

ORDINANCE NO. 80-782

AN ORDINANCE TO AMEND CHAPTER 22 OF THE CODE OF ORDINANCES
RELATING TO MARIHUANA POSSESSION AND TRANSFER

THE CITY OF WARREN ORDAINS:

SECTION 1. That Chapter 22, Section 22-191 of the Code of Ordinances of the
City of Warren, Michigan,

IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 22-191. - Marihuana possession and transfer.

(a) Definitions:

Correctional facility is a facility that houses prisoners under the jurisdiction of the State of Michigan or a local government.

Dwelling is a building used for residential purposes.

Marihuana is all parts of the cannabis plant, including, but not limited to: seeds; resin; derivative; concentrate; and marihuana-infused products.

Marihuana Accessory is any equipment or device designed or used for growing, cultivating, processing, testing, storing, or ingesting *marihuana*.

Marihuana Concentrate is resin extracted from any part of the *marihuana plant*.

Marihuana Establishment is a marihuana grower, marihuana safety compliance, marihuana processor, marihuana microbusiness, *marihuana retailer*, marihuana secure transporter, or any other type of marihuana-related business, as defined by Michigan Regulation and Taxation of Marihuana Act (MRTMA), MCL 333.27953 and licensed by the Michigan Licensing and Regulatory Affairs Bureau.

Marihuana Plant is any plant of the species Cannabis Sativa L. *Marihuana Plant* does not include industrial hemp plants.

Marihuana Retailer is a person licensed to obtain *marihuana* from a *marihuana establishment* and to transfer *marihuana* to another *marihuana establishment* or to an individual who is at least 21 years old.

Motor boat is a boat as defined by the Natural Resources and Environmental Protection Act (Marine Safety), MCL 324.80101 *et seq.*

Motor vehicle is a vehicle as defined by Michigan Motor Vehicle Code, MCL 257.1 *et seq.*

Off-road vehicle is a vehicle as defined by the Natural Resources and Environmental Protection Act (Off-Road Recreational Vehicles), MCL 324.81101 *et seq.*

School is a public or private establishment where children attend classes in preschool programs, kindergarten programs, or grades 1 through 12.

School Bus is a motor vehicle with a manufacturers' rated seating capacity of 16 or more passengers, including the driver, used to transport children to or from school or other school-related events.

Secure Container or Area is a container or enclosed area equipped with locks or other security devices that restrict access to the contents of the container or area as required by MCL 333.27954(1)(f) and (i).

Snowmobile is a vehicle as defined by the Natural Resources and Environmental Protection Act (Snowmobiles), MCL 324.82101 *et seq.*

Unsecure Container or Area is a container or area that does meet the requirements for being a *secure container or area*.

(b) Prohibitions. A person shall not do any of the following:

- (1) Transfer *marihuana* to an individual who is under the age of 21, unless the person transferring the *marihuana* is (1) an agent of a *marihuana retailer*, and (2) verifies that the recipient of the *marihuana* appears to be at least 21 years old by means of a government-issued photographic identification containing a date of birth.
- (2) Extract plant resin by butane extraction or other similar means in a public place, motor vehicle, residential curtilage, or *dwelling*.
- (3) Consume *marihuana* while operating a *motor vehicle*, *snowmobile*, *off-road vehicle*, or *motorboat*.
- (4) Smoke *marihuana* in a motor vehicle on a highway or other place open to the public.
- (5) Possess *marihuana accessories* at a *school*, *correctional facility*, or on a *school bus*.
- (6) Possess *marihuana* at a *school*, *correctional facility*, or on a *school bus*.
- (7) If an individual is under the age of 21, possess or transfer *marihuana*.

- (8) Smoke *marihuana* in a public place or on private property where a person in charge of the property has prohibited it, unless otherwise provided in the Warren Code of Ordinances,
- (9) Grow *marihuana* in a place visible to the public or in an *unsecure area*.
- (10) Store *marihuana* in an *unsecure area or container* in their *dwelling*, unless the amount is 2.5 ounces or less.
- (11) Cultivate *marihuana* in a *dwelling* for a commercial purpose.
- (12) Transfer marihuana for remuneration without State and Municipal licenses as required by MRTMA.
- (13) Advertise or promote to the public *marihuana* transfer, if the advertised marihuana is from a person that does not have the State and Municipal licenses required by MRTMA.

(c) Penalty.

- (1) A person violating subsections (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), (b)(6), (b)(11), (b)(12), or (b)(13) of this Section is guilty of a misdemeanor punishable by a fine of not more than \$500 and reasonable court costs of not more than \$1,000; imprisonment for a term not exceeding 90 days; or both.
- (2) A person violating subsection (b)(7) of this Section is punishable as follows:

(i) First offense:

- (A) A person under the age of 18 is responsible for a municipal civil infraction punishable by a fine of not more than \$100 or community service; four hours of either drug education or drug counseling; or both.
- (B) A person 18 to 20 years old is responsible for a municipal civil infraction punishable by a fine of not more than \$100.

