

**CITY OF THE VILLAGE OF DOUGLAS**  
**ALLEGAN COUNTY, MICHIGAN**  
**ORDINANCE NO. 02-2018**

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

**Section 1. Amendment of Section 2.** Section 2 of the City of the Village of Douglas Zoning Ordinance is amended to include the following definitions, in alphabetical order:

**LARA:** The Michigan Department of Licensing and Regulatory Affairs

**Licensee:** An entity that holds a license issued under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, as amended, that allows the licensee to operate as one of the following, specified in the license:

- A grower
- A processor
- A secure transporter
- A provisioning center
- A safety compliance facility

**Marihuana:** The term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106 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.

**Medical Marihuana Facility:** An enterprise at a specific location at which a licensee is licensed and a permit holder is permitted to operate under the Medical Marihuana Facilities Licensing Act. 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.

**Medical Use of Marihuana:** The acquisition, possession, cultivation, manufacture, extraction, use, internal possession, delivery, transfer, or transportation of marihuana, marihuana-infused products, or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition

**Medical Marihuana Permit:** A current and valid Permit for a Medical Marihuana Facility issued under the City's Medical Marihuana Permitting Ordinance, granted in accordance with that Ordinance.

**Medical Marihuana Permit holder or Permittee:** A person holding a City of the Village of Douglas Operating Permit issued under the City's Medical Marihuana Permitting Ordinance.

**Provisioning Center:** A licensee that is a commercial entity located in this State 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 through the department's marihuana registration process in accordance with the Michigan medical marihuana act (Initiated Law 1 of 2008) is not a provisioning center for purposes of this Ordinance.

**Secure Transporter:** A licensee that is a commercial entity located in this State that stores marihuana and transports marihuana between marihuana facilities for a fee.

**Section 2. Amendment of Section 3.11, Table of Land uses.** Section 3.11, "Uses Permitted by Right and as Special Land Uses" of the City of the Village of Douglas Zoning Ordinance is amended to include the following land uses (Provisioning Center and Secure Transporter) in alphabetical order and eliminate Growing Operation:

USE	R1	R2	R3	R4	R5	R6	C1	C2	L1
Medical Marihuana Facility – Provisioning Center								R	R
Medical Marihuana Facility – Secure Transporter								R	R

**Section 3. Amendment of Article 16 General Provisions.** Amend Article 16 to add Section 16.34 to regulate Medical Marihuana Facilities.

**SECTION 16.34 MEDICAL MARIHUANA FACILITIES - General Regulations for all Medical Marihuana Facilities**

It is the intent of this Section to provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods and business districts; and mitigate potential impacts on surrounding properties and persons.

It is further the intent of this Section to implement the provisions of the Michigan Medical Marihuana Facilities Licensing Act (Public Act 281 of 2016; MCL 333.27101, et. seq.) with respect to local zoning and land use, and to permit the sale and distribution of medical marihuana consistent with applicable State statutes.

Nothing in this ordinance purports to permit activities that are otherwise illegal under State or local law, and nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacturing, possession, use, sale, or distribution of marihuana, 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. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under Federal law.

The following provisions relate to medical marihuana facilities within the City of the Village of Douglas. In instances where there is a conflict between this section and other applicable provisions of this Ordinance, the more restrictive regulations shall control.

