

**CITY OF ESCANABA  
ORDINANCE NO. 1271**

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

**THE CITY OF ESCANABA ORDAINS:**

**Section 1. Amendment of City Zoning Ordinance**

The following sections of the City Zoning Ordinance are amended as described below to identify the zoning districts within which medical marihuana facilities and adult-use marihuana establishments are allowed as special land uses, subject to this Zoning Ordinance, the City Code of Ordinances, and state law and regulations.

Zone D, Local Business District: Marihuana Provisioning Centers and Retailers

Amendment of Section 903, Uses Allowed by Special Land Use Permit  
(Zone D, Local Business District)

Section 903 of the Zoning Ordinance, entitled "Uses Allowed by Special Land Use Permit" and governing Zone D, Local Business District, is amended to add new subparagraph 903.2, which reads as follows in its entirety:

**903.2 Marihuana Provisioning Centers, Retailers, and Microbusinesses. Medical marihuana provisioning centers authorized under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, MCL 333.27101 et seq, and retailers and microbusinesses (up to 150 plants) authorized under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq, subject to Section \_\_\_ of the City Code of Ordinances and Section 205 of this Zoning Ordinance.**

Zone E, Commercial District: Marihuana Provisioning Centers and Retailers

Amendment of Section 1003, Uses Allowed by Special Land Use Permit  
(Zone E, Commercial District)

Section 1003 of the Zoning Ordinance, entitled "Uses Allowed by Special Land Use Permit" and governing Zone E, Commercial District, is amended to add new subparagraph 1003.3, which reads as follows in its entirety:

**1003.3 Marihuana Provisioning Centers, Retailers, and Microbusinesses. Medical marihuana provisioning centers authorized under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, MCL 333.27101 et seq, and retailers and microbusinesses (up to 150 plants) authorized under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq, subject to Section \_\_\_ of the City Code of Ordinances and Section 205 of this Zoning Ordinance.**

Zone E-1, Planned Commercial Development District: Marihuana Provisioning Centers and Retailers

Amendment of Section 1103, Uses Allowed by Special Land Use Permit (E-1, Planned Commercial Development District)

Section 1103 of the Zoning Ordinance, entitled "Uses Allowed by Special Land Use Permit" and governing Zone E-1, Planned Commercial Development District, is amended to add new subparagraph 1103.2, which reads as follows in its entirety:

**1103.2 Marihuana Provisioning Centers, Retailers, and Microbusinesses.** Medical marihuana provisioning centers authorized under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, MCL 333.27101 et seq, and retailers and microbusinesses (up to 150 plants) authorized under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq, subject to Section \_\_\_ of the City Code of Ordinances and Section 205 of this Zoning Ordinance.

Zone E-2, Special Planned District: Marihuana Provisioning Centers and Retailers

Amendment of Section 1203, Uses Permitted in a Special Planned District (E-2, Special Planned District)

Section 1203 of the Zoning Ordinance, entitled "Uses Allowed by Special Land Use Permit" and governing Zone E-2, Special Planned District, is amended to add new subparagraph 1203(O), which reads as follows in its entirety:

**1203(O): Marihuana Provisioning Centers, Retailers, and Microbusinesses.** Medical marihuana provisioning centers authorized under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, MCL 333.27101 et seq, and retailers and microbusinesses (up to 150 plants) authorized under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq, subject to Section \_\_\_ of the City Code of Ordinances and Section 205 of this Zoning Ordinance.

Zone E-3, Central Commercial District: Marihuana Provisioning Centers and Retailers

Amendment of Section 2103, Uses Allowed by Special Land Use Permit (E-3, Central Commercial District)

Section 2103 of the Zoning Ordinance, entitled "Uses Allowed by Special Land Use Permit" and governing Zone E-3, Central Commercial District, is amended to add new subparagraph 2103.1.F, which reads as follows in its entirety:

**2103.1.F: Marihuana Provisioning Centers, Retailers, and Microbusinesses.** Medical marihuana provisioning centers authorized under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, MCL 333.27101 et seq, and retailers and microbusinesses (up to 150 plants) authorized under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq, subject to Section \_\_\_ of the City Code of Ordinances and Section 205 of this Zoning Ordinance.

