

**CITY OF CEDAR SPRINGS
KENT COUNTY, MICHIGAN
(Ordinance No. 2020 -223)**

At a regular meeting of the City Council for the City of Cedar Springs held at City Hall on June 11, 2020 at 8:04 P.M., the following Ordinance was offered for adoption by Council Member **Powell** and was seconded by Council Member **Conley**:

AN ORDINANCE TO REPEAL ORDINANCE NUMBER 213 ENTITLED “MARIHUANA ESTABLISHMENTS AND FACILITES;” TO AMEND CHAPTER 14, ARTICLE VIII, SECTION 14-450 ENTITLED “DEFINITIONS;” TO AMEND CHAPTER 22, ARTICLE I, SECTION 22-1 ENTITLED “DEFINITIONS;” TO REPEAL CHAPTER 22, ARTICLE IV, SECTION 22-71 ENTITLED “DRUG PARAPHERNALIA;” TO REPEAL CHAPTER 22, ARTICLE IV, SECTION 22-72 ENTITLED “POSSESSION OR USE OF MARIJUANA;” AND TO ENACT CHAPTER 5 ENTITLED “MARIHUANA” FOR THE CODE OF ORDINANCES FOR THE CITY OF CEDAR SPRINGS.

THE CITY OF CEDAR SPRINGS (“City”) ORDAINS:

Section 1. Repeal of Ordinance Number 213. Ordinance Number 213 the City of Cedar Springs entitled “Marihuana Establishments and Facilities” is repealed in its entirety.

Section 2. Amendment of Chapter 14, Article VIII, Section 14-450. Chapter 14, Article VIII, Section 14-450 of the Code of Ordinances for the City of Cedar Springs entitled “Definitions” is amended as follows:

- The word “marijuana” throughout Section 14-450 is replaced by the word “marihuana.”

The remainder of Section 14-450 is unchanged.

Section 3. Amendment of Chapter 22, Article I, Section 22-1. Chapter 22, Article I, Section 22-1 of the Code of Ordinances for the City of Cedar Springs entitled “Definitions” is amended as follows:

- The term “Drug paraphernalia” is deleted in its entirety.
- The word “marijuana” throughout Section 22-1 is replaced by the word “marihuana.”

The remainder of Section 22-1 is unchanged.

Section 4. Repeal of Chapter 22, Article IV, Section 22-71. Chapter 22, Article IV, Section 22-71 of the Code of Ordinances for the City of Cedar Springs entitled “Drug Paraphernalia” is repealed in its entirety.

Section 5. Repeal of Chapter 22, Article IV, Section 22-72. Chapter 22, Article IV, Section 22-72 of the Code of Ordinances for the City of Cedar Springs entitled “Possession or Use of Marijuana” is repealed in its entirety.

Section 6. Enacting Chapter 5. Chapter 5 of the Code of Ordinance for the City of Cedar Springs entitled “Marihuana” is enacted and reads in its entirety as follows:

Chapter 5 – MARIHUANA

ARTICLE I – MEDICAL MARIHUANA FACILITIES.

Sec. 1. – General.

The City finds that it is in the public interest to prohibit the operation of marihuana facilities within its boundaries as permitted by law pursuant to PA 281 of 2016, the Medical Marihuana Facilities Licensing Act, MCLA 333.27101, *et seq.*, as amended.

Sec. 2. – Definitions.

Terms in this Article are defined pursuant to PA 281 of 2016, the Medical Marihuana Facilities Licensing Act, MCLA 333.27101, *et seq.*, as amended.

Sec. 3. – Prohibition.

Marihuana facilities are prohibited within the City of Cedar Springs.

Sec. 4 – Penalty.

(a) Any person who violates this Article is guilty of a misdemeanor punishable by a fine not to exceed \$500 and/or imprisonment for a period of not more than 90 days.

(b) Nothing in this Section precludes the City from pursuing any other remedies available at law or equity.

ARTICLE II – RECREATIONAL / ADULT USE MARIHUANA ESTABLISHMENTS

Sec. 1. – General.

The City finds that it is in the public interest to allow the licensing and operation of marihuana establishments within its boundaries in accordance

with IL 1 of 2018, the Michigan Regulation and Taxation of Marihuana Act, MCLA 333.27951, *et seq.*

Sec. 2. – Purpose.

The purpose of this Ordinance is to establish standards for the licensing of marihuana establishments. It is the City’s intent, subject to compliance with the terms of this Article, to allow the licensing and operation of marihuana establishments within its boundaries in order to:

- (a) Promote the safe and regulated manufacturing, production, storage, testing, transportation, and sale of recreational marihuana;
- (b) Provide safe access to recreational marihuana for eligible consumers;
- (c) Discourage the sale of unsafe or unlicensed marihuana products;
- (d) Preserve and protect the health, safety, and welfare of City residents and the general public by minimizing the unsafe or unregulated manufacturing, production, storage, testing, transportation, and sale of marihuana; and
- (e) Establish standards and procedures by which the licensing, operating, and maintaining of marihuana establishments are to be governed.

