

CHAPTER 154: MEDICAL MARIHUANA FACILITIES

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§ 154.01 PURPOSE.

(A) It is the intent of this chapter to authorize the establishment of certain types of medical marihuana facilities in the Village of Kingsley and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this chapter to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the Village of Kingsley through imposition of an annual, nonrefundable fee of not more than \$5,000.00 on each medical marihuana facility licensee. Authority for the enactment of these provisions is set forth in the Medical Marihuana Facilities Licensing Act, being M.C.L.A. §§ 333.27101 *et seq.*

(B) Nothing in this chapter is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, being M.C.L.A. §§ 333.26421 *et seq.*; the Medical Marihuana Facilities Licensing Act, being M.C.L.A. §§ 333.27101 *et seq.*; the Marihuana Tracking Act, being M.C.L.A. §§ 333.27901 *et seq.*; and all other applicable rules promulgated by the state of Michigan.

(C) As of the effective date of this chapter, marihuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 *et seq.*, which makes it unlawful to manufacture, distribute, or dispense marihuana, or possess marihuana with intent to manufacture, distribute, or dispense marihuana. Nothing in this chapter is intended to grant immunity from any criminal prosecution under federal laws.

(Ord. 2017-03, passed 11-13-2017)

§ 154.02 DEFINITIONS.

For the purposes of this chapter:

(A) Any term defined by the Michigan Medical Marihuana Act, being M.C.L.A. §§ 333.26421 *et seq.*, shall have the definition given in the Michigan Medical Marihuana Act.

(B) Any term defined by the Medical Marihuana Facilities Licensing Act, being M.C.L.A. §§ 333.27101 *et seq.*, shall have the definition given in the Medical Marihuana Facilities Licensing Act.

(C) Any term defined by the Marihuana Tracking Act, being M.C.L.A. §§ 333.27901 *et seq.*, shall have the definition given in the Marihuana Tracking Act.

(D) **GROWER.** A licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center, consistent with PA 281 of 2016.

(E) **LICENSEE.** A person holding a state operating license, consistent with Public Act 281 of 2016.

(F) **MARIJUANA** or **MARIHUANA.** That term as defined in the Public Health Code, being M.C.L.A. §§ 333.1101 *et seq.*; the Michigan Medical Marihuana Act, being M.C.L.A. §§ 333.26421 *et seq.*; the Medical Marihuana Facilities Licensing Act, being M.C.L.A. §§ 333.27101 *et seq.*; and the Marihuana Tracking Act, being M.C.L.A. §§ 333.27901 *et seq.*

(G) **MARIJUANA FACILITY.** A commercial enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, being M.C.L.A. §§ 333.27101 *et seq.*, including a marihuana grower, marihuana processor, marihuana provisioning center, marihuana secure transporter, or marihuana safety compliance facility. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, being M.C.L.A. §§ 333.26421 *et seq.*

(H) **MARIHUANA PLANT.** Any plant of the species *Cannabis sativa* L, consistent with Public Act 281 of 2016.

(I) **MARIHUANA-INFUSED PRODUCT.** 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. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, being M.C.L.A. §§ 289.1101 to 289.8111, consistent with Public Act 281 of 2016.

(J) **PERMIT.** A special use permit issued for a marihuana facility.

(K) **PERMIT HOLDER.** The person that has been issued a permit under this Code of Ordinances.

(L) **PERMITTED PREMISES.** The particular building or buildings within which the permit holder is authorized to conduct marihuana facilities activities.

(M) **PERMITTED PROPERTY.** The real property comprised of a lot, parcel(s), or other designated unit of real property upon which the permitted premises is situated.

(N) **PERSON.** An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

(O) **PROCESSOR.** A 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 packaged form to a provisioning center, consistent with Public Act 281 of 2016.

(P) **PROVISIONING CENTER.** A licensee that is a commercial entity located in Michigan that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying 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 in accordance with the Michigan Medical Marihuana Act, being M.C.L.A. §§ 333.26421 *et seq.*, is not a provisioning center for purposes of this chapter.

(Q) **SAFETY COMPLIANCE FACILITY.** A 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, consistent with Public Act 281 of 2016.

(R) **SECURE TRANSPORTER.** A licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee, consistent with Public Act 281 of 2016.

(S) **STATE OPERATING LICENSE** or, unless the context requires a different meaning, **LICENSE** means a license that is issued under Public Act 281 of 2016 that allows the licensee to operate as 1 of the following, specified in the license:

- (1) A grower.
- (2) A processor.
- (3) A secure transporter.
- (4) A provisioning center.

(5) A safety compliance facility.

(T) **VILLAGE OPERATING LICENSE.** A license that is issued under this chapter.

