

## **ORDINANCE NO. 600-20**

### **MARIJUANA FACILITIES AND MARIJUANA ESTABLISHMENTS**

AN ORDINANCE TO CREATE A NEW ARTICLE VI IN CHAPTER 9 OF THE CODE OF THE CITY OF SAULT STE. MARIE MICHIGAN BY AMENDING SECTION 9-129 AND ADDING NEW SECTIONS 9-130 to 9-142

THE CITY ORDAINS:

Section 1. That Sections 9-129 through 9-142 read as follows:

#### **ARTICLE 6.- MARIJUANA FACILITIES AND MARIJUANA ESTABLISHMENTS**

9-129. - Marijuana Facilities and Marijuana Establishments Allowed.

Pursuant to Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. MMFLA, the Medical Marihuana Act, MCL 333.26421 et seq., the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq. MRTMA, the City elects to allow MARIJUANA FACILITIES AND MARIJUANA ESTABLISHMENTS within its boundaries.

9-130.- Permits

The city elects to issue permits for and to regulate marijuana facilities and marijuana establishments to the extent they are permitted pursuant to Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., the Medical Marihuana Act, MCL 333.26421 et seq., and the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq.

9-131. - Definitions.

(1) Words and phrases contained in the Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., the Medical Marihuana Act, MCL 333.26421 et seq., the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., and the rules or emergency rules promulgated pursuant to any of these acts, shall have the same meanings in this Chapter.

(2) For purposes of the requirements for obtaining a permit under this Chapter, the terms "facility" and "marijuana facility" are intended to include both a "marihuana facility" as defined in the MMFLA and a "marihuana establishment" as defined in the MRTMA.

(3) Additionally, the following words as used in this Chapter setting forth the requirements for obtaining a city permit have the following meanings:

- (a) City permit or permit, means a valid permit that is issued under this chapter.
- (b) Facility means either a "marihuana facility" as defined in the MMFLA or a "marihuana establishment" as defined in the MRTMA.
- (c) Marijuana means "marihuana" as defined in the MMFLA and as defined in the MRTMA.
- (d) Medical marijuana home occupation has the same meaning in this Chapter as it does in the City Code of Ordinances, Zoning Ordinance.
- (e) Person means the entities included in the definition of "person" in the City Code, in addition to the entities included in the definition of "person" in the MMFLA and the MRTMA and their regulations.
- (f) State license means a valid state operating license issued under the MMFLA or a valid state license issued under the MRTMA or both.

9-132. - Marijuana facilities authorized.

Pursuant to the MMFLA and the MRTMA, the City authorizes the operation in the city of the following facilities, provided they possess a state license or licenses and they comply with the additional requirements of this chapter, and the city zoning ordinance, and all other applicable laws and ordinances:

- (1) Grower.
- (2) Processor.
- (3) Provisioning Center/Retailer.
- (4) Secure transporter.
- (5) Safety compliance facility.
- (6) Marijuana micro-business.

9-133. - City permit required, number of permits available.

- (1) 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:
  - (a) Grower permits - no maximum.
  - (b) Processor permits - no maximum.
  - (c) Secure transporter permits - no maximum.
  - (d) Provisioning Center/Retailer permits- no maximum.
  - (e) Safety compliance facility permits - no maximum.
  - (f) Marijuana microbusiness permits - no maximum.
- (2) The permit requirement in this chapter applies to all facilities whether operated for

profit or not for profit. The permit requirement in this chapter shall be in addition to any other requirements imposed by any other state or local law.

(3) A permit issued under this chapter shall be valid for 1 year after the date of issuance. To renew an existing permit, the permit holder shall submit an application in the same manner as is required to apply for a new permit no sooner than 90 days before the expiration date and no later than 30 days before the expiration date.

(4) Medical marijuana home occupations do not require permits.

#### 9-134. - Applications to State for Special Licenses.

A persons who applies for a state license as a marihuana event organizer or for a temporary marihuana event, as those terms are defined in the MRTMA, shall comply with all City ordinances applicable to the type of activity for which a state license is sought.

#### 9-135. - General provisions.

(1) 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.

(2) 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.

(3) The revocation of, suspension of, and placement of restrictions by the state on a license apply equally to a permit issued by the city.

(4) 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.

(5) Acceptance of a permit from the city under this chapter constitutes consent by the permit holder, owners, managers and employees to permit the City Manager or designee to conduct inspections of the facility to ensure compliance with this chapter.

#### 9-136. – Areas prohibited and required distance separations.

(1) Marijuana facilities shall be prohibited within the boundaries of the Downtown Development Authority, as amended.

(2) Where not otherwise prohibited, marijuana facilities shall comply with minimum distance separations from specified properties and uses inside the city limits at the time a state

license is issued. The measurement shall be computed as the shortest straight line distance between property lines without regard for intervening surface features or structures. The minimum distance separations shall be as follows:

- a. 1,000 feet from public and private elementary, middle, and high schools.
  - b. 500 feet from properties owned by Lake Superior State University.
  - c. 250 feet from the following:
    - i. Child care establishments licensed by the State of Michigan.
    - ii. Publicly and privately owned parks and recreational complexes appearing within the City of Sault Ste. Marie Master Parks & Recreation Plan.
    - iii. Houses of worship.
    - iv. Substance abuse treatment establishments licensed by the State of Michigan.
  - d. 100 feet from the following:
    - i. Property located within the following zoning districts: R-1, RS-1, RS-2, R-1A, R-2, RM-1, RM-2, and RSV.
    - ii. Property not located in any of the zoning districts set forth in (d)(i) but used wholly or in part for residential purposes.
- (3) Upon legal establishment, marijuana facilities may be expanded or modified without regard for the distance separation requirements subject to the following:
- a. The expansion or modification remains within the boundaries of the parcel as existed at the time the marijuana facility was established.
  - b. The expansion or modification is compliant with all other applicable state and local requirements included by not limited to the MMRTA, MMFLA, Michigan Building Code, and Zoning Ordinance.