Sec. 3. – Definitions.

- (a) Terms not defined in this Ordinance are defined according to IL 1 of 2018, the Michigan Regulation and Taxation of Marihuana Act, MCLA 333.27951, *et seq.*, as amended.
- (b) Terms not defined in this Article or in the Act are defined according to the Adult-Use Marihuana Establishment Rules, as amended and promulgated by the State of Michigan Department of Licensing and Regulatory Affairs or its successor agency.
- (c) For the purpose of this Article, the following definitions apply unless the context clearly indicates or requires otherwise:
 - (1) “Act” means IL 1 of 2018, the Michigan Regulation and Taxation of Marihuana Act, MCLA 333.27951, *et seq.*, as amended.
 - (2) “Applicant” means a person or entity who applies for a License under this Article. If an entity applies for a License the term includes an officer, director, or other agent of the entity when

appropriate.

- (3) “City” means the City of Cedar Springs
- (4) “City License” or “License” means a license granted under this Article.
- (5) “Council” means the City Council.
- (6) “Clerk” means the City Clerk.
- (7) “Establishment” means a marihuana establishment as defined in the Act.
- (8) “Marihuana” means marihuana as defined in the Act.
- (9) “Premises” means the Establishment and its property, including attached buildings, outbuildings, parking lots, etc.
- (10) “State” means the State of Michigan and its agencies.
- (11) “State of Michigan licensed marihuana establishment” means any Establishment fully licensed by the State of Michigan under the Act.
- (12) “State of Michigan Operating License” means a license granted by the State of Michigan pursuant to the Act.

Sec. 4. – License Required.

- (a) Operation of an Establishment requires a valid State of Michigan Operating License, City License, and compliance with all City ordinances, Kent County regulations, State laws, State Regulations, and the terms of City and State of Michigan licensure.
- (b) City Licenses for the following types of Establishments can be granted for operation within the City.
 - (1) Excess Grower: unlimited such Licenses;
 - (2) Growers of any class: unlimited such Licenses;
 - (3) Microbusiness: unlimited such Licenses;
 - (4) Processors: unlimited such Licenses;

- (5) Retailer: unlimited such Licenses; and
- (6) Safety Compliance Facility: unlimited such Licenses.
- (c) Establishments without a City License are prohibited.
- (d) Each Establishment operating at the same location requires a separate City License.
- (e) A License is a revocable privilege granted by the City and is not a property right. The application for or granting of a License does not create or vest any right, title, franchise, or other property interest.
- (f) A licensee or any other person shall not lease, pledge, borrow, or loan money against a License.

Sec. 5. – Licensing Requirements and Conditions

- (a) No Applicant that has done business or purported to do business under this Article, other City ordinances, or the Act without first obtaining the legally required City and State of Michigan licenses, permits, and approvals is eligible for licensing under this Article.
- (b) Any Establishment licensed under this Article is subject to inspection, with or without notice, at any time, by the City Manager, the City Fire Chief, the City Code Enforcer, the City Police Chief, the County Sherriff, the Director of the Michigan State Police, or their designees.
- (c) Establishments and Applicants licensed under this Article must comply with all applicable rules, standards, laws, ordinances, codes, regulations, etc. promulgated by the City, the State of Michigan, or any entity thereof.
- (d) Each License issued under this Article is issued exclusively to a specific licensee for a specific location. Any attempt to transfer, sell, purchase, or otherwise convey any interest in a License is grounds for revocation of the License. Any License that has been transferred, sold, purchased, or otherwise had any interest in it conveyed is void.
- (e) A License must be displayed at the licensed Establishment in a manner clearly visible to the public.
- (f) The issuance of a License under this Article is in addition to and not in lieu of any other license, permit, or approval required by the City, the State of Michigan, or any entity thereof.

Sec. 6. – Application.

- (a) All applications for a License under this Ordinance must be filed with the City Clerk utilizing and complying with the City’s application form and processes.
- (b) The application must be signed by the Applicant: by the individual if an individual, by all partners if a partnership, by a managing member if a limited liability company, or by the president if a corporation.
- (c) No application for a License or the granting of a License can be made until State of Michigan licensing “pre-qualification” has first been obtained.
- (d) No application for a License or the granting of a License can be made until all necessary zoning approvals have first been obtained.
- (e) The Applicant must provide the City with any information required by the Act, this Article, and any other information reasonably deemed by the City to be required for the consideration of a License.
- (f) All Licenses expire 365 days from their date of issue.
- (g) All Licenses are subject to renewal by the City Clerk.
- (h) All licensees under this Ordinance must apply for a renewal of their License between 30 to 60 days prior to the Licenses expiring. Late applications will not be accepted.

