

**CITY OF ESCANABA  
ORDINANCE NO. 1269**

**ORDINANCE AUTHORIZING AND REGULATING  
MEDICAL AND ADULT-USE MARIHUANA ESTABLISHMENTS**

**THE CITY OF ESCANABA ORDAINS:**

**Section 1. Definitions.**

The following words and phrases have the meanings ascribed to them when used in this Ordinance:

- (a) *Co-location or co-located* means the siting and operation of a combination of multiple establishments or establishment types at a single location.
- (b) *Designated consumption establishment* means a commercial space that is licensed by LARA and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license.
- (c) *Equivalent licenses* means any of the following held by a single licensee:
  - 1. A marihuana grower license, of any class, issued under the act and a grower license, of any class, issued under the MMFLA.
  - 2. A marihuana processor license issued under the act and a processor license issued under the MMFLA.
  - 3. A marihuana retailer license issued under the act and a provisioning center license issued under the MMFLA.
  - 4. A marihuana secure transporter license issued under the act and a secure transporter license issued under the MMFLA.
  - 5. A marihuana safety compliance facility license issued under the act and a safety compliance facility license issued under the MMFLA.
- (d) *Excess marihuana grower* means a license issued by LARA to a person holding five class C marihuana grower licenses and licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.
- (e) *LARA* means the Department of Licensing and Regulatory Affairs and any successor department or agency within the department, including the Cannabis Regulatory Agency.
- (f) *Licensee* means a person holding a state operating license for a marihuana establishment.
- (g) *Marihuana* means all parts of the plant genus *cannabis*, growing or not; the seeds of that plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. Marihuana does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination. Marihuana does not include industrial hemp. Marihuana is also commonly known as "cannabis."
- (h) *Marihuana establishment* means a marihuana grower, marihuana safety compliance establishment, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by LARA under the MRTMA.

- (i) *Marihuana event organizer* means a person licensed to apply for a temporary marihuana event license under the Rules.
- (j) *Marihuana grower* means a person licensed by LARA to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.
- (k) *Marihuana microbusiness* means a person licensed by LARA to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance establishment, but not to other marihuana establishments.
- (l) *Marihuana processor* means a person licensed by LARA to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.
- (m) *Marihuana retailer* means a person licensed by LARA to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.
- (n) *Marihuana secure transporter* means a person licensed by LARA to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.
- (o) *Marihuana safety compliance establishment* means a person licensed by LARA to test marihuana, including certification for potency and the presence of contaminants.
- (p) *Medical marihuana facility* means a grower, processor, secure transporter, provisioning center, or safety compliance facility licensed by LARA under the MMFLA.
- (q) *MMMA* means the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, as amended, MCL 333.26424 *et seq.*
- (r) *MMMFLA* means the Michigan Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended, MCL 333.27102 *et seq.*
- (s) *MRTMA* means the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 *et seq.*
- (t) *Prequalification step or prequalified* means the portion of the application for a state operating license pertaining to the applicant's financial background and the criminal history of the applicant and other associated persons.
- (u) *Rules* means the administrative rules for adult-use marihuana establishments promulgated by LARA, as amended from time to time.
- (v) *Stacked grower license* means more than 1 state operating license issued to a single licensee to operate as a grower of class C (2,000 marihuana plants) as specified in each license at an establishment.
- (w) *State operating license* or, unless the context requires a different meaning, "*license*" means a license that is issued by LARA under the MRTMA that allows the licensee to operate a marihuana establishment.

**Section 2. Authorized Facilities and Establishments.**

- (a) *Authorization and special use permit required.* No person shall operate a medical marihuana facility or a marihuana establishment in the City without an authorization issued by the City pursuant to the provisions of this Ordinance and a special use permit pursuant to this Ordinance and the City Zoning Ordinance.