(Ord. 2017-03, passed 11-13-2017)

§ 154.03 MARIHUANA FACILITIES AUTHORIZED IN THE VILLAGE; FEE.

(A) The maximum number of each type of commercial marihuana facility allowed in the Village of Kingsley shall be as follows.

- (1) Marihuana growing facility: unlimited.
- (2) Marihuana processor facility: unlimited.
- (3) Marihuana safety compliance facility: unlimited.
- (4) Marihuana secure transporter facility: unlimited.

(B) The Village Council may review this section allowing more than one type and number of marihuana facilities by resolution as it determines to be advisable. A village operating license for a marihuana facility is a revocable privilege granted by the village and is not a property right. Granting a village operating license does not create or vest any right, title, franchise, or other property interest. The village expressly reserves the right to amend or repeal this chapter in any way including but not limited to complete elimination of or reduction in the type and/or number of authorized medical marihuana facilities authorized to operate within the village.

(C) A nonrefundable fee shall be paid by each marihuana facility licensed under this chapter in an annual amount of not more than \$5,000.00 per licensee as set by resolution of the Village Council.

(Ord. 2017-03, passed 11-13-2017)

§ 154.04 REQUIREMENTS AND PROCEDURE FOR ISSUING LICENSE.

(A) No person shall operate a marihuana facility in the village without a valid village operating license issued by the village pursuant to the provisions of this chapter.

(B) Every applicant for a license to operate a marihuana facility shall file an application in the Village Manager's office upon a form provided by the village. The application shall contain the following information.

(1) The appropriate non-refundable permit application fee in the amount determined by the village;

(2) If the applicant is an individual, the applicant's name, date of birth, SSN, physical address including residential and any business address(s) attached to the individual, copy of government issued photo identification, email address, and 1 or more phone numbers, including emergency contact information, and if applicable Federal EIN;

(3) If the applicant is not an individual, the names, date of birth, SSN's, physical addresses, including residential and any business address(s), copy of government issued photo identification, email addresses, and one or more phone numbers of each stakeholder and/or general partners of the applicant, including designation of the highest ranking stakeholder and/or general partner as an emergency contact person and contain information for the emergency contact person, articles of incorporation, assumed name registration documents, Internal Revenue Service SS-4, EIN confirmation letter(s), and a copy of the operating agreement of the applicant, if a limited liability company, copy of the partnership agreement, if a partnership, or a copy of the by-laws or shareholder agreement, if a corporation;

(4) The name and address of the proposed medical marihuana facility and any additional contact information deemed necessary and requested by the village;

(5) One of the following: (a) proof of ownership of the entire premises wherein the medical marihuana facility is to be operated; or (b) written consent from the property owner for use of the premises in a manner requiring a permit under this chapter along with a copy of the lease for the premises;

(6) A copy of applicant's application for a state operating license under M.C.L.A. § 333.27401;

(C) Every applicant for a village operating license shall submit with the application a photocopy of the applicant's valid and current

license issued by the State of Michigan in accordance with the Medical Marihuana Facilities Licensing Act, being M.C.L.A. §§ 333.27101 *et seq.*

(D) Upon an applicant's completion of the above-provided form and furnishing of all required information and documentation, the Village Manager or zoning administrator shall accept the application and assign it a sequential application number by facility type based on the date and time of acceptance. False information on an application is cause for the board to deny a license. The Village Manager or zoning administrator shall not consider an incomplete application but shall, within a reasonable time, return the application to the applicant with notification of the deficiency and instructions for submitting a corrected application. The Village Manager or zoning administrator shall act to approve or deny an application not later than 30 days from the date the application was accepted. If approved, the Village Manager or zoning administrator shall issue the applicant a provisional license.

(E) A provisional license means only that the applicant has submitted a valid application for a village operating license, and the applicant shall not locate or operate a marihuana facility without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the village. A provisional license will lapse and be void if such permits and approvals are not diligently pursued to completion.

(F) Within 30 days from the applicant submitting proof of obtaining all other required permits and approvals and payment of the license fee, the Village Manager or zoning administrator shall approve or deny the village operating license. The Village Manager or zoning administrator shall issue village operating licenses in order of the sequential application number previously assigned.

(G) Maintaining a valid state operating license issued by the state is a condition for the issuance and maintenance of a village operating license under this chapter and continued operation of any marihuana facility. A marihuana facility and/or holder of a state operating license must also comply with all other applicable laws, rules or regulations. In addition to this chapter, a marihuana facility and/or holder of a state operating license must comply with all other lawful requirements under the Code of Ordinances of the Village of Kingsley.

(H) A village operating license issued under this chapter is not transferable.

