

City of Port Huron, Michigan
ORD #20-007

An ordinance to amend Chapter 52, Zoning, Article I, In General, and Article IV, General and Supplementary Regulations, of the Port Huron Code of Ordinance to provide for additional zoning of Marihuana Businesses.

THE CITY OF PORT HURON ORDAINS:

That Chapter 52, Zoning, Article I, In General, and Article IV, General and Supplementary Regulations, of the Port Huron Code of Ordinances be amended to provide for additional zoning of Marihuana Businesses.

CHAPTER 52. ZONING
ARTICLE I.
In General

Sec. 52-1 through Sec. 52-2.

No changes.

Sec. 52-3. Definitions A through I.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Definitions: Accessory Building through Country Club.

No changes.

CULTIVATE - To propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.

Definitions: Deck through Efficiency Unit.

No changes.

EQUIVALENT LICENSE - Any of the following when held by a single licensee:

- (1) Grower license of any class under both the MRTMA and MMFLA;
- (2) Processor licenses under both the MRTMA and MMFLA;
- (3) Secure transporter licenses under both the MRTMA and MMFLA;
- (4) Safety compliance facility licenses under both the MRTMA and MMFLA; and
- (5) A retailer license under the MRTMA and a provision center license under the MMFLA.

Definitions: Erected through Independent or Assisted Living Facilities.

No changes.

INDUSTRIAL HEMP - Any part of the plant, whether growing or not, Cannabis sativa L or the genus cannabis with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry-weight basis, or per volume or weight of marihuana-infused product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant regardless of moisture content. Industrial hemp includes industrial hemp commodities and products and topical or ingestible animal and consumer products with a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis.

Sec. 52-4. Definitions J through Q.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Definitions: Jail through Manufactured Home Site.

No changes.

MARIHUANA - All parts of the plant Cannabis sativa L. or of the genus cannabis, growing or not; the seeds of the 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, including marihuana concentrate and marihuana-infused products. For purposes of this ordinance, marihuana does not include:

- (1) 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;
- (2) Industrial hemp; or
- (3) Any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

MARIHUANA BUISNESS - Collectively means a marihuana establishment and marihuana facility.

MARIHUANA ESTABLISHMENT - An adult use marihuana commercial business operation licensed pursuant to the MRTMA and permitted to operate by City ordinance, including, but not limited to:

- (a) A grower.
- (b) A processor.
- (c) A secure transporter.
- (d) A retailer, (which for purposes of zoning shall include “Additional Retailer” as defined in Section 12 of the City Code of Ordinances.
- (e) A safety compliance facility.
- (f) A microbusiness.

MARIHUANA FACILITY - A medical marihuana commercial business operation licensed pursuant to the MMFLA and permitted to operate by City ordinance, including, but not limited to:

- (a) A grower.
- (b) A processor.
- (c) A secure transporter.
- (d) A provisioning center.
- (e) A safety compliance facility.

MARIHUANA-INFUSED PRODUCTS - A topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption in a manner other than smoke inhalation.

Definitions: Marina through Massage Therapist, Licensed.

No changes.

MMFLA – The acronym for the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333-27101 et seq.

Definitions: Motel through Motor Home.

No changes.

MRTMA - The acronym for the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27051 et seq.

Definitions: Multifamily Residential Development through Pet Boarding Facility.

No changes.

PLAYGROUND - Means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swing sets, teeterboards, beaches and all public parks.

Definitions: Porch, Covered through Probation Or Parole Facility.

No changes.

PROCESS or PROCESSING - The activity to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

Definitions: Psychiatric Hospital through Public Utility.

No changes.

Sec. 52-5. Definitions R through Z.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Definitions: Rehabilitation And Recovery Facility through Yard, Side.

No changes.

YOUTH CENTER - Means any recreational facility and/or gymnasium (including any parking lot appurtenant thereto), intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities.”

Definition: Zoning Board Of Appeals.

No change.

Sec. 52-6 through Sec. 52-40.

No changes.

**ARTICLE IV.
General and Supplementary Regulations**

Sec. 52-661 through Sec. 52-703.

No changes.

Sec. 52-704. Marihuana Business.

A category of uses permitting marihuana establishments and marihuana facilities licensed pursuant to MMFLA, MRTMA and if permitted pursuant to the City Code of Ordinances.

(1) General Provisions. Nothing herein shall be construed to grant authorization to operating a marihuana business without receipt of a license from the State of Michigan and a final permit or certificate as required by the City of Port Huron Code of Ordinances. Further, nothing herein shall be construed as to allow any time of marihuana business which is not specifically allowed pursuant to the City of Port Huron Code of Ordinances. The following apply to all marihuana businesses unless otherwise noted.

