall be subject to the same zoning restrictions as medical marijuana facilities as set forth in Chapter 154 of City Ordinances inclusive of medical marijuana growers, processors, provisioning centers, safety compliance facilities and secure transportation as well as minimal operational standards for all such facilities under Chapter 121 of City Ordinances, and as stated herein.

### **Section 122.08 Minimum Operational Standards of Provisioning Centers**

The following minimum standards for Recreational Marijuana Facilities shall apply:

- A. Retail sales collated facilities shall at all times and in all circumstances operate in full compliance with the Michigan Medical Marijuana Act, the Medical Marijuana Facilities Licensing Act, the Michigan Regulation and Taxation of Marijuana Act, the Marijuana Tracking Act, MCL 333.27901 et. seq., and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.

### **Section 122.09 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 nor within Five Hundred (500) feet of a church or religious institution defined tax exempt by the City Assessor's office.

### **Section 122.10 Location of Retail Marihuana Establishments**

A. No retail sales marihuana facilities, microbusiness, designated consumption establishment, event organizer, temporary marihuana event or other class or type of retail recreational marihuana sales operation 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 122.11 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 marihuana establishment Facility is determined by the City of Cheboygan to have become a public nuisance;
  3. The Michigan Medical Marihuana Licensing Board, Michigan Recreational Marihuana Licensing Board, or LARA, has denied, revoked or suspended the operator's license for either a medical or recreational marijuana facility.

### **Section 122.12 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 122.13 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 122.14 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 122.15 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 \_\_\_\_\_, 2020 AND 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 \_\_\_\_\_, 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