



AGENDA
Special Meeting
Committee on Public Safety
Tuesday, August 6, 2019 @ 10:00 a.m. (note day/time)
City Council Conference Room, 10th Floor

Council Member Wood, Chair
Council Member Spitzley, Vice Chair
Council Member Hussain, Member

1. Call to Order

2. Roll Call

3. Minutes

- July 30, 2019

4. Public Comment on Agenda Items

5. Discussion:

- A.) DISCUSSION: Ordinance Amendments to Chapter 1300
Marihuana Establishments/Operations

6. Other

7. Adjourn



MINUTES
Special Meeting
Committee on Public Safety
Tuesday, July 30, 2019 @ 10:00 a.m.
City Council Conference Room, 10th Floor

CALL TO ORDER

The meeting was called to order at 10:00 a.m.

ROLL CALL

Council Member Carol Wood, Chair
Council Member Patricia Spitzley, Vice Chair
Council Member Adam Hussain, Member

OTHERS PRESENT

Sherrie Boak, Council Staff
Lisa Hagen, Council Legal Analyst
Heather Sumner, Assistant Deputy City Attorney
Amanda O'Boyle, Assistant City Attorney
Elaine Womboldt
Mary Ellen Purificato, Fairfield Condominium Association
Jennifer Smith- Zande, Clerks Office
Jan Fleck
Charles Fleck
Nathan Kelps, City Clerk Intern
Jinging Lin
Kevin McKinney
Linda Appling

Public Comment

Ms. Womboldt spoke on concerns that the base of this ordinance on medical marihuana. She continued with her comments by speaking on recreational marihuana. She spoke in opposition to selling of recreational marihuana in neighborhoods, and social clubs in neighborhoods. She concluded by asking for reasonable and accountability standards in the City. Comments submitted in writing.

Ms. Purificato agreed with the comments made by Ms. Womboldt.

Ms. Fleck spoke in support of the comments made by Ms. Womboldt and asked for protection of the youth and the youth in the schools.

DISCUSSION/ACTION

DISCUSSION: Ordinance Amendments to Chapter 1300 Marihuana Establishments/Operations

Council Member Wood stated the Committee will go through the amendments line by line, and noted that Council was told by OCA that if the ordinance is not passed, anyone who has a license in the State could get a license in Lansing, therefore she sees an urgency in have a regulatory ordinance in place. Ms. O'Boyle confirmed, noting that some licenses do have other factoring nuances.

Page 1, Lines 1-13; no comments; noted that the new word "Marihuana Operations" would be defined in the definitions section. In lines 8 and 9 it was noted that any spelling of "chapter" will now be "Chapter". Council Member Spitzley questioned leaving in "constitutes a public purpose" in line 8, and Ms. Sumner stated they use that language in court to prove why the ordinance is valid.

Lines 14-15; no comments

Council Member Hussain asked for public comment, and Council Member Wood stated that would occur again at the end of the meeting on the topics the Committee has discussed.

Lines 16-23; Council Member Spitzley asked if lines 19-20 as stated diminish their rights, and Ms. Sumner confirmed that changed is to identify the MTRMA.

Lines 24-32; no comments

Page 2, Lines 33-38; Council Member Spitzley noted this addresses no interference into the medical marihuana.

Lines 39-45; Deals with medical marihuana, and on line 42 Ms. O'Boyle stated that there are two spellings now of marihuana. The new language under the State is "marijuana" in a more common sense or both medical and recreational and "marihuana" when it is in an official legal document.

Lines 46-49; which is all new is for recreational to be in line with LARA.

Lines 50-52; no comment.

Page 3, Lines 53-59; it was questioned why "and is not intended to, nor shall it, create a property right" was stricken, and Ms. O'Boyle stated because it was a redundancy with line 59.

Lines 60-66; Council Member Hussain referenced page 4, lines 100-101 and the potential duplicate with "License Application". The Committee consensus was to remove lines 100-101 on page 4 and amend line 61 to state "Application/License Application". Council Spitzley asked if there will be a distinction between a medical application and a recreational application, and was told by OCA there will be one application.

Lines 67-77; Council Member Hussain asked how OCA constitutes a "building". Ms. O'Boyle stated the State defined it, and the City adopted this in conformity with the State. They have permitted names such as "greenhouses" to allow for recreational grow, and that was documented in case law. In the terms of outside growing, it is permitted to use mesh and fencing and secured with a lock. Council Member Wood asked if someone could grow in their back yard with just a fence, and Ms. O'Boyle stated it has not been explored yet, but the LPD is enforcing that the top of the area has to be covered also. Council Member Wood noted that the definition of "Building" will have a further discussion at a later meeting.

Page 4, Lines 79-85; Council Member Hussain asked for clarification on if a church is a use in a suite of building, do the buffer requirements from the suite exist since the definition speaks to "church means an entire building...". Ms. O'Boyle noted that it is what is listed under the S and Ms. Sumner added that under definitions you could argue that a suite is a building. Council Member Wood asked if there is a conflict with "church means an entire building" or with just the word "entire". Ms. O'Boyle noted that the issue might be "building". The OCA was asked to research use of "space" or "building". Council Member Spitzley suggested considering removing the word "entire".

Lines 86-90; Ms. O'Boyle clarified for the Committee that these lines were all removed because they are defined by the State law and were duplicates of other definitions. She recapped that when the City Council adopted Chapter 1300 initially, the State law was not

adopted, therefore the City created the ordinance in anticipation of what the State law might not address.

Lines 91-99; specific to line 97, Council Member Spitzley asked if these sections were only for medical marihuana. Ms. O'Boyle answered that under the State law "facility" speaks to medical, and using the word "establishment" means recreational.

Page 5, Lines 102-103; Council Member Wood asked why "entity" was not defined in the chapter but used in this "Licensee" definition. Ms. O'Boyle stated that "entity" is meant to be broad, and could be any type of business type or arrangements. The Committee decided they would discuss "entity" again. Later in the meeting, while on page 9, Lines 209-210 definition for "Person", it was determined that "entity" on page 5 line 102 can be eliminated.