Zone F, Light Manufacturing District: Class A Growers and Safety Compliance Facilities

Amendment of Section 1303, Uses Allowed by Special Land Use Permit (F, Light Manufacturing District)

Section 1303 of the Zoning Ordinance, entitled "Uses Allowed by Special Land Use Permit" and governing Zone F, Light Manufacturing District, is amended to add new subparagraph 1303.1.G, which reads as follows in its entirety:

**1303.1.G: Marihuana Class A Grower and Safety Compliance Facilities. Medical marihuana Class A Growers and Safety Compliance Facilities authorized under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, MCL 333.27101 et seq, and adult-use marihuana Class A Growers and Safety Compliance Facilities authorized under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq, subject to Section \_\_\_ of the City Code of Ordinances and Section 205 of this Zoning Ordinance.**

Zone F-1, Industrial Park District: Class A Growers; Safety Compliance Facilities

Amendment of Section 1403, Uses Allowed by Special Land Use Permit (F-1, Industrial Park District)

Section 1403 of the Zoning Ordinance, entitled "Uses Allowed by Special Land Use Permit" and governing Zone F-1, Industrial Park District, is amended to add new subparagraph 1403.1.D, which reads as follows in its entirety:

**1403.1.D: Marihuana Class A Growers and Safety Compliance Facilities. Medical marihuana Class A Growers and Safety Compliance Facilities authorized under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, MCL 333.27101 et seq, and adult-use marihuana Class A Growers and Safety Compliance Facilities authorized under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq, subject to Section \_\_\_ of the City Code of Ordinances and Section 205 of this Zoning Ordinance.**

Zone G, Heavy Manufacturing District: Class B Growers; Class C Growers; Safety Compliance Facilities

Amendment of Section 1503, Uses Allowed by Special Land Use Permit (G, Heavy Manufacturing District)

Section 1503 of the Zoning Ordinance, entitled "Uses Allowed by Special Land Use Permit" and governing Zone G, Heavy Manufacturing District, is amended to add new subparagraph 1503.1.D, which reads as follows in its entirety:

**1503.1.D: Marihuana Class B Growers, Class C Growers, and Safety Compliance Facilities. Medical marihuana Class B and C Growers and Safety Compliance Facilities authorized under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, MCL 333.27101 et seq, and adult-use marihuana Class B and C Growers and Safety Compliance Facilities authorized under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq, subject to Section \_\_\_ of the City Code of Ordinances and Section 205 of this Zoning Ordinance.**

#### **Section 5. Addition of New Section 205.6**

Section 205.6 entitled "Marihuana Establishments – Special Land Use Standards," is added to Section 205 (Special Land Use Permit Approval) of the City Zoning Ordinance and reads as follows in its entirety:

In addition to all requirements of the City Code of Ordinances, any other requirements of this Zoning Ordinance or the City Code, and any conditions imposed by the Planning Commission in granting special use approval, medical marihuana facilities adult-use (recreational) marihuana establishments, if allowed under the City Code of Ordinances, must comply with the following requirements.

All terms defined in the City Code have the same meaning when used in this section.

1. Facilities and establishments must comply with the MMFLA or MRTMA, as applicable; all Rules; and any other applicable state laws or regulations.
2. Facilities and establishments must be sufficiently screened or buffered with a fence, wall, or landscape screen to minimize light spillage, odor, and noise (including noise associated with truck traffic or other machinery), affecting adjacent properties.
3. Facilities and establishments must take commercially reasonable measures to ensure that odor is not detectable outside of the building or property.
4. Facilities and establishments must comply with all City codes and ordinances, including but not limited to the International Fire Code, as adopted by the City at Section 12-16 of the Code of Ordinances.
5. Special use applicants must provide a plan for the storage and disposal of marihuana or chemicals associated with marihuana cultivation to minimize the risk of theft or harm resulting from chemical exposure.
6. No marihuana may be stored overnight outside of an enclosed building. By way of example and without limitation, it is unlawful to store marihuana overnight in an outdoor waste bin or a secure transport vehicle parked outdoors.
7. Signage for marihuana facilities and establishments may be approved pursuant to the generally applicable procedures and standards provided in Chapter 20 of this Zoning Ordinance ("Signs"), with the additional restriction that establishment signage may not depict marihuana, marihuana-infused products, or marihuana-related paraphernalia.
8. The following minimum-distancing regulations apply to establishments:
  - a. An establishment may not be located within 750 feet of an existing public or private K-12 school. The map attached as **Exhibit A** depicts the areas that are within 750 feet of an existing public or private K-12 school.
  - b. A grower, processor, or safety compliance establishment may not be located within 500 feet of any existing one-family dwelling.
  - c. A retailer may not be located within 100 feet of any existing one-family dwelling, except that this distance requirement does not apply in the E-3 (Central Commercial) Zoning District.
  - d. The distances described in this subsection shall be computed by measuring a straight line from the nearest property line of land used for the purposes stated in this subsection to the nearest property line of the parcel used as a marihuana establishment.
9. The following requirements apply to provisioning centers and retailers:

Operational Requirements

- a. The interior of the establishment must be arranged in a way such that neither marihuana nor marihuana-infused products are visible from the exterior of the establishment.
- b. Consumption of marihuana shall be prohibited in the retail establishment, and a sign shall be posted on the premises of each retail center indicating that consumption is prohibited on the premises.

- c. Provisioning centers and retailers shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site location for a period of 14 days.
- d. The public or common areas of the retail establishment must be separated from restricted or non-public areas of the marijuana establishment.
- e. No drive-through window on the portion of the premises occupied by a retail establishment shall be permitted.
- f. Provisioning centers and retailers shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises.

Design Requirements

- g. *Appearance.* The exterior appearance of a provisioning center or retailer must be compatible with surrounding businesses with respect to façade type, ground floor opacity, size and placement of signage, site layout, etc.
- h. *Minimum Wall Articulation.* Building bays shall be a maximum of thirty feet in width. Bays shall be visually established by architectural features such as columns, ribs or pilasters, piers and fenestration pattern. In order to add architectural interest and variety and avoid the effect of a single, long or massive wall with no relation to human size, the following additional standards shall apply:
  - i. No wall that faces a street or connecting walkway shall have a blank, uninterrupted length exceeding thirty feet without including at least two of the following: change in plane, change in texture or masonry pattern, windows, or an equivalent element that subdivides the wall into human scale proportions.
  - ii. Side or rear walls that face walkways may include false windows and door openings defined by frames, sills and lintels, or similarly proportioned modulations of the wall, only when actual doors and windows are not feasible because of the nature of the use of the building.
  - iii. All sides of the building shall include materials and design characteristics consistent with those on the front. Use of inferior or lesser quality materials for side or rear façades shall be prohibited.
- i. *Façades.* Façades that face streets or connecting pedestrian frontage shall be subdivided and proportioned using features such as windows, entrances, arcades, arbors, awnings, along no less than fifty percent of the façade.
- j. *Entrances.* Primary building entrances shall use clear glass and be clearly defined and recessed or framed by a sheltering element such as an awning, arcade or portico in order to provide shelter from the inclement weather.
- k. *Windows.* Windows shall have clear glass.
- l. *Awnings.* Awnings shall be no longer than a single storefront.
- m. *Base and Top Treatments.* All façades shall have:
  - i. A recognizable "base" consisting of, but not limited to: (a) thicker walls, ledges or sills; (b) integrally textured materials

such as stone or other masonry; (c) integrally colored and patterned materials such as smooth-finished stone or tile; (d) lighter or darker colored materials, mullions or panels; or (e) planters.

- ii. A recognizable "top" consisting of, but not limited to: (a) cornice treatments, other than just colored "stripes" or "bands," with integrally textured materials such as stone or other masonry or differently colored materials; (b) sloping roof with overhangs and brackets; (c) stepped parapets.

n. *Encroachments.* Encroachments for special architectural features, such as bay windows, decorative roofs and entry features may be considered; however, in no case may such features be below a height of 8 feet.