(a) General Requirements.

- (1) All location criteria and required separation distances apply to both new marihuana businesses and to any proposed change in the location of an existing marihuana business.
- (2) All location criteria and required separation distances apply to both marihuana businesses and similar protected uses located in adjacent governmental jurisdictions.
- (3) A marihuana business is prohibited from operating in any residential zoning district or within in a residential unit.
- (4) A marihuana business may not be operated at any place in the City other than the address provided in the application on file with the City Clerk.
- (5) A marihuana business must be operated in compliance with all applicable State and City regulations for that type of marihuana business.

- (6) All marihuana businesses must operate in such a manner that odors or fumes generated by the marihuana business is filtered such that they are not discernible outside of the licensed premises.
- (b) Location Criteria. All marihuana businesses must meet the following location criteria, except marihuana safety compliance facilities or establishments:
 - (1) Required Distance.
 - (a) A marihuana business may not operate or be located within one thousand (1,000) feet of a pre-existing private or public school, providing education in kindergarten or any grades 1 through 12. Provided, facilities that provide primarily virtual education or education not at the site, shall not be included in calculating this distance.
 - (b) A marihuana business may not operate or be located within five hundred (500) feet of a pre-existing State-licensed childcare center, public playground, public park, public beach, public pool, or youth center. Provided, public parks without children's playground equipment or public parks not designed primarily for use by children shall not be included in calculating this distance.
 - (c) Measuring the Required Distance. The required distances provided for herein are measured in a straight line from the nearest property line of a protected use to the nearest portion of the building or unit in which the marihuana business is located and includes distances that lie outside of the City of Port Huron.
 - (c) Shared Location. Subject to all other applicable rules and regulations, marihuana businesses may operate from a location shared with an equivalent licensed marihuana business.
- (2) Marihuana Processor Establishments and Facilities. Marihuana processors are licensed to obtain marihuana from marihuana establishments/facilities; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments/facilities. All processing operations must be conducted within an enclosed building. Processor establishments and facilities, whether licensed pursuant to MMFLA or MRTMA, are permitted as a special use only in the M-1 or M-2 zoning districts and are not a permitted or special use in any other district.
- (3) Safety Compliance Establishments and Facilities. Safety Compliance Establishments and Facilities are licensed to test marihuana, including certification for potency and the presence of contaminants. Safety Compliance Establishments and Facilities, whether licensed pursuant to MMFLA or MRTMA, are permitted as a special use only in the M-1, M-2, C-1 and CBD zoning districts and are not a permitted or special use in any other district.
- (4) Secure Transporter Establishments and Facilities. Secure Transporter Establishments and Facilities are licensed to obtain marihuana from marihuana establishments/facilities in order to transport marihuana to marihuana establishments/facilities. Secure Transporter Establishments and Facilities, are permitted as a special use only in the M-1, M-2 and C-1 zoning districts and

whether licensed pursuant to MMFLA or MRTMA, are not a permitted or special use in any other district.

- (5) **Microbusiness Establishment.** A Microbusiness Establishment is authorized to cultivate not more than 150 marihuana plants, process and package marihuana, and sell or transfer marihuana to individuals 21 years of age and older and to a safety compliance facility, but not to other marihuana establishments. Microbusiness Establishments are permitted as a special use only in M-1 or M-2 zoning districts and are not a permitted or special use in any other district.
 - (a) All Microbusiness Establishment activities must be conducted within an enclosed building.
 - (b) A Microbusiness Establishment is not permitted on the same property or parcel or within the same building where any of the following are located:
 - (1) A package liquor store.
 - (2) A convenience store that sells alcoholic beverages.
 - (3) A fueling station that sells alcoholic beverages.
 - (c) The licensed premises for a Microbusiness shall not exceed 5,000 square feet of retail usable floor space used to display merchandise and/or for a customer service area.
- (6) **Retailer Establishment and Provisioning Centers.** Retailer Establishments and Provisioning Centers, are licensed to obtain marihuana from marihuana establishments or facilities and to sell or otherwise transfer marihuana to marihuana establishments or facilities and to individuals who are 21 years of age or older. Retailer Establishments and Provisioning Centers, whether licensed pursuant to MMFLA or MRTMA, are subject to the following and are not otherwise a permitted or special use:
 - (a) Retailer Establishments and Provisioning Centers are permitted as a special use only as follows and not any other location:
 - (1) In properties zoned C-1, which are located in the City south of the Black River, a total of two Retailer Establishments or Provisioning Centers are permitted as a special use. For purposes of this section, a Retailer Establishment and Provisioning Center, which are separately licensed but co-located and operating out of the same location are counted as one when calculating the permissible amount.
 - (2) In properties zoned C-1, which are located in the City north of the Black River, a total of two Retailer Establishments or Provisioning Centers are permitted as a special use. For purposes of this section, a Retailer Establishment and Provisioning Center, which are separately licensed but co-located and operating out of the same location are counted as one when calculating the permissible amount.