Lines 104-114; Ms. O'Boyle stated they were struck because they are defined in the State law and so these are duplicates.

Lines 115-120; New section. It was noted there was a typo on line 118 "relatiler" should be "retailer". The Committee discussed specific bans, opting out and then open to litigation, therefore the thought is to have licensing structures for all uses. Council Member Hussain asked if the City has the ability to opt in and set a cap or opt in and exclude a certain type of facility. Ms. O'Boyle said the difference is medical can cap or limit but with recreational it does not have the clear law or guidance. Only says if they do limit they have to have a clear competitive process. Council Member Spitzley voiced her concern with the language if there is a potential for a lawsuit. Ms. O'Boyle acknowledged that litigation is a possibility any time they limit anything. Ms. Sumner confirmed the City has had 16 lawsuits on the medical marihuana Chapter 1300 and won all litigations.

Lines 121-124; defined by the State, therefore struck because of duplication.

Page 6, Lines 126-137; defined by the State, therefore struck because of duplication. On line 131-132, Council Member Wood noted that this was struck on a recommendation from the Mayor and Clerk, and asked the OCA to explain why. Ms. O'Boyle noted the Commission is a secondary appeal process, which caused a delay in processing of the applications. The Mayor and Clerk determined that one way to make the licensing process go smoother was to eliminate the secondary appeal, and after the appeal with the Clerk the applicant can go to court. Council Member Wood asked OCA how long the process was taking. Ms. O'Boyle pointed out that the ordinance was adopted in 2017 and they just issued their last license in 2019. Ms. Sumner added that there is 30 days to appeal and most applicants took all 30 days, then the hearing officer did the review, then it went to the Commission which could take 2 weeks to schedule. Ms. Sumner stated in an OCA opinion, that there could be appeals make it to Circuit Court, however they believe that with a single level review, and the continued good process created by the Clerk they can continue to up hold the ordinance in court. Council Member Wood then asked why just 30 days ago the administration recommended an appointment to the Commission that the OCA has written out of the ordinance. Ms. Sumner acknowledged that the Clerk is in Phase 2 of the licensing and appeals. So the last five (5) licenses will be going through the appeals process of the current Chapter 1300. Council Member Wood inquired into the possibility that if these amendments are adopted in September with immediate effect, and the appeals process is not started or done on those five (5) what occurs. Ms. O'Boyle stated the law cannot apply retroactive. <s. Sumner added that they have applied prior to this amendment adoption, so they would be heard under the old ordinance. Council Member Wood then discussed a similar situation with a moratorium, and that it was placed in effect on licensing during the process of the current ordinance. She encouraged a moratorium until Council is through this process. Ms. Sumner stated the OCA would do more research. Council Member Wood asked the OCA to come back to the next regular meeting of the Committee on August 1, 2019 with a draft document for the Committee to review. If needed, she suggested a special Council meeting August 5th after the regularly scheduled Committee of the Whole meeting.

Lines 138-144; Line 143 was referenced and Ms. O'Boyle confirmed it was eliminated because it is duplication of the State law.

Lines 145-150; Council Member Hussain asked for confirmation or denial that a Microbusiness means they can grow, process and sell, and the OCA confirmed. It was also confirmed they can sell to another safety compliance facility, but not another retailer. Council Member Wood questioned why they would sell to another facility, and Ms. Sumner explained there are different “strains” and one facility could be creating a special “strain” of the product. Council Member Wood asked if the City chose not to allow Microbusinesses, can they be eliminated in the Ordinance. Ms. O’Boyle stated that if they do that, it goes back to limiting and the City would be sued. Council Member Spitzley asked about not issuing licenses for any facilities. Ms. Sumner stated that if they do not have them, they do not have to be “competitive”, if the City ordinance sets a cap, then it has to be competitive. Council Member Spitzley asked why they can’t stay at cap of 25, and Ms. Sumner stated the OCA opinion is that at 25 they would lose if challenged in court. The Committee decided to return to lines 145-152 for a continued discussion.

Page 7, Lines 153-156; Council Member Spitzley asked if there is an already “Marihuana Establishments” why put “non-medical” before “establishments” on line 153-154. Council Member Wood referred back to page 5, lines 115-120 “Marihuana Establishments” and now on page 7 lines 153-156 speaks to the same labeled “Marihuana Operations”. Ms. O’Boyle explained that the ordinance is adopting the term, so in the rest of the ordinance it can be referred to “Marihuana Operation” and would apply to both types of licenses. The State chose to do two (2); 1- medical and 1- recreational. The OCA has attempted to link the two (2) so there is no confusion. Council Member Wood asked if both “establishments” and “operation” are needed and Ms. Sumner confirmed they are both needed because they define both.

Lines 157-164; Line 160 had a typo, “or” should be “of”. Line 162 had a typo, “otherwises” should not have the “s” on the end.

Council Member Wood asked if there are specifics on packaging as there were in the current Chapter 1300. Ms. O’Boyle replied that it is pre-empted by the State, so no. They cannot regulate packaging or infused products to the extent of how, quantity or purity. Council Member Wood asked if they can limit, and Ms. O’Boyle confirmed they can dictate license location and operation of business in a timely manner, but not able to regulate the content of the product.

Lines 165-175; Council Member Wood asked if a business is licensed to sell medical and want to sell recreational, if they have to separate the products in the facility. Ms. O’Boyle stated the inventory can be co-mingled; the State regulates from seed to sale. Ms. Sumner concurred that once the business is open for non-medical patients anyone can walk in and purchase the item. If they have a medical card they can pay less than the person who does not have a card. The business could regulate to sell only to medical card holders, but can also just tax differently. Council Member Spitzley asked if the ordinance can separate and Ms. Sumner stated no, but the OCA could research into the exact nuance.