10. The following requirements apply to growers:

- a. Odor Control. Marijuana growers must control and eliminate odor as follows:
  - i. The building must be equipped with an activated air scrubbing and carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter and air scrubbing system.
  - ii. The filtration system must consist of one or more fans, activated carbon filters and be capable of scrubbing the air prior to leaving any building. At a minimum, the fans must be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filters shall be rated for the applicable CFM.
  - iii. The air scrubbing and filtration system must be maintained in working order and must be in use at all times. The filters must be changed per manufacturers' recommendation to ensure optimal performance.
  - iv. Negative air pressure must be maintained inside the building.
  - v. Doors and windows must remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
  - vi. An alternative odor control system is permitted if the special use applicant submits a report by a mechanical engineer licensed in the state of Michigan sufficiently demonstrating that the alternative system will eliminate odor as well or better than the air scrubbing and carbon filtration system otherwise required.
- b. Cultivation must occur within an enclosed building with exterior facades consisting of opaque materials typical of an industrial or commercial building. The roof of the building may be constructed of a rigid transparent or translucent material designed to let in light, such as glass or rigid polycarbonate or fiberglass panels. Films or other non-rigid materials cannot be used to construct any component of the building's exterior structure.
- c. Cultivation must be conducted in a manner to minimize adverse impacts on the City's sanitary sewer and in compliance with the City's Wastewater Ordinance. The City's public works department shall review all pertinent information relating to sewer discharges and shall provide any pertinent comments on to the planning commission.

11. The following requirements apply to processors:
  - a. Cultivation must be conducted in a manner to minimize adverse impacts on the City's sanitary sewer and in compliance with the City's Wastewater Ordinance. The City's public works department shall review all pertinent information relating to sewer discharges and shall provide any pertinent comments on to the planning commission.
12. The following requirements apply to safety compliance facilities:
  - a. Cultivation must be conducted in a manner to minimize adverse impacts on the city's sanitary sewer and in compliance with the City's Wastewater Ordinance. The city's public works department shall review all pertinent information relating to sewer discharges and shall provide any pertinent comments on to the planning commission.
13. Special Use Permit Specific to Applicant.
  - a. Any special use permit granted for a marihuana establishment is unique and specific to the applicant and does not run with the land. The special use permit may be transferred to another marihuana establishment subject to Section \_\_\_\_\_ of the City Code.
14. Violations; Remedies; Revocation.

Notwithstanding any other provision in this Zoning Ordinance to the contrary, penalties for violations of this subsection shall be as follows:

- a. If at any time an establishment violates the Zoning Ordinance, any condition imposed through a special use permit, or any other applicable City ordinance or state law or regulation, the City may take any or all of the following actions:
  - a. The City may request that LARA revoke or refrain from renewing the establishment's state operating license.
  - b. Following notice and a public hearing, the City may revoke the establishment's special use permit.
  - c. The City may treat the violation as a municipal civil infraction, for which each day the violation continues will be a separate offense, and impose the following fines:  
  
First violation = \$500  
  
Second offense = \$2,500  
Each subsequent offense = \$5,000
  - d. The City may seek other appropriate and proper remedies, including actions in law or equity.

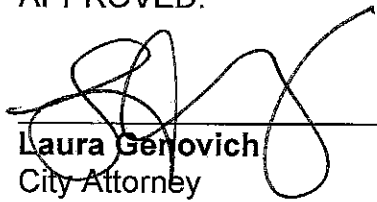
**Section 3. Effective Date.**

This Ordinance is effective 10 days after publication.

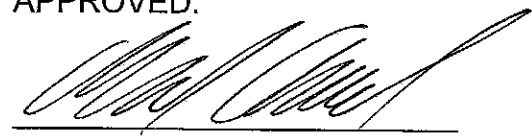
**Section 4. Repeal.**

Any ordinance inconsistent with this Ordinance shall be repealed but only to the extent necessary to give this Ordinance full force and effect.

APPROVED:

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

APPROVED:


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

Ordinance No. 1271

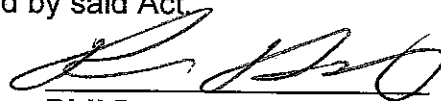
Date Approved: September 15, 2022

Attest

Date Published: September 17, 2022

  
\_\_\_\_\_  
**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.

  
\_\_\_\_\_  
**Phil DeMay**  
City Clerk