

AMENDMENTS TO CITY ORDINANCES  
PERTAINING TO THE AUTHORIZATION AND PERMITTING  
OF COMMERCIAL MEDICAL MARIHUANA FACILITIES

An ordinance to amend Chapter 38-Article IV of the Ordinances of the City of Sturgis to provide for the authorization and permitting of commercial medical marihuana facilities.

WHEREAS, the City Commission, upon recommendation from the Planning Board, has determined that it is in the best interest of the residents of the City to modify the City Ordinances to provide for the authorization and permitting of commercial medical marihuana facilities;

NOW, THEREFORE, the City of Sturgis, St. Joseph County, Michigan ordains:

Chapter 38-Article IV, Section 38-92, is hereby added to the City Ordinances effective as of October 5th, 2018.

**ARTICLE IV. OFFENSES AGAINST PUBLIC SAFETY**

**Sec. 38-92 MEDICAL MARIHUANA FACILITIES**

- (a) *Purpose.* The purpose of this Ordinance is to exercise the police regulatory powers of the City of Sturgis by licensing and regulating provisioning centers, grower facilities, safety compliance facilities, processor facilities, and secure transporter to the extent permissible under the State of Michigan and to protect the public health, safety and welfare of the residents of the City of Sturgis. It is not the purpose or intent of this Ordinance to diminish, abrogate, or restrict the protections for medical use of marihuana found in the Michigan Medical Marihuana Act or City Ordinance Sec. 38-91.
- (b) *Definitions.* The following words and phrases shall have the following definitions when used in this Ordinance:
  - (1) “*Application*” means an Application for a Permit under this Ordinance and includes all supplemental documentation attached or required to be attached thereto; the Person filing the Application shall be known as the “*Applicant*.”
  - (2) “*Clerk*” means the City of Sturgis Clerk or his/her designee.

- (3) “*Commercial Medical Marihuana Facility*” or “*Facility*” means one of the following:
- a. “*Provisioning Center*,” as that term is defined in the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016 (“MMFLA”);
  - b. “*Processor*,” as that term is defined in the MMFLA;
  - c. “*Secure Transporter*,” as that term is defined in the MMFLA;
  - d. “*Grower*,” including *Class A*, *Class B* and *Class C*, as those terms are defined in the MMFLA;
  - e. “*Safety Compliance Facility*,” as that term is defined in the MMFLA.
- (4) “*Department*” means the Michigan State Department of Licensing and Regulatory Affairs or any authorized designated Michigan agency authorized to regulate, issue or administer a Michigan License for a Commercial Medical Marihuana Facility.
- (5) “*License*” means a current and valid License for a Commercial Medical Marihuana Facility issued by the State of Michigan.
- (6) “*Licensee*” means a Person holding a current and valid Michigan License for a Commercial Medical Marihuana Facility.
- (7) “*Marihuana*” means that term as defined in Section 7106 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106.
- (8) “*Medical Marihuana*” means that term as defined in MCL 333.26423.
- (9) “*Paraphernalia*” means drug paraphernalia as defined in section 7451 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7451, that is or may be used in association with Medical Marihuana.
- (10) “*Patient*” means a “registered qualifying patient” or a “visiting qualifying patient” as those terms are defined by MCL 333.26421, et seq.
- (11) “*Permit*” means a current and valid Permit for a Commercial Medical Marihuana Facility issued under this Ordinance, which shall be granted to a Permit Holder only for and limited to a specific Permitted Premises and a specific Permitted Property. Said Permit shall be in addition to the Special Use Permit required to be obtained under the City Zoning

Ordinance.

- (12) “*Permit Holder*” means the Person that holds a current and valid Permit issued under this Ordinance.
- (13) “*Permitted Premises*” means the particular building, buildings, or rental space within which the Permit Holder will be authorized to conduct the Facility’s activities pursuant to the Permit.
- (14) “*Permitted Property*” means the real property comprised of a lot, parcel or other designated unit of real property upon which the Permitted Premises is situated.
- (15) “*Person*” means a natural person, company, partnership, profit or non-profit corporation, limited liability company, or any joint venture for a common purpose.
- (16) “*Public Place*” means any area in which the public is invited or generally permitted in the usual course of business.