- (b) *Number of and types of medical marihuana facilities eligible for authorization.* The following medical marihuana facilities may be authorized to operate in the City, subject to this Ordinance and the City Zoning Ordinance:
- (1) Growers operating under Class A licenses, up to 500 plants (unlimited);
  - (2) Growers operating under Class B licenses, up to 1,000 plants (unlimited);
  - (3) Growers operating under Class C licenses, up to 1,500 plants (unlimited);
  - (4) Processors (unlimited);
  - (5) Secure transporters (unlimited);
  - (6) Provisioning centers (unlimited); and
  - (7) Safety compliance facilities (unlimited).
- (c) *Number and types of adult-use establishments eligible for authorization.* The following adult-use marihuana establishments may be authorized to operate in the City, subject to this Ordinance and the City Zoning Ordinance:
- (1) Growers operating under Class A licenses, up to 100 plants (unlimited);
  - (2) Growers operating under Class B licenses, up to 500 plants (unlimited);
  - (3) Growers operating under Class C licenses, up to 2,000 plants (unlimited);
  - (4) Retailers (unlimited);
  - (5) Processors (unlimited);
  - (6) Secure transporters (unlimited);
  - (7) Safety compliance establishments (unlimited);
  - (8) Designated consumption establishments (unlimited);
  - (9) Microbusinesses (up to 150 plants) (unlimited); and
  - (10) Excess marihuana growers (unlimited).
- (d) *Prohibited license types.*
- (1) Class A Microbusinesses (300 plants) are prohibited in the City.
  - (2) Temporary marihuana events are prohibited in the City.
- (e) *Co-location and stacked licenses.* Co-location and stacked grower licenses are permitted in the City, subject to this Ordinance, the Zoning Ordinance, approval by LARA, and state law.
- (f) Equivalent licenses are permitted in the City subject to this Ordinance, the Zoning Ordinance, approval by LARA, and state law.
- (g) *Final authorization from City required.* The authorization process described in this Ordinance and the City Zoning Ordinance determines the locations in the City at which facilities and establishments may operate. A proposed facility or establishment is not eligible to operate until the Clerk grants final authorization and until the applicant receives a special use permit under the City Zoning Ordinance and all required approvals and licenses from LARA.

**Section 3. Application for Authorization.**

- (a) *Required Application Materials.* A separate application is required for each proposed facility or establishment. An applicant may submit applications for multiple properties, but only one application may be submitted per proposed property, unless the applications are for proposed co-located establishments or equivalent licenses. An application is not considered complete until all of the following are received by the City Clerk:
- (1) A nonrefundable application fee in an amount established by resolution of the City Council.
  - (2) An advance of the annual administrative fee established in Section 5(d).
  - (3) A photocopy of a valid, unexpired driver's license or state issued identification card for all owners, directors, and officers of the proposed establishment.
  - (4) A signed application (available in the Clerk's office), which must include all of the following information and documents:
    - (A) If the applicant is an individual, the applicant's name; date of birth; Social Security number; physical address, including residential and any business address; copy of government-issued photo identification; email address; and one or more phone numbers, including emergency contact information;
    - (B) If the applicant is not an individual:
      - i. the names; dates of birth; physical addresses, including residential and any business address; copy of government-issued photo identifications; email address; and one or more phone numbers of each stakeholder of the applicant, including designation of the highest ranking representative as an emergency contact person;
      - ii. contact information for the emergency contact person;
      - iii. articles of incorporation or organization; assumed name registration (if applicable); Internal Revenue Service EIN confirmation letter; copy of the operating agreement of the applicant, if a limited liability company; copy of the partnership agreement, if a partnership; names and addresses of the beneficiaries, if a trust; or a copy of the bylaws or shareholder agreement, if a corporation;
    - (C) The name, address, tax identification number, and current zoning designations of the property on which the proposed marijuana establishment will be located;
    - (D) The name and address of the current property owner of record of the property on which the proposed marijuana establishment will be located;
    - (E) If the current property owner is different than the applicant (e.g. where the applicant has a lease, option, land contract, or other future interest in the property), the property owner's signature is required in addition to the applicant's signature.
    - (F) The proposed establishment type;
    - (G) A complete list of all marijuana permits and licenses held by the applicant;

- (H) Written consent for the City or its designee to inspect the establishment at any time during normal business hours to ensure compliance with applicable laws and regulations;
  - (I) A location area map of the marihuana facility or establishment and surrounding area that identifies the relative locations and the distances (closest property line to the subject marihuana facility or establishment's building) to the closest real property comprising a public or private elementary, vocational or secondary school;
  - (J) A copy of all documents submitted by the applicant to LARA in connection with the application for a state operating license under the MMFLA or MRTMA (including documents submitted for prequalification);
  - (K) A copy of all documents issued by LARA indicating that the applicant has been prequalified for a state operating license under the MMFLA or MRTMA;
  - (L) Any other information reasonably requested by the City relevant to the processing or consideration of the application.
- (b) *Clerk action upon receipt.* The Clerk will accept and receive any complete application that includes the information and documents required by Section 3(a). Upon receiving a complete application, the Clerk will time- and date-stamp the application. If the Clerk subsequently determines that a submitted application is incomplete, the Clerk may return the application to the applicant without further processing, even if the application was previously time- and date-stamped.
- (c) *Final authorization.* The Clerk will grant final authorization for the facility or establishment if the applicant:
- (1) Obtains special use authorization from the City Planning Commission within 12 months after submitting a complete license application under this Ordinance; and
  - (2) Receives all required operating licenses and approvals from LARA within 18 months of submitting the application; and
  - (3) Otherwise complies with all City rules, regulations, and codes.

The City Council may extend any of the deadlines by resolution upon a showing of good cause.

