

**CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN
ORDINANCE NO. 2383**

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

1. Chapter 34, Article IV of the Code of Ordinances of the City of Muskegon, Michigan, Sections 34-201 through 34-208 are adopted as follows:

Sec. 34-201 Purpose and Intent.

It is the intent of this ordinance to give effect to the intent of the Medical Marihuana Facilities Licensing Act, PA 281 of 2016, MCL 333.27101, et seq, (the MMFLA), and not to determine and establish an altered policy with regard to medical marihuana. It is the intent of Muskegon City Code Sections 34-101 through 34-116 to give effect to the intent of the Michigan Medical Marihuana Act, Initiated Act 1 of 2008, MCL 333.26421, et seq., (the MMMA) as approved by the electors, The purpose of this ordinance is to serve and protect the health, safety and welfare of the general public and establish a set of rules and regulations which are fair and equitable for those interested in establishing a Marihuana Facility pursuant to the MMFLA.

Section 34-202 Definitions.

Applicant means a person who applies for a license under this section. If an entity applies for a license, the term includes an officer, director, managerial employee or has a direct or indirect ownership interest in the applicant.

Grower means an MMFLA licensee that is a commercial entity located in this state that cultivates, dries, trims, cures or packages marihuana for sale to a Processor or Provisioning Center.

Marihuana Facility means a location at which a license holder is licensed to operate under the MMFLA.

Marihuana-infused product means 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.

MMFLA means the Medical Marihuana Facilities Licensing Act, PA 281 of 2016, MCL 333.27101, et seq.

MMMA means the Michigan Medical Marihuana Act, Initiated act 1 of 2008, MCL 333.26421, et seq.

MMMA Caregiver Facility means any building(s) or structure(s) located on non-residential property that is utilized by one or more than one primary caregiver engaged in the medical use of marihuana pursuant to the MMMA.

Permit means a permit issued by the City under this section.

Primary caregiver or caregiver means a person as defined by the MMMA.

Processor means an MMFLA licensee that is a commercial entity located in this state that purchases marihuana from a Grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in package form to a Provisioning Center.

Provisioning Center means an MMFLA 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 qualify 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 MMMA is not a Provisioning Center for purposes of the MMFLA or this section.

Qualifying patient or patient means a person defined by the MMMA.

Registry Identification Card means the document as defined by the MMMA.

Safety Compliance Facility means an MMFLA 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.

Secure Transporter means an MMFLA licensee that is a commercial entity located in this state that transports marihuana, with or without storage, between Marihuana Facilities for a fee.

State operating license means a license that is issued under the MMFLA that allows the licensee to operate as a Marihuana Facility.

All other terms used in this section have the same definitions ascribed to them in the MMFLA or MMMA.

Sec. 34-203 MMFLA Opt-In Provision

Pursuant to Section 205(1) of the MMFLA, the City will authorize Permits for the following types of Marihuana Facilities: Growers; Processors; Provisioning Centers; Safety Compliance Facilities; and Secure Transporters.

Sec. 34-204 Permit Required for MMFLA Activity.

(1) Any person or entity that wishes to operate as a Marihuana Facility in the City shall obtain a Permit and must obtain a State Operating License prior to opening or operating.

(2) The application and inspection fee for the Permit required by this section shall be as set from time to time by the City by resolution.

(3) In addition to an annual reapplication and inspection fee, the City may assess an annual fee of no more to \$5,000.00 to help defray the administrative and enforcement costs associated with the operation of the Marihuana Facilities operating in the City.

(4) No permit issued under this section shall be transferable.

(5) All Permits issued under this section shall be renewed annually and subject to annual inspection and renewal fees as set from time to time by the City by resolution.

(6) The City may limit the number of Permits issued under this section, and may revise this limit from time to time.

(7) A person or entity that receives a Permit under this section shall display its Permit and, when issued, its State Medical Marihuana Facility License in plain view clearly visible to City officials and State Medical Marihuana Licensing Board authorized agents.

(8) No person or entity that opened or operated a facility doing business or purporting to do business as a Marihuana Facility prior to the adoption of this ordinance shall be considered a lawful use.

Sec. 34-205 MMFLA Location Requirements.

(1) Growers, Processors, Provisioning Centers, Safety Compliance Facilities, and Secure Transporters are permitted in those zones and subject to requirements provided for in the City's Zoning Ordinance.

(2) The Marihuana Facility shall meet all applicable written and duly promulgated standards of the City and, prior to opening, Applicants shall demonstrate

to the City that the location meets the rules and regulations promulgated by the State Medical Marihuana Facilities Licensing Board.

Sec. 34-206 Application Procedure.

(1) All Applicants for Permits required by this section shall file an application with the Clerk. This application shall be signed by the Applicant if an individual, or by all partners if a partnership, by a managing member if a limited liability company, or by the president of a corporation.

(2) The Applicant may be requested to provide any information required by the MMFLA and any other information deemed by the City to be required for the consideration of a Permit.

(3) The Permit shall be approved if the Applicant meets all City requirements unless a due diligence investigation discloses tangible evidence that the conduct of the Applicant's business would pose a substantial threat to the public health, safety, or general welfare.

Sec. 34-207 Permit Revocation and Review.

(1) A Permit granted under this section may be revoked or not renewed for any of the following reasons:

- (a) Any fraud or misrepresentations contained in the Permit application;
- (b) Any knowing violation of this ordinance;
- (c) Loss of the Applicant's State Medical Marihuana Facility License;
- (d) Failure of the Applicant to obtain a State Medical Marihuana Facility License within a reasonable time after obtaining a Permit under this section; or
- (e) Conducting business in an unlawful manner or in such a way as to constitute a menace to the health, safety, or general welfare of the public.
- (f) The violation of any of the conditions of issuance or continuation of a certificate of registration.
- (g) Fraud, misrepresentation or any false statement made in the operation of the business.
- (h) Failure to pay personal property taxes, or timely file documentation or returns required for such taxes.

- (i) Failure to pay city income taxes, failure to withhold city income tax from employees, failure to remit to the City withheld city income taxes, or timely file documentation or returns required for such taxes.
- (j) Failure to pay any outstanding amounts owed the city (such as fees for inspections or property services, water or sewer bills, municipal civil infraction fines applicable to the business or its premises, current special assessment, installments, etc.).
- (k) Failure to pay registration fees imposed pursuant to this chapter and resolution of the city commission.
- (l) Failure or inability of an applicant to meet and satisfy any of the requirements and provisions of this chapter.
- (m) Failure to allow inspection of the business premises or hazardous material storage records at a reasonable time..

2. This Ordinance is to become effective ten (10) days after adoption.

Ayes: Turnquist, Johnson, Gawron, Hood, Warren, German, Rinsema-Sybenga

Nays: None

First Reading: April 24, 2018

Second Reading: May 8, 2018

CERTIFICATE

The undersigned, being the duly qualified Clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 8th day of May, 2018, at which meeting a quorum was present and remained throughout, and that the meeting was conducted and public notice was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

Date: May 8, 2018

Ann Marie Meisch, MMC