- (3) In properties zoned as Central Business District, a total of two Retailer Establishments or Provisioning Centers are permitted as a special use. For purposes of this section, a Retailer Establishment and Provisioning Center, which are separately licensed but co-located and operating out of the same location are counted as one when calculating the permissible amount.
- (b) All Retailer Establishment and Provisioning Center activities must be conducted within an enclosed building.
- (c) Retailer Establishments and Provisioning Centers are not permitted on the same property or parcel or within the same building where any of the following are located:
 - (1) A package liquor store.
 - (2) A convenience store that sells alcoholic beverages.
 - (3) A fueling station that sells alcoholic beverages.
- (d) The licensed premises for a Retailer Establishment shall not exceed 5,000 square feet of retail usable floor space used or capable of being used to display merchandise and/or for a customer service area.

The licensed premises for a Provisioning Center shall not exceed 5,000 square feet of retail usable floor space used or capable of being used to display merchandise and/or for a customer service area.

The licensed premises for a Retailer Establishment and Provisioning Center which are co-located at the same location shall not exceed a total of 5,000 square feet of retail usable floor space used or capable of being used to display merchandise and/or for a customer service area.

- (7) Grower Establishments. Grower establishments are licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments or facilities. The three (3) grower license types are Class A (authorized to grow up to 100 plants); Class B (authorized to grow up to 500 plants); and Class C (authorized to grow up to 2000 plants). An Excess Grower holds five (5) Class C Adult Use Marihuana Grower & at least two Class C Medical Marihuana Grower licenses.
 - (a) Class A Grower Establishments are permitted as a special use only in the M1 and M2 zones.
 - (b) Class B and C Grower Establishments are permitted as a special use only in the M2 zone.
 - (c) Excess Grower Establishments are permitted as a special use only in the M2 zone.
 - (d) All Grower operations of Grower Establishments must take place within an enclosed building.

- (8) **Grower Facilities.** Grower facilities are licensed to cultivate, dry, trim or cure and package marihuana for sale to a processor or provisioning center. The three (3) grower license types are Class A (authorized to grow up to 500 plants); Class B (authorized to grow up to 1,000 plants); and Class C (authorized to grow up to 1,500 plants).
- (a) Class A Grower Facilities are permitted as a special use only in the M1 and M2 zones.
 - (b) Class B and C Grower Facilities are permitted as a special use only in the M2 zone.
 - (c) All Grower operations of Grower Facilities must take place within an enclosed building.
- (9) **Designated Consumption Establishment.** A designated Consumption Establishment is a space that is licensed for the consumption of marihuana products by persons 21 and older. Designated Consumption Establishments are permitted as a special use only in the C1 zone.

Sec. 52-705. Repealer.

All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are repealed.

Sec. 52-706. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, said portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

Sec. 52-707. Effective Date.

Pursuant to Michigan law this ordinance shall be effective 7 days after publication.

Sec. 52-708 through Sec. 52-730. (Reserved)

ADOPTED: October 26, 2020
 PUBLISHED: October 31, 2020
 EFFECTIVE: November 8, 2020

RESULT:	2ND READING/ENACTED [5 TO 2]
MOVER:	Sherry L. Archibald, Mayor Pro-Tem
SECONDER:	Lisa M. Beedon, Councilmember
YES:	Repp, Archibald, Beedon, Pemberton, Worden
NO:	Ashford, Harris

I, Pauline M. Repp, Mayor of the City of Port Huron, do hereby certify that ORD #20-007 was passed and adopted by the Port Huron City Council at its meeting held on Monday, October 26, 2020.

 Mayor

 Date

I, Cyndee M. Jonseck, City Clerk of the City of Port Huron, do further certify that ORD #20-007 was published Saturday, October 31, 2020, in the Times Herald, a newspaper circulated in the City of Port Huron, being the first and final day of publication.

*Cyndee M. Jonseck, MiPMC
City Clerk*