(I) The recipient of a village operating license must apply for a special use permit no later than 2 months after receiving the village operating license and proceed diligently to obtain the special use permit and site plan approval or the village operating license will expire. This time limitation may upon written request be extended by the Village Council if it is demonstrated to the Village Council's reasonable satisfaction the recipient of a village operating license is proceeding in good faith and that there is a strong likelihood that the recipient will obtain the special use permit and site plan approval in due course.

(Ord. 2017-03, passed 11-13-2017)

§ 154.05 LICENSES GENERALLY; MINIMUM OPERATING STANDARDS FOR MARIHUANA FACILITIES.

(A) To the extent permissible, all information submitted in conjunction with an application for a license or license renewal required by this chapter is confidential and exempt from disclosure under the Michigan Freedom of Information Act, 1976 PA 442, being M.C.L.A. §§ 15.231 *et seq.*

(B) A licensee shall report any other change in the information required by this chapter to the Village Manager or zoning administrator within 10 business days of the change. Failure to do so may result in suspension or revocation of the license.

(C) Consumption and/or use of marihuana shall be prohibited on the premises of a marihuana facility, and a sign shall be posted on the premises indicating that consumption is prohibited on the premises.

(D) The dispensing of marihuana at any facility, other than a provisioning center, shall be prohibited.

(E) All growing and activity related to the marihuana facility shall be done indoors.

(F) A marihuana facility shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises.

(G) No marihuana facility shall be located within 1,000 feet of real property comprising a public or private elementary, vocational, or secondary school.

(H) It shall be prohibited to use the symbol or image of a marihuana leaf in any exterior signage.

(I) An authorized medical marihuana facility shall consent to inspection of the facility by village officials and/or by the County Sheriffs Department, upon reasonable notice, to verify compliance with this chapter.

(Ord. 2017-03, passed 11-13-2017)

§ 154.06 LICENSE RENEWAL.

(A) A village operating license shall be valid for 1 year from the date of issuance, unless revoked as provided by law. A village operating license is a revocable privilege granted by the village and is not a property right. Granting a license does not create or vest any right, title, franchise, or other property interest.

(B) A valid village operating license may be renewed on an annual basis by submitting a renewal application upon a form provided by the village and payment of the annual license fee. Application to renew a village operating license shall be filed at least 30 days prior to the date of its expiration.

(Ord. 2017-03, passed 11-13-2017)

§ 154.07 APPLICABILITY.

The provisions of this chapter shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marihuana facility were established without authorization before the effective date of this chapter.

(Ord. 2017-03, passed 11-13-2017)

§ 154.08 PENALTIES AND ENFORCEMENT.

(A) Any person who violates any of the provisions of this chapter shall be responsible for a municipal civil infraction pursuant to Chapter 11 of the Code of Ordinances and subject to the payment of a civil fine of not more than \$500, plus costs. Each day a violation of this chapter continues to exist constitutes a separate violation. A violator of this chapter shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.

(B) A violation of this chapter is deemed to be a nuisance per se. The foregoing sanctions shall be in addition to the rights of the village to proceed at law or equity with other appropriate and proper remedies (including to bring an action for an injunction) to restrain, prevent, or abate any violation of this chapter. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the village incurs in connection with the municipal civil infraction.

(C) This chapter shall be enforced and administered by the Village Manager, Village Zoning Administrator, Village Code Enforcement officer, the Grand Traverse County Sheriff and his deputies, or such other village official as may be designated from time to time by resolution of the Village Council.

(Ord. 2017-03, passed 11-13-2017)

TABLE III: ZONING MAP CHANGES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
82-2	6-7-1982	Zoning map change from Residential R-1 to Commercial C
82-3	6-7-1982	Zoning map change from Residential R-1 to Commercial C
83-1	5-2-1983	Rezoning Kingsley Industrial Park to Industrial District I zoning
		Zoning map change from

84-1	2-6-1984	Residential R-1 to Residential R-2
84-2	--	Zoning map change from Industrial I to Commercial C
84-3	10-5-1984	Zoning map change
88-1	12-5-1988	Zoning map change
96-11.01	7-7-1997	Zoning map change
97-08.02	9-4-1997	Zoning map amendment
2000-7	--	Zoning map amendment
2000-8	--	Zoning map amendment
2001-3	5-7-2001	Residential R-4 for Cherrywood Mobile Home Park
2002-9	12-2-2002	Zoning map change from Residential R-1 to Commercial C-1
2002-10	3-3-2003	Zoning map change from Residential R-1 to Commercial C-1
2002-11	9-9-2002	Zoning map change from Residential R-3 to Residential R-4
2002-12	9-9-2002	Zoning map change from Commercial C-1 to Commercial C-2
03 7-2015	7-13-2015	Rezoning land located in Township 25N, Range 10W, Section 5, in the Village of Kingsley from Residential R-3 to Residential R-2