

City of Houghton
PROPOSED
ORDINANCE 2018-291

AN ORDINANCE TO AMEND CHAPTER 98 OF THE CODE OF ORDINANCES, CITY OF HOUGHTON, MICHIGAN

THE CITY OF HOUGHTON ORDAINS:

I. That Chapter 98, Section 98-109 of the Houghton City Code is amended to read as follows:

Sec. 98-109. Uses allowed with a Special Land Use Permit in Article 6, Division 2, and subject to the use standards in Article 4.

1. Medical Marihuana Dispensary, Medical Marihuana Nursery, Provisioning Center.
2. Provisioning Center, as that term is defined in Sec. 98-422.
3. Adult Business.
4. Wireless communications.

II. That Chapter 98, Section 98-422 of the Houghton City Code is amended to read as follows:

Sec. 98-422. Medical Marihuana Dispensaries, Medical Marihuana Nurseries, and Provisioning Centers.

It is the intent of this ordinance to authorize the establishment of certain Medical Marihuana Dispensaries and Medical Marihuana Nurseries under the Michigan Medical Marihuana Act, MCL § 333.26421 et seq., and certain Provisioning Centers under the Medical Marihuana Facilities Licensing Act, MCL § 333.27101 et seq., in the City and to provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the characteristics of neighborhoods; and mitigate potential impacts on surrounding properties and persons. Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with Michigan law, including but not limited to the Medical Marihuana Facilities Licensing Act, MCL § 333.27101 et seq. and Michigan Medical Marihuana Act, MCL § 333.26421. As of the effective date of this ordinance, marihuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. § 801 et seq., which makes it unlawful to manufacture, distribute, or dispense marihuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws. Medical Marihuana Dispensaries, Medical Marihuana Nurseries, and Provisioning Center shall be allowed in the B-3 district subject to the following conditions and standards:

1. Words used herein shall have the definitions as provided in Medical Marihuana Facilities Licensing Act, MCL § 333.27101 et seq. and Michigan Medical Marihuana Act, MCL § 333.26421, both as may be amended. To the extent that the foregoing definitions conflict with the definitions found in Sec. 98-7, the definitions found in the Medical Marihuana Facilities Licensing Act, MCL § 333.27101 et seq. and Michigan Medical Marihuana Act, MCL § 333.26421 shall apply. “Provisioning Center” shall mean a commercial entity located in Michigan that purchase marihuana

from a grower or processor and sells supplies, or provides marihuana to registered qualifying patients directly or through the patient's registered primary caregivers. Provisioning Centers include any commercial property where marihuana is sold at a retail to registered qualifying parties or registered primary caregivers. A noncommercial location used by a primary caregiver, in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.

2. The City shall not grant any permits or licenses for the operation of any of the following Medical Marihuana Facilities, as defined in the Medical Marihuana Facilities Licensing Act:
 - A. Growers;
 - B. Processors;
 - C. Safety Compliance Facilities;
 - D. Secure Transports
3. No Medical Marihuana Dispensary, Medical Marihuana Nursery, or Provisioning Center operated under this Sec. shall be located within 1,000 feet of any other Medical Marihuana Dispensary, Medical Marihuana Nursery, or Provisioning Center nor within 1,000 feet of any of the following uses:
 - A. Any church synagogue, mosque or any house of worship.
 - B. Any school, public or private, that has a curriculum including kindergarten or any one or more of the grades one through twelve.
 - C. Any nursery school or child care center.
 - D. Any public park.
 - E. Any public library.
 - F. Any residentially zoned district or residential use.
 - G. Any community college, university or professional school.
4. There shall be no more than one (1) Provisioning Center operated in the City and no more than one Provisioning Center license granted at any time.
5. Medical Marihuana Dispensaries and Medical Marihuana Nurseries shall only be operated after obtaining a special land use permit under Sec. 98-109.
6. Provisioning Centers shall not be operated without a license issued by the City pursuant to the provisions of this ordinance.
 - A. Every applicant for a license to operate a Provisioning Center shall file an application with the Houghton City Clerk or other designee of the City Council.
 - B. Upon receipt of a complete application, including the initial annual fee outlined below and any necessary documents required by the application, the application shall be time and date stamped. Complete applications shall be considered for authorization in consecutive time and date stamped order. Upon consideration, if the facility type authorization is available within the number specified in this Ordinance, then the applicant shall receive conditional authorization to operate the Provisioning Center. Once the limit on the number of the Provisioning Centers is conditionally reached, then any additional complete applications shall be held in consecutive time and date stamped order for future conditional authorization. Any applicant waiting for future conditional authorization may withdraw their submission by written notice to the Clerk at any time and receive refund of the initial annual fee submitted.
 - C. A conditional authorization means only that the applicant has submitted a valid application for a Provisioning Center license. The applicant shall not locate or operate a Provisioning Center without first obtaining a license from the City as provided herein, and all other permits and approvals as required by all other applicable ordinances and regulation of the City, including a special land use permit under 98-109.
 - D. Within thirty (30) days of the applicant receiving the conditional authorization from the City, the conditionally authorized applicant must submit proof to the Clerk that the applicant has

applied for a prequalification for a state operating license or has submitted a full application for such license. If the applicant fails to submit such proof, then such conditional authorization shall be cancelled by the Clerk and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for herein.

