



# City of Petoskey

101 East Lake Street, Petoskey, Michigan 49770 • 231 347-2500 • Fax 231 348-0350

City Use Only

Application No.: \_\_\_\_\_

Filing Date: \_\_\_\_\_

Time Received: \_\_\_\_\_

## MEDICAL MARIHUANA FACILITY LICENSE APPLICATION

(Ordinance No. 773 – Chapter 8)

**Please complete this form and submit with all applicable materials to the City Clerk. Note:** All applicants must show proof of prequalification by State of Michigan for a medical marihuana provisioning center.

This application is for:

☐

**New License**

☐

**Amendment to an Existing License**

☐

**Transfer of an Existing License**

☐

**Renewal**

Existing license number if amending/transferring: \_\_\_\_\_

### SECTION I – APPLICANT INFORMATION

Business Entity Name: *(if applicable)*

Applicant Contact: (Last)

(First)

(MI)

Title/Position:

Current Mailing Address: (Street)

(Apt./Ste.)

City:

State:

Zip:

Telephone Number:

Email:

List all owners, officers, directors and managerial employees of the applicant and all persons who hold any direct or indirect ownership interest in the applicant:

SECTION II – BUSINESS/FACILITY INFORMATION		
Business/Facility Name:		
Location Address: (Street)		(Apt./Ste.)
City:	State:	Zip:
Telephone Number:		Email:
Medical Marihuana Facility License Type: (check one)		
<input type="checkbox"/> Provisioning Center		

SECTION III – PROPERTY INFORMATION	
Parcel Number:	Zoning District:
Legal Description: (attach as a separate sheet if the legal description does not fit in the space provided)	

SECTION IV – ATTACHMENTS	
	\$5,000.00 Non-refundable Application Fee (established by the City of Petoskey)
	Legal description for the real property where the proposed Medical Marihuana Facility is to be located
	<u>Individuals</u> : the applicant's name, date of birth, physical address, including residential and any business address(es) attached to the individual, copy of government issued photo identification, email address, and one or more phone numbers, including emergency contact information, and, if applicable, Federal EIN
	<u>Non-individual</u> : the names, date of birth, physical address, including residential and any business address(es), copy of government issued photo identification, email address, 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 information for the emergency contact person, articles of incorporation/organization, 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; its legal status, and proof of registration with, or a certificate of good standing from the State of Michigan, as applicable
	<u>Proof of lawful use of the premises</u> : a deed, a lease, a real estate contract contingent upon successful licensing or letter of intent by the owner of the premises indicating an intent to lease the premises to the applicant contingent upon the applicant successfully obtaining a State operating license and local permit
	The name and address of the proposed Medical Marihuana Facility and contact information
	A comprehensive facility operation plan for the marihuana commercial entity, including staffing plan, security plan, lighting plan, disposal and waste management plan and HVAC plan
	A description of the type of marihuana facility and a staffing plan that includes the anticipated or actual number of employees and positions
	For both individuals and non-individuals, proof of prequalification status from the State of Michigan to operate a Medical Marihuana Facility in the State of Michigan
	Evidence of MMFLA-mandated insurance coverage
	For renewals, demonstrate that the State has renewed license ( <i>i.e. letter acknowledging renewal, copy of renewal license, etc.</i> )

SECTION V – ATTACHMENTS
Applicant acknowledges and agrees that it is subject to the City of Petoskey ordinances and all other statutes, laws and regulations. The Applicant further acknowledges that it will need to obtain Special Condition Use and Site Plan approval, in addition to a State of Michigan license, pay a \$5,000 license/renewal fee and pass all inspections before obtaining a license and beginning operations.

#### SECTION VI – WAIVER AND RELEASE

Applicant acknowledges that by accepting a permit issued pursuant to this ordinance, the holder waives and releases the City, its officers and employees from any liability for injuries, damages or liabilities of any kind that result from the arrest or prosecution of Medical Marihuana Facility owners, operators, employees, clients or customers for a violation of State or Federal laws, rules or regulations. Further, the holder agrees to indemnify, defend and hold harmless the City, its officers, elected officials, employees and insurers against all liability, claims or demands, including, but not limited to, arising as a result of any claim of diminution of property value by a property owner whose property is located in proximity to a permitted Medical Marihuana Facility, arising out of, claimed to have arisen out of or in any manner connected with the operation of a Medical Marihuana Facility.

#### SECTION VII – SIGNATURE

The undersigned affirms that he/she is the **(circle one: owner, employee, representative)** of the business involved in this application and that the foregoing answers, statements and information are in all respects true and, to the best of his/her knowledge, correct. The undersigned acknowledges that they shall comply with all statutes, laws, ordinances, and regulations that may apply to operating a Medical Marihuana Facility. By making this application, the undersigned grants all officials, staff and consultants of the City of Petoskey access to the subject property as required and appropriate to assess site conditions in support of a determination as to the suitability of the proposed project and/or current or future City of Petoskey Medical Marihuana Licensing Ordinance compliance.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Submit Application to:  
City Clerk  
City of Petoskey  
101 East Lake Street  
Petoskey, MI 49770**

**CITY USE ONLY**

The proposed use is permitted by the City of Petoskey Licensing of Medical Marihuana Facilities Ordinance 773:

Yes ☐ No ☐

Application No.:

Date Paid Application Fee:

License/Permit No.:

Date Paid License/Renewal Fee:

Filing Date:

Expiration Date:

\_\_\_\_\_  
Public Safety Approval

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Planner Approval

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Clerk Approval

\_\_\_\_\_  
Date

Permit Issued: ☐

Permit Denied: ☐

**NOTES**

## **ORDINANCE NO. 772**

### **AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF PETOSKEY TO**

- **AMEND ARTICLE II, SECTION 201, ADD NEW DEFINITIONS PERTAINING TO MEDICAL MARIHUANA FACILITIES;**
- **AMEND ARTICLE X, SECTION 1002, ADD MEDICAL MARIHUANA FACILITIES;**
- **AMEND ARTICLE XXV, SECTION 2502, ADD MEDICAL MARIHUANA FACILITIES;**
- **AMEND ARTICLE XXVI, SECTION 2601, ADD MEDICAL MARIHUANA FACILITIES AS A SPECIAL CONDITION USE;**
- **AMEND ARTICLE XIII, SECTION 1301(1) EXCEPTING MARIHUANA FACILITIES; AND**
- **ADD ARTICLE XXXII, PROVIDING ADDITIONAL ZONING PROVISIONS FOR THE SPECIAL USE OF MEDICAL MARIHUANA FACILITIES.**

The City of Petoskey ordains:

#### **ARTICLE II, SECTION 201**

Sec. 201. – Definitions. Section 201 of the City of Petoskey's Zoning Ordinance is amended to include the following definitions, in alphabetical order:

*LARA:* The Michigan Department of Licensing and Regulatory Affairs

*Licensee:* An entity that holds a license issued under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, as amended, that allows the licensee to operate as one of the following, specified in the license:

- A grower
- A processor
- A secure transporter
- A provisioning center
- A safety compliance facility

*Marihuana:* The term as defined in section 7106 of the public health code, 1978 PA 368, MCL § 333.7106 et seq.; the Michigan Medical Marihuana Act, MCL § 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL § 333.27101 et seq.; and the Marihuana Tracking Act, MCL§ 333.27901 et seq.

*Medical Marihuana Facility:* An enterprise at a specific location at which a licensee is licensed and a permit holder is permitted to operate under the Medical Marihuana Facilities Licensing Act. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, MCL § 333.26421 et seq.

*Medical Marihuana Permit:* A current and valid Permit for a Medical Marihuana Facility issued under the City's Medical Marihuana Facilities Ordinance, granted in accordance with that Ordinance.

*Provisioning Center:* A licensee that is a commercial entity located in this State 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 through the department's marihuana registration process in accordance with the Michigan Medical Marihuana Act (MCL § 333.26421 et seq.) is not a provisioning center for purposes of this Ordinance.

#### **ARTICLE X, SECTION 1002**

Article X, Section 1002 of the City of Petoskey's Zoning Ordinance is amended to include the following additional principal use permitted subject to special conditions:

10. Medical Marihuana Facilities, to the extent permitted by and subject to the terms and conditions of the City of Petoskey's general ordinances regulating same and subject to the requirements of Article XXXII and the provisions of sections 1716 through 1718 of this ordinance.

#### **ARTICLE XIII, SECTION 1301**

Article XIII, Section 1301(1) of the City of Petoskey Zoning Ordinance is hereby amended to read:

All uses permitted and as regulated in the B-3 General Commercial District except for Medical Marihuana Facilities.

#### **ARTICLE XXV, SECTION 2502**

Article XXV, Section 2502 of the City of Petoskey Zoning Ordinance is hereby amended to read:

1. All uses permitted in the B-3 General Business District of Petoskey Zoning Ordinance 451 shall be permitted for possible inclusion in a PUD. Accessory buildings and uses customarily incidental to any of the above permitted uses shall be permitted provided that they meet the conditions of section 2503(3)m.
2. Medical Marihuana Facilities shall be permitted in existing Planned Unit Development Districts provided that the development plan is amended. Medical Marihuana Facilities shall only be allowed to the extent permitted by and subject to the terms and conditions of the City of Petoskey's general ordinances regulating same and subject to the requirements of Subsection 1. Above, Article XXXII, and the provisions of sections 1716 through 1718 of this ordinance.

#### **ARTICLE XXVI, SECTION 2601**

Article XXVI, Section 2601 of the City of Petoskey's Zoning Ordinance is amended to read:

Sec. 2601. - Principal uses permitted and principal uses permitted subject to special conditions:

In a B-3B Business Industrial District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this ordinance:

- (1) Any uses permitted in the I-1 Light Industrial District, provided that:
  - (a) Residential uses shall be allowed with the permitted density and setback requirements of the RM-2 district; and
  - (b) All uses shall also be subject to the conditions set forth in this district; and
  - (c) The following principal uses shall not be permitted;
    - 1. Open storage facilities or yards;
    - 2. Railroad transfer and storage tracks;
    - 3. Commercial kennels;
    - 4. Auto engine and body repair;
    - 5. Lumber and planing mills;
    - 6. Trade or industrial schools specializing in auto mechanics, heavy equipment operation, engine repair and overhaul, and uses with similar industrial-type characteristics; and
    - 7. Other uses of a similar character to the above uses.
- (2) Principal uses permitted subject to Special Condition Standards for Review Section 1717
  - (a) Medical marihuana facilities.

#### **ARTICLE XXXII – MEDICAL MARIHUANA FACILITIES.**

Article XXXII of the City of Petoskey's Zoning Ordinance, Medical Marihuana Facilities, is hereby added, as follows:

Sec. 3200. Intent.

It is the purpose of this Article to regulate Medical Marihuana Facilities so as to protect the public health, safety, and welfare of the residents and patients of the City and to establish reasonable and uniform regulations for their operation. It is further the intent of this Article to implement the provisions of the Michigan Medical Marihuana Facilities Licensing Act, MCL § 333.27101, et seq., with respect to local zoning and land use, and to permit the sale and distribution of medical marihuana consistent with applicable State statutes.