Page 8, 176-187; Line 178 spelling of “Marijuana” was confirmed as correct. Line 183 had a typo, “lincensed” should be “licensed”.

Line 188-201; Council Member Wood asked what the difference was between lines 188-197 “Medical Marihuana Provisioning Center” and lines 182-201 “Medical Marihuana Facility”. Ms. O’Boyle offered to do an umbrella chart for the next meeting to better explain what falls under each item.

Page 9, Lines 202-210; Council Member Wood referred to lines 209-210 which spoke to their legal entities, then back to page 5 line 102 the word “entity”, and again asked if they need to define “entity”, since there is for “person”. The Committee consensus was to eliminate “entity” on page 5, Line 102.

Line 207; a hyphen (-) after Council was confirmed as correct punctuation.

Lines 211-214; Ms. O’Boyle stated this was removed because it is defined on page 7, lines 157-164 “Marihuana Processor or Medical Marihuana Processor Facility”.

Lines 215-219; Council Member Wood suggested to the Committee to remove entire definition for “Public Playground Equipment”, and use the City park list, because it will still be defined by

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the City Parks list, even though some may not have equipment. The Committee consensus was to remove lines 215-219 "Public Playground Equipment" from the ordinance.

Line 220-222; "Restricted/limited access areas", the OCA confirmed it is struck out because it is defined by the State law.

Lines 223-228; "Safety Compliance Facility or Medical Marihuana Safety Compliance Facility" is struck because defined on page 7, lines 171-177 "Marihuana Safety Compliance Facility or Medical Marihuana Safety Compliance Facility".

Page 10, Lines 229-231; no comments.

Lines 232-236; the OCA stated the language in line 235-236 "Or Marihuana Establishments" was added for recreational marihuana.

Lines 237-240; no comments.

Lines 241-251; no comments by the Committee, and it was noted that 1300.03 was completely eliminated, therefore page 10 line 245 to page 12 line 281 were completely struck.

Page 12 283-292; no comments.

The August 6th meeting will begin with the discussion on page 12, line 293.

Public Comment

Ms. Appling spoke in support of the legalization of marihuana, but also supported the City in opting out because if they do not, then her tax payer dollars would be spent on defending the ordinance.

Mr. Fleck returned to the draft document, line 229 and asked if day care fell under the definitions of "School", then referenced property at 3230 S. Pennsylvania that he believed was a grower, and they had issues with the odor on. Council Member Wood asked the Clerk's office staff present to check into the address and report back. Ms. Boak quickly checked the City website and was not able to find that specific address on S. Pennsylvania on the Licensed Grower list. Regarding "day care" Council Member Wood stated that a request could be made with the OCA to add "day care" to the "School" definitions, and Ms. O'Boyle confirmed it is already in the State law and defined in the buffering distance requirements. A discussion will be held at a later meeting on buffering when the Committee gets to that portion of the ordinance.

Ms. Womboldt spoke on the process and asked for two ordinances; one for medical and one for recreational. Council Member Wood stated that at the August 6, 2019 meeting they will discuss with the OCA why they are proposing one ordinance.

Ms. Fleck asked if the City can still opt out or missed their deadline. Council Member Wood stated they could, however she did not believe there are enough votes at Council to pass the resolution to opt-out, and if they did the Mayor could still veto that action.

ADJOURN

Adjourned at 11:34 a.m.

Submitted by Sherrie Boak,

Recording Secretary

Lansing City Council

Approved as presented:

CHAPTER 1300. - ~~MEDICAL MARIHUANA ESTABLISHMENTS~~ MARIHUANA OPERATIONS

1300.01. - Legislative intent.

The purpose of this eChapter is to exercise the police, regulatory, and land use powers of the City by licensing and regulating MARIHUANA OPERATIONS ~~medical marihuana provisioning centers, medical marihuana grower facilities, medical marihuana safety compliance facilities, medical marihuana secure transporters, and medical marihuana processor facilities~~ to the extent permissible under State and Federal laws and regulations and to protect the public health, safety, and welfare of the residents of the City; and as such this eChapter constitutes a public purpose.

The City finds that the activities described in this eChapter 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 also 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 City neighborhoods and residents are public purposes.

Except as may be required or permitted by law or regulation, it is not the intent of this eChapter 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 8-501 of the City Charter, OR, RESTRICT THE PROTECTIONS OF MARIHUANA USE UNDER THE MICHIGAN TAXATION AND REGULATION OF MARIHUANA ACT.

1300.02. - Definitions, interpretation and conflicts.

For the purposes of this chapter:

- (a) Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., as amended ("MMMA"), the Medical Marihuana Facilities Licensing Act, MCL 333.2701, et seq.

(MMFLA), AS AMENDED, THE MARIHUANA TRACKING ACT ("MTA"), MCL 333.27901, ET. SEQ., THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT (MRTMA"), MCL 333.27951, ET. SEQ., shall have the definition given in those acts; ~~as amended, and the Marihuana Tracking Act ("MTA"), MCL 333.27901, et seq.~~ if the definition of a word or phrase set forth in this eChapter conflicts with the definition in the MMMA, MMFLA or MTA, or if a term is not defined but is defined in the MMMA, MMFLA ~~or~~ MTA, OR MRTMA then the definition in the MMMA, MMFLA, ~~or~~ MTA, OR MRTMA shall apply.

(b) Any term defined by 21 USC 860(e) referenced in this eChapter shall have the definition given by 21 USC 860(e).

(c) This eChapter shall not limit an individual or entity's rights under the MMMA, MMFLA ~~or~~ MTA, OR MRTMA and these acts supersede this eChapter where there is a conflict between them and the immunities and protections established in the MMMA AND MRTMA unless superseded or preempted by the MMFLA AND/OR MRTMA.

