

Michigan Model Marihuana Ordinance Overview

The following model ordinance was drafted to enable Michigan local governments to develop a State-compliant framework for authorizing local permitting of cannabis businesses while ensuring public safety and moving towards minimizing the illegal cannabis market. With recent directives from the Department of Licensing and Regulatory Affairs (LARA) and the Michigan Medical Marihuana Program (MMMP), it is clear that local governments must pass opt-in legislation for their jurisdiction to participate and license Medical Marihuana Facilities. Given the number of Medical Marihuana patients that have come to rely on the critical medication dispensed at Provisioning Centers and the opportunity for local governments to access much needed sales tax revenue at a time when budgets are particularly challenging, it is necessary to work swiftly to make the necessary changes.

The initial draft of the model ordinance was compiled from a combination of the best elements of the current cannabis ordinances that have been proposed or enacted in Michigan and combined with some elements of successful regulations that have emerged in other states. This draft is conformed to the Michigan Medical Marihuana Facilities Act, The Michigan Medical Marihuana Act, and the Marihuana Tracking Act.

This ordinance is comprehensive, containing regulatory criteria for all cannabis business licensing categories, and providing local governments with the local control and flexibility to remove or approve licensing categories as it best suits the applicable community. The ordinance is structured generally as follows:

- **Article 2XX.2** Definitions of Relevant Terminology
- **Article 2XX.3** Opt-In Provision. It is necessary to take legislative action for a local government to permit Medical Marihuana Facilities to operate in their jurisdiction.
- **Article 2XX.4-Article 2XX.5** Creates a Local Medical Marihuana Commission or gives an existing City position, like the City Manager, the authority to issue licenses.
- **Article 2XX.6-Article 2XX.8** License Requirement, Application Requirements and Associated Fees.
- **Article 2XX.12** Inspections and Investigations
- **XX.13 through XX.16** Operational Standards for each type of Medical Marihuana Facility
- **Article 2XX.17** Zoning and Zoning Board of Appeals

Date	Material Revision
10-22-17	Initial Draft
11-1-17	Update to include drafting notes and requested model language from other municipalities. Editing and updates to proposed Local Marihuana Commission to better reflect best practices from other jurisdictions
11-12-17	Clarifying the inaugural terms of the members of the Marihuana Commission

Commentary and Drafting Notes

1. Editing Notes.

- 1.1. **City Name.** Conduct a find and replace for [THE CITY] to fill correct name.
- 1.2. **Chapter Number.** The Model Ordinance is drafted to be a Chapter insertion in the City code. Setting the Chapter number can be accomplished by changing the [XX-XX] references to the applicable Chapter number and changing the “XX-XX” numbering prefixes in the autonumbering to the appropriate Chapter.
- 1.3. **Effective Date.** Conduct a find and replace for [EFFECTIVE DATE] to insert the effective date of this legislation. In order to reduce or eliminate the need for Medical Marihuana Facilities to experience interim closures that would harm their business and patients, it is important to consider using emergency legislation for the earliest effective date allowed by law.

2. City Considerations.

- 2.1. **Reducing City Enforcement Costs.** Based on public information requests in several cities which have conducted enforcement raids, we estimate that an enforcement action against an illegal operator costs the applicable jurisdiction between \$50,000 and \$100,000 for each action, excluding incarceration and judicial costs. Without local jurisdictions adopting policies designed to reduce the illegal market such as ensuring sufficient business density of 1 Provisioning Center per 7500 people, law enforcement becomes the sole means of eradicating the illegal market. The legal market itself should be viewed as a tool in minimizing the illegal market in conjunction with traditional enforcement, however, this is only achieved through policies that create advantages for legal market operators over illegal operators. Cities can channel demand for cannabis towards legal outlets by making legal businesses more competitive regarding price, accessibility and advertising. This tailoring allows law enforcement to focus on a smaller number of remaining actors, who will lose a significant portion of funding to legal points of sale.
- 2.2. In addition to considering the cost per enforcement action, there is also the issue of illegal operator reopen rates after a raid. Generally, we have found that illegal shops tend to have a reopen rate that rises linearly with the size of the illegal market. So, for instance, in a jurisdiction with a 50% illegal market rate, we observe a rate of closed shops reopening that is approximately 40-50%. In this example, it may easily cost 2x- 3x more to shut illegal shops down to account for the rate of reopen. As illegal market rates tail down towards 20-30%, we observe much more success in keeping illegal market operators from reopening.
- 2.3. Organizing a legal Marihuana marketplace will produce economic benefits to local governments. The resulting taxes that are shared with locals from the state are expected to generate \$19.5M for the cities that opt-in and \$22.2M for county governments. Add that to the local property taxes generated from commercial Marihuana businesses, as well as local application and license fees and the results can be significant revenue. Jurisdictions that opt-in will bring this new revenue to their communities to support a host of much-needed infrastructure investment, and expansion of community services and Facilities.
- 2.4. A legal Marihuana marketplace creates local entry-level and skilled jobs that typically pay beyond minimum wage. Each Provisioning Center is required to have at least two

people working during all hours of operation, but the average Provisioning Center will have several part-time to full-time greeters that are responsible for verifying valid medical recommendations and limiting access to the sales floor to patients and caregivers, budtenders that are responsible for helping patients choose the appropriate product and making the sale, as well as Managers or supervisors. These are jobs that create jobs, increase payroll taxes, and increase investment into the local economy.