The provisions of this article have neither the purpose nor effect of granting immunity from any criminal prosecution under Federal law or granting immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of marihuana in any form, that is not in strict compliance with all applicable laws and rules promulgated by the State of Michigan and the City of Petoskey regarding medical marihuana. This Article does not provide any rights or privileges with regard to marihuana under the Michigan Regulation and Taxation of Marihuana Act, MCL § 333.27102.

**Sec. 3201. General Provisions.**

Medical marihuana facilities as defined by this Ordinance shall be subject to the following general regulations:

(a) Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by State law are prohibited in the City. In the event that a court with jurisdiction declares some or all of this Section invalid, the City may suspend the acceptance of applications for licensing pending the resolutions of the legal issue in question.

(b) An operator of a medical marihuana facility shall at all times have a valid Medical Marihuana Facility permit issued by the City pursuant to Chapter 8, Article IX of the Petoskey Code of Ordinances, as amended, and a State operating license as issued by LARA pursuant to the Medical Marihuana Facilities Licensing Act, MCL § 333.27101 et seq.

(c) A property owner or operator of a medical marihuana facility shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this ordinance or any applicable amendment thereto.

(d) Discontinuation of a State medical marihuana facility license shall be also considered a discontinuance of a medical marihuana facility, at which time any permit granted by the City pursuant to this Ordinance would be considered ineffective.

**Sec. 3202. Site development performance standards for all uses.**

- (a) Only one medical marihuana facility per parcel or lot.
- (b) A separation distance of five hundred (500) feet is required from any other medical marihuana facility or marihuana establishment.
- (c) A medical marihuana facility is not permitted within one thousand (1000) feet of: any private or public elementary or secondary school (K-12).
- (d) The distances described in this section shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in this section above to the nearest portion of the building or unit in which the medical marihuana facility is located.
- (e) The separation distances contained in this section are applicable to marihuana facilities and establishments located in adjacent governmental jurisdictions.
- (f) A medical marihuana facility is not permitted on the same property or parcel or within the same building where any of the following are located: a package liquor store, a convenience store that sells alcoholic beverages or a fueling station that sells alcoholic beverages.

Nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby revised as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this ordinance.

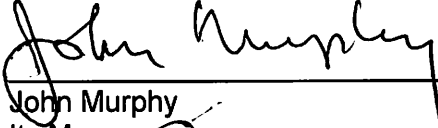
If any of the standards set forth in this amendment conflict with any other standards of previous or further ordinances or amendments, the stricter standards shall apply.


All ordinances, resolutions, or orders, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, repealed.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

This ordinance shall take effect fifteen (15) days following its enactment and shall be published once within seven (7) days after its enactment as provided by Charter.

Adopted, enacted and ordained by the City of Petoskey City Council this 7<sup>th</sup> day of October, 2019.

  
\_\_\_\_\_  
John Murphy  
Its Mayor

  
\_\_\_\_\_  
Alan Terry  
Its Clerk

## **ORDINANCE NO. 773**

### **AN ORDINANCE TO AMEND CHAPTER 8 OF THE PETOSKEY CODE OF ORDINANCES, BUSINESSES AND BUSINESS REGULATIONS, CREATING A NEW ARTICLE IX- MEDICAL MARIHUANA FACILITIES, WITHIN THE CITY OF PETOSKEY**

The City of Petoskey ordains:

#### **ARTICLE IX MEDICAL MARIHUANA FACILITIES**

##### **DIVISION I: GENERAL PROVISIONS**

##### **8-325: Purpose and Intent.**

The purpose of this Ordinance is to implement the provisions of Public Act 281 of 2016, being the Michigan Medical Marihuana Facilities Licensing Act, so as to protect the public health, safety, and welfare of the residents and patients of the City by setting forth the manner in which medical Marihuana facilities can be operated in the City. Specifically, the purpose of this Ordinance is to:

- (a) Provide for a means for the distribution of Marihuana to patients who qualify to obtain, possess, and use Marihuana for medical purposes under the Michigan Medical Marihuana Act, (MCL§ 333.26421 et seq.), the Medical Marihuana Facilities Licensing Act (MCL § 333.27101 et seq.) and the Marihuana Tracking Act (MCL § 333.27901 et seq.);
- (b) Authorize the establishment of medical Marihuana facilities and provide standards and procedures for the review, issuance, renewal and revocation of City-issued permits;
- (c) Coordinate the City's ordinance and procedures with laws and regulations that are and may be enacted by the State of Michigan pertaining to medical Marihuana;
- (d) Protect public health and safety through reasonable limitations on Marihuana facility operations as they relate to noise, air and water quality, neighborhood and patient safety, security for the facility and its personnel, and other health and safety concerns;
- (e) Protect the character of residential neighborhoods by limiting the location and the concentration of types of Marihuana commercial entities to specific areas of the City; and
- (f) Impose fees to defray the cost to the City of the administrative and enforcement costs associated with medical Marihuana facilities.

Nothing in this ordinance is intended to grant immunity from any criminal prosecution under Federal law. Nothing in this Ordinance is intended to promote or condone the production, distribution, or possession of Marihuana in violation of any applicable law and nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of Marihuana in any form, that is not in strict compliance with all applicable laws and rules promulgated by the State of Michigan and the City of Petoskey regarding medical Marihuana. Nothing in this Ordinance is intended to provide any approvals, permits or licenses for any other type of facility, except for a medical Marihuana facility. Specifically, this Ordinance does not provide any rights or privileges with regard to Marihuana under the Michigan Regulation and Taxation of Marihuana Act, MCL § 333.27951 et seq.