(d) All activities related to medical marihuana, including those related to a ~~Medical~~ ~~Marihuana~~ ~~Provisioning~~ eCenter, a ~~Medical~~ ~~Marihuana~~ ~~g~~Grower ~~f~~Facility, a ~~Medical~~ ~~Marihuana~~ ~~s~~Secure ~~t~~Transporter, a ~~Medical~~ ~~Marihuana~~ ~~p~~Processor or a ~~Medical~~ ~~Marihuana~~ ~~s~~Safety eCompliance ~~f~~Facility shall be in compliance with the rules of the MARIJUANA REGULATORY AGENCY ~~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 City, the MMMA, MMFLA and the MTA.

(e) ALL ACTIVITIES RELATED TO NON-MEDICAL MARIHUANA SHALL BE IN COMPLIANCE WITH THE RULES OF THE MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS, OR ANY SUCCESSOR AGENCY, THE RULES AND REGULATIONS OF THE CITY AND MRTMA.

(ef) Any use which purports to have engaged in the cultivation or processing of ~~medical~~ marihuana into a usable form, or the distribution of ~~medical~~ marihuana, or the testing of ~~medical~~ marihuana either prior to or after enactment of this eChapter without obtaining the required licensing set

forth in this eChapter shall be deemed to be an illegally established use and therefore not entitled to legal nonconforming status under the provisions of this eChapter, and/or State law. ~~The City finds and determines that it has not heretofore authorized or licensed the existence of any medical marijuana establishment, as defined herein, in the City in and under any form whatsoever.~~ Any license granted pursuant to this eChapter shall be exclusive to the licensee, AND is a revocable privilege., ~~and is not intended to, nor shall it, create a property right.~~ Granting a license does not create or vest any right, title, franchise, or other property right.

(fg) The following terms shall have the definitions given:

Application means an application for a license pursuant to the terms and conditions set forth in Sections 1300.054 and 1300.065.

Application for a License #Renewal means an application for a license renewal pursuant to the terms and conditions of Section 1300.076.

Buffered #Use means a use subject to the buffering and dispersion requirements of Sections 1300.13(a)10 and 1300.13(d)11.

Building means an independent, enclosed structure having a roof supported by columns or walls, intended and/or used for shelter or enclosure of persons or chattels. When any portion of a structure is completely separated from every other part by dividing walls from the ground up, and without openings, each portion of such structure shall be deemed a separate structure, regardless of whether the portions of such structure share common pipes, ducts, boilers, tanks, furnaces, or other such systems. This definition refers only to permanent structures, and does not include tents, sheds, greenhouses and private garages on residential property, stables, or other accessory structures not in compliance with MMMA OR MRTMA. A building does not include such structures with interior areas not normally accessible for human use, such as gas holders, tanks, smoke stacks, grain elevators, coal bunkers, oil cracking towers or similar structures.

Chapter means this Chapter 1300.

Church means an entire building set apart primarily for purposes of public worship, and which is tax exempt under the laws of this state, and in which religious services are held, and the entire building structure of which is kept for that use and not put to any other use inconsistent with that use.

City means the City of Lansing, Michigan.

Council or *City Council*, means the City Council of Lansing, Michigan.

Clerk shall mean the City Clerk of Lansing, Michigan.

~~*Cultivation or cultivate* as used in this chapter means: (1) all phases of growth of marihuana from seed to harvest, and drying, trimming, and curing; (2) preparing, packaging or repackaging, labeling, or relabeling of any form of marihuana.~~

~~*Disqualifying felony* means a felony that makes an individual ineligible to serve as a registered primary caregiver under the MMMA, MMFLA or MTA.~~

Employee means any individual who is employed by an employer in return for the payment of direct or indirect monetary wages or profit, under contract, and any individual who volunteers his or her services to an employer for no monetary compensation, or any individual who performs work or renders services, for any period of time, at the direction of an owner, lessee, of other person in charge of a place.

~~*License or medical marihuana business license*~~ means a license issued for the operation of a medical marihuana FACILITY OR MARIHUANA establishment pursuant to the terms and conditions of this Chapter and includes a license which has been renewed pursuant to Section 1300.076.

~~*License a*~~*Application* means an application submitted for a license pursuant to the requirements and procedures set forth in Sections 1300.054 and 1300.065.

Licensee means a person OR ENTITY issued a license for A MEDICAL MARIHUANA FACILITY OR MARIHUANA ESTABLISHMENT ~~an establishment~~ pursuant to this eChapter.

~~*Marihuana* means all parts of the plant Cannabis Sativa L., growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparations of the plant or its seeds or resin.~~

~~*Marihuana* does not include:~~

~~(1) The mature stalks of the plant;~~

~~(2) Fiber produced from the stalks, oil or cake made from the seeds of the plant;~~

~~(3) 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~~

~~(4) Any sterilized seed of the plant that is incapable of germination; or~~

~~(5) Industrial hemp grown or cultivated or both for research, purposes under the Industrial Hemp Research Act.~~

MARIHUANA ESTABLISHMENT MEANS ANY MARIHUANA OPERATION THAT IS REQUIRED TO BE LICENSED UNDER THIS CHAPTER AND POSSESSES A LICENSE OR APPROVAL TO OPERATE UNDER THE MRTMA, INCLUDING A MARIHUANA MICROBUSINESS, A MARIHUANA RELATILER, A MARIHUANA GROWER, A MARIHUANA PROCESSOR, A MARIHUANA SECURE TRANSPORTER, A MARIHUANA SAFETY COMPLIANCE FACILITY, AND A DESIGNATED CONSUMPTION ESTABLISHMENT.