CITY COUNCIL OF [THE CITY], MICHIGAN, ADDING CHAPTER [XX] MEDICAL MARIHUANA FACILITIES

An Ordinance to opt-in to [the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016](#), to establish standards and procedures to license and regulate Medical Marihuana Facilities on the issuance, renewal or revocation of business licenses for Medical Marihuana Facilities, to set forth definitions, to require a license, establish application qualifications and review, compliance inspections and investigations of Applicants, to authorize fees, to establish conditions for operation and locational specifications for schools, public libraries, and other Medical Marihuana Facilities, to require compliance with state laws and regulations, to impose civil penalties for violations, to provide for police review, and to minimize adverse effects, if any, from the cultivation, processing, dispensing and storage of medical Marihuana, all in order to protect the public health, safety and welfare.

The purpose of this Chapter is to exercise the police, regulatory, and land use powers of [THE CITY] by licensing and regulating Medical Marihuana Facilities which include Provisioning Centers, Grower Facilities, Safety Compliance Facilities, Secure Transporters, and Processor Facilities to the extent permissible under state of Michigan and federal laws and regulations and to protect the public health, safety, and welfare of the residents of [THE CITY]; and as such this Chapter constitutes a public purpose.

The City finds that the activities described in this Chapter are significantly connected to the public health, safety, security, and welfare of its citizens and it is therefore necessary to regulate and enforce safety, security, fire, police, health and sanitation practices related to such activities and to provide a method to defray administrative costs incurred by such regulation and enforcement. The City further finds and declares that economic development, including job creation and training, and the protection of the public health, safety, and welfare of neighborhoods and residents are public purposes. Except as may be required or permitted by law or regulation, it is not the intent of this Chapter to diminish, abrogate, or restrict the protections for medical use of Marihuana found in the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act or Section [XX] of [THE CITY] City charter.

WHEREAS, the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016 requires local licenses for Medical Marihuana Facilities; and,

WHEREAS, it is the purpose and intent of the City to regulate Marihuana in a manner that is consistent with Michigan law and promotes the health, safety, and general welfare of the residents and businesses within the City, while limiting any negative impacts; and,

WHEREAS, the City desires to reduce the illegal market for Marihuana while minimizing the chances of social harm and by creating jobs and access to important medication for qualified individuals living, working and getting treatment in the City; and,

WHEREAS, nothing in this Ordinance shall be construed to allow persons to engage in conduct that violates the law, endangers others, causes a public nuisance, allows the illegal use or diversion of Marihuana, or allows any activity relating to Marihuana that is otherwise illegal under Michigan law, as amended, except to the extent otherwise specifically set forth.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF [THE CITY] DOES ORDAIN AS FOLLOWS:

Article 1 The above recitals are true and correct and are incorporated herein.

Article 2 City Code Chapter [XX] (Marihuana Facility Permitting and Regulation) is hereby added, and is to read in its entirety as follows:

XX.1 Intent and Purposes. The intent and purpose of this Chapter is to regulate Medical Marihuana Facilities (as defined below) in accordance with State law (as defined below) to promote the health, safety, morals, and general welfare of the residents and businesses within the City. The City is authorized to regulate this activity pursuant to the [Medical Marihuana Facilities Licensing Act, 2016 PA 281](#), and the [Marihuana Tracking Act PA 282](#). The goals of this regulation include:

- A. Provide qualifying patients access to medical Marihuana,
- B. Ensure the safety of qualifying patients, primary caregivers, and the general public;
- C. Ensure that a portion of the City's costs in accommodating Medical Marihuana Facilities are supplemented;
- D. Minimize adverse effects, if any, from the cultivation, processing, dispensing and storage of Marihuana, and
- E. Comply with the [Michigan Medical Marihuana Act MCL 333.26421 et seq.](#), in order to protect and enhance the public health, safety, and welfare.
- F. Nothing contained within this Chapter shall be construed to:
 - 1. Relieve a person of the duties and obligations imposed under state law. Notwithstanding the foregoing, it is not the intent of this Chapter to diminish, abrogate or restrict protections for the medical use of Marihuana provided in the Michigan Medical Marihuana Act.
 - 2. The licensing provisions of this Chapter are regulatory in nature but remain subject to a reasonable variance that could be granted by the City's Board of Zoning Appeals.
 - 3. Limit an individual or entity's rights under the MMFLA, MMMA, or MTA. These acts supersede this ordinance where there is a conflict between them and the immunities and protections established in the MMMA, unless superseded or preempted by the MMFLA.
 - 4. All activities related to medical Marihuana, including those related to a Provisioning Center, a Gower Facility, a Secure Transporter, a Processor or a Safety Compliance Facility shall be in compliance with the rules of the Medical Marihuana Licensing Board, the rules of the Michigan Department of Licensing and Regulatory Affairs, or any successor agency, the rules and regulations of the [THE CITY], the MMFLA, MMMA and the MTA.

XX.2 Definitions. The following words, terms and phrases, when used in this Chapter, shall have the meanings provided in this section. Any term defined by the MMFLA, MMMA, or MTA shall have the definition given in those acts, as amended, and if the definition of a word or phrase set forth in this Chapter conflicts with the definition in the MMFLA, MMMA or MTA, or if a term is not defined but is defined in the MMFLA, MMMA or MTA, then the definition in the

MMFLA, MMMA, or MTA shall apply.