By accepting a permit issued pursuant to this Chapter, the holder waives and releases the City, its officers and employees from any liability for injuries, damages or liabilities of any kind that result from the arrest or prosecution of medical Marihuana facility owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations. Further, the holder agrees to indemnify, defend and hold harmless the City, its officers, elected officials, employees and insurers against all liability, claims or demands, including, but not limited to, arising as a result of any claim of diminution of property value by a property owner whose property is located in proximity to a permitted Marihuana facility, arising out of, claimed to have arisen out of or in any manner connected with the operation of a medical Marihuana facility.

#### **8-326: Definitions.**

Unless otherwise specifically defined in this ordinance, any terms in this ordinance that are defined or described in any of the Acts shall have the definitions or descriptions as set forth in those Acts. Additionally, as used in this Ordinance:

(a) "Acts" means any combination thereof of the following Michigan State laws:

(1) "Michigan Medical Marihuana Act" or "MMMA" means 2008 IL1, MCL § 333.26421 et seq. as, may be amended.

(2) "Michigan Medical Marihuana Facilities Licensing Act" or "MMFLA" means Public Act 281 of 2016, MCL § 333.27101 et seq., as may be amended

(3) "Michigan Marihuana Tracking Act" means Public Act 282 of 2016, MC § 333.27901 et seq., as may be amended.

(b) "Affiliate" shall have the same meaning as the identical term in the MMFLA, MCL § 333.27102(b), as amended.

(c) "Applicant" means a person who applies for a state operating license and a City Permit. With respect to disclosures in an application, or for purposes of ineligibility for a license, the term "Applicant" shall have the same meaning as the identical term in the Michigan Medical Marihuana Facilities Licensing Act at MCL § 324.27102(c). "Applicant" includes an Affiliate, officer, director and managerial employee of the Applicant and an Applicant shall disclose the identity of any person or entity that controls, directly or indirectly, the Applicant.

- (d) "Cultivate" or "Cultivation" means (1) all phases of Marihuana growth from seed to harvest; and (2) the preparation, packaging, and labeling of harvested usable Marihuana.
- (e) "Grower" shall have the same meaning as the identical term in the MMFLA, MCL § 333.27102(g), as amended.
- (f) "Permit" means a current and valid permit for a Marihuana facility issued under this Ordinance. "Permit holder" means a person holding a City of Petoskey operating permit issued under the provisions of this ordinance.
- (g) "Marihuana" shall have the same meaning as the identical term in the MMFLA, MCL § 333.27102(k), as amended.
- (h) "Marihuana facility" shall have the same meaning as the identical term in the MMFLA, MCL § 333.27102(l), as amended.
- (i) "Marihuana plant" shall have the same meaning as the identical term in the MMFLA, MCL § 333.27102(m), as amended.
- (j) "Processor" shall have the same meaning as the identical term in the MMFLA, MCL § 333.27102(u), as amended.
- (k) "Provisioning Center" shall have the same meaning as the identical term in the MMFLA, MCL § 333.27102(v), as amended.
- (l) "Safety compliance facility" shall have the same meaning as the identical term in the MMFLA, MCL § 333.27102(aa), as amended.
- (m) "Secure transporter" "Provisioning Center" shall have the same meaning as the identical term in the MMFLA, MCL § 333.27102(bb), as amended.
- (n) "State operating license" "Provisioning Center" shall have the same meaning as the identical term in the MMFLA, MCL § 333.27102(ee), as amended.

#### **8-327: Authorized Facilities.**

The following types of Marihuana facilities may be established and operated by a licensee in the City, subject to compliance with the MMFLA, the Rules promulgated thereunder and this ordinance:

Provisioning Center – Not more than three (3) Provisioning Centers shall be established, operated or permitted in the City.

No Marihuana facility shall be eligible to be issued a Permit unless the location of the proposed facility complies with all zoning requirements for the Marihuana facility as set forth in the City Zoning Ordinance and all other applicable building, construction, and other similar codes at the time of issuance. No Applicant or Permit holder may operate more than one Marihuana facility in the City.

To the extent the State adopts in the future any additional or stricter law or regulation governing the sale or distribution of medical Marihuana, the additional or stricter regulation shall control the establishment or operation of any Marihuana facility in the City. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any Permit under this Article, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any Permit issued hereunder.

## **DIVISION II: LICENSING.**

### **8-328: Permit and Annual Fee Required.**

- (a) No person shall establish or operate a Marihuana facility in the City without first having obtained a City Permit and State operating license for the Marihuana facility. License and Permit certificates shall be kept current and publically and prominently displayed within the facility. The facility shall be operated only so long as both the City Permit and state operating license remain in effect. Failure to maintain or display a current license and Permit shall be a violation of this ordinance.
- (b) An annual non-refundable fee to defray the administrative and enforcement costs associated with Marihuana facilities will be set by resolution and adopted by the City Council. The fee will not exceed the state maximum. The Permit fee requirement set forth in this ordinance shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or City ordinance, including, by way of example, any applicable zoning or building permits or approvals.
- (c) A separate Permit shall be required for each premises from which a Marihuana facility is operated. A Marihuana facility's Permit is valid only for the owner named thereon, the type of business disclosed on the application for the Permit, and the location for which the Permit is issued. No transfer, sale, or other conveyance of an interest in a Permit is allowed, unless the transfer, sale or other conveyance has been approved by the State and prior written approval is obtained from the City. The transferee must be in strict compliance with State laws and regulations governing such transfers, per MCL § 333.27406 and the provisions of this Ordinance.
- (d) The permit fee requirement set forth in this Chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any state regulatory agency or City ordinance, including, but not limited to, any applicable fees for site plan review, zoning review, inspections or building permits.