~~*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. Marihuana-infused product shall not be considered a food for purpose of the Food Law, 2000 PA 92, MCL 289.1101—289.8111.~~

~~*Marihuana Tracking Act* or "MTA" means Public Act 282 of 2016 MCL 333.27901, et seq.~~

~~Medical marihuana means any marihuana intended for medical use that meets all descriptions and requirements for medical marihuana contained in the MMMA, MMFLA and the MTA and any other applicable law.~~

~~Medical Marihuana Commission or Commission means the Medical Marihuana Commission established under Section 1300.03 of this chapter.~~

~~Medical Marihuana Facilities Licensing Act or MMFLA means Public Act 281 of 2016, MCL 333.27101, et seq.~~

~~Medical marihuana establishment(s), or establishment, means any facility, establishment and/or center that is required to be licensed under this chapter and possesses a license or approval to operate under the MMFLA, including: a medical marihuana provisioning center, a medical marihuana grower facility, a medical marihuana processor facility, a medical marihuana secure transporter, and a medical marihuana safety compliance facility.~~

~~Medical mMarihuana gGrower facility, means a LICENSEE THAT IS A commercial or business entity located in the City that is licensed or approved to operate by the State pursuant to the MMFLA OR MRTMA and is licensed by the City pursuant to terms and conditions of this eChapter that cultivates, dries, trims or cures and packages marihuana in accordance with State law.~~

~~Medical Marihuana Licensing Board means the State board established pursuant to the MMFLA.~~

MARIHUANA MICROBUSINESS MEANS A PERSON OR ENTITY LICENSED TO CULTIVATE NOT MORE THAN 150 MARIHUANA PLANTS; PROCESS AND PACKAGE MARIHUANA; AND SELL OR OTHERWISE TRANSFER MARIHUANA TO INDIVIDUALS WHO ARE 21 YEARS OF AGE OR OLDER OR TO A MARIHUANA SAFETY COMPLIANCE FACILITY, BUT NOT TO OTHER MARIHUANA ESTABLISHMENTS, LOCATED IN THE CITY THAT IS LICENSED OR APPROVED TO OPERATE BY THE STATE PURSUANT TO THE MRTMA

151 AND IS LICENSED BY THE CITY PURSUANT TO THE TERMS AND CONDITIONS OF THIS
152 CHAPTER.

153 *MARIHUANA OPERATION/OPERATOR* MEANS ALL TYPES OF MEDICAL AND NON-
154 MEDICAL MARIHUANA ESTABLISHMENTS AND FACILITIES OPERATING IN THE CITY OF
155 LANSING THAT ARE REQUIRED TO BE LICENSED UNDER THIS CHAPTER AND
156 POSSESS A LICENSE OR APPROVAL TO OPERATE UNDER STATE LAW.

157 *MARIHUANA PROCESSOR OR MEDICAL MARIHUANA PROCESSOR FACILITY* MEANS A
158 COMMERCIAL ENTITY LOCATED IN THE CITY THAT IS LICENSED OR APPROVED TO
159 OPERATE BY THE STATE PURSUANT TO THE MMFLA OR MRTMA AND IS LICENSED BY
160 THE CITY PURSUANT TO THE TERMS AND CONDITIONS OF THIS CHAPTER, THAT
161 EXTRACTS RESIN FROM THE MARIHUANA OR CREATES A MARIHUANA-INFUSED
162 PRODUCT, PROCESSES AND PACKAGES MARIHUANA, AND SELLS OR OTHERWISE
163 TRANSFERS MARIHUANA TO MARIHUANA OPERATIONS, TO THE EXTENT PERMITTED
164 BY STATE LAW AND RULES.

165 *MARIHUANA RETAILER* MEANS A LICENSEE LOCATED IN THE CITY THAT IS LICENSED
166 OR APPROVED TO OPERATE BY THE STATE PURSUANT TO THE MRTMA AND IS
167 LICENSED BY THE CITY PURSUANT TO THE TERMS AND CONDITIONS OF THIS
168 CHAPTER TO OBTAIN MARIHUANA FROM MARIHUANA ESTABLISHMENTS AND TO SELL
169 OR OTHERWISE TRANSFER MARIHUANA TO A MARIHUANA ESTABLISHMENT AND TO
170 INDIVIDUALS WHO ARE 21 YEARS OF AGE OR OLDER.

171 *MARIHUANA SAFETY COMPLIANCE FACILITY OR MEDICAL MARIHUANA SAFETY*
172 *COMPLIANCE FACILITY* MEANS A COMMERCIAL OR BUSINESS ENTITY LOCATED IN
173 THE CITY THAT IS LICENSED OR APPROVED TO OPERATE BY THE STATE PURSUANT
174 TO THE MMFLA OR MRTMA AND IS LICENSED BY THE CITY PURSUANT TO THE TERMS
175 AND CONDITIONS OF THIS CHAPTER, THAT TESTS MARIHUANA, INCLUDING

CERTIFICATION FOR POTENCY, THE PRESENCE OF CONTAMINANTS, AND
TETRAHYDROCANNABINOL AND OTHER CANNABINOIDS.

MARIJUANA REGULATORY AGENCY OR MRA MEANS THE AGENCY WITHIN THE
STATE OF MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CREATED PURSUANT TO EXECUTIVE ORDER 2019-07 TO REGULATE MEDICAL AND
RECREATIONAL MARIHUANA.

MEDICAL MARIHUANA FACILITY MEANS ANY FACILITY OR CENTER THAT IS REQUIRED
TO BE LINCISED UNDER THIS CHAPTER AND POSSESSES A LICENSE OR APPROVAL
TO OPERATE FROM THE STATE UNDER THE MMFLA, INCLUDING: A MEDICAL
MARIHUANA PROVISIONING CENTER, A MEDICAL MARIHUANA PROCESSOR, A
MEDICAL MARIHUANA GROWER FACILITY, A MARIHUANA SECURE TRANSPORTER,
AND A MEDICAL MARIHUANA SAFETY COMPLIANCE FACILITY.

