THE CITY COUNCIL OF THE CITY OF WHITEHALL HEREBY ORDAINS:

1. Title XI, Chapter 121, Of the Code of Ordinances of the City of Whitehall, Michigan, Sections 121-01 through 121-06 are adopted as follows:

Sec. 121-01 Purpose and Intent.

It is the intent of this ordinance to give effect to the intent of the Medical Marihuana Facilities Licensing Act, PA 281 of 2016, MCL 33.27101, et seq, (the MMFLA), and not to determine and establish an altered policy with regard to medical marihuana. It is the intent of this Ordinance to give effect to the intent of the Michigan Medical Marihuana Act, Initiated Act 1 of 2008, MCL 333.26421, et seq., (the MMMA) as approved by the electors. The purpose of this ordinance is to serve and protect the health, safety and welfare of the general public and establish a set of rules and regulations which are fair and equitable for those interested in establishing a Marihuana Facility pursuant to the MMFLA.

The City of Whitehall does not intend that registration and regulation under this Ordinance be construed as finding such business and activities are legal under Federal Law. By requiring registration and compliance with the requirements as provided in this Ordinance, the City of Whitehall intends to protect, to every extent possible the public health, safety and welfare of the residents of and visitors to the City of Whitehall from harm that may result from the activity from persons who unilaterally or on the advice from their attorney determine that they may legally operate a business involved in the cultivation, possession, use, manufacture, distribution, transport, processing or dispensing of marihuana.

Nothing in this Ordinance is intended to grant, nor shall it be construed as granting, immunity from criminal prosecution for cultivation, possession, use, manufacture, distribution, transport, processing or dispensing of marihuana not in compliance with the Acts or this Ordinance. This Ordinance is enacted pursuant to statutory authority granted by State Law and Constitution authorizing the City of Whitehall to adopt licensing ordinances and regulations securing the public health, safety, and general welfare.

Sec. 121-02 Definitions.

**Applicant** means a person who applies for a license under this section. If an entity applies for a license, the term includes an officer, director, managerial employee or has a direct or indirect ownership interest in the applicant.

**Grower** means an MMFLA licensee that is a commercial entity located in this state that cultivates, dries, trims, cures or packages marihuana for sale to a Processor or Provisioning Center.
Marihuana Facility means a location at which a license holder is licensed to operate under the MMFLA.

Marihuana-infused product means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation.

MMFLA means the Medical Marihuana Facilities Licensing Act, PA 281 of 2016, MCL 333.27101, et seq.

MMMA means the Michigan Medical Marihuana Act, Initiated act 1 of 2008, MCL 333.26421, et seq.

MMMA Caregiver Facility means any building(s) or structure(s) located on non-residential property that is utilized by one or more than one primary caregiver engaged in the medical use of marihuana pursuant to the MMMA.

Permit means a permit issued by the City under this section, which shall be valid for one year, subject to renewal.

Primary caregiver or caregiver means a person as defined by the MMMA.

Processor means an MMFLA licensee that is a commercial entity located in this state that purchases marihuana from a Grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in package form to a Provisioning Center.

Provisioning Center means an MMFLA 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 qualify 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 MMMA is not a Provisioning Center for purposes of the MMFLA or this section.

Qualifying patient or patient means a person defined by the MMMA.

Registry Identification Card means the document as defined by the MMMA.

Safety Compliance Facility means an MMFLA licensee that is a commercial entity that receives marihuana from a Marihuana Facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the Marihuana Facility.
Secure Transporter means an MMFLA licensee that is a commercial entity located in the state that transports marihuana, with or without storage, between Marihuana Facilities for a fee.

State operating license means a license that is issued under the MMFLA that allows the licensee to operate a Marihuana Facility.

All other terms used in this section have the same definitions ascribed to them in the MMFLA or MMMA.

Sec. 121-03 MMFLA Opt-In Provision

Pursuant to Section 205(1) of the MMFLA, the City will authorize Permits for the following types of Marihuana Facilities: Growers; Processors; Provisioning Centers; Safety Compliance Facilities; and Secure Transporters. The City hereby declines to authorize and hereby prohibits any and all onsite consumption of product of any type, any and all designated consumption establishments (as established by LARA) and/or any authority to approve any temporary or permanent marihuana event (as established by LARA).