- A.** “**Applicant**” means a person who applies for a state operating license in [THE CITY]. With respect to disclosure in an application, or for purposes of ineligibility for a license under Section 402 of MMFLA, the term Applicant includes an officer, director, and Managerial employee of the Applicant and a person who holds any direct or indirect ownership interest in the Applicant.
- B.** “**Board**” means the Board of Marihuana Regulation, as established by Section XX.4
- C.** “**City**” means [THE CITY], Michigan.
- D.** “**Commission**” means the [THE CITY] Medical Marihuana Commission.
- E.** “**Department**” means Department of Development
- F.** “**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, provisioning center, or another grower.
- G.** “**Licensee**” means a person who has received a license to operate a Medical Marihuana Facility in the City.
- H.** “**Marihuana**” means all parts of the plant *Cannabis sativa* L., growing or not; the seeds of that plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. Marihuana does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination. Marihuana does not include industrial hemp grown or cultivated, or both, for research purposes under the industrial hemp research act.
- I.** “**Marihuana Facility**” means a location at which a licensee is licensed to operate in the City.
- J.** “**MMFLA**” means the [Medical Marihuana Facilities Licensing Act, 2016 PA 281](#), as amended.
- K.** “**MMMA**” means the [Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 to 333.26430](#), as amended.
- L.** “**MTA**” means the [Marihuana Tracking Act, 2016 PA 282, MCL 333.27901 to 333.27904](#), as amended.
- M.** “**Ordinance**” means the ordinance adopting this Chapter.
- N.** “**Person**” means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- O.** “**Processor**” means a licensee that is a commercial entity located in the State 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 packaged form to a provisioning center, or another processor.

P. “Provisioning Center” means a licensee that is a commercial entity located in the 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.

Q. “Registered Qualifying Patient” means a qualifying patient who has been issued a current registry identification card under the Michigan Medical Marihuana Act or a visiting qualifying patient as that term is defined in section 3 of the [Michigan Medical Marihuana Act, MCL 333.26423](#).

R. “Registry Identification Card” means that term as defined in section 3 of the [Michigan Medical Marihuana Act, MCL 333.26423](#).

S. “Safety Compliance Facility” means a licensee that is a commercial entity that takes Marihuana from a Marihuana Facility or receives Marihuana from a registered primary caregiver, tests the Marihuana for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the Marihuana to the Marihuana Facility.

T. “Secure Transporter” means a licensee that is a commercial entity located in the State that stores Marihuana and transports Marihuana between Marihuana Facilities for a fee.

XX.3 Opt-In Provision. Pursuant to Section 205(1) of the MMFLA, the City shall authorize licenses in accordance with the provisions of this Chapter for the following types of Medical Marihuana Facilities:

- A. Growers (Class A, Class B & Class C);
- B. Processors;
- C. Provisioning Centers;
- D. Safety Compliance Facilities; and
- E. Secure Transporters.

XX.4 Governing Structure.

[Governing Structure Alternative 1] Establishment of a Medical Marihuana Commission.
[Drafting Note- Insert definition “Commission” means the Medical Marihuana Commission, as established by Section XX.4]

A. The Medical Marihuana Commission is hereby established. The Commission shall consist of five (5) members, who shall be appointed by the mayor with the consent of City council. Members shall serve for terms of office of three (3) years. For the initial appointments to the Commission, one member, serving as the registered qualifying patient, shall serve for a term of one (1) year, two members, representing the Marihuana

Facilities industry, shall serve for a term of two (2) years, and two members, representing the medical field and police department, shall serve for a term of three (3) years.

B. The members of the Commission shall include the following and shall be nominated by the mayor and confirmed by the City Council:

1. One (1) Registered Qualifying Patient or Medical Marihuana Caregiver;
2. One (1) representative from the Marihuana Facilities industry, to include any of the Marihuana licensing types allowed by the State;
3. One (1) representative from the medical field or public health.
4. One (1) representative from the police department;
5. One representative from the City Council.

C. Each member shall be a resident of the City or own and operate a business that is located in the City, except the member representing Medical Marihuana Patient interests, which shall be a resident of the City.

D. The chairperson of the Commission shall be elected annually by a majority vote of the members of the Commission. The Commission may meet at such times as the Commission may determine. The Commission shall adopt and file its own rules of procedure in accordance with the procedures set forth in [CHARTER REFERENCE]. All meetings of the Commission shall be held in conformance with the [Michigan Open Meetings Act, 1976 PA 267, 19 MCL15.261 et seq.](#) The physical presence of three (3) members shall constitute a quorum for Commission meetings. A majority vote of members physically present at a duly convened meeting of the Commission, a quorum being present, shall be necessary for any action. Electronic or telephonic presence shall not constitute physical presence; nor shall any such means be utilized for voting or decision-making purposes.

E. The Commission shall review and decide all appeals that are forwarded to it by the City Manager under this Chapter. The Commission's review of an appeal shall not be de novo. The Commission shall only overturn, or modify, a decision or finding of the City Manager or designee if it finds such decision or finding to be arbitrary or capricious and not supported by material, substantial, and competent facts on the whole record considered by the City Manager in arriving at such decision or finding.

F. The Commission may propose changes to this Chapter to the City Council and may recommend rules and regulations related to this Chapter for Council approval.

G. The City Manager or other designated City employee shall serve and advise the Commission in an ex officio non-voting capacity.