- E. If a conditionally authorized applicant is denied prequalification for a state operating license or is denied on full application for a state operating license, then such conditional authorization shall be canceled by the Clerk and the conditional authorization shall be available to the next application in consecutive time and date stamped order as provided herein. Applicant shall provide City notice of any denial of (1) prequalification for a state operating license or (2) full application for a state operating license.
 - F. Within thirty (30) days from the applicant submitting proof of obtaining a state operating license and completing all other required permits and approvals required by the City, the Clerk shall approve the Provisioning Center license.
 - G. If a conditionally authorized applicant fails to obtain full authorization from the City within one year from the date of the conditional authorization, then such conditional authorization shall be canceled by the Clerk and the conditional authorization shall be available to the next application in consecutive time and date stamped order as provided herein.
 - H. A valid Provisioning Center license may be renewed on an annual basis by submitting a renewal application upon a form provided by the City and payment of the annual license fee. Application to renew a marihuana facility license shall be filed at least thirty (30) days prior to the date of its expiration.
7. A Provisioning Center shall only be operated by the holder of a state operating license issued pursuant to the Medical Marihuana Facilities Licensing Act, MCL § 333.27101 et seq. Prior to operating a provisioning Center the facility must comply with all zoning, construction, building or any other Ordinance of the City. The Provisioning Center shall only be operated as long as it remains in compliance with Michigan law and all ordinance regulations. An authorized Provisioning Center shall consent to inspection of the Provisioning Center by City officials and/or by the Houghton City Police, upon reasonable notice, to verify compliance with this ordinance. If at any time an authorized Provisioning Center violates any Michigan law or ordinance, the City Council may request that the state revoke or refrain from renewing the Provisioning Center's state operating license. Once such state operating license is revoked or fails to be renewed, the Clerk shall cancel the City's license and a conditional authorization shall be available to the next application in consecutive time and date stamped order as provided herein.
 8. It is hereby expressly declared that nothing in this ordinance shall be held or construed to give or grant to any Medical Marihuana Dispensaries, Medical Marihuana Nurseries, or Provisioning Center a vested right, license, privilege or permit to continue authorization from the City for operations within the City. The City expressly reserves the right to amend or repeal this ordinance in any way including, but not limited to, complete elimination of or reduction in the type and/or number of authorized Medical Marihuana Dispensaries, Medical Marihuana Nurseries, and Provisioning Center.
 9. Application and renewal fees for Provisioning Centers, if any, will be set by Resolution.
 10. All activity related to a Medical Marihuana Dispensary, Medical Marihuana Nursery, or Provisioning Center including but not limited to growing, shall be done indoors in a locked structure.
 11. Medical Marihuana Dispensaries and Medical Marihuana Nurseries shall be operated in compliance with the provisions of the Michigan Medical Marihuana Act MCL 333.26421 et seq.
 12. Smoking, inhalation, or consumption of medical marihuana shall not be allowed on the site of the Medical Marihuana Dispensary, Medical Marihuana Nursery, or Provisioning Center.

13. No qualifying patients under the age of 18 (eighteen) shall be permitted in Medical Marihuana Dispensaries, Medical Marihuana Nurseries, or Provisioning Centers at any time except in the presence of qualifying patient's parent or legal guardian or their primary caregiver.
14. No retail sale of drug paraphernalia is permitted at Medical Marihuana Dispensaries, Medical Marihuana Nurseries, or Provisioning Centers, except to qualifying patients or their primary caregivers.
15. Each Medical Marihuana Dispensary, Medical Marihuana Nursery, and Provisioning Center shall display in a manner legible and visible to its clientele:
 - A. Notice that qualifying Patients under the age of eighteen (18) are not allowed in the Medical Marihuana Dispensary, Medical Marihuana Nursery, or Provisioning Center except in the presence of his/her parent or legal guardian;
 - B. No smoking, inhalation or consumption of medical marihuana shall occur within the vicinity of the Medical Marihuana Dispensary, Medical Marihuana Nursery, or Provisioning Center.
16. Only operators and their employees, qualifying patients, parents or guardians of qualifying patients under 18 years of age, and their primary caregiver may be permitted to enter a Medical Marihuana Dispensary, Medical Marihuana Nursery, or Provisioning Center for the purpose of obtaining medical marihuana or other goods or products associated with its use.
17. Medical Marihuana Nurseries can grow a maximum of 72 marihuana plants, unless otherwise limited by Michigan law.
18. Primary caregivers and/or qualified patients at the facility must be legally registered by the Michigan Department of Community Health (MDCH) in accordance with the Michigan Medical Marihuana Act, as amended and/or the Medical Marihuana Facilities Licensing Act.
19. A Medical Marihuana Dispensary, Medical Marihuana Nursery, and Provisioning Center shall open no earlier than 8:00 a.m. and close no later than 8:00 p.m., and no patients shall be allowed in the facility after hours.
20. Any person who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and subject to the payment of a civil fine of not more than \$50.00 plus costs. Each day a violation of this Ordinance continues to exist constitutes a separate violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law. A violation of this Ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, the City may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Ordinance. This Ordinance shall be enforced and administered by the Zoning Administrator or such other city official as may be designated from time to time by resolution of the council.
21. In the event that any one or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this Ordinance.
22. This Ordinance shall take effect ten days after adoption in accordance with law.

This Ordinance was enacted by the City Council of the City of Houghton, Houghton County, Michigan on the ____ day of _____, 2018. Effective the ____ day of _____, 2018.

Robert Backon, Mayor

Ann Vollrath, City Clerk