

CITY OF PETERSBURG  
ORDINANCE NUMBER 19-0002

AN ORDINANCE TO AUTHORIZE AND REGULATE MARIHUANA ESTABLISHMENTS AND TO IMPOSE PENALTIES FOR VIOLATIONS.

**The City of Petersburg ordains:**

Section 1. Title.

This Ordinance shall be known as the City of Petersburg Ordinance on Marihuana Establishments.

Section 2 Purpose.

It is the intent of this Ordinance to authorize certain Establishments for Adult Use of Marihuana in the City of Petersburg 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 character of neighborhoods; and 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 Marihuana Establishments in the City of Petersburg through imposition of an annual, nonrefundable fee of \$5,000.00 on each Marihuana Establishment. Authority for the enactment of these provisions is set forth in Michigan Regulation and Taxation of Marihuana Act, Initiative Act 1 of 2018.

- A. 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 Regulation and Taxation of Marihuana Act, Initiative Act 1 of 2018, 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 promulgated by the State of Michigan. This Ordinance does permit authorizations for activity based on the Michigan Regulation and Taxation of Marihuana Act, Initiative Law 1 of 2018.
- B. 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. Sec. 801 et seq., which makes it unlawful to manufacture, distribute, or dispense marihuana, or possess marihuana with intent to manufacture, distribute, or dispense marihuana. Nothing in this Ordinance is intended to grant immunity from any criminal prosecution under state or federal laws as

they may be enforced by either the federal or state governments relative to such uses and activities. Thus, the authorization of activity and the approval of a license under this Ordinance shall not have the effect of superseding or nullifying federal or state law applicable to the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, and all applicants and grantees of licenses are on notice that they may be subject to prosecution and civil penalty, including forfeiture of property.

### Section 3 Definitions.

For the purposes of this ordinance:

- A. As used herein, “Marihuana Establishment” and “Establishment for Adult Use of Marihuana” and “Establishment” means “Marihuana Establishment” as defined in Section 3 of the Michigan Regulation and Taxation of Marihuana Act, Initiative Act 1 of 2018.
- B. Any term defined by the Michigan Regulation and Taxation of Marihuana Act, Initiative Act 1 of 2018, shall have the definition given by that Act.
- C. Any term defined by the Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marihuana Tracking Act. (“MTA”)
- D. “Grower” means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or marihuana retailer.
- E. “Licensee” means a person holding a State operating license issued under the Michigan Regulation and Taxation of Marihuana Act, Initiative Act 1 of 2018.
- F. “Marijuana” or “marihuana” means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Regulation and Taxation of Marihuana Act, Initiative Act 1 of 2018, 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.

### Section 4 Authorization of Marihuana Establishments and Fees.

- A. The City of Petersburg may authorize the following types of Establishments for Adult Use of Marihuana, in the following numbers, to be operated in the City, subject to compliance with Initiative Act 1 of 2018, the Rules promulgated thereunder, the City of Petersburg Zoning Ordinance, as such may be amended, and this Ordinance:

<u>Establishments</u>	<u>Total Number</u>
Marihuana Retailer	2
Grower	2
Processor	2
Safety Compliance Facility	2
Secure Transporter	2

The City reserves the right to review and amend the number of establishments and facilities from time to time by motion recorded in the minutes of the City Council.

- B. An annual nonrefundable fee shall be paid by each marihuana establishment or facility licensed in an annual amount of not more than \$5,000.00 as set by resolution of the City Council.

Section 5 Requirements and Procedures for Issuing Licenses.

- A. No person shall operate a Marihuana Establishment in the City of Petersburg without a valid Establishment license issued by the City pursuant to the provisions of this Ordinance as authorized by the Michigan Regulation and Taxation of Marihuana Act, Initiative Act 1 of 2018.
- B. An Establishment license issued under this Ordinance is valid for one year and is not transferable without written approval by the City Council.
- C. The procedure in processing a request for a license for a Marihuana Establishment will involve three steps, application, provisional license and annual license for a Marihuana Establishment, as follows:
  - 1) Application.
    - a) An application is to be filed with the City Clerk upon a form provided by the City of Petersburg along with the annual nonrefundable fee of \$5,000.00.
    - b) The City Clerk will review the application for completeness and will promptly notify the applicant of any additional required information and documentation. The City Clerk will only accept a complete application.
    - c) The City Clerk's office shall refer the application to the Building Official to verify that the proposed Establishment is located in a zoning district that allows such use. The Building Official shall respond to the City Clerk

within ten (10) business days.

