

CITY OF TAWAS CITY
COUNTY OF IOSCO, STATE OF MICHIGAN
ORDINANCE NO. 327

Date Public Hearing: October 3, 2022
Date First Reading: October 3, 2022
Date Adopted: November 14, 2022
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**M A R I H U A N A F A C I L I T I E S
A N D E S T A B L I S H M E N T S O R D I N A N C E**

The City of Tawas City intends to issue permits for and to regulate marihuana facilities and marihuana establishments to the extent they are permitted under the Michigan Medical Marihuana Facilities Licensing Act and the Michigan Regulation and Taxation of Marihuana Act. By requiring a permit and compliance with the requirements of this Chapter, the City of Tawas City intends to protect and promote the public health, safety, and welfare.

THE CITY OF TAWAS CITY, COUNTY OF IOSCO, STATE OF MICHIGAN DOES HEREBY ORDAIN:

Chapter 15 is hereby added to the City of Tawas City Code of Ordinances which provides as follows:

Section 15.01. Short title. This Chapter shall be known as and may be cited as the City of Tawas City Marihuana Facilities and Establishments Ordinance (hereinafter the “chapter”).

Section 15.02. Definitions.

- (A) Words and phrases contained in the Michigan Medical Marihuana Facilities Licensing Act, MCL §333.27101 *et seq.*, (“MMFLA”) the Michigan Medical Marihuana Act, MCL §333.26421 *et seq.*, (“MMMA”) the Michigan Regulation and Taxation of Marihuana Act, MCL §333.27951 *et seq.*, (“MRTMA”) and the rules or emergency rules promulgated pursuant to any of these acts, shall have the same meanings in this chapter.
- (B) For purposes of the requirements for obtaining a permit under this chapter, the terms “facility” and “marihuana facility” are intended to include both a “marihuana facility” as defined in the MMFLA and a “marihuana establishment” as defined in the MRTMA.
- (C) These words as used in this chapter setting forth the requirements for obtaining a City permit shall have the following meanings:

- (1) *Applicant* means a person who applies for a City permit.
- (2) *Authorized person* means:
 - (a) The owner of a facility.
 - (b) The directors, officers, members, partners, and individuals of a facility that is a corporation, limited liability company, partnership, or sole proprietorship.
 - (c) Any person who is in charge of and on the premises of the facility during business hours.
- (3) *City permit* or *permit*, unless context requires a different meaning, means a valid permit that is issued under this chapter.
- (4) *Designated consumption establishment* means a commercial space licensed by the state to permit adults twenty-one (21) years of age and older to consume marihuana products at the location indicated in the license.
- (5) *Facility* means a “marihuana facility” as defined in the MMFLA and a “marihuana establishment” as defined in the MRTMA.
- (6) *Marihuana* means “marihuana” as defined in the MMFLA and as defined in the MRTMA.
- (7) *Medical Marihuana Facilities Licensing Act* or *MMFLA* means the Michigan Medical Marihuana Facilities Licensing Act, MCL §333.27101 *et seq.*, and the rules and regulations promulgated pursuant to the MMFLA.
- (8) *Michigan Medical Marihuana Act* or *MMMA* means the Michigan Medical Marihuana Act, MCL §333.26421 *et seq.*, and the rules or regulations promulgated pursuant to the MMMA.
- (9) *Michigan Regulation and Taxation of Marihuana Act* or *MRTMA* means the Michigan Regulation and Taxation of Marihuana Act, MCL §333.27951 *et seq.*, and the rules and regulations promulgated pursuant to the MRTMA.
- (10) *Marihuana microbusiness* means a business that cultivates not more than 150 plants; processes and packages it; and sells it to individuals who are twenty-one (21) years of age or older or to a safety compliance facility as defined in the MMFLA, but not to other businesses.
- (11) *Permittee* means a person holding a City permit under this chapter.