Medical ~~m~~Marihuana ~~p~~Provisioning ~~e~~Center, means a commercial or business entity located in
the City that is licensed or approved to operate by the State pursuant to the MMFLA and is
licensed by the City pursuant to the terms and conditions of this ~~e~~Chapter, that sells, supplies,
or provides marihuana to registered qualifying patients only as permitted by State law. Medical
~~m~~Marihuana ~~p~~Provisioning ~~e~~Center, as defined in the MMMA, MMFLA and MTA, includes any
commercial property or business where marihuana is sold in conformance with State law and
regulation. A noncommercial or nonbusiness location used by a primary caregiver to assist a
qualifying patient, as defined in the MMMA, MMFLA or MTA connected to the caregiver through
the State's marihuana registration process in accordance with the MMMA, MMFLA or MTA is
not a ~~m~~Medical ~~m~~Marihuana ~~p~~Provisioning ~~e~~Center for purposes of this ~~e~~Chapter.

MMFLA means the Medical Marihuana Facilities Licensing Act, MCL 333.2701, et seq. as
amended from time to time.

MMMA means the Michigan Medical Marihuana Act, MCL 333.26421 et seq. as amended from
time to time.

MRTMA MEANS THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT,
MCL 333.27951, ET. SEQ. AS AMENDED FROM TIME TO TIME.

MTA means the Marihuana Tracking Act, MCL 333.27901, et seq. as amended from time to time.

Ordinance means the ordinance adopting this Chapter 1300.

Park means an area of land designated by the City as a park on its master plan or on a Council-approved list of City parks.

Person means an individual, partnership, firm, company, corporation, association, sole proprietorship, limited liability company, joint venture, estate, trust, or other legal entity.

~~*Processor or medical marihuana processor facility* means a commercial entity located in this City that is licensed or approved to operate by the State pursuant to the MMFLA and is licensed by the City pursuant to the terms and conditions of this chapter, that extracts resin from the marihuana or creates a marihuana-infused product, to the extent permitted by State law.~~

~~*Public pPlayground eEquipment* means an outdoor facility, grouping, or concentration open to the public and on public property and containing three or more apparatus, including, but not limited to, slides, climbers, seesaws, and swings, designed for the recreational use of children and owned and operated by a local unit of government, school district, or other unit or agency of government.~~

~~*Restricted/limited access area* means a building, room or other area under the control of the licensee with access governed by the MMMA, the MMFLA, the MTA or other applicable State law.~~

~~*Safety compliance facility or medical marihuana safety compliance facility* means a commercial or business entity located in the City that is licensed or approved to operate by the State pursuant to the MMFLA and is licensed by the City pursuant to the terms and conditions of this chapter, that receives marihuana from a medical marihuana establishment or a registered~~

~~qualifying patient or a registered primary caregiver, tests it for contaminants and for Tetrahydrocannabinol and other cannabinoids in accordance with State law.~~

School means and includes buildings used for school purposes to provide instruction to children and youth in grades pre-kindergarten through 12, and headstart when that instruction is provided by a public, private, denominational, or parochial school.

~~Secure~~ ~~Transporter~~ or ~~Medical~~ ~~Marihuana~~ ~~Secure~~ ~~Transporter~~ means a commercial or business entity that is licensed or approved to operate by the State pursuant to the MMFLA and is licensed to operate by the City pursuant to the terms and conditions of this Chapter, that stores marihuana and transports marihuana between medical marihuana facilities OR MARIHUANA ESTABLISHMENTS for a fee and in accordance with State law.

Stakeholder means, with respect to a trust, the trustee and beneficiaries; with respect to a limited liability company, the managers and members; with respect to a corporation, whether profit or non-profit, the officers, directors, or shareholders; and with respect to a partnership or limited liability partnership, the partners, both general and limited.

State means the State of Michigan.

(gh) Any term defined by the MMMA, the MMFLA, ~~or the~~ MTA, OR MRTMA and not defined in this chapter shall have the definition given in the MMMA, MMFLA, ~~or~~ MTA, OR MRTMA as applicable.

~~1300.03. Establishment of the Medical Marihuana Commission; membership; chairperson; meetings.~~

~~(a) The Medical Marihuana Commission is hereby established. The Commission shall consist of five members, who shall be appointed by the Mayor with the consent of City Council. Members shall serve for terms of office of three years. For the initial appointments to the Commission, one member shall serve for a term of one year, two members shall serve for a term of two years, and two members shall serve for a term of three years.~~

~~(b) The members of the Commission shall include the following:~~

~~(1) Four members, one from each ward of the City; member recommendations may be made to the Mayor by the Council person in each ward.~~

~~(2) One at large member who is a resident of the City. Member recommendations may be made to the Mayor by the at-large Council persons.~~

~~(3) Each member shall be a resident of the City.~~

~~(c) 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 or as otherwise required in this chapter. The Commission shall adopt and file its own rules of procedure in accordance with the procedures set forth in Section 5-105 of the City Charter. The Commission shall maintain a written record of its proceedings and actions which shall be available for public inspection, showing the action of the Commission and the vote of each member upon each question considered. All meetings of the Commission shall be held in conformance with the Michigan Open Meetings Act, 1976 PA 267, MCL 15.261 et seq. The physical presence of three 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.~~

~~(d) No voting member of the Commission shall hold any other public office or public employment in any local unit of government supported by City property taxes in whole or in part. No member of the Commission shall have any direct financial interest in a medical marihuana establishment.~~

~~(e) The Commission shall review and decide all appeals that are forwarded to it by the City Clerk 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 Clerk 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 Clerk 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 Chief of Police (or a designee), the Chief of the Fire Department (or a designee) and the Director of Planning and Neighborhood Development (or a designee) shall serve and advise the Commission in an ex officio non-voting capacity.~~

1300.043. - Operation without license prohibited.

(a) Every MARIHUANA OPERATION ~~medical-marihuana establishment~~ in the City shall be licensed pursuant to the terms and provisions set forth in this eChapter. No person shall operate a MARIHUANA OPERATION ~~medical-marihuana establishment~~ in the City without first obtaining a license ~~for the medical-marihuana establishment~~ from the City Clerk. A MARIHUANA OPERATION ~~medical-marihuana establishment~~ operating without a license under the provisions of this eChapter or without a State license or approval pursuant to the MMFLA OR MRTMA, as amended from time to time, is hereby declared to be a public nuisance.