- d) The City Clerk shall act to approve or deny an application not later than forty-five (45) business days from the date the fully completed application was accepted.
- e) If approved, the City Clerk's office shall issue the applicant a provisional license.

2) Standards for Issuance of Provisional License.

The Clerk shall issue a Provisional License under this Ordinance when, from a consideration of the application and from such other information as may otherwise be obtained, the Clerk determines that:

- a) The application (including any required attachments and submissions) is complete and signed by the applicant;
- b) The Applicant has paid the nonrefundable application fee and any other fees required;
- c) The application does not contain a material falsehood or misrepresentation;
- d) The proposed location of the Establishment is allowed by the City's zoning and other ordinances.

3) Provisional License.

- a) A provisional license means only that the application satisfies subparagraph C 2) above.
- b) A provisional license will lapse and be void if all other permits and approvals are not diligently pursued as follows:

Existing structure with no site changes	90 days
Existing structure with minimal site changes approved by the Planning Commission and substantially completed within	180 days
Proposed construction of a structure requiring site plan approval by the Planning Commission substantially complete within	1 Year

- c) A Provisional License issued pursuant to this Ordinance does not authorize

the operation of a Marihuana Establishment.

4) Annual License for Marihuana Establishments.

The Applicant is required to obtain all other necessary licenses and permits related to the operation of the Establishment(s) sought to be approved hereunder, including, without limitation, any and all necessary business registration and licenses, building permits, mechanical permits, plumbing permits, or electrical permits. Before a License for an Establishment for Adult Use of Marihuana can be issued, the Applicant must:

- (a) Submit a photocopy of the Applicant's valid and current license for a Marihuana Establishment issued by the State of Michigan
- (b) Submit a government-issued photographed identification.
- (c) Obtain site plan approval and any other necessary zoning approval or permits under the City ordinances.
- (d) Obtain the approvals of the following:
  - 1) The Fire Chief or his or her designee, and
  - 2) City Engineering Consultant (site plan reviews only).
- (e) Submit a notarized statement acknowledging that the Applicant and the employees of the Establishment(s) may be subject to prosecution under federal marijuana laws.
- (f) Submit a notarized statement acknowledging that the City of Petersburg accepts no legal liability in connection with the approval and subsequent operation of the Establishment(s).

A provisional license shall be replaced by an Annual City License for a Marihuana Establishment upon completion of all requirements of this Ordinance and the issuance of a license by the State of Michigan pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiative Act 1 of 2018.

Section 6 Denial or Revocation of License and Appeal Process.

- A. Denial. An application may be denied by the City Clerk in writing setting forth the grounds for such denial for one or more of the following criteria:
- 1) A failure to meet the conditions of or to maintain compliance with the standards and requirements of this ordinance; or
  - 2) One or more violations of the Michigan Regulation and Taxation of Marihuana Act, Initiative Act 1 of 2018, or any city ordinance on the premises; or
  - 3) Maintenance of a nuisance on the premises; or
  - 4) Nonpayment of real and/or personal property taxes, fines, liens, water or sewer bills, income tax, hydrant and sprinkler fees or any fees owed to the City; or
  - 5) A demonstrated history of excessive calls for public safety (police, fire and ambulance); or
  - 6) Applicant has made or provided false information in the application or has otherwise become disqualified for the issuance of a license for a marihuana facility or establishment.
- B. Revocation. A license for a Marihuana Establishment may be revoked by the City Clerk based on the following:
- 1) Violation of the standards for approval in Section 5 of this ordinance.
  - 2) Denial, suspension, revocation or restriction of a license issued by the State of Michigan under the Michigan Regulation and Taxation of Marihuana Act, Initiative Act 1 of 2018.
  - 3) A violation of the Michigan Regulation and Taxation of Marihuana Act, MMFLA, MMMA, MTA, any state or local regulations, the provisions of this ordinance, ordinance #18-0002 or the provisions of a license.
  - 4) Operations have ceased at the Establishment for more than 90 days.
  - 5) Ownership of the Establishment has been transferred without the new owner(s) obtaining a license pursuant this Ordinance.
  - 6) The existence of any of the criteria listed in paragraph A above.
- C. Notice of Decision.

