

**CITY OF THE VILLAGE OF DOUGLAS, MICHIGAN  
ORDINANCE NO. 01-2018**

**AN ORDINANCE TO REPEAL CHAPTER 113 THE “MEDICAL MARIHUANA LICENSING ORDINANCE” AND REPLACE WITH THE “MEDICAL MARIHUANA PERMITTING ORDINANCE,” WITHIN THE CITY OF THE VILLAGE OF DOUGLAS CODE OF ORDINANCES**

**THE CITY OF THE VILLAGE OF DOUGLAS ORDAINS:**

**Section 1. The Douglas City Code of Ordinances is amended by the revisions and additions of Chapter, 113 “Medical Marihuana Licensing” to read as follows:**

**ARTICLE I - GENERAL PROVISIONS**

**§ 113.01 Title.**

This chapter shall be known and may be cited as the “Medical Marihuana Permitting Ordinance” of the City of the Village of Douglas.

**§113.02 Purpose and Intent.**

**A. Purpose.** The purpose of this Ordinance is to:

1. Implement the provisions of Public Act 281 of 2016, being the Michigan Medical Marihuana Facilities Licensing Act, so as to protect the public health, safety, and welfare of the residents and patients of the City by setting forth the manner in which medical marihuana facilities can be operated in the City;
2. Provide for a means for the distribution of marihuana to patients who qualify to obtain, possess, and use marihuana for medical purposes under 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.);
3. Protect public health and safety through reasonable limitations on marihuana facility operations as they relate to noise, air and water quality, neighborhood and patient safety, security for the facility and its personnel, and other health and safety concerns;
4. Protect the character of residential neighborhoods by limiting the location and the concentration of types of marihuana commercial entities to specific areas of the City; and
5. Impose fees to defray the cost to the City of the administrative and enforcement costs associated with medical marihuana facilities.

**B. Relationship to Other Laws.** As of the effective date of this ordinance, marihuana is classified as a Schedule 1 controlled substance under Federal law which makes it unlawful to manufacture, distribute, cultivate, produce, possess dispense or transport marihuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under Federal

law. Nothing in this Ordinance is intended to promote or condone the production, distribution, or possession of marihuana in violation of any applicable law and nothing in in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of marihuana in any form, that is not in strict compliance with all applicable laws and rules promulgated by the State of Michigan and the City of the Village of Douglas regarding medical marihuana.

### **§ 113.03 Definitions**

Unless otherwise specifically defined in this ordinance, any terms in this ordinance that are defined or described in any of the Acts shall have the definitions or descriptions as set forth in those Acts.

- A. "Acts"** means any or any combination thereof of the following Michigan State laws:
  - 1. "Michigan Medical Marihuana Act" or "MMMA" means 2008 IL1, MCL 333.26421 et seq. as, may be amended.
  - 2. "Michigan Medical Marihuana Facilities Licensing Act" or "MMFLA" means Public Act 281 of 2016, MCL 333.27101 et seq., as may be amended
  - 3. "Michigan Marihuana Tracking Act" means Public Act 282 of 2016, MCL 333.27901 et seq., as may be amended.
- B. "Applicant"** means a person who applies for a state operating license and a City medical marihuana permit. With respect to disclosures in an application, or for purposes of ineligibility for a license, the term applicant includes an officer, director, and managerial employee of the applicant and a person who holds any direct or indirect ownership interest in the applicant.
- C. "Cultivate" or "Cultivation"** means (1) all phases of marihuana growth from seed to harvest; and (2) the preparation, packaging, and labeling of harvested usable marihuana.
- D. "Medical Marihuana Permit"** means a current and valid permit for a marihuana facility issued under this Ordinance,
- E. "Medical Marihuana Permittee" or "Medical Marihuana Permit holder"** means a person holding a City of the Village of Douglas permit issued under the provisions of this ordinance.
- F. "Premises"** means the property for which a City Medical Marihuana Permit for a Secure Transporter or Provisioning Center has been issued.

## **ARTICLE II - LICENSING OF MEDICAL MARIHUANA FACILITIES**

### **§113.04 Authorized Medical Marihuana Facilities.**

- A.** The following types of marihuana facilities may be established and operated by a medical marihuana permit holder in the City, subject to compliance with the MMFLA, the Rules promulgated thereunder and this ordinance:

1. Secure Transporter - Not more than 2 (two) Secure Transporters shall be established, operated or permitted in the City.
  2. Provisioning center – Not more than 2 (two) Provisioning Centers shall be established, operated or permitted in the City.
- B. No marihuana facility shall be eligible to be issued a medical marihuana permit unless at the time of application for such medical marihuana permit, the location of the proposed facility complies with all zoning requirements for the facility as set forth in the City Zoning Ordinance and all other applicable building, construction, and other similar codes.
- C. A current City Employee or City Official is not eligible to apply for or hold a medical marihuana permit or to invest in a marihuana facility in the City of Douglas.