### **8-329: Permit Application and Approval.**

- (a) A person seeking a City Permit to operate a medical Marihuana facility pursuant to the provisions of this Ordinance shall submit an application to the City Clerk on forms provided by the City. At the time of Permit application submission, each applicant shall pay the nonrefundable application fee as established by City resolution. The City shall accept only one Application, per Applicant, per location.

- (b) Applications will only be accepted from those applicants that have been prequalified by the State of Michigan for a Marihuana facility license. Proof of prequalification shall be submitted with the license application.
- (c) Upon an applicant's submission of the above-provided form, the City Clerk shall accept the application for review and consideration and assign it an application number. Only one Permit application, per Applicant, will be accepted for consideration for a single location. Applicant must demonstrate that it has or will have lawful possession of the proposed Marihuana facility for the period during which the Permit will apply (such proof may include a deed, a lease, a real estate contract contingent upon successful licensing, or letter of intent by the owner of the premises indicating an intent to lease the premises to the applicant contingent upon the applicant successfully obtaining a state operating license and local permit). **NO APPLICATION WILL BE ACCEPTED UNLESS IT IS COMPLETE.**
- (d) If the City Clerk identifies a deficiency in the completeness of an application, the applicant shall have ten (10) business days to correct the deficiency after notification by the City Clerk. The application will be considered withdrawn on the 11th business day if correction was not made.
- (e) If the number of Permit applications accepted for consideration in the first thirty (30) days after the ordinance becomes effective is greater than the number of facilities allowed, the City Clerk will conduct a drawing to randomly select applicants for conditional authorization and to establish a waiting list for future conditional authorizations for that facility type during the first available City Council public meeting within thirty (30) days after the City has completed its review of all timely submitted applications and the period to correct deficiencies has concluded. The name of each qualified Applicant shall be drawn individually by the City Clerk in sequence, with each qualified Applicant being assigned a number corresponding to the order in which their name was drawn. The lottery will continue until the names of all qualified Applicants are drawn and assigned a number, which shall create an eligibility list to be maintained by the City Clerk. The eligibility list shall remain valid until a new lottery is conducted or three (3) years, whichever comes first. In the event a provisional Permit becomes available for whatever reason, it shall be offered to the next qualified applicant in order of the eligibility list. If a qualified Applicant declines a provisional Permit when one becomes available or if their provisional Permit lapses they shall be removed from the eligibility list.

Applicants who are otherwise qualified but whose facility is located within 500 feet of an Applicant higher on the eligibility list shall retain their position on the eligibility list unless and until the prior Applicant is issued a provisional permit, at which point the Applicant shall be removed from the eligibility list.. For all applications received on or after the thirty-first (31st) day after the effective date of this Ordinance, complete Permit applications will be processed and eligible Applicants added to the eligibility list in the order received.

- (f) The following information shall be submitted with the application:

- i. For an individual, the applicant's name, date of birth, physical address, including residential and any business address(es) attached to the individual, copy of government issued photo identification, email address, and one or more phone numbers, including emergency contact information, and, if applicable, Federal EIN.
- ii. For non-individuals, the names, date of birth, physical address, including residential and any business address(es), copy of government issued photo identification, email address, and one or more phone numbers of each stakeholder, Affiliates and/or general partners of the applicant, including designation of the highest ranking stakeholder and/or general partner as an emergency contact person and information for the emergency contact person, articles of incorporation/organization, 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; its legal status, and proof of registration with, or a certificate of good standing from the State of Michigan, as applicable.
- iii. Proof of lawful use of the proposed premises that may consist of a deed, a lease, a real estate contract contingent upon successful licensing or letter of intent by the owner of the premises indicating an intent to lease the premises to the applicant contingent upon the applicant successfully obtaining a state operating license and local permit.
- iv. The name and address of the proposed Medical Marihuana facility and contact information.
- v. A comprehensive operating plan for the marihuana facility for which the application is being submitted that includes all of the information required for the Marihuana Facilities Plan to be submitted in connection with a state license pursuant to the rules, the operational standards in this chapter, as applicable, and the following at a minimum:
  - i. A description of the type of marihuana facility applied for.
  - ii. A security plan for the marihuana facility that addresses all required security measures of the rules and addresses at a minimum the ability to meet the security measures of the rules. The security plan must contain the specific details of each piece of security equipment to be utilized by the marihuana facility and comply with the provisions of this chapter, as well as any other applicable provisions of the rules adopted by the State of Michigan. The security system, shall be maintained in good working order and provide twenty-four hours per day coverage and shall be available for inspection and review by the City, Public Safety Department and State Police at all times. A separate security system is required for each facility. Surveillance recordings are to be maintained for a minimum of 30 days.