#### 9-137. - Application requirements for and issuance of city permit.

(1) Application for new annual permit. An application for a new annual permit for a marijuana facility shall be submitted to the City Clerk on a form provided by the city, which shall fulfill all of the requirements indicated on the form, including but not limited to:

- (a) The name and address of the facility and any other contact information requested on the application form.
- (b) The name and address of all owners of the real property where the facility is located.
- (c) Name and address of all business managers of the facility.
- (d) Proof of applicant's ownership or legal possession of the premises.
- (f) A certificate of occupancy or temporary certificate of occupancy.
- (g) A copy of the proposed business plan for the Facility, including, but not limited to, the following:
  - (i). the proposed ownership structure of the Facility, including percentage ownership of each person or entity; and
  - (ii). planned worker training programs; and

- (h) A description of the security plan for the Adult-use Marihuana Facility, including, but not limited to, any lighting, alarms, barriers, recording/monitoring devices, and/or security guard arrangements proposed for the Facility and premises. The security plan must contain the specification details of each piece of security equipment. Each Adult-use Marihuana Facility must have a security guard present during business hours or alternative security procedures shall be proposed in the business plan.
- (i) Facility Sanitation Plan to protect against any marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction in the sewerage system is prohibited.
- (j) 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:
  - (i) Grower.
  - (ii) Processor.
  - (iii) Provisioning Center/Retailer.
  - (iv) Secure transporter.
  - (v) Safety compliance facility.
  - (vi) Marijuana micro-business as defined in the MRTMA.

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.

- (2) No Application is eligible to potentially be approved, unless:
  - (a) The Fire Department and the Planning and Zoning Department have inspected the proposed location for compliance with all laws for which they are charged with enforcement and for compliance with the requirements of this Ordinance.
  - (b) The Planning and Zoning Department to verify the proposed location of the adult use marihuana facility complies with the zoning code.
  - (c) The Building Department has confirmed that the proposed adult-use marihuana facility meets the City building requirement and this Ordinance.
  - (d) The City Finance Department has confirmed that the applicant and each stakeholder of the applicant and the proposed location of the Facility are not in default to the City of Sault Ste Marie.
- (3) Payment of a non-refundable application fee, which shall be determined by resolution of the City Commission.

- (4) Renewal or amendment of existing permits.
- (a) The same procedures that apply to applying for a new permit shall apply to the renewal or amendment of existing permits.
- (b) An application for renewal of an existing permit shall be submitted no sooner than 90 days before the existing permit expires.
- (c) An amended application shall be submitted under both of the following circumstances:
  - (i) When there is a change in any information the permit applicant was required to provide in the most recent application on file with the city; and,
  - (ii) 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.
- (d) An application to amend an existing permit to change the location of the facility shall be submitted no later than 90 days before the existing permit expires.
- (e) 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.
- (f) Applications for renewal or amendment of existing permits shall be reviewed and granted or denied before applications for new permits are considered.

9-138. - Issuance of permit and authorization to operate facility under permit.

- (1) If the permit applicant has successfully demonstrated compliance with all requirements for issuance of a permit the City Clerk shall issue a new permit to the permit applicant if a permit is available or grant renewal of an existing permit.
- (2) The issuance of a permit under this chapter authorizes operation of the facility only after the following additional requirements are met:
  - (a) The applicant has provided the City Clerk with a copy of the applicant's state license.

9-139. - Conduct of business at a facility.

- (1) A facility shall be conducted in compliance with the MMFLA, the MRTMA, the MMA, the rules promulgated pursuant to any of these acts, and all other laws, rules, and regulations of the state of Michigan and the City.
- (2) An authorized person shall consent to the entry into a facility by the Building Official and City Inspectors for the purpose of inspection to determine compliance with this chapter pursuant to a notice posted in a conspicuous place on the premises 2 or more days before the date of the inspection or sent by first class mail to the address of the premises 4 or more calendar days before the date of the inspection.

9-140. - Prohibited acts.

It shall be unlawful for any person to:

- (1) Violate any provision of this chapter or any condition of any permit granted pursuant to this chapter.
- (2) Make any changes or allow any changes to be made in the operation of the facility as represented in the permit application, without first notifying the city by amending its application.

9-141. - Permit revocation.

A permit issued under this chapter may be suspended or revoked for any of the following violations:

- (1) 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;
- (2) 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;
- (3) 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 submission of the application, could have been cause for denial of the permit application;
- (4) Marijuana is dispensed on the business premises in violation of this chapter or any other applicable state or local law, rule or regulation;
- (5) 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.
- (6) 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.
- (7) The facility is determined by the city to have become a public nuisance.
- (8) The facility's state license has been suspended or revoked.

9-142. - 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 Code or other ordinance or to file a public nuisance lawsuit or to take any other legal action authorized by law.

9-143. - Penalty for violations of Chapter 9 Article VI.

Any person who violates a provision of this chapter shall be responsible for a civil infraction punishable by a civil fine of not more than \$500.00, plus costs and all other remedies available by statute. Each day of violation shall be a separate violation.

Section 2. This Ordinance shall take effect ten days after passage and publication.

#### CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Commission of the City of Sault Ste Marie, Michigan at its regular session of Monday, August 17, 2020.

DON GERRIE, MAYOR

ROBIN R. TROYER, CITY CLERK

I hereby certify that the foregoing ordinance received legal publication in the Sault News on Wednesday, December 23, 2020.

ROBIN R. TROYER, CITY CLERK