(ii) Second and subsequent offenses:

- (A) A person under the age of 18 is responsible for a municipal civil infraction punishable by a fine of not more than \$500 or community service; eight hours of either drug education or drug counseling; or both.
 - (B) A person 18 to 20 years old is responsible for a municipal civil infraction punishable by a fine of not more than \$500.
- (3) A person violating subsections (b)(8), (b)(9), or (b)(10) of this Section is responsible for a municipal civil infraction punishable by a fine of not more than \$100.

(d) Quantity restrictions. An individual shall not exceed the following *marihuana* quantity limits:

POSSESSION IN THE INDIVIDUAL'S DWELLING:

Amount of <i>marihuana</i>	More than 10 to 20 ounces, excluding <i>marihuana plants</i> legally grown in the <i>dwelling</i>	More than 20 ounces, excluding <i>marihuana plants</i> legally grown in the <i>dwelling</i>
Penalty	(i) For the first offense: a municipal civil infraction punishable by a fine of not more than \$500. (ii) For the second offense: a municipal civil infraction punishable by a fine of not more than \$1,000. (iii) For the third or subsequent offense: a misdemeanor punishable by a fine of not more than \$500 and reasonable court costs of not more than \$1,000.	A misdemeanor punishable by a fine of not more than \$500 and reasonable court costs of not more than \$1,000. If the violation is willful, habitual, and for a commercial purpose; or involves a violent act, it is punishable by a fine of not more than \$500; reasonable court costs of not more than \$1,000; and imprisonment for a term not exceeding 90 days.

POSSESSION OUTSIDE THE INDIVIDUAL'S DWELLING:

Amount of <i>marihuana</i>	More than 2.5 to 5 ounces or more than 15 grams of <i>marihuana concentrate</i>	More than 5 ounces
Penalty	(i) For the first offense: a municipal civil infraction punishable by a fine of not more than \$500. (ii) For the second offense: a municipal civil infraction punishable by a fine of not more than \$1,000. (iii) For the third or subsequent offense a misdemeanor punishable by a fine of not more than \$500 and reasonable court costs of not more than \$1,000.	A misdemeanor punishable by a fine of not more than \$500 and reasonable court costs of not more than \$1,000. If the violation is willful, habitual, and for a commercial purpose; or involves a violent act, it is punishable by a fine of not more than \$500; reasonable court costs of not more than \$1,000; and imprisonment for a term not exceeding 90 days.

CULTIVATION IN A DWELLING:

Number of <i>marihuana</i> plants	13 to 24	25 or more
Penalty	(i) For the first offense: a municipal civil infraction punishable by a fine of not more than \$500. (ii) For the second offense: a municipal civil infraction punishable by a fine of not more than \$1,000. (iii) For the third or subsequent offense a misdemeanor punishable by a fine of not more than \$500 and reasonable court costs of not more than \$1,000.	A misdemeanor punishable by a fine of not more than \$500 and reasonable court costs of not more than \$1,000. If the violation is willful, habitual, and for a commercial purpose; or involves a violent act, it is punishable by a fine of not more than \$500; reasonable court costs of not more than \$1,000; and imprisonment for a term not exceeding 90 days.

GIFTING:

Amount of <i>marihuana</i>	More than 2.5 to 5 ounces or more than 15 grams of <i>marihuana concentrate</i>	More than 5 ounces
Penalty	(i) For the first offense: a municipal civil infraction punishable by a fine of not more than \$500. (ii) For the second offense: a municipal civil infraction punishable by a fine of not more than \$1,000. (iii) For the third or subsequent offense a misdemeanor punishable by a fine of not more than \$500 and reasonable court costs of not more than \$1,000.	A misdemeanor punishable by a fine of not more than \$500 and reasonable court costs of not more than \$1,000. If the violation is willful, habitual, and for a commercial purpose; or involves a violent act, it is punishable by a fine of not more than \$500; reasonable court costs of not more than \$1,000; and imprisonment for a term not exceeding 90 days.

Cross-reference: MCL 333.27951 *et seq.*

SECTION 2. That Chapter 22, Section 22-210 of the Code of Ordinances of the City of Warren, Michigan,

IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 22-210. - Exceptions.

- (a) This division shall not apply to manufacturers, wholesalers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories,

medical doctors, osteopathic physicians, dentists, veterinarians, pharmacists, and embalmers in the normal legal course of their respective business or profession, nor to persons suffering from any other medical condition lawfully utilizing a controlled substance and or drug paraphernalia, as defined herein, in accordance with applicable state or federal law.

- (b) This Division shall not apply to any person lawfully possessing *marihuana accessories* pursuant to State Law.

SECTION 3. This Ordinance shall take effect on March 11, 2020.

I HEREBY CERTIFY that the foregoing Ordinance No. 80-782 was adopted by the Council of the City of Warren at its meeting held on February 11, 2020.

SONJA BUFFA
City Clerk

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