- iii. An HVAC plan for the marihuana facility describing in detail among other things the equipment or systems that will be used to prevent any odor of marihuana from leaving the premises.
  - iv. A lighting plan.
  - v. Disposal and waste management plan for wastes generated at the Marihuana facility.
  - vi. The anticipated or actual number of employees and positions, including a staffing plan.
  - vii. Evidence of insurance required by the MMFLA in the form of a certificate of insurance evidencing the existence of a valid and effective policy, or, evidence that the applicant is able to obtain such insurance and state the limits of each policy, the name of the insurer, the effective date and expiration date of each policy and policy number if known.
- (g) Application for operation of a Marihuana facility, or leasing property to a Marihuana facility, constitutes consent by the applicant, and all owners, managers, and employees of the business, and the owner of the property to permit the City Manager or his/her designee to conduct inspections of the Marihuana facility to ensure compliance with this Ordinance or any other applicable law, rule, or regulation.
- (h) Upon receipt of a completed application, the City Clerk may circulate the application to all affected department heads of the City or their designees for input as to whether the application and premises is in compliance with applicable laws, rules and regulations.
- (i) After preliminary review of the Permit application to confirm compliance with applicable laws, rules and regulations, selection of the application pursuant to the lottery in Sec. 8-329(e), above, (if necessary because there are more than three (3) applicants) and if so confirmed, the applicant shall be conditionally approved for a Permit and the City shall prepare a conditional approval notice for the purposes of State application requirements. The applicant must then obtain Special Condition Use and Site Plan approval from the Planning Commission within six (6) months of receiving conditional approval or the approval will expire and the application will be considered withdrawn, although the Planning Commission may grant an extension at its sole discretion for up to an additional six (6) months, so long as the Applicant is diligently pursuing Special Condition Use and Site Plan approval. All Permits issued are contingent upon the State of Michigan issuing a license for the operation under State law. A provisional permit does not authorize the applicant to operate a medical Marihuana facility without first obtaining a state operating license for the facility, and obtaining all other permits, inspections, and approvals required by this chapter and all other applicable provisions of this code.

- (j) An inspection of the proposed Marihuana facility by the City is required prior to the issuance of the City operating permit. Such inspection shall occur after the Marihuana facility is ready for operation, but prior to the stocking of the business with any medical Marihuana and prior to the opening of the Marihuana facility or commencement of operations. The City shall verify that the Marihuana facility is constructed and can be operated in accordance with the application submitted and the applicable requirements of this Chapter and any other applicable law, rule or regulation.
- (k) After verification that the Marihuana facility is constructed and can be operated in accordance with the application submitted and the applicable requirements of this Chapter and any other applicable law, rule or regulation, and the issuance of a permanent certificate of occupancy for the Marihuana facility, the City Clerk shall issue a Permit for a term of one (1) year. The City-issued Permit shall be prominently displayed within the Marihuana facility.
- (l) Throughout the application process, and while any granted Permit is in force, the applicant or the Permit holder shall report any other change in the information provided on the application to the City within ten business days of the change.

#### **8-330: Permit Renewal.**

A City Marihuana facility operating Permit shall run concurrently with the State operating Marihuana license issued for the facility, unless revoked as provided by law.

Subject to the provisions of 8-331 below, a Permit may be renewed annually by completing a renewal application and payment of the annual Permit fee thirty (30) days prior to its expiration. A Permit will be renewed by the City for one (1) year if (1) there are no uncured administrative and/or legal violations in the prior year, including no taxes owed on the subject property; (2) the applicant has paid the annual City Permit fee for the renewal period; (3) any Stakeholder changes have been fully disclosed to the City; and (4) the applicant has paid and received the renewal of its State license.

Prior to the issuance of a renewed Permit by the City, the premises shall be inspected to assure that it and its systems are in compliance with the requirements of this Ordinance.

#### **8-331: Permit Forfeiture, Suspension, Non-Renewal.**

In the event that a Marihuana facility does not commence operations within one year of issuance of a City operating Permit, the Permit shall be deemed forfeited; the business may not commence operations and the Permit is not eligible for renewal. The City will consider new applications in place of the forfeited Permit in a manner consistent with 8-329(e) of this Ordinance.

The City may immediately revoke or suspend an existing Permit or refuse to renew a Permit for any of the following reasons:

- (a) The applicant or permit holder is denied a state operating license;

- (b) The applicant or Permit holder, or his or her agent, manager or employee, has violated, does not meet, or has failed to comply with, any of the terms, requirements, conditions or provisions of this Ordinance or with any applicable state or local law or regulation;
- (c) The Marihuana facility is substantially different from the comprehensive operating plan, Marihuana facility plan, conceptual plan or other representations contained in the application;
- (d) Officers of the City are unable to access the proposed facility for Permit inspections or are denied access by the applicant or Permit holder;
- (e) The applicant or Permit holder, or his or her agent, manager or employee, has failed to comply with any special terms or conditions of its Permit pursuant to an order of the state or local licensing authority, including those terms and conditions that were established at the time of issuance of the Permit and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the Permit or failure to comply to laws changing subsequent to acquiring a Permit;
- (f) The State of Michigan has revoked the Marihuana facility's state-issued license or permit; or
- (g) The Marihuana facility has been operated in a manner that, in the opinion of the City Manager, adversely affects the public health, safety or welfare. Evidence to support a finding under this Section may include, without limitation, a pattern of criminal conduct within the premises of the Marihuana facility or in the immediate area surrounding such business, a pattern of criminal conduct directly related to or arising from the operation of the Marihuana facility, or a nuisance condition emanating from or caused by the Marihuana facility. Any criminal conduct shall be limited to the violation of a state law or regulation or city ordinance.

If a Permit is terminated, revoked, suspended or restricted, the City Clerk or his or her designee will notify in writing by mail or electronic mail both the permit holder, at the last known address on file with the City for notification of the applicant, and the Michigan Department of Licensing and Regulatory Affairs of the termination, revocation, suspension, or restriction of the permit and the reasons therefore in writing.

A Permit granted by this Chapter is a revocable privilege granted by the City and is not a property right. Granting a Permit does not create or vest any right, title, franchise or other property interest.