(c) *Permit Required; Eligibility; General Provisions.*

- (1) The City hereby authorizes the operation of the following types of Commercial Medical Marihuana Facilities:
  - i. Growers, Class A
  - ii. Growers, Class B
  - iii. Growers, Class C
  - iv. Processors
  - v. Provisioning Centers
  - vi. Safety Compliance Facilities
  - vii. Secure Transporters
- (2) No person shall operate a Commercial Medical Marihuana Facility at any time or any location within the City unless a currently-effective Permit for that person at that location has been issued under this Ordinance.
- (3) Commercial Medical Marihuana Facilities shall operate only as allowed under this Ordinance.
- (4) The requirements set forth in this Ordinance shall be in addition to, and

not in lieu of, any other licensing or permitting requirements imposed by applicable federal, state or local laws, regulations, codes or ordinances.

- (5) At the time of Application, each Applicant shall pay nonrefundable Application fees, annual fees, renewal fees and inspection fees for Permits to the City to defray the costs incurred by the City for inspection, administration and enforcement of the local regulations regarding Commercial Medical Marihuana Facilities. The City Commission shall by resolution set the fees in an amount not to exceed any limitations imposed by Michigan law.
- (6) A Permit and a Renewal Permit shall not confer any vested rights, other than those identified in section (g) of this ordinance, or reasonable expectation of subsequent renewal on the Applicant or Permit Holder, and shall remain valid only until the June 1 immediately following its approval.
- (7) It is the sole and exclusive responsibility of each Permit Holder or Person applying to be a Permit Holder at all times during the Application period and during its operation to immediately provide the City with all material changes in any information submitted on an Application and any other changes that may materially affect any state License or its City Permit.
- (8) No Permit issued under this Ordinance may be assigned or transferred to any Person unless the assignee or transferee has submitted an Application and all required fees under this Ordinance and has been granted a Permit by the City. No Permit issued under this Ordinance is transferrable to any other location except for the Permitted Premises on the Permitted Property.
- (9) The original Permit issued under this Ordinance shall be prominently displayed at the Permitted Premises in a location where it can be easily viewed by the public, law enforcement and administrative authorities.
- (10) Acceptance by the Permit Holder of a Permit constitutes consent by the Permit Holder and its owners, officers, managers, agents and employees for any state, federal or local law enforcement to conduct random and unannounced examinations of the Facility and all articles of property in that Facility at any time to ensure compliance with this Ordinance, any other local regulations, and with the Permit.
- (11) A Permit Holder may not engage in any other Commercial Medical Marihuana Facility in the Permitted Premises or on the Permitted Property, or in its name at any other location within the City, without first obtaining a separate Permit.

- (12) No Permit shall be granted or renewed for a Commercial Medical Marihuana Facility in a residence.
- (d) *Other Laws and Ordinances.* In addition to the terms of the Ordinance, any Commercial Medical Marihuana Facility shall comply with all City Ordinances, including without limitation the City Zoning Ordinance, and with all other applicable federal, state and local ordinances, laws, codes and regulations. To the extent that the terms of this Ordinance are in conflict with the terms of any other applicable federal, state or local ordinances, laws, codes or regulations, the terms of the most restrictive ordinance, law, code or regulation shall control.
- (e) *Application for and Renewal of Permits.*
- (1) *Application.* An Application for a Permit for a Facility shall be submitted to the Zoning Administrator, and shall contain the following information. Information obtained from the Applicant is exempt from public disclosure under state law.
- i. The name, address, phone number and email address of the Applicant and the proposed Commercial Medical Marihuana Facility;
  - ii. The names, home addresses and personal phone numbers for all owners, directors, officers and managers of the Applicant and the Commercial Medical Marihuana Facility;
  - iii. One (1) copy of the following:
    - 1) All documentation of the Applicant valid tenancy, ownership or other legal interest in the proposed Permitted Property and Permitted Premises. If the Applicant is not the owner of the proposed Permitted Property and Permitted Premises, a notarized statement from the owner of such property authorizing the use of the property for a Commercial Medical Marihuana Facility.
    - 2) If the Applicant is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, indicate its legal status, attach a copy of all company formation documents (including amendments), proof of registration with the State of Michigan, and a certificate of good standing.
    - 3) A valid, unexpired driver's license or state issued ID for all owners, directors, officers and managers of the proposed Facility.