(b) The term of each license for a proposed location shall be one year. A license issued under this eChapter for a proposed location may be conditioned on the approval of the operator by the State pursuant to the MMFLA AND/OR MRTMA at the location licensed under this eChapter.

1300.054. - License application submission.

(a) Each MARIHUANA OPERATION ~~medical-marihuana establishment~~ must be licensed by the City. Applications for a license shall be made in writing to the City Clerk. All applications submitted to the City Clerk in accordance with the provisions of this eChapter shall be considered for the issuance of a license. An applicant may apply for multiple ~~medical-marihuana establishment~~ licenses under this chapter of the same or different natures simultaneously, AS PERMITTED BY LAW.

(b) A complete application for a license or licenses required by this eChapter shall be made under oath on forms provided by the City Clerk, and shall contain all of the following:

- (1) If the applicant is an individual, the applicant's name, date of birth, physical address, email address, one or more phone numbers, including emergency contact information, and a copy of a government-issued photo identification card of the applicant.

(2) If the applicant is not an individual, the names, dates of birth, physical addresses, email addresses, and one or more phone numbers of each stakeholder of the applicant, including designation of a stakeholder as an emergency contact person and contact information for the emergency contact person, articles of incorporation or organization, internal revenue service SS-4 EIN confirmation letter, and the operating agreement or bylaws of the applicant, if a limited liability company.

(3) THE NAME, DATE OF BIRTH, PHYSICAL ADDRESS, COPY OF PHOTO IDENTIFICATION, AND EMAIL ADDRESS FOR ANY OPERATOR OR EMPLOYEE IF OTHER THAN THE APPLICANT.

(4) The name and address of the proposed MARIHUANA OPERATION ~~medical marihuana establishment~~ and any additional contact information deemed necessary by the City Clerk.

(5) APPLICANT OR LICENSEE SHALL KEEP RECORDS OF THE RESULTS OF THE CRIMINAL HISTORY BACKGROUND CHECKS PERFORMED PURSUANT TO MMFLA AND/OR MRTMA REQUIREMENTS AND SHALL PROVIDE COPIES OF FOR EVERY APPLICANT, LICENSEE, STAKEHOLDER, AND EMPLOYEE TO THE CITY CLERK WITHIN 5 BUSINESS DAYS OF RECEIPT.

~~(4) With respect to medical marihuana provisioning centers, for the applicant and for each stakeholder and employee of the applicant, affirmation that each is at least 18 years of age and has not been convicted of or pled guilty or no contest to a disqualifying felony. With respect to all other medical marihuana establishments, for the applicant and for each stakeholder and employee of the applicant, an affirmation that each and every person is at least 18 years of age and has not been convicted of or pled guilty or no contest to a disqualifying felony.~~

~~(5) A signed release authorizing the Police Department to perform a criminal background check to ascertain whether the applicant, each stakeholder of the applicant, each operator and employee of the applicant meet the criteria set forth in this chapter.~~

~~(6) With respect to medical marihuana provisioning centers, the name, date of birth, physical address, copy of photo identification, and email address for any operator or employee if other than the applicant.~~

(6) An affirmation under oath as to whether the applicant or operator has had a business license revoked or suspended, and if revoked or suspended, then the reason for such revocation or suspension.

~~(8) For the applicant or for each stakeholder of the applicant, a resume that includes whether the individual has any relevant experience with medical marihuana or a related industry.~~

~~(9) A patient education plan to detail to patients the benefits or drawbacks of certain marihuana strains or products in connection with the debilitating medical conditions set forth in the Michigan Medical Marihuana Act.~~

~~(10) With respect to medical marihuana provisioning centers, a description of drug and alcohol awareness programs that shall be provided or arranged for by the applicant and made available for the public.~~

~~(11) A written description of the training and education that the applicant will provide to all employees.~~

(712) A copy of the proposed business plan for the MARIHUANA OPERATION establishment, including, but not limited to, the following:

i. The proposed ownership structure of the MARIHUANA OPERATION establishment, including percentage ownership of each person or entity; and

ii. A current organization chart that includes position descriptions and the names of each person holding each position; and

~~iii. A proposed marketing, advertising, and business promotion plan, including plans to minimize the exposure of marketing or promoting marihuana products to minors; and~~

~~iv. Planned tangible capital investment in the City, including detail related to the number and nature of applicant's proposed medical marihuana establishments in the City and whether~~

~~the locations of such establishments will be owned or leased; further, if multiple licenses are proposed, an explanation of the economic benefits to the City and job creation, if any, to be achieved through the award of such multiple licenses. Supporting factual data shall be included with the response to this subsection; and~~

~~v. Expected job creation from the proposed medical marihuana establishment(s); and~~

~~vi. Planned worker training programs; and~~

~~vii. Financial structure and financing of the proposed medical marihuana establishment(s); and~~

~~viii. Short term and long term goals and objectives consistent with this chapter; and~~

~~ix. If a medical marihuana grower facility(ies) are proposed, plans to integrate such facility(ies) with other proposed medical marihuana establishments and a statement whether the medical marihuana grower facility will grow 1,000 plants or more and the square footage of the building(s) housing such grower facility, and if so, will the facility contain more than 10,000 square feet of space;~~

~~x. Community outreach/education plans and strategies;~~

~~xi. Charitable plans and strategies, whether fiscally or through volunteer work.~~

~~(813)~~ One of the following: (a) proof of ownership of the entire premises wherein the MARIHUANA OPERATION ~~medical marihuana establishment~~ is to be operated; or (b) written consent from the property owner for use of the premises in a manner requiring licensure under this eChapter along with a copy of any lease for the premises.