### **DIVISION III: FACILITY REQUIREMENTS.**

#### **8-332: Requirements.**

- (a) A Marihuana facility shall comply with all of the requirements of State law and all applicable State regulations.
- (b) Unless permitted by the MMMA and Medical Marihuana Facilities Licensing Act or applicable state law:

- i. General public or common areas of a Provisioning Center must be separated from the Restricted Access Area as defined by State regulation, R 333.201(s) by a permanent and locked barrier;
- ii. No Marihuana is permitted to be stored, displayed, or transferred in an area accessible to the general public;
- iii. Any usable Marihuana remaining on the premises of a Provisioning Center while the Provisioning Center is not in operation shall be secured in a safe that is permanently affixed to the premises;
- iv. No Marihuana plants shall be located in a Provisioning Center;
- v. Disposal of Marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in conformance with local and state laws and regulations;
- vi. All Marihuana delivered to a patient shall be packaged and labeled as provided by state laws;
- vii. All registered patients must present both their Michigan Medical Marihuana patient/caregiver identification card and a government issued photo identification prior to entering restricted/limited areas or non-public areas of the Provisioning Center;
- viii. Certified laboratory testing results that meets the MMMA and Medical Marihuana Facilities Licensing Act or applicable state laws must be available to all Provisioning Center patients/customers upon request;
- ix. All Marihuana facilities shall comply with all applicable requirements of the City of Petoskey's Zoning Ordinance;
- x. A Marihuana facility and all articles of property in the facility are subject to inspection, search and examination at any time by a member of the Petoskey Public Safety Department, the County Sheriff's Department, or the Department of State Police;
- xi. All signage and advertising for a Marihuana facility shall comply with all municipal ordinances, state law, and these rules regulating signs and advertising. Refer to Sign Ordinance for additional information; and

- xii. All activities of Marihuana commercial entities, including, without limitation, the displaying, selling, and storage of Marihuana and Marihuana-infused products shall be conducted indoors and out of public view and shall not be visible from outside the facility. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a Marihuana facility must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a Marihuana facility, the owner of the subject premises and the Permit holder shall be jointly and severally liable for such conditions and shall be responsible for immediate, full cleanup and correction of such condition. The Permit holder shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable state and local laws and regulations.

### **8-333 Prohibited Acts.**

It shall be unlawful for any Permit holder for a Marihuana facility, or for any agent, manager, or employee thereof to:

- (a) Sell, give, dispense or otherwise distribute to any patient or primary caregiver who is not a licensee a more Marihuana in usable form (including the useable Marihuana equivalent of Marihuana-infused products) within any seven (7) day period of time than they are allowed by the MMMA to possess.
- (b) Distribute Marihuana or Marihuana-infused products to a consumer free of charge.
- (c) Allow the consumption of Marihuana or Marihuana products on the licensed premises. A sign shall be posted on the premises of each facility indicating that consumption is prohibited on the premises.
- (d) Sell Marihuana or Marihuana products at a licensed provisioning center at any time other than between the hours of 9:00 A.M. and 9:00 P.M. daily.
- (e) Receive shipments of Marihuana or Marihuana products between the hours of 9:00 P.M. and 9:00 A.M.

### **8-334: Grant of Administrative Authority.**

The City Clerk is granted the power and duty to fully and effectively implement and administer the Permit Application process and issuance of a provisional Permit and operating Permits issued by the City as provided in this chapter.

### **8-335: RESERVED.**

All other provisions of the Code of Ordinances not specifically amended shall remain in full force and effect.

Nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby revised as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this ordinance.

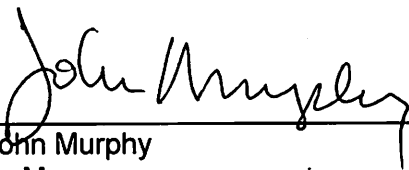
If any of the standards set forth in this amendment conflict with any other standards of previous or further ordinances or amendments, the stricter standards shall apply.

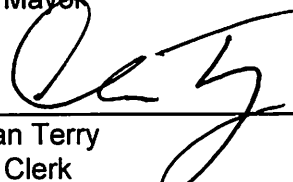
All ordinances, resolutions, or orders, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, repealed.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

This ordinance shall take effect fifteen (15) days following its enactment and shall be published once within seven (7) days after its enactment as provided by Charter.

Adopted, enacted and ordained by the City of Petoskey City Council this 7<sup>th</sup> day of October, 2019.

  
\_\_\_\_\_  
John Murphy  
Its Mayor

  
\_\_\_\_\_  
Alan Terry  
Its Clerk



RESOLUTION NO. 19328

**A RESOLUTION ESTABLISHING AN APPLICATION FEE AND LICENSING/RENEWAL FEE  
FOR MEDICAL MARIJUANA PROVISIONING CENTERS**

WHEREAS, Michigan voters in 2008 approved the use of marijuana for medical use; and

WHEREAS, in 2016, the Michigan Legislature passed PA 281, the Medical Marijuana Facilities Licensing Act (MMFLA) to establish parameters for the growth, distribution and use of medical marijuana; and

WHEREAS, the MMFLA establishes a Medical Marijuana Licensing Board within the Department of Licensing and Regulatory Affairs that may grant up to five different types of medical marijuana facilities including provisioning centers; and

WHEREAS, the City's Planning Commission has taken public comment and has made recommendations to City Council on appropriate zoning districts for medical marijuana provisioning centers; and

WHEREAS, the City of Petoskey has approved both a zoning ordinance and licensing ordinance allowing up to three (3) medical marijuana provisioning centers within the City; and

WHEREAS, the City wishes to adopt fees to defray the administrative and enforcement costs associated with medical marijuana provisioning centers; and

WHEREAS, City staff has estimated the approximate costs of the medical marijuana Application Fee as well as an annual Licensing/Renewal Fee:

NOW THEREFORE BE IT RESOLVED, that the Petoskey City Council hereby adopts Resolution No. 19328, setting the following charges for a medical marijuana provisioning center Application Fee and an annual Licensing/Renewal Fee:

<b>Medical Marijuana Provisioning Center Application Fee</b>	<b>\$5,000</b>
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<b>Medical Marijuana Provisioning Center Annual License/Renewal Fee</b>	<b>\$5,000</b>
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The aforementioned fees do not include any State of Michigan fees or fees associated with obtaining a Special Condition Use or Site Plan approval through the Petoskey Planning Commission.