Sec. 7. – City Clerk Duties:

- (a) The City Clerk will establish written policies, criteria, processes, and forms for the application and reapplication for a License under this Ordinance.
 - (1) Such written policies, criteria, processes, and forms for the application and reapplication of a License must be established no later than one year from the adoption of this Article and may be amended thereafter.

- (2) No applications can be made, and no License can be granted under this Article until such written policies, criteria, processes, and forms for the application and reapplication of a License have been established by the Clerk.
- (b) The City Clerk has broad authority, consistent with the terms of this Article, to implement administrative policies and processes for the application and reapplication of Licenses under this Article.
- (c) The City Clerk's authority includes but is not limited to the authority to designate specific application windows and require documents evidencing the Applicant's compliance with this Article and State laws and regulations.
- (d) The City Clerk is the approval authority for all License issued under this Article.
- (e) Subject to paragraphs F and G , the City Clerk must issue a License if after a due diligence investigation the City Clerk concludes that (1) the application is complete and all required fees have been paid; (2) the Applicant complies with the requirements of the Act, State Regulatory Rules, this Article, City Ordinances, City policies, and State law; and (3) that the issuance of a License would not constitute a public nuisance or a danger to the health, safety, or general welfare of the public.
- (f) The City Clerk can deny a License for any of the following reasons:
 - (1) Prior violations of the Act, State Regulatory Rules, this Article, or City ordinances and policies.
 - (2) A prior revocation of a City License or State of Michigan Operating License.
- (g) No License can be issued if the City Clerk determines any of the following:
 - (1) The Applicant or Establishment, as determined by the Zoning Administrator, is not in full compliance with all zoning requirements and approvals.
 - (2) There was fraud or misrepresentation in the City or State application process.
 - (3) The Applicant owes outstanding amounts to the City or any other governmental unit including but not limited to taxes, utilities, licensing fees, inspection fees, etc.

- (h) Subject to paragraphs I and J, the City Clerk must renew a License if after a due diligence investigation the City Clerk concludes (1) the application is complete and all fees have been paid; (2) the Applicant complies with the requirements of the Act, this Article, City Ordinances, City policies, and State law; and (3) that the renewal of the License would not constitute a public nuisance or danger to the health, safety, or general welfare of the public.
- (i) The City Clerk can deny a License renewal for any of the following reasons:
 - (1) Prior violations of the Act, this Article, or City ordinances and policies.
 - (2) A prior suspension of a City License or State of Michigan Operating License.
- (j) No License can be issued if the City Clerk determines any of the following:
 - (1) The Applicant or Establishment is not in full compliance with all zoning requirements and approvals.
 - (2) There was fraud or misrepresentation in the City or State application process.
 - (3) The Applicant owes outstanding amounts to the City or any other governmental unit including but not limited to taxes, utilities, licensing fees, inspection fees etc.
- (k) The City Clerk must assess an initial non-refundable License application fee not to exceed the amount set by resolution of the Council. This fee must be paid at the time of application.
- (l) Upon the granting of a License, the City Clerk must assess a nonrefundable fee not to exceed the amount set by resolution of the Council to cover the costs of oversight, administration, and enforcement associated with the operation of an Establishment for the first year of licensure. This fee must be paid prior to the issuance of a License.
- (m) The City Clerk must assess a non-refundable License renewal application fee not to exceed the amount set by resolution of the Council. This fee must be paid at the time of application for renewal.

- (n) Upon the granting of a License renewal, the City Clerk must assess a non-refundable fee not to exceed the amount set by resolution of the Council to cover the cost of renewal, oversight, administration, and enforcement associated with the operation of a marijuana Establishment for the next year of licensure. This fee must be paid prior to the renewal of a License.
- (o) Upon the expiration of the applicable time in which an appeal under this Article may be made or upon a final determination by the City Council regarding an appeal, the City Clerk will notify the State of Michigan Department of Licensing and Regulatory Affairs of any suspension or revocation of a License.

Sec. 8. – Establishment Restrictions:

- (a) An Establishment can only be open to the public between the hours of 8:45 a.m. and 9:15 p.m.
- (b) Odor Control: An Establishment must prevent smoke, odor, debris, dust, fluids and other substances relating to manufacturing, production, storage, testing, transportation, or sale of marijuana from exiting the Establishment.
 - (1) Whether smoke, odor, debris, dust, fluids and other substances relating to manufacturing, production, storage, testing, transportation, or sale of marijuana are exiting the Establishment will be measured by the objective standards of a reasonable person with normal sensory sensitivities.
 - (2) Negative air pressure will be maintained inside the Establishment at all times.
- (c) During any time that any marijuana establishment is closed to the public and no employee or agent of that establishment is physically present at the location of the establishment, all marijuana concentrate, marijuana infused product, marijuana not otherwise being cultivated, and currency above a de minimis amount must be stored in an enclosed locked room, vault, cabinet, or secure container.