- (12) *Person* means the entities included in the definition of “person” in Chapter 1 of the City of Tawas City Code of Ordinances, in addition to the entities included in the definition of “person” in the MMFLA and MRTMA.
- (13) *Provisioning center/retailer* means a person who operates as a “provisioning center” as defined in the MMFLA or as a “marihuana retailer” as defined in the MRTMA or as both at the same location under common ownership.
- (14) *State license* means a valid state operating license issued under the MMFLA or a valid state license issued under the MRTMA or both.

Section 15.03. Marihuana Facilities Authorized. Pursuant to the MMFLA and the MRTMA, the City of Tawas City authorizes the operation in the City of the following facilities, provided they possess a state license and comply with the additional requirements of this chapter and all other applicable laws:

- (A) Provisioning center/retailer.
- (B) Marihuana microbusiness (indoor grow only).

Section 15.04. City Permit Required.

- (A) No person shall operate a facility for which an annual permit as provided for in this chapter has not been issued. The maximum number of permits available for each type of facility is as follows:
 - (1) Provisioning center / retailer – unlimited.
 - (2) Marihuana microbusiness – unlimited.
- (B) The City may review and amend the above maximums by resolution annually or as it determines to be advisable. Such amendments shall not be the basis for termination or non-renewal of a permit previously issued.
- (C) The permit requirement in this chapter applies to all facilities whether or not operated for profit.
- (D) The permit requirement in this chapter shall be in addition to any other requirements imposed by any other state or local law including but not limited to state or local laws applicable to commercial entities performing functions similar to the functions performed by marihuana facilities.
- (E) The issuance of any permit under this chapter does not create an exception, defense, or immunity to any person with regard to any potential criminal or civil liability the person may have under any federal or state law or City ordinance.

- (F) A permit issued under this chapter shall be valid for one (1) year after the date of issuance. To renew an existing permit, the permittee shall apply in the same manner as is required to apply for a new permit no sooner than ninety (90) days before the expiration date and no later than sixty (60) days before the expiration date.

Section 15.05. General Provisions.

- (A) A permit issued under this chapter is valid only for the location of the facility and type of facility that is listed on the permit application and is valid only for the operation of the facility at that location by the permit applicant.
- (B) A permit issued under this chapter is valid only if the permit holder also holds a valid current state license and a copy of the valid current state license has been provided to the City Clerk by the state license holder and is in compliance with all other requirements in this chapter.
- (C) The revocation of, suspension of, and placement of restrictions by the state on a state license apply equally to a permit issued by the City.
- (D) The expiration date of the state license that corresponds to a permit issued under this chapter constitutes the expiration date of the permit, however, operation of the facility under the expired permit is permitted to the extent that operation under the expired state license is permitted under the MMFLA.
- (E) A permit issued by the City under this chapter, shall be conspicuously posted in the facility where it is easily open to public view.
- (F) Acceptance of a permit from the City under this chapter constitutes consent by the permittee, owners, managers, and employees to permit the City Manager or designee to conduct inspections of the facility to ensure compliance with this chapter.

Section 15.06. Application Requirements; Issuance of City Permit.

- (A) *Application for New Annual Permit.* An application for an annual permit for a marihuana facility shall be submitted to the City Clerk on the form provided by the City, which shall fulfill all of the requirements indicated on the form including but not limited to:
 - (1) The name and address of the facility and any other contact information requested on the application form.
 - (2) The name and address of all owners of the real property where the facility is located.
 - (3) The name and address of all business managers of the facility.
 - (4) Payment of a non-refundable application fee, which shall be determined by resolution of the City Council.

