

CITY OF CASEVILLE HURON COUNTY, MICHIGAN

BUSINESS REGULATION AND TAXATION CODE

CHAPTER 870-MEDICAL MARIHUANA FACILITIES ORD #2020-3

An ordinance to authorize the operation of and provide regulations for medical marihuana in the City of Caseville pursuant to Public Act 281 of 2016, as may be amended; to provide for an annual fee; to provide penalties for violation of this ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith and to provide an effective date.

THE CITY OF CASEVILLE ORDAINS:

This ordinance shall be known as and may be cited as the City of Caseville Medical Marihuana Facilities Ordinance.

870.01-PURPOSE.

It is the intent of this ordinance to authorize the establishment of certain types of medical marihuana facilities in the City of Caseville and to provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; to retain the character of the neighborhoods; and to mitigate potential impacts on surrounding properties and persons. It is also the intent of this ordinance to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the City of Caseville through imposition of an annual fee set by the council on each medical marihuana facility licensing. Authority for the enactment of the provisions of this ordinance is set forth in the Medical Marihuana Facilities Licensing Act, PA 281 of 2016; MCL 333.27101, *et seq.*

Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, MCL 333.26421, *et seq.*; the Medical Marihuana Facilities Licensing Act, MCL 333.27101, *et seq.*, the Marihuana Tracking Act, MCL 333.27901, *et seq.*; and all other applicable rules and regulations promulgated by the State of Michigan.

As of the effective date of this ordinance, marihuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 USC § 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 law.

This ordinance shall not limit an individual or entity's rights under the Michigan Medical Marihuana Act or the Medical Marihuana Facilities Licensing Act. The provisions of Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and the Marihuana Tracking Act shall supersede the provisions of this ordinance to the extent there is a conflict between the provisions of this ordinance and the provisions of the Acts.

Any activity that a licensee is authorized to perform pursuant to this ordinance that was conducted either prior to the enactment of this ordinance, or that is conducted after the enactment

of this ordinance but without obtaining the required licensing provided for in this ordinance, shall be deemed to be an unauthorized and illegal use and therefore not entitled to legal nonconforming use status under any applicable provisions of the City's zoning ordinance or other City ordinance.

870.02-DEFINITIONS.

For purposes of this ordinance:

- a. Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421, *et seq.* shall have the definition given in the Medical Marihuana Act, and any amendments thereto.
- b. Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101, *et seq.*, shall have the definition given in the Medical Marihuana Facilities Licensing Act, and any amendments thereto.
- c. Any term defined by the Marihuana Tracking Act, MCL 333.27901, *et seq.*, shall have the definition given in the Marihuana Tracking Act, and any amendments thereto.

870.03-AUTHORIZED MEDICAL MARIHUANA FACILITIES.

The following medical marihuana facilities may be authorized to operate within the City by the holder of a state operating license, subject to compliance with all relevant Michigan Statutes, the rules promulgated thereunder, and this ordinance:

- a. Not more than 2 (two) provisioning center(s) shall be authorized in the City.
- b. Not more than 3 (three) secure transporter(s) shall be authorized in the City.

At least every three (3) years after adoption of this ordinance, the City Council shall review the maximum number of each type of marihuana facility allowed and determine whether this maximum number should be changed.

After the effective date of this ordinance, the City shall accept applications for authorization to operate a medical marihuana facility within the City. An application shall be made on a City form and must be submitted to the City Clerk and/or other designee of the City Council (hereinafter referred to as "Clerk"). Once the Clerk receives a complete application including the initial annual medical marihuana facility fee, 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 above, then the applicant shall receive tentative authorization to operate such medical marihuana facility within the City, after Planning Commission approval of Use and pay the fee set by Council. Once the limit on the number of authorized facilities is reached, then any additional complete applications shall be held in consecutive time and date stamped order for future authorization. Any applicants waiting for future authorization may withdraw their submission by written notice to the Clerk at any time and receive a refund, minus a 10% administration cost of the initial annual medical marihuana fee submitted.

Within thirty days from the tentative authorization from the City, the applicant must submit proof to the Clerk that the applicant has applied for a state operating license. If the applicant fails to submit such proof, then such tentative authorization shall be canceled by the Clerk and the authorization process shall be available to the next applicant in consecutive time and date stamped order as provided for in Section 870.03 above. The applicant's fee will be returned minus a 10% administration fee.

If a city authorized applicant is denied prequalification for the state operating license or is denied a full application for a state operating license, then such authorization will be canceled by the Clerk and receive a refund, minus a 10% administration cost, and the authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section 870.03 above.

