

CITY OF THE VILLAGE OF DOUGLAS
ALLEGAN COUNTY, MICHIGAN
ORDINANCE NO. 02-2020

AN ORDINANCE TO AMEND THE CITY OF THE VILLAGE OF DOUGLAS ZONING ORDINANCE TO:

1. AMEND SECTION 2, ADD NEW DEFINITIONS PERTAINING TO MARIHUANA FACILITIES;
2. TO AMEND SECTION 3.11, TABLE OF LAND USES PERTAINING TO MARIHUANA FACILITIES, AND
3. TO AMEND ARTICLE 16, PROVIDE GENERAL PROVISIONS FOR MARIHUANA FACILITIES.

THE CITY OF THE VILLAGE OF DOUGLAS ORDAINS:

Section 1. Amendment of Section 2.14 of the City of the Village of Douglas Zoning Ordinance is amended to include the following definitions, in alphabetical order.

City Permit or Permit: Unless the context requires a different meaning, means a valid permit that is issued under Chapter 113 of the City of the Village of Douglas Code of Ordinances.

LARA: The Michigan Department of Licensing and Regulatory Affairs

Licensee: As used in the context of Marihuana, a person holding a State Marihuana License.

Marihuana: The term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106 et seq, or as defined in the Michigan Regulation and taxation of Marihuana Act, MCL333.77951 et seq., as applicable.

Marijuana: See definition of Marihuana.

Marihuana Facility: A location at which a Licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act or the Michigan Regulation and Taxation of Marihuana Act and has obtained a Permit for the location issued by the City of the Village of Douglas. The City limits the Marihuana Facilities to Provisioning Centers, Retailers, and Secure Transporters as defined in the MMFLA or in the MRTMA.

Marihuana-Infused Product: A topical formulation, tincture, beverage, edible substance, or similar product containing any usable Marihuana that is intended for human consumption in a manner other than smoke inhalation, as further defined by the Medical Marihuana Facilities Licensing Act

and Michigan Regulation and Taxation of Marihuana Act, as applicable. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 to 289.8111.

Marihuana Retailer: A Licensee that is a commercial entity located in this State that purchases Marihuana from a Marihuana Grower or Marihuana Processor, or Marihuana-Infused Processor, and sells, supplies, or provides Marihuana to customers as further defined by and in compliance with the Michigan Regulation and Taxation of Marihuana Act.

Michigan Medical Marihuana Facilities Licensing Act or MMFLA: The Medical Marihuana Facilities Licensing Act, as amended, MCL 333.27101 *et seq.*, also referred to as the MMFLA, and the administrative rules authorized by the MMFLA.

Michigan Medical Marihuana Act or MMMA: The Michigan Medical Marihuana Act, as amended, MCL 333.26421 *et seq.*, also referred to as the MMMA, and the administrative rules authorized by the MMMA.

Michigan Regulation and Taxation of Marihuana Act or MRTMA: The Michigan Regulation and Taxation of Marihuana Act, as amended, MCL 332.27951 *et seq.*, also referred to as MRTMA, and the administrative rules authorized by the MRTMA.

Person: means the entities included in the definition of "person" in Section 15.12 of the City of the Village of Douglas City Code, in addition to the entities included in the definition of "person" in the MMFLA and the MRTMA.

Provisioning Center: means a Licensee that is a commercial entity located in the City 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. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through LARA's Marihuana registration process in accordance with the MMMA is not a provisioning center for purposes of this chapter.

Secure Transporter: A person who operates as a "secure transporter" as defined in the MMFLA or a "Marihuana secure transporter" as defined in the MRTMA or as both at the same location under common ownership.

State Marihuana License: As used in the context of Marihuana, or unless the context requires a different meaning, "license" means a state operating license that is issued under the Medical

Marihuana Facilities Licensing Act or a state license under the Michigan Regulation and Taxation of Marihuana Act.

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

| USE | R-1 | R-2 | R-3 | R-4 | R-5 | R-6 | C-1 | C-2 | L-1 |
|---|-----|--------|-----|-----|-----|-----|-----|-----|-----|
| Medical Marihuana Facility – Provisioning Center | | REMOVE | | | | | | R | R |
| Medical Marihuana Facility – Secure Transporter | | REMOVE | | | | | | R | R |
| Marihuana Facility | | | | | | | | R | R |

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

SECTION 16.34 MARIHUANA FACILITIES - General Regulations for all Marihuana Facilities

1) Intent

- a. It is the intent of this Section to provide for appropriate locations and reasonable restrictions for Marihuana Facilities allowed by the Medical Marihuana Facilities Licensing Act, MLC 333.27101 et seq. and the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq. with respect to local zoning and land use, and to permit the sale and distribution of Marihuana consistent with applicable State statutes. These are unique land uses with ramifications not addressed by more traditional zoning district regulations.
- b. It is also the intent of this section to protect the health, safety, and general welfare of Persons and property by limiting land uses related to Marihuana to districts that are compatible with such uses. Additional regulations in this section are intended to provide reasonable restrictions within districts so that these uses do not compromise the health, safety, and general welfare of Persons in the district, or other uses allowed in each district.

- 2) **Words and Phrases:** Words and phrases contained in the Michigan Medical Marihuana Facilities Licensing Act (“MMFLA”), MCL 333.27101 et seq. or the Michigan Medical Marihuana Act (“MMMA”), MCL 333.26421 et seq., or the Michigan Regulation and Taxation of Marihuana

Act, MCL 333.27951 *et seq.* (“MRTMA”), shall have the same meanings in this Code, as applicable. Article VIII of this chapter contains some words and phrases that are defined in the MMFLA, MMMA, or MRTMA, but if any definition in Article VIII conflicts with the definition in the MMFLA, MMMA, or MRTMA, then the definition in those state acts shall apply.