- (1) Such enclosed locked room, vault, cabinet, or secure container will be a restricted access area that is only accessible to specifically authorized agents.
- (2) Such enclosed locked room, vault, cabinet, or secure container must be located in a different area from the public display area of any marihuana retailer or marihuana microbusiness.
- (3) Such enclosed locked room, vault, cabinet or secure container must be designed and reinforced so as to prevent diversion, theft, or loss of the processed marihuana, marihuana products and currency.
- (4) During any time that the marihuana retailer or marihuana microbusiness is closed to the public and no employee or agent of that establishment is present on site, the enclosed locked room, vault, cabinet, or secure container must remain securely locked and protected from unauthorized entry.
- (5) The enclosed locked room, vault, cabinet, or secure container must be equipped with an intrusion detection system designed to detect and alert to any attempt at unauthorized entry.
- (6) The enclosed locked room, vault, cabinet, or secure container's locks and security equipment must remain in good working and operational order at all times.

Sec. 9. – Suspension and Revocation:

- (a) A License granted under this Ordinance can be suspended or revoked at any time by the City Manager or Code Enforcement Officer for any of the following reasons:
 - (1) Fraud or misrepresentation contained in the State of Michigan license, City License, City zoning, or other Establishment related applications;
 - (2) Violation of the Act, the Adult-Use Marihuana Establishment Rules, this Article, or terms of City or State licensure;
 - (3) Suspension or revocation of the Establishment's State of Michigan Operating License;
 - (4) Failure to comply with the City Code of Ordinance or the City Zoning Ordinance;

- (5) Criminal Conduct related to the operation of the Establishment by the licensee, Establishment, or any agent thereof; and
 - (6) Operation of the Establishment in a manner that constitutes a public nuisance or danger to the health, safety, or general welfare of the public.
- (b) Prior to revoking a License, the City Manager or City Code Enforcer must notify the Licensee of the intent to revoke and allow the Licensee 7 calendar days to submit written reasons as to why the License should not be revoked.

Sec. 10. – Appeals:

- (a) Appeal of any action under this Article must be made to the City Council.
- (b) The appeal must be submitted to the City Clerk within 30 calendar days of the action being appealed and clearly state the legal and factual basis for the appeal. The Clerk must promptly transmit the appeal to the City Council.
- (c) All appeals must be accompanied by the appellate fee as set by resolution of Council.
- (d) The City Council must appoint a hearing officer who will conduct a hearing on the matter. All relevant evidence will be admissible. The hearing officer will submit his recommendation in writing to the City Council.
- (e) The City Council must review the recommendation of the hearing officer prior to rendering its decision. The City Council has the final authority over any appeal brought before it.
- (f) No Establishment whose License has been denied, suspended, revoked, or is otherwise not valid is permitted to operate while an appeal is pending.

Sec. 11. – Violations and Penalties:

- (c) Subject to paragraph (b) of this section, any Applicant or licensee who violates this Article is responsible for a municipal civil infraction and subject to a civil fine not to exceed \$500 for each violation plus any other costs permitted by law.

- (d) Any person who attempts to or otherwise commits fraud or misrepresentation in the application for a City License or operates an Establishment without a valid license is guilty of a misdemeanor punishable by a fine not to exceed \$500 and/or imprisonment for a period of not more than 90 days.
- (e) Nothing in this Section precludes the City from pursuing any other remedies available at law or equity.

Section 7. Conflict.

- A. Nothing in this Ordinance is to be construed to conflict with existing City ordinances except as otherwise stated herein.
- B. Nothing in this Ordinance is to be construed to conflict with the Act or any other law of the State of Michigan.

Section 8. Repealer. All ordinances or parts of ordinances in conflict with this Ordinance are repealed.

Section 9. Savings Clause. The provisions of this Ordinance are severable. If any part of this Ordinance is declared void or inoperable for any reason, such declaration does not void any or render inoperable other part or portion of this Ordinance.

Section 10. Effective Date. This Ordinance is effective upon its publication in the manner required by law.

YEAS: Race, Atchison, Powell, Conley, Nixon, Hall

NAYS: Gross

ABSENT/ABSTAIN: _____

ORDINANCE DECLARED ADOPTED.

Gerald Hall
Mayor, City of Cedar Springs

CERTIFICATION

It is hereby certified that the foregoing Ordinance was adopted by the City Council for the City of Cedar Springs, Kent County, Michigan, at a meeting of the City Council duly called and held on June 11, 2020.

By:

Shandell Napieralski
Deputy Clerk, City of Cedar Springs