**Section 4. Relocation of Facilities or Establishments, Transfers of Licenses, and Expansion of Grow Operations.**

- (a) An existing facility or establishment may be moved to a new location in the City, so long as it complies with this Ordinance, the City Zoning Ordinance, and other City rules, regulations, and codes, and subject to approval by LARA.
- (b) A license for an existing facility or establishment may be transferred to a new licensee that intends to continue operating at the same location, subject to approval by LARA.
- (c) A licensee may expand growing operations by upgrading the class of the license (e.g., from class A to class B, or from class B to class C), subject to all the limitations set forth in this Ordinance. To do so, the licensee must submit a new application to the City satisfying the requirements in this Ordinance, which shall include payment of the application fee and an advance of any additional annual administrative fee.

**Section 5. General Regulations.**

- (a) *Submission of supplementary information to the City.* Applicants for City authorization and persons operating existing facilities or establishments in the City must provide the City Clerk with copies of all documents submitted to LARA in connection with the initial license application, subsequent renewal applications, or investigations conducted by LARA. The documents must be provided to the Clerk within 14 days of submission to LARA and may be submitted electronically to the City unless otherwise requested by the Clerk.
- (b) *Compliance with applicable laws and regulations.* Medical marihuana facilities and adult-use marihuana establishments must be operated in compliance with the MMFLA, MRTMA, LARA Rules, all conditions of the establishment's state operating licenses, and all applicable City ordinances, rules, regulations, and codes. Compliance with the foregoing does not create immunity from prosecution by federal authorities or other authorities of competent jurisdiction.
- (c) *No consumption on premises.* No smoking, inhalation, or other consumption of marihuana shall take place on or within the premises of any facility or establishment. It shall be a violation of this Ordinance to engage in such behavior or for a person to knowingly allow such behavior to occur. Evidence of all of the following gives rise to a rebuttable presumption that a person allowed the consumption of marihuana on or within a premises in violation of this section:
  - (1) the person had control over the premises or the portion of the premises where the marihuana was consumed;
  - (2) the person knew or reasonably should have known that the marihuana was consumed; and
  - (3) the person failed to take corrective action.
- (d) *Annual fee.* A licensee must pay an annual fee for each license used within the City to help defray administrative and enforcement costs. The initial annual fee must be paid to the City Clerk when the application for City approval is submitted. In each subsequent year, fees are due on the date on which the licensee submits an application to LARA for renewal of the state operating license. The amount of the annual fee is to be established by resolution of the City Council.
- (e) *Hours of operation.* Unless otherwise provided in a facility or establishment's special land use permit, medical marihuana facilities and adult-use marihuana establishments may operate between 8:00 a.m. and 9:00 p.m. and may only receive deliveries between 7:00 a.m. and 9:00 p.m.

**Section 6. Violations.**

- (a) *Request for revocation of state operating license.* If at any time an authorized facility or establishment violates this Ordinance or any other applicable City ordinance, the City Council may request that LARA revoke or refrain from renewing the facility or establishment's state operating license.
- (b) *Civil infraction.* It is unlawful to disobey, neglect, or refuse to comply with any provision of this Ordinance. A violation of this Ordinance is a municipal civil infraction. Each day the violation continues is a separate offense. Notwithstanding any other provision of this ordinance to the contrary, violators are subject to the following fines:
  - (1) First violation = \$500
  - (2) Second offense = \$2,500
  - (3) Each subsequent offense = \$5,000

- (c) *Other remedies.* The foregoing sanctions are in addition to the City's right to seek other appropriate and proper remedies, including actions in law or equity.

**Section 7. Effective Date.**

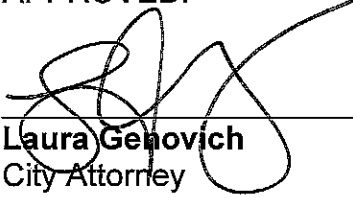
This Ordinance is effective 10 days after publication.

**Section 8. Repeal.**


Any ordinance inconsistent with this Ordinance shall be repealed but only to the extent necessary to give this Ordinance full force and effect. Section 18-250 of the City Code of Ordinances is repealed in its entirety.

**CERTIFICATION**

APPROVED:

  
\_\_\_\_\_  
**Laura Genovich**  
City Attorney


APPROVED:

  
\_\_\_\_\_  
**Mark Ammel**  
Mayor

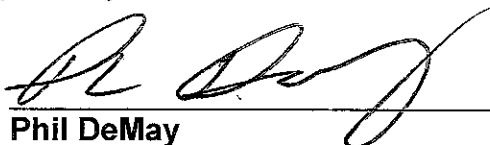
Date Approved: September 15, 2022

ATTEST:

Date Published: September 17, 2022

  
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**Phil DeMay**  
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, Michigan, at a Regular Meeting held on the 15<sup>th</sup> day of September, 2022 and was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on Saturday, September 17, 2022, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

  
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**Phil DeMay**  
City Clerk