### **§ 113.05 State License, City Medical Marihuana Permit and Annual Fee Required.**

- A. No person shall establish or operate a marihuana facility in the City without first having obtained a City medical marihuana permit and State operating license for each facility to be operated. License and Permit certificates shall be kept current and publically and prominently displayed within the facility. The facility shall be operated only so long as both the city medical marihuana permit and state operating license remain in effect. Failure to maintain or display a current license and medical marihuana permit shall be a violation of this ordinance.
- B. An annual non-refundable fee to defray the administrative and enforcement costs associated with marihuana facilities will be set by resolution and adopted by the City Council. The fee will not exceed the state maximum.
- C. The medical marihuana permit fee requirement set forth in this ordinance shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or city ordinance, including, by way of example, any applicable zoning or building permits.
- D. A separate medical marihuana permit shall be required for each premise from which a marihuana facility is operated.

### **§ 113.06 General License Application Requirements.**

- A. A person seeking a medical marihuana permit pursuant to the Acts and the provisions of this Ordinance shall submit an application to the City Clerk on forms provided by the City. At the time of application submission, each applicant shall pay the nonrefundable application fee as established by Council resolution.
- B. If the City Clerk identifies a deficiency in an application, the applicant shall have fifteen (15) business days to correct the deficiency after notification by the City Clerk. If the correction has not been acted upon by the 16th day, the application will be considered withdrawn.
- C. Upon an applicant's completion of the above-provided form and furnishing of all required information and documentation, the City Clerk shall accept the application for review and consideration and assign it an application number by facility type. **NO APPLICATION WILL BE ACCEPTED AND ASSIGNED AN APPLICATION NUMBER UNLESS IT IS COMPLETE.**

Medical Marihuana Permits will be issued in numerical order based on this numbering system.

- D. Upon receipt of a completed application, the City Clerk may circulate the application to all affected department heads of the City or their designees to determine whether the application and premises is in compliance with all applicable laws, rules and regulations.
- E. Throughout the application process, and while any granted medical marihuana permit is in force, the applicant or the medical marihuana permit holder shall report any other change in the information provided on the application to the City within ten days of the change.

#### **§ 113.07 Denial of Application.**

- A. The City Clerk shall reject any application that does not meet the requirements of the Medical Marihuana Facilities Licensing Act or this Ordinance. The City Clerk shall reject any application that contains any false, misleading or incomplete information.
- B. An applicant is ineligible to receive a medical marihuana permit under this Ordinance, and any issued medical marihuana permit will be revoked if it is determined that the applicant has knowingly submitted an application for a license that contains false, misleading or fraudulent information, or has intentionally omitted pertinent information on the application for a license.

#### **§ 113.08 Medical Marihuana Permit Forfeiture.**

- A. In the event that a marihuana facility does not commence operations within one year of issuance of a City medical marihuana permit, the medical marihuana permit shall be deemed forfeited; the business may not commence operations and the medical marihuana permit is not eligible for renewal.
- B. The City may revoke or refuse to renew a medical marihuana permit for any of the following reasons:
  - 1. the applicant or medical marihuana permit holder, or his or her agent, manager or employee, has violated, does not meet, or has failed to comply with, any of the terms, requirements, conditions or provisions of this Ordinance or with any applicable state or local law or regulation;
  - 2. the applicant or medical marihuana permit holder, or his or her agent, manager or employee, has failed to comply with any special terms or conditions of its medical marihuana permit pursuant to an order of the state or local medical marihuana permitting authority, including those terms and conditions that were established at the time of issuance of the medical marihuana permit and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the medical marihuana permit or failure to comply to laws changing subsequent to medical marihuana permit; or
  - 3. the marihuana facility has been operated in a manner that adversely affects the public health, safety or welfare. Evidence to support a finding under this Section may include, without limitation, a pattern of criminal conduct within the premises of the marihuana facility or in the immediate area surrounding such business, a pattern of criminal

conduct directly related to or arising from the operation of the marihuana facility, or an nuisance condition emanating from or caused by the marihuana facility. Criminal conduct shall be limited to the violation of a state law or regulation or city ordinance.