[End Governing Structure Alternative 1]

[Governing Structure Alternative 2- Utilize the local government's existing structures, e.g. City Manager. Delete all language in governing structure 1.]

A. Commercial Marihuana Activity shall only be allowed upon application and issuance of a license by the City in accordance with the criteria and process set forth in this Chapter and City Code. The City Manager or the City Manager's designee may

approve applications or operations that vary from the criteria set forth in this Section and City Code to further achieve the aims of City Code and the City. [**End of Governing Structure Alternative 2**]

XX.5 License Required.

A. No person shall operate a Medical Marihuana Facility in the City without first obtaining a license from the City in accordance with the provisions of this Chapter. A separate license is required for each Medical Marihuana Facility.

B. A Provisioning Center in operation since at least August 15, 2017 through the effective date of this Chapter may continue to operate provided it:

1. Has applied to obtain a license from the City within 30 days of the effective date of this Chapter; and
2. Complies with the license requirements imposed by Section XX.7 of this Chapter, as determined by the Department, within 120 days of the effective date of this Chapter.

C. Licensees may transfer a license issued under this Chapter to a different location upon receiving written approval from the City Manager. To request approval to transfer a license location, the licensee must make a written request to the City Manager, indicating the current license location and the proposed license location. Upon receiving the written request, the City Manager shall refer a copy of the written request to each of the following for their approval: the Fire Department, the Building Safety Department, the Police Department, the Zoning Department, and the City Treasurer. No license transfer shall be approved unless each such individual department, or entity gives written approval that the licensee and the proposed license location meet the standards identified in this Chapter or fails to provide an objection within fifteen (15) business days of receipt, and the City Manager has determined that the proposed location meets the requirements set forth in this Chapter.

D. Licensees may transfer a license issued under this Chapter to a different individual or entity upon receiving written approval by the City Manager. To request approval to transfer a license to a different individual or entity, the licensee must make a written request to the City Manager, indicating the current licensee and the proposed licensee. Upon receiving the written request, the City Manager shall consider the request as a new application for a license and the procedures set forth in this Chapter shall be followed including submission of the license application fee. Application fees are non-transferable.

E. Licensees shall report any other change in the information required by this Chapter to the City Manager within ten (10) business days of the change. Failure to do so may result in suspension or revocation of the license.

F. Any license application approved pursuant to this Chapter shall not be effective, and no Medical Marihuana Facility may operate, unless the Medical Marihuana Facility is operated pursuant to a license or approval issued under the MMFLA, MMFLA and MTA.

G. The term of each license for a proposed location shall be one (1) year. A license issued under this Chapter for a proposed location may be conditioned on the approval of the operator by the state pursuant to the MMFLA, MMMA, and MTA at the location licensed under this Chapter.

XX.6 Application Requirements

A. Any person seeking to operate a Medical Marihuana Facility shall file an application upon a form provided by the Department. The application shall include, or include as an attachment, the following information:

1. The name, age, address, principal telephone number and email address of the Applicant;
2. The name, age, address, principal telephone number and email address of all business partners of the Applicant holding at least 10% ownership;
3. A document acknowledging any and all pertinent criminal conviction(s) on all individuals listed in the application or a signed release authorizing the Department or their designee to perform criminal background checks on all individuals listed within the application;
4. If the Applicant is a corporation, the names and addresses of all directors, officers or shareholders as well as the name and address of the registered agent;
5. If the Applicant is a partnership, the names and addresses of all general partners, limited partners, or officers as well as the name and address of the registered agent;
6. If the Applicant is a limited liability company, the names and addresses of all directors, managers, members, or officers as well as the name and address of the registered agent;
7. If the Applicant is any other legal entity, the names and addresses of all directors, members, officers, partners, or shareholders as well as the name and address of the registered agent;
8. The address of the property/building proposed to be used as a Medical Marihuana Facility and supporting documents to demonstrate applicable zoning designations or reference to a pending zoning variance or special use permit application;
9. The type of Medical Marihuana Facility proposed to be operated and a narrative describing the Applicant's experience with such an operation, including whether associated permits, licenses or approvals had been denied, suspended or revoked;
10. An Applicant for a Grower's License or a Processor's License shall not be a current registered primary caregiver and shall not employ an individual who is simultaneously a registered primary caregiver;
11. A description of the security plan for the Medical Marihuana Facility, including, security precautions, recording/monitoring devices inclusive of retention policy, barriers and lighting;
12. A description of the storage Facilities and related equipment for all medical Marihuana, regardless of its form;

13. A description of the process for tracking quantities and inventory controls for medical Marihuana, regardless of its form, including cultivation and disposal;

14. A description of the products and services to be provided by the Medical Marihuana Facility;

15. A description of the procedures for testing of contaminants and the labeling of medical Marihuana products, regardless of form;

16. Any other information the Applicant believes is needed to fully and completely describe the services the Applicant intends to provide or the benefits the Applicant will provide to the City and the greater community.

B. To the extent permissible under law, all information submitted in conjunction with an application for a license or license renewal required by this Chapter is confidential and exempt from disclosure under the [Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231 et seq](#), including the trade secrets or commercial or financial information exemptions available under [section 13 \(f\) of the Michigan Freedom of Information Act](#). Furthermore, no personal or medical information concerning the Applicant shall be submitted to the Medical Marihuana Commission. Except as may be required by state or federal law, the Department will keep all application materials confidential.