1. Medical marihuana facilities as defined by this Ordinance shall be subject to the following regulations:

- a. Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by State law are prohibited in the City of the Village of Douglas. In the event that a court with jurisdiction declares some or all of this Section invalid, the City of the Village of Douglas may suspend the acceptance of applications for licensing pending the resolutions of the legal issue in question.
- b. An operator of a medical marihuana facility shall at all times have a valid Medical Marihuana Facility permit issued by the City of the Village of Douglas pursuant to Ordinance No. 01 2018, as amended, and a State operating license as issued by LARA pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- c. A property owner or operator of a medical marihuana facility shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this ordinance or any applicable amendment thereto.
- d. Discontinuation of a State medical marihuana facility license shall be also considered a discontinuance of a medical marihuana facility, at which time any permit granted by the City pursuant to this Ordinance would be considered ineffective.
- e. Operation and Safety/Security Plans; In addition to the materials required for Site Plan Review in Article 24, an application for a medical marihuana facility shall also include a comprehensive facility operation and safety plan. This document shall contain, at minimum, a safety/security plan indicating how the applicant will comply with the requirements of this Ordinance and any other applicable law, rule or regulation. The security system, shall be maintained in good working order and provide twenty-four hours per day coverage. A separate security system is required for each facility. The security plan must include the following security measures:
  - 1) Cameras. The medical marihuana facility shall install and use security cameras to monitor and record all areas of the premises (except in restrooms) where persons may gain or attempt to gain access to medical marihuana or cash maintained by the medical marihuana facility. Cameras shall record operations of the business to the off-site location, as well as all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of ninety (90) days in a secure offsite location in the City or through a service over a network that provides on- demand access, commonly referred to as a "cloud." The offsite location shall be included in the security plan submitted to the City and provided to the City of the Village of Douglas Police Department upon request, and updated within seventy-two (72)

hours of any change of such location. Security cameras shall be directed to record only the subject property and may not be directed to public rights-of-ways as applicable, unless required to comply with licensing requirements of the State of Michigan.

- 2) Use of Safe for Storage. The 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.
  - 3) Alarm system. The medical marihuana facility shall install and use an alarm system that is monitored by a company that is staffed twenty-four (24) hours a day, seven (7) days a week. The security plan submitted to the City shall identify the company monitoring the alarm, including contact information, and updated within seventy-two (72) hours of any change of monitoring company.
  - 4) Lighting. A lighting plan showing the lighting outside of the medical marihuana facility for security purposes and compliance with applicable City requirements.
  - 5) Disposal. A plan for disposal of any medical marihuana or medical marihuana-infused product, including any/all byproducts and/or waste products that is not sold to a patient or primary caregiver in a manner that protects any portion thereof from being possessed or ingested by any person or animal. The disposal of medical marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in conformance with State law.
  - 6) Ventilation. A plan for ventilation of the medical marihuana facility that describes the ventilation systems that will be used to prevent any odor of medical marihuana off the premises of the business.
  - 7) Regulated Materials. A description of all toxic, flammable or other regulated materials that will be used or kept at the medical marihuana facility along with the location of such materials, and how such materials will be stored. All chemicals or hazardous substances used in the storage of medical marihuana shall be stored and used in strict compliance with manufacturer recommendations and all applicable federal, State or local regulations.
- g. Prior to making a modification to a structure that would require a building permit, change of use, or which would alter or change items required by this subsection, the permit holder shall submit to the City and have an approved completed Zoning Review Application on the form provided by the City.
  - h. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between a medical marihuana facility and any adjacent business.

- i. In order to be eligible for a City permit, the medical marihuana facility must be in the licensing process with the State of Michigan, and then must be at all times in compliance with the laws of the State of Michigan including but not limited to 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.; and all other applicable rules promulgated by the State of Michigan. No medical marihuana facility shall operate, nor shall be issued a certificate of occupancy, until the appropriate State operating license is obtained from LARA and submitted to the City of the Village of Douglas.
- j. A medical marihuana facility as defined by this ordinance, or activities associated with the licensed transporting and sales of medical marihuana, shall not be permitted as a home occupation or accessory use, nor may they include accessory uses, except as otherwise provided in this ordinance and permitted by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- k. Unless otherwise provided or exempted by this Section, medical marihuana facilities shall comply with all other applicable standards of this Ordinance.
- l. The permit required by Ordinance 01-2018 of the City of the Village of Douglas and the State of Michigan shall be prominently displayed on the premises of a medical marihuana facility.
- m. Parking shall comply with Article 19 of this Ordinance.
- n. All medical marihuana facilities shall provide landscaping as required by Article 21 of this Ordinance.
- o. The nonconforming provisions of Article 15 shall apply to all medical marihuana facilities.