**§ 113.09 Medical Marihuana Permit Renewal.**

- A. A City marihuana facility operating license shall run concurrently with the State operating marihuana license issued for the facility, unless revoked as provided by law.
- B. Subject to the provisions of §113.08, a valid marihuana facility license may be renewed annually by completing a renewal application and payment of the annual license fee. Upon the expiration of an existing medical marihuana permit, a medical marihuana permit will be renewed by the City of the Village of Douglas 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 City medical marihuana permit fee for the renewal period; (3) any Stakeholder changes have been fully disclosed to the City of the Village of Douglas; and (4) the applicant has paid and received the renewal of its State license.
- C. Prior to the issuance of a renewed marihuana facility license by the City, the premises shall be inspected to assure that it and its systems are in compliance with the requirements of this Ordinance.

**§113.10 Transfer, Sale or Purchase of Medical Marihuana Permit Not Allowed.**

- A. A medical marihuana permit is valid only for the owner named thereon, the type of business disclosed on the application for the medical marihuana permit, and the location for which the medical marihuana permit is issued.
- B. Each operating medical marihuana permit is exclusive to the medical marihuana permit holder. No transfer, sale, or other conveyance of an interest in a medical marihuana permit is allowed.

**ARTICLE III - SPECIFIC MARIHUANA FACILITY REQUIREMENTS**

**§ 113.11 Secure Transporter Medical Marihuana Permit.**

- A. A secure transporter which operates from a marihuana facility located within the City shall secure a medical marihuana permit from the City. A State-licensed secure transporter which does not have a facility located in the City, may, without securing a medical marihuana permit from the City, operate on public streets and highways within the City.
- B. A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana or marihuana-infused products to determine compliance with state laws and regulations and this Ordinance.
- C. When determining and reporting the route to take, a secure transporter shall select the most direct route that provides efficiency and safety.

- D. All Secure Transporters and their Facilities shall comply with all applicable requirements of the City Zoning Ordinance.

### **§ 113.12 Provisioning Center Medical Marihuana Permit.**

A provisioning center shall comply with all of the following:

- A. Provisioning Centers shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site location for a period of ninety [90] days.
- B. Unless permitted by the MMMA and Medical Marihuana Facilities Licensing Act or applicable state law.
  - 1. Public or common areas of the Provisioning Center must be separated from restricted, storage, or non-public areas of the provisioning center by a permanent and locked barrier.
  - 2. No marihuana is permitted to be stored, displayed, or transferred in an area accessible to the general public.
  - 3. Any usable marihuana remaining on the premises of a Provisioning Center while the Provisioning Center is not in operation shall be secured in a safe that is permanently affixed to the premises or other method in compliance with the state statute.
- C. A drive-through or walk-up window shall not be permitted on the premises of a Provisioning Center.
- D. No marihuana plants shall be located in a provisioning center.
- E. Disposal of marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in non-conformance with local and state laws and regulations.
- F. All marihuana delivered to a patient shall be packaged and labeled as provided by state laws.
- G. All registered patients must present both their Michigan Medical Marihuana patient/caregiver identification card and government issued photo identification prior to entering restricted/limited areas or non-public areas of the Provisioning Center.
- H. Certified laboratory testing results that meets the MMMA and Medical Marihuana Facilities Licensing Act or applicable state laws must be available to all Provisioning Center patients/customers upon request.
- I. All Provisioning Centers shall comply with all applicable requirements of the City of the Village of Douglas Zoning Ordinance.

## **ARTICLE IV - GENERAL REQUIREMENTS**

### **§ 113.13 Inspections.**

- A.** A medical marihuana facility and all articles of property in the facility are subject to inspection, search and examination at any time by a member of the Douglas Police Department, the Allegan County Sherriff's Department, or the Department of State Police.
- B.** Any failure by a medical marihuana permit holder to comply with state laws or rules or the provisions of this Ordinance constitute a violation of this Ordinance and grounds for revocation of the medical marihuana permit under this Ordinance.

### **§ 113.14 Signage and Advertising.**

All signage and advertising for a marihuana facility shall comply with all municipal ordinances, state law, and these rules regulating signs and advertising. Refer to Zoning Ordinance for additional information.