XX.7 Application Fee.

A nonrefundable application fee shall be paid upon filing the application for a license. The application fee shall not exceed \$2,000. The fee shall be intended to defray costs incurred by the City to process the application.

XX.8 License Issuance.

A. If the application and proposed Medical Marihuana Facility meets all the requirements of this Chapter, the Department shall issue a license in writing. A license that is issued under this Chapter shall be posted at all times inside the licensed Medical Marihuana Facility in a conspicuous location visible from the public entrance.

B. The term of a license shall be for one year. Any application to renew a license shall be made using the procedure for an original license as specified in this Chapter.

C. A license issued under this Chapter is nontransferable, except by application for transfer which shall be granted if the transferee is eligible to hold that license.

D. A renewal license shall be issued unless the license has not been renewed by the state Department of Licensing and Regulatory Affairs.

E. A conditional license shall be issued to Applicants operating prior to [EFFECTIVE DATE] and those requesting to transfer ownership or location of qualifying a licensed Provisioning Center, allowing them to operate before final approval of the permanent license or license transfer.

XX.9 License Fee.

A license fee shall be paid upon the issuance of each license under this Chapter. The license fee shall be paid upon the issuance new and renewed licenses. The license fee shall be no more than

\$5,000 per year and any increase beyond this limit must be approved by resolution of the City Council. The fee shall be intended to defray the costs incurred by the City to process and monitor licensed facilities.

XX.10 License Denial, Revocation and Appeal.

A. A license applied for or issued under this Chapter may be denied or revoked on any of the following bases:

1. A material violation of any provision of this Chapter, including, but not limited to, the failure to provide the information required by this Chapter; or
2. Any conviction of a disqualifying felony by the licensee, stakeholder, or any person holding an ownership interest in the license; or
3. Any material fraud, misrepresentation or false statement in an application, any materials filed with an application or related to a license, any materials provided in conjunction with an application or license, or any statement related to an application or license made to any City officials or agents;
4. Failure to obtain or maintain a license or renewed license from the City Manager pursuant to this Chapter; or
5. Failure of the licensee or the Medical Marihuana Facility to obtain or maintain a license or approval from the state pursuant to the MMFLA, MMMA and MTA;
6. The Medical Marihuana Facility is determined by the City to have become a public nuisance or otherwise is operating in a manner detrimental to the public health, safety or welfare.

B. Any license issued under this Chapter may be revoked by the City Manager after an administrative hearing if the City Manager finds and determines that grounds for revocation exist. Any grounds for revocation must be provided to the licensee at least ten (10) days prior to the date of the hearing by first class mail to the address given on the license application or any address provided to the City Manager in writing subsequent to the filing of an application.

C. The City Manager shall notify an Applicant of the reason(s) for denial of an application for a license or license renewal or for revocation of a license or any adverse decision under this Chapter and provide the Applicant with the opportunity to be heard. Any Applicant aggrieved by the denial or revocation of a license or adverse decision under this Chapter may appeal to the City Manager, who shall appoint a hearing officer to hear and evaluate the appeal and make a recommendation to the City Manager. Such appeal shall be taken by filing with the City Manager, within fourteen (14) days after notice of the action complained of has been mailed to the Applicant's last known address on the records of the City Manager, a written statement setting forth fully the grounds for the appeal. The City Manager shall review the report and recommendation of the hearing officer and make a decision on the matter. The City Manager's decision may be further appealed to the Commission if applied for in writing to the Commission no later than thirty (30) days from the City Manager's decision. The review on appeal of a denial or revocation or adverse action shall be by the Commission. Any decision by the Commission on an appeal shall be final for purposes of judicial review.

XX.11 Penalties.

- A. Any violation of this Chapter shall be an ordinance violation punishable by a fine not to exceed \$500 or 93 days in jail.
- B. In addition to the penalties provided by this section, the district court shall have equitable jurisdiction to enforce any judgment, writ, or order necessary to enforce any provision of this Chapter, including, but not limited to, abatement of the violating condition or the granting of injunctive relief.
- C. Contested hearings under this section before the district court may be conducted as an informal hearing and as a formal hearing, as may be applicable, as provided by the Revised Judicature Act of 1961, 1961 PA 236, as amended, MCL 600.101 et seq.

XX.12 Inspections, Investigations.

- A. Upon application and before any license under this Chapter is issued for a Medical Marihuana Facility, the application shall be referred to appropriate departments of the City, including, the Fire Department and Code Enforcement for respective reports on compliance with all applicable City ordinances, State laws, rules and regulations, including the following:
 - 1. Zoning. The Medical Marihuana Facility shall meet applicable requirements of the local zoning ordinance or have successfully obtained a variance;
 - 2. Building and property maintenance codes. The Medical Marihuana Facility shall meet applicable requirements of the [Stille-DeRossett-Hale Single State Construction Code Act, 1972 PA 230, as amended, MCL 125.1501 et seq.](#),
 - 3. Fire protection and safety. The Medical Marihuana Facility shall meet applicable requirements of the local [FIRE CODE];
 - 4. Plumbing. The Medical Marihuana Facility shall meet applicable requirements of the [Stille-DeRossett-Hale Single State Construction Code Act, 1972 PA 230, as amended, MCL 125.1501 et seq.](#), and [the Michigan Plumbing Code](#), as amended;
 - 5. Lighting. The Medical Marihuana Facility shall have adequate lighting in every part of the premises in compliance with applicable requirements of [the Michigan Electrical Code](#), as amended;
 - 6. Health and Sanitation. All rooms within the premises shall meet the requirements of the [Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.1101 et seq.](#), including those concerning food preparation and sanitation.
- B. A license shall not be issued or renewed until satisfactory inspections and reviews are completed by the departments delineated in subsection XX.12.A, and written reports are issued indicating that the Applicant follows the requirements of this section.
- C. In addition to the inspections required above, upon application and before any license under this Chapter is issued for a Medical Marihuana Facility, the application shall be referred to the City's Police Department and Finance Department for respective reports on compliance with the following:

1. The Police Department shall complete criminal background checks on all individuals listed within the application;
2. The Finance Department shall cause an investigation to be completed to determine whether any property or income taxes, special assessments, fines, fees or other financial obligations to the City are unpaid, outstanding or delinquent.

D. A license shall not be issued or renewed until satisfactory inspections and reviews are completed by the departments delineated in subsection XX.12.C. A license shall not be issued or renewed by the Department for any Medical Marihuana Facility until after both of the following have occurred:

1. The Police Department provides written confirmation that all individuals listed within the application do not have any felony convictions related to fraud, embezzlement, or illegal narcotics, except Marihuana convictions prior to January 1, 2012; and
2. The Finance Department provides written confirmation that the Applicant is not in arrears for any property or income taxes, special assessments, fines, fees or other financial obligations to the City.

E. For purposes of ensuring compliance with this Chapter, owners or operators of licensed Medical Marihuana Facilities shall permit members of the City's Police Department, or any employee agent of the City that is authorized by the City's code of ordinances, upon providing proper identification to the owners or operators of licensed Medical Marihuana Facilities, to inspect, during regular business hours, any portion of a Medical Marihuana Facility, subject to constitutional restrictions on unreasonable searches and seizures. Owners or operators of licensed Medical Marihuana Facilities may permit members of the City's Police Department, or any employee agent of the City that is authorized by the City's code of ordinances, to access video surveillance of any portion of a Medical Marihuana Facility, subject to constitutional restrictions on unreasonable searches and seizures. Where entry is refused or not obtained, the City is authorized to pursue recourse as provided by law.

XX.13 Minimum Operational Standards of a Medical Marihuana Provisioning Center.

- A.** Every Medical Marihuana Provisioning Center must be located in a building.
- B.** No Medical Marihuana Provisioning Center shall be open between the hours of 10 p.m. and 9 a.m.
- C.** Consumption of Marihuana shall be prohibited on the premises of a Medical Marihuana Provisioning Center;
- D.** A Medical Marihuana Provisioning Center shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site location for a period of fourteen (14) days;
- E.** Unless permitted by the MMMA, public or common areas of the Medical Marihuana Provisioning Center must be separated from restricted or non-public areas of the Provisioning Center by a permanent barrier. Unless permitted by the MMMA, no

medical Marihuana is permitted to be stored, displayed, or transferred in an area accessible to the general public;

F. All medical Marihuana storage areas within Medical Marihuana Provisioning Center must be separated from any customer or patient areas by a permanent barrier. Unless permitted by the MMMA, no medical Marihuana is permitted to be stored in an area accessible by the general public or registered customers or patients. Medical Marihuana may be displayed in a sales area only if permitted by the MMFLA;

G. Any usable Marihuana remaining on the premises of a Medical Marihuana Provisioning Center while the Medical Marihuana Provisioning Center is not in operation shall be secured in a safe permanently affixed to the premises;

H. No Medical Marihuana Provisioning Center shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the property on which the Medical Marihuana Provisioning Center is operated;

I. The license required by this Chapter shall be prominently displayed on the premises of a Medical Marihuana Provisioning Center;

J. Disposal of medical 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 state law;

K. All medical Marihuana delivered to a patient shall be packaged and labeled as provided by State law and this Chapter. The label shall include:

1. A unique alphanumeric identifier for the person to whom it is being delivered;
2. A unique alpha numeric identifier for the cultivation source of the Marihuana;
3. That the package contains Marihuana;
4. The date of delivery, weight, and type of Marihuana;
5. A certification that all Marihuana in any form contained in the package was cultivated, manufactured, and packaged in the State of Michigan;
6. A warning stating “This product is manufactured without any regulatory oversight for health, safety or efficacy. There may be health risks associated with the ingestion or use of this product. Using this product may cause drowsiness. Do not drive or operate heavy machinery while using this product. Keep this product out of reach of children. This product may not be used in any way that does not comply with state law or by person who does not possess a valid Medical Marihuana Patient Registry Card. Consult your physician if your medical history has changed since obtaining your recommendation, or if you are, or think you may, be pregnant.”
7. The name, address, email address, and telephone number of an authorized representative of the dispensary whom a patient can contact regarding questions about the product.

L. A licensee shall require all registered patients present both their Michigan Medical Marihuana patient/caregiver id card and state identification prior to entering

restricted/limited areas or non-public areas of the Medical Marihuana Provisioning Center, and if no restricted/limited area is required, then promptly upon entering the Medical Marihuana Provisioning Center.

M. The premises shall be open for inspection during the stated hours of operation and as such other times as anyone is present on the premises.

N. It shall be prohibited to display any signs that are inconsistent with local laws or regulations or state law.

O. It shall be prohibited from displaying or distributing in any manner, physically or electronically, advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors.