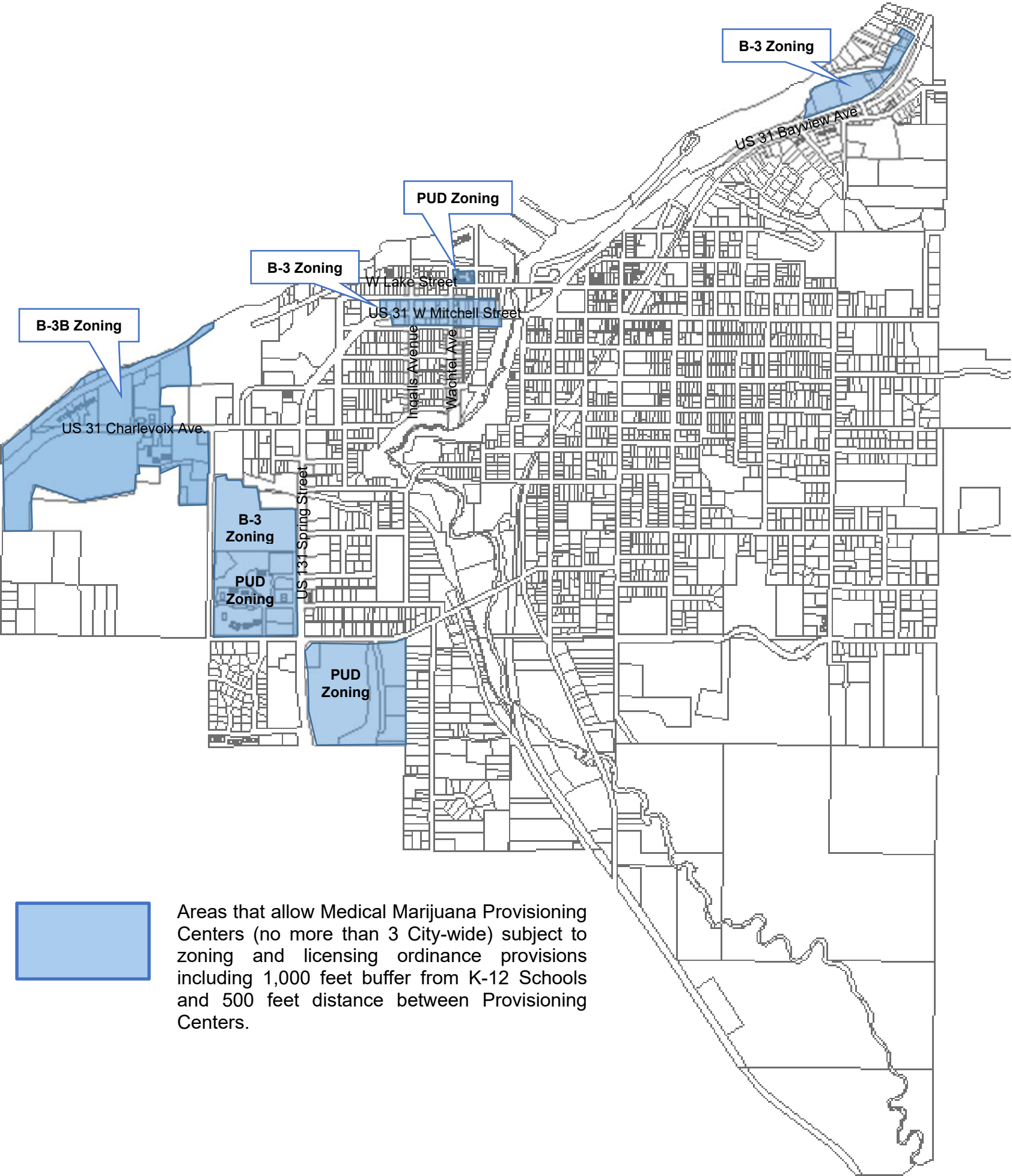
State of Michigan     )  
County of Emmet     ) ss  
City of Petoskey     )

I, Alan Terry, Clerk of the City of Petoskey, do hereby certify that the foregoing is a true copy of a resolution adopted by the City Council of the City of Petoskey on the 7<sup>th</sup> day of October, 2019, and of the whole thereof.

In witness whereof, I have hereunto set my hand and affixed the corporate seal of said City of Petoskey this 8<sup>th</sup> day of October, 2019.

  
Alan Terry, City Clerk

Areas for Medical Marijuana Provisioning Centers in the B-3 General Business, B-3B Business Industrial and PUD Planned Unit Development Zoning Districts



Areas that allow Medical Marijuana Provisioning Centers (no more than 3 City-wide) subject to zoning and licensing ordinance provisions including 1,000 feet buffer from K-12 Schools and 500 feet distance between Provisioning Centers.



**DISCLAIMER**  
Map created with Emmet County data by the  
Office of City Planner; Not to Scale