- (5) A statement with respect to each person named on the application whether the person has:
 - (a) Ever been convicted of a felony involving controlled substances as defined under the Michigan Public Health Code, MCL 333.1101 et seq., the federal law, or the law of any other state and, if so, the date of the conviction and the law under which the person was convicted; and
 - (b) Ever been convicted of any other type of felony under the law of Michigan, the United States, or another state, and, if so, the date of the conviction and the law under which the person was convicted.
 - (6) Proof of applicant's ownership or legal possession of the premises.
 - (7) A zoning permit.
 - (8) The type of facility for which a permit is requested at the location specified in the application, which, for purposes of obtaining a permit under this chapter, shall be one of the following:
 - (a) Provisioning center / retailer; or
 - (b) Marihuana microbusiness.
- (B) For purposes of obtaining a City permit, only one permit application is required for each type of facility listed above at one location, regardless of whether the applicant intends to apply for or has applied for a state license under the MMFLA, the MRTMA or both, at the same location under common ownership. For purposes of this chapter, a permit issued for a facility at the location indicated in the application form authorizes the operation of the facility in compliance with the MMFLA, the MRTMA, or both, as applicable.
- (C) *Renewal or Amendment of Existing Permit.*
- (1) The procedures that apply to applying for a new permit shall apply to the renewal or amendment of an existing permit.
 - (2) An application for renewal of an existing permit shall be submitted no sooner than ninety (90) days before the existing permit expires.
 - (3) An amended application shall be submitted under both of the following circumstances:
 - (a) When there is a change in any information the permit applicant was required to provide in the most recent application as filed with the City; and,

- (b) When there is a change in any information the permit applicant was required to provide in the most recent application for a state license on file with the State of Michigan.
- (4) An application to amend an existing permit to change the location of a facility shall be submitted no later than ninety (90) days before the existing permit expires. An application to amend an existing permit to change any other information on the most recent application on file with the City may be submitted at any time.
- (5) Applications for renewal or amendment of existing permits shall be reviewed and granted or denied before applications for new permits are considered.

Section 15.07. Issuance of Permit and Authorization to Operate Marihuana Facility.

- (A) If the permit applicant has successfully demonstrated compliance with all requirements for issuance of a permit, the City Manager or designee shall issue a new permit to the permit applicant if a permit is available or grant renewal of an existing permit.
- (B) The issuance of a permit under this chapter authorizes operation of the facility only after the following additional requirements are met:
 - (1) The applicant has provided the City Clerk with a copy of the applicant's state license.
 - (2) The applicant has installed the following security measures on the premises:
 - (a) Security cameras to monitor all areas of the premises where persons may gain or attempt to gain access to marihuana or cash. Recordings from security cameras shall be maintained for a minimum of 72 hours. The City Council may adopt regulations implementing this requirement, including but not limited to regulations on the design, location, maintenance, and access to the cameras and recordings. Those regulations shall take effect 30 days after being filed with the City Clerk unless modified or disapproved by the City Council.
 - (b) A monitored alarm system.
 - (c) A storage room for overnight storage of any marihuana product and cash on the premises. The storage room shall have only one (1) door for entry and no other potential means of entry, lawful or unlawful, such as a window or crawl space. The door shall be equipped with a locking mechanism that is different from other locks on any door within the facility.

Section 15.08. Conduct of Business at a Marihuana Facility.

- (A) A facility shall be conducted in compliance with the MMFLA, the MRTMA, the MMMA, the rules promulgated pursuant to any of these acts, and all other laws, rules, and regulations of the State of Michigan and the City of Tawas City.
- (B) All marihuana in any form kept at the location of the marihuana facility shall be kept within an enclosed, secured building and shall not be visible from any location outside of the building.
- (C) Marihuana facilities shall be closed for business, and no sale or other distribution of marihuana in any form shall occur upon the premises or be delivered to or from the premises, between the hours of 9:00 p.m. and 7:00 a.m.
- (D) An authorized person shall consent to the entry into a facility by City officials for the purpose of inspection to determine compliance with this chapter pursuant to a notice posted in a conspicuous place on the premises two (2) or more days before the date of the inspection, or sent by first class mail to the address of the premises four (4) or more calendar days before the date of the inspection.
- (E) All security measures required in this chapter shall be maintained in good working order. The premises shall be monitored and secured twenty-four (24) hours per day.
- (F) All marihuana in any form on the premises of a marihuana facility shall be marihuana cultivated, manufactured, and packaged in the State of Michigan.