P. Certified laboratory testing results that display at a minimum the tetrahydrocannabinol (THC), cannabidiol (CBD), total cannabinoid testing results, major terpenes, and a pass/fail rating based on the certified laboratory's state-required testing must be available to all Medical Marihuana Provisioning Center patients/customers upon request.

XX.14 Minimum Operational Standards of a Medical Marihuana Grower Facility.

A. A Marihuana Grower Facility shall comply with the MMMA, the MMFLA, the MTA, and the general rules of the Medical Marihuana Licensing Board and the Department of Licensing and Regulatory Affairs, or their successors, as the foregoing laws and regulations may be amended from time to time;

B. Except as provided by state law, consumption or use of medical Marihuana shall be prohibited at the Grower Facility;

C. All Grower activity related to the Grower Facility shall be performed in a building;

D. The premises shall be open for inspection by agents, inspectors or enforcement officers of [THE CITY] during the stated hours of operation and as such other times as anyone is present on the premises; provided, however, that to ensure security any party conducting an inspection may be required to show a valid identification card demonstrating their authority to conduct such inspection;

E. Any Medical Marihuana Grower Facility shall comply with the MTA and shall maintain a log book or database identifying by date the amount of medical Marihuana and the number of medical Marihuana plants on the premises which shall not exceed the amount permitted under the Grower license issued by the State of Michigan. This log shall be available to law enforcement personnel to confirm that the Medical Marihuana Grower does not have more medical Marihuana than authorized at the location and shall not be used to disclose more information than is reasonably necessary to verify the lawful amount of medical Marihuana at the Facility;

F. All medical Marihuana shall be contained within the building in a locked facility in accordance with the MMMA, the MMFLA, MTA, and the rules and regulations of the Medical Marihuana Licensing Board, as amended;

- G.** All necessary building, electrical plumbing and mechanical permits shall be obtained from [THE CITY] or other applicable government authority for any portion of the structure in which electrical wiring, lighting or watering devices that support the cultivation, growing or harvesting of Marihuana are located;
- H.** That portion of the structure where any chemicals such as herbicides, pesticides, solvents, and fertilizers are stored shall be subject to inspection and approval by [THE CITY] fire department to insure compliance with the Michigan fire codes;
- I.** All persons working in direct contact with medical Marihuana shall conform to hygienic practices while on duty, including but not limited to:
1. Maintaining adequate personal cleanliness;
 2. Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when the hands may have become soiled or contaminated.
 3. Refraining from having direct contact with medical Marihuana if the person has or may have an illness, lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.
- J.** Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where medical Marihuana is exposed;
- K.** Medical Marihuana cultivators may compost organic marihuana waste onsite, provided that such compositing or onsite disposal is done in a fashion to reduce the risk of diversion or nuisance;
- L.** Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair;
- M.** There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of in a manner minimize the development of odor and minimize the potential for waste development and minimize the potential for waste becoming an attractant, harborage or breeding place for pests;
- N.** Any buildings, fixtures and other facilities shall be maintained in a sanitary condition;
- O.** Each cultivation center shall provide its occupants with adequate and readily accessible toilet Facilities that are maintained in a sanitary condition and good repair;
- P.** Medical Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms;
- Q.** Medical Marihuana Grower Facilities shall be free from infestation by insects, rodents, birds, or vermin of any kind with the exception of beneficial insects utilized in accordance with cultivation best practices;
- R.** Medical Marihuana Grower Facilities shall produce no products other than useable medical Marihuana intended for human consumption.

XX.15 Minimum operational standards of a Medical Marihuana Safety Compliance

Facility.

- A.** A Safety Compliance Facility shall comply with the MMMA, the MMFLA, the MTA, and the general rules of the Medical Marihuana Licensing Board and the Department of Licensing and Regulatory Affairs, or their successors, as the foregoing laws and regulations may be amended from time to time;
- B.** Except as provided by state law consumption or use of medical Marihuana shall be prohibited at the Facility;
- C.** The premises shall be open for inspection during the stated hours of operation and as such other times as anyone is present on the premises;
- D.** Any Safety Compliance Facility shall maintain a log book or database identifying by date the amount of medical Marihuana on the premises and from which particular source. The facility shall maintain the confidentiality of qualifying patients in compliance with the MMMA, MMFLA, and MTA, as amended;
- E.** All medical Marihuana shall be contained within the building in an enclosed, locked Facility in accordance with the MMMA, the MMFLA, the MTA, and the rules and regulations of the Medical Marihuana Licensing Board, as amended;
- F.** All persons working in direct contact with medical Marihuana shall conform to hygienic practices while on duty;
- G.** Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where medical Marihuana is exposed;
- H.** Floors, walls and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair;
- I.** Any buildings, fixtures and other Facilities shall be maintained in a sanitary condition;
- J.** Medical Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms;

XX.16 Minimum Operational Standards for Medical Marihuana Processor Facilities and Medical Marihuana Secure Transporters.