The following provisions relate to 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.

3) 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 Marihuana Facility shall at all times have a valid Marihuana Facility permit issued by the City of the Village of Douglas and a State operating license as issued by LARA pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.* and/or the Michigan Regulation and Taxation of Marihuana act, MCL 333.27951 *et seq.*
- c. A property owner or operator of a 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. In addition to the materials required for Site Plan Review in Article 24, an application for a Marihuana Facility shall also include a comprehensive facility operation and safety plan that addresses Marihuana, customers, employees, and neighboring residents, offices, or businesses. 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 systems identified below and contained in the security plan, 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:

- i. **Cameras.** The 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 Marihuana or cash maintained by the Marihuana Facility. Cameras shall record operations of the business, 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 recorded to and maintained for a minimum of thirty (30) 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.
- ii. **Alarm system.** The 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.
- iii. **Lighting.** A lighting plan showing the lighting outside of the Marihuana Facility for security purposes and compliance with applicable City requirements.
- iv. **Use of Safe for Storage.** The Marihuana Facility shall install and use a safe for storage of any processed 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 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.
- v. **Disposal Plan.** A disposal plan shall be designed to protect against any Marihuana being ingested on the premises by any person or animal. Disposal of any Marihuana,

including any/all byproducts and/or waste products shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it or otherwise exist in non-conformance with local and state laws. The plan shall indicate how any Marihuana will be rendered unusable and how the waste and byproduct will be stored until disposed of.

Ventilation. A plan for ventilation of the Marihuana Facility should include the methods to be used to contain all smoke, odors, debris, dust, fluids and other substances within the building. 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. The Facility shall not emanate smoke, odors, debris, dust, fluids and other substances that are readily detectible at the property line and interfere with the reasonable and comfortable use and enjoyment of another's property. In the event that any odors, debris, dust, fluids or other substances exit a Marihuana Facility, 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 laws and regulations.

- vi. **Regulated Materials.** A description of all toxic, flammable or other regulated materials that will be used or kept at the 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 Marihuana shall be stored and used in strict compliance with manufacturer recommendations and all applicable federal, State or local regulations.
- vii. **Operations.** An operations statement that describes, but is not limited to, the life-cycle of Marihuana and Marihuana-Infused Products entering, stored on, and leaving the site. This may include a description of how deliveries are handled, methods of storage, cash handling, a business floor plan, or other pertinent information.
- e. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between a Marihuana Facility and any adjacent business.
- f. In order to be eligible for a City permit, the 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 MMMA, MCL 333.26421 et seq.; the MMFLA, 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 Marihuana Facility shall operate, until the appropriate State operating license is obtained from LARA and submitted to the City of the Village of Douglas and receives a permit from the City.

- g. A Marihuana Facility as defined by this ordinance, or activities associated with the licensed transporting and sales of 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 Michigan laws concerning Marihuana.
- h. The permit required by the City of the Village of Douglas and the license required by the State of Michigan shall be prominently displayed on the premises of a Marihuana Facility;
- i. The nonconforming provisions of Article 15 shall apply to all Marihuana Facilities.
- j. Parking shall comply with Article 19 of this Ordinance.
- k. All Marihuana Facilities shall provide landscaping as required by Article 21 of this Ordinance.

2. Visibility of activities; Signage and Advertising.

- a. Signage for 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 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, this code, 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. Marketing 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:
 - i. The possession, use or distribution of Marihuana is a violation of federal law; and
 - ii. It is illegal under State law to drive a motor vehicle or to operate machinery when

under the influence of, or impaired by Marihuana;

- d. All activities of Marihuana Facilities, including, without limitation, displaying, manufacturing, selling, and storage of Marihuana and Marihuana-infused products shall be conducted indoors and out of public view. No Marihuana or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises

3. Siting Criteria. Marihuana Facilities shall be in accordance with the following stipulations.

- a. No 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.
- b. A permit holder shall not operate a Marihuana Facility at any place in the City other than the address provided in the permit application on file with the City Clerk.
- c. A Marihuana Facility shall not be located:
 - i. Within 50 feet of any residential zoning district.
 - ii. 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
 - iii. Within 500 feet of any church, house of worship or other religious facility or institution.
 - iv. Within 500 feet of any public park, publicly owned building or recreational area commonly used by minor children.
 - v. Within 500 feet of a public library.
 - vi. No Lot containing a Marihuana Facility within the City shall be located within 2,250 feet of any Lot in the City on which another Marihuana Facility is located.
 - vii. In an area that has been designated as an historic area by the city, county or state.
 - viii. The distance measurement provided for in this section shall be a straight line from the property line of the Marihuana Facility to the nearest property line of the location from which it is to be separated.

4. Marihuana Facilities – Additional conditions.

- 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. A maximum of two State Operating Licenses shall be utilized per Lot, except that a Marihuana Provisioning Center and/or Marihuana Retailer may not co-locate with a Secure Transporter.
- c. Unless otherwise permitted, public or common areas of the Marihuana Facility must be separated from restricted or non-public areas of the provisioning center by a permanent barrier. No Marihuana is permitted to be stored, displayed, or transferred in an area accessible to the general public.
- d. Marihuana Products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the Marihuana Facility.
- e. The exterior appearance of a 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.
- f. A drive-through or walk-up window shall not be permitted on the premises of a Marihuana Facility.
- g. Doors and windows to a secure transporter shall remain closed, except for the minimum time necessary to load and unload product.

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.

Ordinance Offered by:

Ordinance Supported by:

Ayes:

Nays:

Abstain:

Absent:

ORDINANCE DECLARED _____ :

Ordinance Adoption Date:

Ordinance Effective Date:

First Reading:

Second Reading:

Publication of Notice:

Enactment:

DRAFT