Sec. 121-04 Permit Required for MMFLA Activity

A. Any person or entity that wishes to operate as a Marihuana Facility in the City shall obtain a Permit and must obtain a State Operating License prior to opening or operating.

B. The application and inspection fee for the Permit required by this section shall be as set from time to time for the City by resolution.

C. In addition to an annual reapplication and inspection fee, which shall be set, from time to time, by the City by resolution, the City may assess an annual fee of no more than $5,000 to help defray the administrative and enforcement costs associated with the operation of the Marihuana Facilities operating in the City.

D. No permit issued under this section shall be transferable.

E. The City may limit the number of Permits issued under this section and may revise this limit from time to time.

F. A person or entity that receives a Permit under this section shall display its Permit and, when issued, its State Medical Marihuana Facility License in plain view clearly visible to City officials and State Medical Marihuana Licensing Board authorized agents.
G. No person or entity that opened or operated a facility doing business or purporting to do business as a Marihuana Facility prior to the adoption of this ordinance shall be considered a lawful use.

H. No application shall be approved unless same includes the safeguards, plans and protocols as follows:

1. A marihuana grower shall comply at all times with the Acts and Administrative Rules as they may be promulgated and amended from time to time by LARA.

2. A marihuana grower shall have at all times a valid license from the State Licensing Board created by the Act.

3. Growers may only transfer plants, seeds, other product to other facilities as set forth in the Act and are prohibited from any other transfers and enabling regulations issued by LARA and under no other circumstances.

4. All marihuana plants must be contained within the Grow Facility in an enclosed, restricted, locked facility that prevents access by other persons than those allowed and otherwise meet all state requirements.

5. Any artificial lighting must be shielded to prevent glare, must not be visible from adjacent properties, the street or public rights of way.

6. All activity shall be conducted so as not to create a permit trespass, spillage of glare, dust, sound, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public rights of way.

7. All activities shall be conducted so as not be visible in any way from neighboring properties, adjacent streets or public rights of way. An approved plan for elimination of dust, glare, and odor is required with application.

8. Marihuana Growers, other than Microbusinesses, shall be limited to the industrial district of the City of Whitehall. The industrial zoned areas of the City of Whitehall are hereby declared to be exempt from the 1,000-foot minimum distance for K-12 schools to accommodate same. Said minimum distance shall be no less than 500 feet.

9. Waste disposal plan. A plan must be approved for the disposal of waste, chemicals and unused plant material. Further, a list shall be submitted with the application of all chemicals used in growing, processing and testing of plants or products and how they are to be disposed of must be included. The plan must also show how the disposal of marihuana plants and byproduct will be executed.
10. There shall be no limits on the number of licenses granted in each category except for provisioning centers. There shall only be 3 permits allowed for provisioning centers.

11. All applications shall contain and be subject to the following:
   The applicant agrees to allow the Whitehall Police Department access to all facets of the business permitted herein for the purpose of assessing compliance with all facets of the permit requested herein.

12. If more qualified applications are received than available permits within the first 30-days of this ordinances passage or at any time thereafter, the permits shall be awarded by lottery held at the discretion of the City Clerk in consultation with the City Manager. Renewals shall take precedence over new applicants.

Sec. 121-05    MMFLA Location Requirements

A. Growers, Processors and Safety Compliance Facilities, as permitted only in the industrial zones of the City of Whitehall.

B. Provisioning Centers are to be located in the City of Whitehall Central and General Business Districts by right.

C. The Marihuana Facility shall meet all applicable written and duly promulgated standards of the City and, prior to opening, Applicants shall demonstrate to the City that the location meets the rules and regulations promulgated by the State Medical Marihuana Facilities Licensing Board.

Sec. 121-06    Permit Revocation and Review

A Permit granted under this section may be revoked or not renewed for any of the following reasons:

A. Any fraud or misrepresentations contained in the Permit application:

B. Any knowing violation of this ordinance;

C. Loss of the Applicant’s State Medical Marihuana Facility License;

D. Failure of the Applicant to obtain a State Medical Marihuana Facility License within a reasonable time after obtaining a Permit under this section; or

E. Conducting business in an unlawful manner or in such a way as to constitute a menace to the health, safety, or general welfare of the public;
F. The violation of any of the conditions of issuance or continuation of a certificate of registration;

G. Fraud, misrepresentation or any false statement made in the operation of the business;

H. Failure to pay personal property taxes, or timely file documentation or returns required for such taxes; and failure to pay City property taxes; and failure to pay any outstanding amounts owed the City (such as fees for inspections or property services, water or sewer bills, municipal civil infraction fines applicable to the business or its premises, current special assessment, installments, etc.).