**1. Visibility of activities; Signage.**

- a. Signage for Medical marihuana facilities shall comply with the requirements of the City of the Village of Douglas Sign Ordinance and the requirements of this subsection. All signage and advertising for a medical marihuana facility shall also comply with all applicable provisions of this Code and the State of Michigan. Where there is a conflict between the standards of the Douglas Sign Ordinance and the state Standards, the more restrictive standards shall control.
- b. Marihuana products must not be marketed or advertised to minors aged 17 years or younger. Sponsorships targeted to members aged 17 years or younger are prohibited.
- c. Warning Signs: There shall be posted in a conspicuous location inside of each facility at least one legible sign containing the content of this section warning that:
  - 1) The possession, use or distribution of marihuana is a violation of federal law;
  - 2) It is illegal under State law to drive a motor vehicle or to operate machinery when

under the influence of, or impaired by marihuana; and

- 3) No one under the age of eighteen (18) is permitted on the medical marihuana facility premises.
- d. All activities of medical marihuana facilities, including, without limitation, displaying, manufacturing, selling, and storage of medical marihuana and medical marihuana-infused products shall be conducted indoors and out of public view. No medical marihuana or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises
- e. Medical Marihuana facilities shall not have a walk-up window or a drive-thru window service.

## 2. **Control of Emissions.**

- a. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a medical marihuana commercial entity must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a medical marihuana commercial entity, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, State and local laws and regulations.
- b. Medical marihuana facilities shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The facility shall not emanate odors at any time that are readily detectible at the property line.
- c. No person, tenant, occupant, or property owner shall permit the emission of medical marihuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.
- d. Whether or not a medical marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.

## 3. **Siting Criteria. Medical marihuana facilities shall be in accordance with the following stipulations.**

- a. No medical marihuana facility shall be eligible to be issued a permit unless at the time of application for such permit, the location of the proposed facility complies with the zoning and separation distances from other uses as set forth in the City Zoning Ordinance as required for the specific type of medical marihuana facility for which permitting is being sought. (C-2 and L-1)

- b. A Permit Holder shall not operate a marihuana facility at any place in the City other than the address provided in the application on file with the City Clerk.
- c. A medical marihuana facility shall not be located:
  - 1) Within 50 feet of any residential zoning district .
  - 2) Within 1,000 feet of any public or private school, college or university, any nursery school, day nursery, licensed day care center or any other building or location either rented or used in any way for the care or instruction of children under 18 years of age
  - 3) Within 500 feet of any church, house of worship or other religious facility or institution.
  - 4) Within 500 feet of any public park, publically owned building or recreational area commonly used by minor children.
  - 5) Within 500 feet of a public library.
  - 6) In an area that has been designated as an historic area by the city, county or state.
  - 7) The distance measurement provided for in this section shall be a straight line from the property line of the medical marihuana facility to the property line of the location from which it is to be separated.

**4. Medical Marihuana Facilities, including Provisioning Centers and Secure Transporters**

- a. Shall only be permitted in buildings located on parcels within the C-2 (General Commercial District) or the L-1 (Light Industrial District);
- b. Unless otherwise permitted, public or common areas of the medical marihuana facility must be separated from restricted or non-public areas of the provisioning center by a permanent barrier. No medical marihuana is permitted to be stored, displayed, or transferred in an area accessible to the general public.
- c. Medical marihuana products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the medical marihuana facility.
- d. The exterior appearance of a medical marihuana facility shall remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area. The exterior shall be maintained as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area. New buildings shall be constructed in accordance with the adopted plans and policies of the City of the Village of Douglas.
- e. Doors and windows to a secure transporter shall remain closed, except for the minimum time necessary to load and unload product.

**Section 4. Repeal of Section 26.21, Special Use Provisions for Medical Marihuana Facilities Repeal Section 26.21 “Medical Marijuana Growing Operation”. Additionally, 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 upon 20 days of publication.**