### **§ 113.15 Security and Storage Requirements.**

- A.** Security measures at all licensed premises shall comply with the requirements of all applicable rules and regulations promulgated by state law. See the Zoning Ordinance for additional regulations.
- B.** A description of the security plan shall be submitted with the application for a City medical marihuana permit.
- C.** A security system shall be maintained in good working order and shall be continuously monitored with a video surveillance system that includes security cameras. The video recordings shall be maintained in a secure, offsite location for a period of ninety (90) days.
- D.** Each medical marihuana facility shall install and use a safe for storage of any processed medical marihuana and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto. For medical marihuana-infused products that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the City in place of use of a safe so long as the container is affixed to the building structure.
- E.** The storage in the facility shall not be used for any other commercial purposes and shall not be open or accessible to the general public.
- F.** The storage facility shall be maintained and operated so as to comply with all state and local rules, regulations and ordinances. A separate security system is required for each facility.

### **§ 113.16 Visibility of Activities; Control of Emissions.**

- A.** All activities of marihuana commercial entities, including, without limitation, the displaying, selling, and storage of marihuana and marihuana-infused products shall be conducted indoors and out of public view and shall not be visible from outside the licensed premises.
- B.** Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other

substances from exiting a marihuana facility must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a marihuana facility, the owner of the subject premises and the medical marihuana permit holder shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The medical marihuana permit holder shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable state and local laws and regulations.

### **§ 113.17 Prohibited Acts.**

It shall be unlawful for any medical marihuana permit holder for a marihuana facility, or for any agent, manager, or employee thereof to:

- A.** Allow the sale, consumption, or use of alcohol or tobacco products on the licensed premises;
- B.** Sell, give, dispense or otherwise distribute to any patient or primary caregiver who is not a medical marihuana permit holder a more usable form of marihuana (including the useable marihuana equivalent of marihuana-infused products) within any seven (7) day period of time than they are allowed by the MMMA to possess.
- C.** Distribute marihuana or marihuana-infused products to a consumer free of charge.
- D.** Allow the consumption of marihuana or marihuana products on the licensed and permitted premises. A sign shall be posted on the premises of each facility indicating that consumption is prohibited on the premises;
- E.** Sell marihuana or marihuana products at a licensed provisioning center at any time other than between the hours of 7:00 a.m. and 7:00 p.m. daily.

### **§ 113.18 Reports of Crime.**

Reports of all criminal activities or attempts of violation of any law at the marihuana facility or related thereto shall be reported to Douglas Police Department within twelve hours of occurrence, or its discovery.

### **§ 113.19 Inspection of Premises.**

- A.** During all business hours and other times when the premises are occupied by the medical marihuana permit holder or an employee or agent of the medical marihuana permit holder, all permitted premises shall be subject to examination and inspection by the Douglas Police Department and all other City departments for the purpose of investigating and determining compliance with the provisions of this Ordinance and any other applicable state and local laws or regulations.
- B.** Consent to Inspection. Application for or operation of a marihuana facility, or leasing property to a marihuana facility, constitutes consent by the applicant, and all owners, managers, and employees of the business, and the owner of the property to permit the City Manager or his/her designee to conduct inspections of the marihuana facility to ensure compliance with this Ordinance or any other applicable law, rule, or regulation.



- C. A medical marihuana permit holder, or an employee or agent of the medical marihuana permit holder, shall not threaten, hinder or obstruct a law enforcement officer or a City inspector or investigator in the course of making an examination or inspection of the licensed premises and shall not refuse, fail, or neglect to cooperate with a law enforcement officer, inspector, or investigator in the performance of his or her duties to enforce this Ordinance, the MMFLA, or applicable state administrative rules.

**§ 113.20 Other Laws Remain Applicable.**

To the extent the State adopts in the future any additional or stricter law or regulation governing the sale or distribution of medical marihuana, the additional or stricter regulation shall control the establishment or operation of any marihuana facility in the City. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any medical marihuana permit under this Article, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any medical marihuana permit issued hereunder.

**§ 113.21 Grant of Administrative Authority.**

The City Clerk is granted the power and duty to fully and effectively implement and administer the medical marihuana permit application process and issuance of medical marihuana permits under this Ordinance.

**§ 113.22 Required Review.**

Ordinance 01-2018 shall be reviewed by the Planning Commission within two years of the date of adoption. Evaluation of the Medical Marihuana Facilities and their impact upon surrounding land uses, the community in general, and changes in state law shall factor into consideration of any proposed changes.

**Section 2. Repealer. All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are repealed.**

**Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the remaining portions of this ordinance.**

**Section 4. Effective Date. The provisions of this ordinance shall become effective 20 days after its publication and only if an ordinance is adopted by the City Council amending the City Zoning Code to permit the location of marihuana facilities in the City.**

**Effective Date.** This Ordinance shall be effective twenty (20) days after its publication, or a publication of a summary thereof, in a newspaper of general circulation in the City.