The Clerk shall notify the Applicant of the decision to deny or revoke a license for a Marihuana Establishment within ten (10) business days of rendering the decision. Notice shall be given by mailing a copy of the Clerk's decision to the Applicant or License holder by certified mail and/or personal service postage prepaid, at the address shown in the application. Notice is deemed to have been properly given upon mailing by certified mail and/or personal service.

D. Appeal Process.

An Applicant or Licensee has the right to appeal the Clerk's denial of an application for or the revocation of a license for a Marihuana Establishment to the Petersburg City Council.

- 1) Any person whose application or license has been denied, suspended, revoked or restricted by the State of Michigan has no recourse through the appeal process with the City of Petersburg.
- 2) Any person whose application or license has been denied or revoked by the City Clerk under Section 4 or Section 5 of this ordinance will have thirty (30) days from the date of the notice to file a written appeal to the City of Petersburg.
- 3) The Applicant or Licensee shall be provided with not less than ten (10) days' prior written notice of the appeal hearing to be held by the City Council.
- 4) The burden of proof in an appeal filed under this section shall be on the Applicant or Licensee.
- 5) If the Petersburg City Council finds by a preponderance of the evidence that the decision of the Clerk was correct, the City Council shall uphold the decision of the Clerk. If the City Council finds by a preponderance of the evidence that the decision of the Clerk was incorrect, the Clerk's decision shall be set aside and the Provisional License or Annual License issued (if it was previously denied) or reinstated (if it was previously revoked).
- 6) Any decision made by the Petersburg City Council pursuant to this section shall be a final decision and may be appealed to a court of competent jurisdiction by any person within thirty (30) days of the date of the City Council decision. The Applicant's or Licensee's burden of proof will be to establish an abuse of discretion. The Applicant's or Licensee's failure to timely appeal the decision is a waiver of the Applicant's or Licensee's right to contest the denial of the application or the revocation of the license for a Marihuana Establishment.
- 7) Any person whose license has been denied or revoked shall not be able to reapply for any type of license allowed under this Ordinance for one year

from the date a denial or revocation became effective.

Section 7 License Renewal.

- A. An annual license for a Marihuana Establishment shall be valid for one year from the date of issuance, unless revoked as provided by law.
- B. A valid license for an Establishment may be renewed on an annual basis by submitting a renewal application upon a form provided by the City of Petersburg and payment of the nonrefundable annual license fee of \$5,000.00. Application to renew a license for an Establishment shall be filed at least thirty (30) days prior to the date of its expiration.
- C. Renewal may be denied for any of the reasons listed in Section 6, Paragraphs A or B of this Ordinance.

Section 8 Applicability.

The provisions of this Ordinance shall be applicable to all persons, facilities and establishments described herein, regardless of whether the operations or activities associated with a marihuana facility or establishment were conducted without authorization before the effective date of this Ordinance.

Section 9 Penalties and Enforcement

- A. Any person who violates any of the provisions of this Ordinance shall be responsible for a civil infraction and subject to the payment of a civil fine in the amount of \$500.00. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.
- B. A violation of this Ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, the City of Petersburg may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Ordinance.
- C. This Ordinance shall be enforced and administered by the City of Petersburg, Monroe County Sheriff Department contract officers, or such other City of Petersburg officials as may be designated from time to time by resolution of the Petersburg City Council.



Section 10 Severability

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.

Section 11 Effective Date.

This Ordinance shall become effective twenty (20) days after final passage and publication.

I hereby certify that this ordinance was passed at a regular meeting of the City Council of the City of Petersburg, Michigan held on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Leanne Goodin, City Clerk

Published: \_\_\_\_\_

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