An authorized applicant shall receive full authorization from the City to operate the medical marihuana facility within the City upon the applicant providing to the Clerk proof that the applicant has received a state operating license for the medical marihuana facility in the City and the applicant has met all other requirements of this ordinance for operating including but not limited to any zoning approval for the location of the facility within the City.

870.04-GENERAL REGULATIONS.

No person shall operate a marihuana facility in the City of Caseville without a valid marihuana facility license issued by the City pursuant to the provisions of this ordinance.

An authorized medical marihuana facility shall only be operated within the City by the holder of a state operating license issued pursuant to PA 281 of 2016, as may be amended, and the Rules promulgated thereunder. The facility shall only be operated as long as the state operating license remains in effect.

Prior to operating an authorized medical marihuana facility within the City pursuant to a state operating license, the facility must comply with all City zoning ordinance regulations. The facility shall only be operated as long as it remains in compliance with all City zoning ordinance regulations, including 1000 feet from a school and 300 feet from a church.

Prior to operating an authorized medical marihuana facility within the City pursuant to a state operating license, the facility must comply with all City construction and building ordinances, all other City ordinances. The facility shall only be operated as long as it remains in compliance with all such ordinances now in force or which hereinafter may be established or amended.

An authorized medical marihuana facility shall consent to inspection of the facility by City officials and/or by the City Police Department, upon reasonable notice, to verify compliance with City ordinances.

If at any time an authorized medical marihuana facility violates any ordinance, the City Council may request that the state revoke or refrain from renewing the facility's state operating

license. Once such state operating license is revoked or fails to be renewed, the Clerk shall cancel the City authorization and the authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section 870.03 above.

It is hereby expressly declared that nothing in this ordinance be held or construed to give or grant to any authorized medical marihuana facility a vested right, license, privilege or permit to continued authorization from the City for operations within the City.

A marihuana facility license issued under this ordinance is not transferrable or assignable.

No merchandise or pictorial representations of the products shall be displayed in window areas or any areas where they can be viewed from a public sidewalk. All forms of electronic signage or lighting advertising the products that are visible from the public sidewalk are prohibited.

Sale time shall be limited to seven (7) days per week, 8:00 am to 9:00 pm.

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 facilities authorized to operate within the City.

870.05-FEE AND LICENSE RENEWAL.

A City medical marihuana facility fee will be established by City council for each application submitted for a medical marihuana licensing facility within the City, to help defray administrative and enforcement costs associated therewith. In the event that a license is granted, the licensee shall thereafter pay an annual medical marihuana facility fee set by Council, payable each year upon the renewal of the license as provided in this ordinance.

A marihuana facility license issued under this ordinance shall be valid for one year from the date of issuance of full authorization by the City, unless earlier revoked as provided by law.

A valid marihuana facility 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 medical marihuana facility fee provided for in Section 870.05 of this ordinance. The application to renew the license shall be filed at least thirty (30) days prior to the date of its expiration.

870.06-VIOLATIONS AND PENALTIES.

Any person who disobeys, neglects, or refuses to comply with any provision of this ordinance or who causes, allows, or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.

A violation of this ordinance shall be a misdemeanor, for which the punishment for a first violation shall be a fine of not less than \$100.00 and not more than \$500.00, or imprisonment not to exceed 90 days, or both, at the discretion of the court. The punishment for a second or

subsequent violation shall be a fine of not less than \$250.00 and not more than \$500.00, or imprisonment not to exceed 90 days, or both, at the discretion of the court. For purposes of this section, "second or subsequent violation" means a violation of the provisions of this ordinance committed by the same person within 12 months of a previous violation of the same provision of this ordinance for which said person pled or was adjudicated guilty. The foregoing penalties shall be in addition to the rights of the City to proceed at law or equity with other appropriate and proper remedies.

Each day during which any violation continues shall be deemed a separate offense.

In addition, the City may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.

This ordinance shall be administered and enforced by the Police Department of the City or by such other person(s) as designated by the City Council from time to time.

870.07-SEVERABILITY.

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect. The provisions herein shall be construed as not interfering or confliction with the statutory regulations for licensing medical marihuana facilities pursuant to PA 281 of 2016, as may be amended.

EFFECTIVE DATE: This Ordinance shall become effective 20 days after publication in a newspaper of general circulation within the City of Caseville.

Dated: January 14, 2020

Patricia D. Des Jardins, Mayor

Dated: January 14, 2020

Jamie Learman, City Clerk

First Reading: December 9, 2019

Roll Call to Adopt made by Council Member Sprague, Second by Council Member Ignash.

Ayes: Rathje, Sprague, Braun, Ignash & Tait

Nays: Talaski

Adopted: January 13, 2020

Published: January 15, 2020

Effective: February 4, 2020