- 4) Evidence of a valid sales tax license for the business if such a license is required by state law or local regulations.
- 5) Application for Sign Permit, if any sign is proposed.
- 6) Non-refundable Application fee.
- 7) Business and Operations Plan, showing in detail the Commercial Medical Marihuana Facility's proposed plan of operation, including without limitation, the following:
  1. A description of the type of Facility proposed and the anticipated or actual number of employees.
  2. A security plan meeting the requirements of Subsection (f) of this Ordinance, which shall include a general description of the security systems, current centrally alarmed and monitored security system service agreement for the proposed Permitted Premises, and confirmation that those systems will meet State requirements and be approved by the State prior to commencing operations.
  3. A description by category of all products to be sold.
  4. A list of Material Safety Data Sheets for all nutrients, pesticides, and other chemicals proposed for use in the Commercial Medical Marihuana Facility.
  5. A description and plan of all equipment and methods that will be employed to stop any impact to adjacent uses, including enforceable assurances that no odor will be detectable from outside of the Permitted Premises.
  6. A plan for the disposal of Marihuana and related byproducts that will be used at the Facility.
- 8) An identification of any business that is directly or indirectly involved in the growing, processing, testing, transporting or sale of Marihuana for the Facility.
- 9) Whether any Applicant or any of the Applicant's Owners

directors, officers or managers has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.

- 10) A site plan and interior floor plan of the Permitted Premises and the Permitted Property signed and sealed by a Michigan registered architect, or professional engineer. Site plan must include distance between the Permitted Premises and all applicable buffered uses identified in Section (f)(5) of this Ordinance.
  - 11) Information regarding any other Commercial Medical Marihuana Facility that the Applicant or any of the Applicant's Owners directors, officers or managers is authorized to operate in any other jurisdiction within the State, or another State, and their involvement in each Facility.
- iv. Any other information reasonably requested by the City to be relevant to the processing or consideration of the Application.
- (2) *Renewal Application.* The same requirements that apply to all new Applications for a Permit apply to all Renewal Applications, except as otherwise provided for in Section (g) of this Ordinance. Renewal Applications shall require City approval. Renewal Applications for a Medical Marihuana Facility maintaining the location of the Permitted Premises shall be received by the Zoning Administrator not less than ninety (90) days prior to the expiration of the annual Permit. Renewal Applications for a Medical Marihuana Facility requesting a change in the location of the Permitted Premises shall be submitted and received not less than one hundred twenty (120) days prior to the expiration of the Permit. A Permit Holder whose Permit expires and for which a complete Renewal Application has not been received by the expiration date shall be deemed to have forfeited the Permit under this Ordinance. The City will not accept Renewal Applications after the expiration date of the Permit.
- (3) *Approval, Issuance, Denial and Appeal.*
- i. All inspections, review and processing of the Application shall

be completed within ninety (90) days of receipt of a complete Application and all required fees or within one hundred twenty (120) days if the location of the Permitted Premises is proposed to be amended from an existing permitted location. The processing time may be extended upon written notice by the City for good cause, and any failure to meet the required processing time shall not result in the automatic grant of the Permit. The City has no obligation to process or approve any incomplete Application, and any times provided under this Ordinance shall not begin to run until the City receives a complete Application. A determination of a complete Application shall not prohibit the City from requiring supplemental information.

ii. Upon receipt of a completed Medical Marihuana Facility Application meeting the requirements of this Ordinance, the Zoning Administrator shall refer a copy of the Application to the Department Head or designated staff person of the following for their review and approval: the Police Department, the Fire Department, the Wastewater Treatment Department, the Building Department, and the Zoning Department. In order for a Medical Marihuana Facility Application to be approved, all of the following conditions must be met:

- 1) The Building Department has verified the plans of the proposed location comply with the Building Code and all laws for which they are charged with enforcement;
- 2) The Fire Department has verified the plans of the proposed location comply with the Fire Code and all the laws for which they are charged with enforcement;
- 3) The Applicant, including the officers, directors and managerial employees of the Applicant and any persons who hold any direct or indirect ownership interest in the Applicant, have passed a criminal background check conducted by the City of Sturgis Police Department;
- 4) The Wastewater Treatment Department has verified all chemicals and methods of waste removal for compliance - if applicable additional permits may be required;
- 5) The Zoning Department has confirmed that the proposed location complies with the Zoning Code; and
- 6) A Special Land Use Permit application has been submitted, Permit fees have been paid, and the Special Land Use



Permit has been approved by the Planning Commission.

- iii. If all conditions of Subsection (3) ii. have been met, the City Clerk shall issue the Permit to the applicant. All Permits issued are contingent upon the State of Michigan issuing a License for the operation under State law and the City of Sturgis receiving a copy of that License prior to occupancy.
- iv. If a Permit is denied, the denial must be in writing and must state the reason(s) for denial. Any final denial of a Permit may be appealed to a court of competent jurisdiction; provided that, the pendency of an appeal shall not stay or extend the expiration of any Permits.