I. Failure to pay registration fees imposed pursuant to this chapter and resolution of the City Council.

J. Failure or inability of an applicant to meet and satisfy any of the requirements and provisions of this chapter.

K. Failure to allow inspection of the business premises or hazardous material storage records at a reasonable time.

Sec. 121-07 Revocation of Permit

A. A permit authorized from the above section may be revoked or not renewed for any of the following reasons:

1. Any fraud or misrepresentations contained in the permit application.

2. Any known violation of this Ordinance or the Act or the rules and regulations issued by LARA.

3. Any loss of the applicants State licenses.

4. Failure of the applicant to obtain a State license within a reasonable time of obtaining a permit under this section. Operating the business in an unlawful manner in such a way as to constitute a problem to the health, safety, or general welfare of the public.

5. The violation of any issuance or continuation of a certificate registration or permit.

6. Fraud, misrepresentation or any false statement made in the operation of the business.

7. Failure to pay personal property taxes or timely documents or returns for such tax purposes.
8. Failure to pay any City taxes, including but not limited to property taxes.

9. Failure to pay any outstanding amounts owed to the City such as for inspections, property services or water/sewer bills, municipal or civil infractions, fines applicable to the business or its premises, special assessments, etc.

10. Failure to pay registration fees in pursuant to this chapter and resolution of the City.

11. Failure and inability of applicant to meet and satisfy any requirements and provisions of this chapter.

12. Failure to allow inspection of the business premises or has its material storage records within a reasonable time.

B. Procedure of Revocation

1. The zoning administrator will issue a notice to the licensee through certified mail, that the City intends to revoke the license.

2. The licensee may request a hearing before the City Council to show cause as to why the license should not be revoked within 14 days of delivery of the notice.

3. If a hearing is timely requested then the City Administrator shall inform the licensee and the City Council of the time and place of the hearing.

4. The licensee may present evidence and reasons arguing why the license should not be revoked.

5. The City Council shall either revoke the license or allow the license to continue.

6. Nothing in this Ordinance shall be deemed to prohibit the City from imposing other penalties authorized by its code or other Ordinances including filing above nuisance actions or other legal proceedings in a Court of competent jurisdiction.

C. Civil infraction

1. Any firm, person, corporation who violates any of the provisions of this Ordinance shall be deemed to be responsible for municipal civil infractions as defined by Michigan Statutes which shall be punishable by a civil fine for each violation according to the schedule set forth herein, along with costs which may include all expenses, direct or indirect, the City incurs connected with the
municipal civil infraction. A violator of this Ordinance will also be subject to such additional sanctions and judicial orders as are authorized under Michigan Law. Each day that a violation continues to exist shall constitute a separate violation of this Ordinance.

2. The City Zoning Administrator, Whitehall Police Department and/or their designee, may issue appearance tickets, citations for violations of this Ordinance. The provision of this Ordinance may also be imposed by suit for injunctive relief.

3. Civil fines for municipal infractions shall be revised by the City Council by resolution from time to time.

**Sec. 121-08 Severability**

Any section of this Ordinance is considered to be severable and if any clause, sentence, word, section, or provision is declared void by a clear and competent Court of jurisdiction, this shall not effect any portion of this Ordinance other than the said part or portion thereof.

**Sec. 121-09 Adoption**

This Ordinance is to become effective after publication.

City of Whitehall

By: _______________________
Debra Hillebrand

By: _______________________
Brenda Bourdon, City Clerk

Adopted: October 22, 2019
Published: November 3, 2019
Effective: November 13, 2019

**CERTIFICATE**

The foregoing is a true and complete copy of the Ordinance adopted by the City Council of the City of Whitehall at a regular meeting held on October 22, 2019. Public notice was given, and the meeting was conducted in full compliance with the Open Meetings Act, (PA267, 1976). Minutes of the meeting will be made available as required by the Act, and the ordinance was duly recorded, posted and authenticated by the Mayor and City Clerk as required by the Charter of said City.

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Brenda Bourdon, City Clerk