- A.** Marihuana Processor Facilities and Marihuana Secure Transporters shall comply with the MMMA, the MMFLA, MTA and the general rules of the Medical Marihuana Licensing Board and the Department of Licensing and Regulatory Affairs, or their successors, as the foregoing laws and regulations may be amended from time to time;
- B.** Except as provided by state law, consumption or use of medical Marihuana shall be prohibited at the Processor or Secure Transporter Facility;
- C.** All activity related to the Processor Facility shall be performed indoors in a building;
- D.** The premises shall be open for inspection during the stated hours of operation and as such other times as anyone is present on the premises;

E. Any Processor or Secure Transporter Facility shall maintain a log book or database in accordance with the MMFLA, the MTA and the rules and regulations of the Medical Marihuana licensing board identifying by date the amount of medical Marihuana on the premises which shall not exceed the amount permitted under the Processor license issued by the State of Michigan, to the extent a state permit process exists. This log shall be available to law enforcement personnel to confirm that the Processor does not have more medical Marihuana than authorized at the location and shall not be used to disclose more information than is reasonably necessary to verify the lawful amount of medical Marihuana at the Facility;

F. All medical Marihuana will be tagged with unique identification;

G. All medical Marihuana shall be contained within the building in a locked Facility in accordance with the MMMA, the MMFLA, MTA and the rules and regulations of the Medical Marihuana Licensing Board, as amended;

H. All necessary building, electrical plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring for devices that support the processing or secure transporting of medical Marihuana are located;

I. That portion of the structure where the storage of any chemicals exist shall be subject to inspection and approval by [THE CITY] Fire Department to insure compliance with the Michigan Fire Protection Code;

J. All persons working in direct contact with medical Marihuana shall conform to hygienic practices while on duty, including but not limited to:

1. Maintaining adequate personal cleanliness;
2. Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when the hands may have become soiled or contaminated.
3. Refraining from having direct contact with Marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.

K. Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where medical Marihuana is exposed;

L. Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair;

M. There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of to minimize the development of odor and minimize the potential for the waste development of odor and minimize the potential for waste becoming and attractant, harborage or breeding places for pests;

N. Any buildings, fixtures and other Facilities shall be maintained in a sanitary condition;

O. Each Medical Marihuana Processor Facility shall provide its occupants with adequate and readily accessible toilet Facilities that are maintained in a sanitary condition and good repair;

P. Medical Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms;

Q. Processor Facilities shall be free from infestation by insects, rodents, birds, or vermin of any kind;

R. Processor Facilities shall produce no products other than useable medical Marihuana intended for human consumption.

XX.17 Zoning and Zoning Board of Appeals.

A. There are hereby established the following use districts for Medical Marihuana Facilities and their designating symbols within [THE CITY]:

[Drafting Note: This table is inserted as an example. In some cases it may be advisable to adopt the ordinance and state that zoning will be determined by either a planning board or based upon future recommendations. If such a path is taken, setting a deadline for such zoning to be established is advisable.]

License Category	Zoning Designations	Density Notes
Growers (Class A, B, and C)	M-1, M-2, M-3	No density restrictions
Processors	C-2, C-3, M-1, M-2 and M-3	No density restrictions
Provisioning Centers	C-2, C-3, M-1, M-2, M-3, B-1, B-2, and B-3	Not within 500 feet from a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center. All distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure in which the Provisioning Center is, or will be, located.
Safety Compliance Facilities	C-2, C-3, M-1, M-2 and M-3	No density restrictions
Secure Transporters	C-2, C-3, M-1, M-2 and M-3	No density restrictions

B. When applying for a license as a Provisioning Center, an Applicant who does not meet the requirements of subsection A may seek a variance from those requirements by submitting with their application a written application to the Board of Zoning Appeals and paying a fee set by Council resolution. Upon receiving an application with an accompanying application for a variance, the City Manager shall determine whether the Applicant has submitted a complete application meeting the requirements of this Chapter, an appropriate nonrefundable license application fee, and an appropriate variance

application fee. If the Applicant has satisfied these requirements, the City Manager shall immediately forward the application to the Board of Zoning Appeals.

C. The application must identify all reasons the Applicant does not meet the land use requirements of the zoning designations set forth in subsection A, including, for Provisioning Centers, the name and address of any of the real property comprising a public or private elementary, or secondary school or a public or private college, junior college or university or public library.

D. The Board of Zoning Appeals shall either grant or deny the variance within a reasonable time, not to exceed forty-five (45) days. In determining whether to grant or deny the variance, the Board of Zoning Appeals shall consider all the following:

1. The amount of time, if any, that the Applicant has been operating in substantial compliance with this Chapter at the present location;
2. The extent to which the Applicant has demonstrated a commitment to the land use and public nuisance concerns in the surrounding neighborhood;
3. The distance between the Applicant's location and any school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is within 500 feet of the Applicant's location.
4. The need for a Provisioning Center at the location in order to provide safe and efficient access to medical Marihuana within the City;
5. The character of the structure and its surroundings; and
6. The impact of the variance on the character of the structure's surroundings and owners of other properties in the vicinity.

E. If the Board of Zoning Appeals approves the variance, the application and decision shall immediately be submitted to the City Manager.

Article 3 This ordinance is hereby declared necessary to preserve the public peace, health, safety and welfare of [THE CITY].

A. All ordinances, or parts of ordinances, that conflict with this ordinance are repealed.

B. If any section, sub-section, paragraph, sentence, or word of this Chapter is deemed to be invalid, the invalidity of such provision shall not affect the validity of any other sections, sub-sections, paragraphs, sentences, or words of this Chapter, or the application thereof; and to that end, the sections, sub-sections, paragraphs, sentences, and words of this Chapter shall be deemed severable.

C. This ordinance is hereby adopted this [__] day of [MONTH] [YEAR].