(4) *Applications for new Permits where no building is as yet in existence.* Any Applicant for a Commercial Medical Marijuana Facility Permit whose building is not yet in existence at the time of the City's initial approval shall have one (1) year immediately following the date of the City's initial approval to complete construction of the building, in accordance with applicable zoning ordinances, building codes, and any other applicable state or local laws, rules or regulations, and to commence business operations.

(5) *Duty to Supplement.*

- i. If at any time before or after a Permit is issued pursuant to this Ordinance, any information required in the Permit Application, the MMFLA, or any rule of regulation promulgated thereunder, changes in any way from that which is stated in the Application, the Applicant or Licensee shall supplement such information in writing with ten (10) days from the date upon which such change occurs.
- ii. An Applicant or Permit Holder has a duty to notify the City in writing of any pending criminal charge, and any criminal conviction of a felony or other offense involving a crime of moral turpitude by the Applicant, any owner, principal officer, director, manager, or employee within ten (10) days of the event.
- iii. An Applicant or Permit Holder has a duty to notify the City Board in writing of any pending criminal charge, and any criminal conviction, whether a felony, misdemeanor, petty offense, or any violation of a local law related to the cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of marijuana, the MMMA, the MMFLA, any building, fire, health or zoning statute, code or ordinance related to the

cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of marihuana by the Applicant, any owner, principal officer, director, manager, or employee within (10) ten days of the event.

(f) *Operational Requirements – Commercial Medical Marihuana Facilities.* A Commercial Medical Marihuana Facility issued a Permit under this Ordinance and operating in the City shall at all times comply with the following operational requirements, which the City may review and amend from time to time as it determines reasonable.

(1) *Scope of Operation.* Commercial Medical Marihuana Facilities shall comply with all respective applicable codes of the local zoning, building, and health departments. The Facility must hold a valid local Permit and State Commercial Medical Marihuana Facility License for the type of Commercial Medical Marihuana Facility intended to be carried out on the Permitted Property. The Facility operator, owner or Licensee must have documentation available that local and State sales tax requirements, including holding any licenses, if applicable, are satisfied.

(2) *Required Documentation.* Each Commercial Medical Marihuana Facility shall be operated from the Permitted Premises on the Permitted Property. No Commercial Medical Marihuana Facility shall be permitted to operate from a moveable, mobile or transitory location, except for a Permitted and Licensed Secure Transporter when engaged in the lawful transport of Marihuana. No person under the age of eighteen (18) shall be allowed to enter into the Permitted Premises without a parent or legal guardian.

(3) *Security.* Permit Holders shall at all times maintain a security system that meets State law requirements, and shall also include the following:

i. Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the Permitted Premises;

ii. Robbery and burglary alarm systems which are professionally monitored and operated twenty-four (24) hours a day, seven (7) days a week;

iii. A locking safe permanently affixed to the Permitted Premises that shall store all Marihuana and cash remaining in the Facility overnight;

iv. All Marihuana in whatever form stored at the Permitted Premises shall be kept in a secure manner and shall not be visible from outside the Permitted Premises, nor shall it be grown, processed,

exchanged, displayed or dispensed outside the Permitted Premises;  
and

- v. All security recordings and documentations shall be preserved for at least seven (7) days by the Permit Holder and made available to any law enforcement upon request for inspection.
- (4) *Operating Hours.* No Provisioning Center shall operate between the hours of 8:00 p.m. and 8:00 a.m.
- (5) *Required Spacing.* The following spacing requirements for Medical Marihuana Facilities are present:
- i. No Commercial Medical Marihuana Facility shall be located within:
    - 1) One thousand (1,000) feet from any school.
    - 2) Two hundred and fifty (250) feet from any Township residence or district zoned for residential use.
  - ii. No Provisioning Center shall be located within two hundred and fifty (250) feet from any public park, church, house of worship or residence or districts zoned for residential use.
  - iii. The distances provided in this section shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the Permitted Premises at which the proposed use is to be located, and the zoning district boundary, parcel (in cases where only one use is present) or premises (in cases where multiple uses are present on the same parcel) from which the proposed land use is to be separated.
- (6) *Amount of Marihuana.* The amount of Marihuana on the Permitted Property and under the control of the Permit Holder, owner or operator of the Facility shall not exceed that amount permitted by the state License or the City's Permit.
- (7) *Sale of Marihuana.* The Marihuana offered for sale and distribution must be packaged and labeled in accordance with state law. The Facility is prohibited from selling, soliciting or receiving orders for Marihuana or Marihuana Products over the internet.
- (8) *Sign Restrictions.* No pictures, photographs, drawings or other depictions of Marihuana or Marihuana Paraphernalia shall appear on the outside of any Permitted Premises nor be visible outside of the Permitted Premises on the Permitted Property. The words "Marihuana," "Marijuana," "cannabis" and any other words used or intended to convey the presence or availability of Marihuana shall not appear on the outside of the Permitted Premises nor be visible outside of the Permitted Premises on the

Permitted Property.