Section 15.09. Prohibited Acts. It shall be unlawful for any person to:

- (A) Violate any provision of this chapter or any condition of any permit granted pursuant to this chapter.
- (B) Produce, distribute, or possess more marihuana than allowed by any applicable state or local law.
- (C) Produce, distribute, or possess marihuana in violation of this chapter or any other applicable state or local law.
- (D) Make any changes or allow any changes to be made in the operation of the marihuana facility as represented in the permit application, without first notifying the City by amending its application.

Section 15.10. Permit Revocation. A permit issued under this chapter may be suspended or revoked for any of the following violations:

- (A) Any person whose name is on or is required to be on the permit application is convicted of or found responsible for violating any provision of this chapter.

- (B) A permit application contains any misrepresentation or omission of any material fact, or false or misleading information, or the applicant has provided the City with any other false or misleading information related to the facility.
- (C) Any person whose name is on or is required to be on the permit application is convicted of a crime which, if it had occurred prior to submittal of the application, could have been cause for denial of the permit application.
- (D) Marihuana is dispensed on the business premises in violation of this chapter or any other applicable state or local law, rule, or regulation.
- (E) The facility is operated or is operating in violation of the specifications of the permit application, any conditions of approval by the City or any other applicable state or local law, rule, or regulation.
- (F) The City, the county, or any other governmental entity with jurisdiction, has closed the facility temporarily or permanently or has issued any sanction for failure to comply with health and safety provisions of this chapter or other applicable state or local laws related to public health and safety.
- (G) The facility is determined by the City to have become a public nuisance.
- (H) The facility's state license has been suspended or revoked.

Section 15.11. Revocation Not Exclusive Penalty. Nothing in this chapter shall be deemed to prohibit the City Manager or designee from imposing other penalties authorized by the City of Tawas City Code of Ordinances, or to file a public nuisance lawsuit, or to take any other legal action authorized by law.

Section 15.12. Penalty for Violations. Any person who violates this chapter shall be responsible for a municipal civil infraction punishable by a civil fine of not more than \$500.00, plus costs and all other remedies available by local or state law. Each day of violation shall be deemed a separate violation.

Section 15.13. Severability. If any section or provision of this chapter is for any reason found by a court of competent jurisdiction to be invalid or unconstitutional, the invalidity or unconstitutionality of such section or provision shall not affect the remainder of this chapter.

Section 15.14 Publication. A true copy of this chapter or a summary thereof, shall be published in a newspaper of general circulation in the City of Tawas City.

Section 15.15 Effective Date. This chapter shall take effect thirty (30) days from and after publication of a true copy or summary thereof, as provided in Section 15.14

CITY OF TAWAS CITY

Dated: November 14, 2022



KENNETH B. COOK
City Mayor

Dated: November 14, 2022



MICHELLE WESTCOTT
City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of Ordinance No. 327 duly adopted by the City of Tawas City at a regular meeting of the City Council held on the ___ day of November, 2022, at which all Council Members were present, and that public notice of said meeting was given pursuant to Act No. 267 of the Public Acts of Michigan, 1976, including in the case of a special or rescheduled meeting, notice by publication and posting at least 18 hours prior to the time set for the meeting.

I further certify that Councilperson McMurray moved, and that Councilperson Masich seconded the adoption of said ordinance.

I further certify that the following Councilpersons voted for adoption of said ordinance: Masich, McMurray, Klenow and Cook. No: Nagy, Russo, and Lesinski.

I further certify that said ordinance has been recorded in the Ordinance Book of the City of Tawas City, and that such recording has been authenticated with the signatures of the Mayor and the Clerk and published in the Iosco County News-Herald.

This ordinance may be inspected on the City website tawascity.org or at the City of Tawas City, City Hall, 550 West Lake Street, Tawas City, Michigan, between 7:30 am and 5:00 pm, Monday through Thursday, and Friday between 7:30 am and 1:00 pm.

Dated this 14th day of November, 2022.

City of Tawas City



Michelle M. Westcott, its: Clerk