- (9) *Use of Marihuana.* The sale, consumption or use of alcohol or tobacco products on the Permitted Premises is prohibited. Smoking or consumption of controlled substances, including Marihuana, on the Permitted Premises is prohibited.
- (10) *Indoor Operation.* All activities of Commercial Medical Marihuana Facilities, including without limitation, distribution, growth, cultivation, or the sale of Marihuana, and all other related activity permitted under the Permit Holder's License or Permit must occur indoors. The Facility's operation and design shall minimize any impact to adjacent uses, including the control of any odor by maintaining and operating an air filtration system so that no odor is detectable outside the Permitted Premises.
- (11) *Unpermitted Growing.* A Patient or Licensed Caregiver may not grow his or her own Marihuana at a Commercial Medical Marihuana Facility.
- (12) *Distribution.* No person operating a Facility shall provide or otherwise make available Marihuana to any person who is not legally authorized to receive Marihuana under state law.
- (13) *Permits.* All necessary building, electrical, plumbing, and mechanical permits must be obtained for any part of the Permitted Premises in which electrical, wiring, lighting or watering devices that support the cultivation, growing, harvesting or testing of Marihuana are located.
- (14) *Waste Disposal.* The permit holder, owner and operator of the Facility shall use lawful methods in controlling waste or by-products from any activities allowed under the License or Permit.
- (15) *Transportation.* Marihuana may be transported by a Secure Transporter within the City under this Ordinance, and to effectuate its purpose, only:
  - i. By Persons who are otherwise authorized by state law to possess Marihuana for medical purposes;
  - ii. In a manner consistent with all applicable state laws and rules, as amended; and
  - iii. In a secure manner designed to prevent the loss of Marihuana.

No vehicle used for the transportation or delivery of Marihuana under this Ordinance shall have for markings the words "Marihuana", "Marijuana" or "cannabis" or any similar words; pictures or other renderings of the

Marihuana plant; advertisements for Marihuana or for its sale, transfer, cultivation, delivery, transportation or manufacture, or any other word, phrase or symbol indicating or tending to indicate that the vehicle is transporting Marihuana.

No vehicle may be used for the ongoing or continuous storage of Marihuana, but may only be used incidental to, and in furtherance of, the transportation of Marihuana.

- (16) Additional Conditions. The City may impose such reasonable Terms and Conditions on a Commercial Medical Marihuana Facility special use as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Ordinance and applicable law.
- (g) *Rights Conferred to a Permitted Premises.* A Permit Holder that submits an application for a Renewal Permit at a previously Permitted Premises shall be deemed in compliance with the spacing requirements set forth in Section (f)(5) of this Ordinance.
- (h) *Penalties and Consequences for Violation.* In addition to any other penalties or legal consequences provided under applicable federal, state and local law, regulations, codes and ordinances:
- (1) Violations of the provisions of this Ordinance or failure to comply with any of the requirements of this Ordinance shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of the requirements of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined no more than five hundred and 00/100 (\$500.00) dollars, or imprisoned for not more than ninety (90) days, or both, and, in addition, shall pay all costs and expenses involved. Each day such violation continues shall be considered a separate offense.
  - (2) Violations of the provisions of this Ordinance or failure to comply with any of the requirements of this Ordinance shall constitute a civil infraction. The fine for any civil infraction shall be five thousand dollars (\$5,000.00) plus courts costs, attorney fees and abatement costs of each violation, together with all other remedies pursuant to MCL 600.8701, *et seq.* Each day a violation continues shall be deemed a separate civil infraction.
  - (3) The owner of record or tenant of any building, structure or premises, or part thereof, and any architect, builder, contractor, agent or person who commits, participates in, assists in or maintains such violation may each be found guilty or responsible of a separate offense and suffer the penalties and forfeitures provided in subsections (1) and (2) of this section, except as excluded from responsibility by state law.

- (4) In addition to any other remedies, the City may institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any violations of this Ordinance. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine, jail sentence or forfeiture shall not exempt the violator from compliance with the provisions of this Ordinance.
  
- (i) *Severability.* The provisions of this Ordinance are hereby declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.