~~(14)~~ A description of the security plan for the medical marihuana establishment, including, but not limited to, any lighting, alarms, barriers, recording/monitoring devices, and/or security guard arrangements proposed for the establishment and premises. The security plan must contain the specification details of each piece of security equipment. Each medical marihuana establishment must have a security guard present during business hours or alternative security procedures shall be proposed in the business plan.

(915) A floor plan of the MARIHUANA OPERATION ~~medical marihuana establishment~~, as well as a scale diagram illustrating the property ~~upon which the medical marihuana establishment is to be operated~~, including all available parking spaces, ~~and specifying which parking spaces, if any, are handicapped accessible~~ all available handi-capped accessible parking, and noting storage spaces for any flammable or combustible substances.

~~(16) Any proposed text or graphical materials to be shown on the exterior of the proposed medical marihuana establishment.~~

(1017) A location area map, as measured pursuant to Section 1300.13(d)10 of the MARIHUANA OPERATION ~~medical marihuana establishment~~ and surrounding area that identifies the relative locations and the distances, as measured pursuant to Section 1300.1310(d), to the buffered uses set forth in Section 1300.1310(a), AND NOTING ANY RESIDENTIALLY-ZONED PROPERTY WITHIN ¼ MILE OF THE MARIHUANA OPERATION.

~~(18) A facility sanitation plan to protect against any marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction in the sewerage system is prohibited.~~

~~(19) A proposed patient recordkeeping plan that will track quantities sold to individual patients and caregivers, and will monitor inventory.~~

~~(20) A description of procedures for testing of contaminants, including mold and pesticides.~~

(1121) An affidavit that neither the applicant nor any stakeholder of the applicant is in default to the City. Specifically, that the applicant or stakeholder of the applicant has not failed to pay any property taxes, special assessments, fines, fee or other financial obligation to the City.

~~(22) Verification, including copies of actual bank statements, showing that the applicant has minimum net worth of \$100,000.00 in the applicant's name.~~

~~(23) An estimate of the number and type of jobs that the medical marihuana establishment is expected to create, the amount and type of compensation expected to be paid for such jobs, and the projected annual budget and revenue of the medical marihuana establishment.~~

(1224) A signed acknowledgment that the applicant is aware and understands that all matters related to marihuana, growing, cultivation, possession, dispensing, testing, safety compliance, transporting, distribution, and use are currently subject to State and Federal laws, rules, and regulations, and that the approval or granting of a license hereunder does not exonerate or exculpate the applicant from abiding by the provisions and requirements and penalties associated with those laws, rules and regulations or exposure to any penalties associated therewith; and further the applicant waives and forever releases any claim, demand, action, legal redress, or recourse against the City, its elected and appointed officials and its employees and agents for any claims, damages, liabilities, causes of action, damages, and attorney fees the applicant may occur as a result of the violation by applicant, its officials, members, partners, shareholders, employees and agent of those laws, rules, and regulations and hereby waives, and assumes the risk of, any such claims and damages, and lack of recourse against the City, its elected and appointed officials, employees, attorneys, and agents.

~~(25) As it relates to a medical marihuana grower facility, the following additional items shall be required:~~

~~i. A cultivation plan that includes, at a minimum, a description of the cultivation methods to be used, including plans for the growing mediums, treatments, and/or additives;~~

~~ii. A production testing plan that includes, at a minimum, a description of how and when samples for laboratory testing by an international organization for standardization accredited testing facility will be selected, what type of testing will be requested, and how the test results will be used;~~

~~iii. An affidavit that all operations will be conducted in conformance with the MMMA, the MMFLA, MTA and other applicable State law;~~

~~iv. A chemical and pesticide storage plan that states the names of the pesticides to be used in cultivation and where and how pesticides and chemicals will be stored in the establishment, along with a plan for the disposal of unused pesticides;~~

~~v. All cultivation must be performed in a building. The applicant shall specifically acknowledge this provision.~~

(1326) Proof of an insurance policy covering EACH LICENSEE the establishment and naming the City, its elected and appointed officials, employees, and agents, as additional insured parties, available for the payment of any damages arising out of an act or omission of the applicant or its stakeholders, agents, employees, or subcontractors, in the amount of (a) at least \$1,000,000.00 for property damage; (b) at least \$1,000,000.00 for injury to one person; and (c) at least \$2,000,000.00 for injury to two or more persons resulting from the same occurrence. The insurance policy underwriter must have a minimum A.M. Best Company insurance ranking of B+, consistent with State law. The policy shall provide that the City shall be notified by the insurance carrier 30 days in advance of any cancellation. THE INSURER MUST BE LICENSED IN THE STATE OF MICHIGAN.

(1427) ~~a.i.~~ Proof of a surety bond in the amount of \$50,000 with the City listed as the obligee to guarantee performance by applicant of the terms, conditions and obligations of this Chapter in a manner and surety approved by the City Attorney; or, in the alternative,

~~b.i.~~ Creation of an escrow account as follows:

~~i.a.~~ The account must be provided by a State or federally regulated financial institution or other financial institution approved by the City Attorney based upon an objective assessment of the institution's financial stability; and

~~ii.b.~~ The account must be for the benefit of the City to guarantee performance by licensee in compliance with this chapter and applicable law; and

~~iii.c.~~ The account must be in the amount of \$20,000.00 and in a form prescribed by the City Attorney.

(15) PROJECTED OR ACTUAL ANNUAL BUDGET AND REVENUE BASED UPON GENERALLY
ACCEPTED ACCOUNTING PRINCIPLES (GAAP STANDARDS) DEMONSTRATING
SUFFICIENT FINANCIAL RESOURCES TO FUND AND EXECUTE THE SUBMITTED
BUSINESS PLANS OR BUILDING PLANS.

(16) AN ESTIMATE OF THE NUMBER AND TYPE OF FULL-TIME EQUIVALENT JOBS THAT THE
MARIHUANA ESTABLISHMENT EXPECTS TO CREATE AND THE AMOUNT AND TYPE OF
COMPENSATION FOR EACH POSITION, INCLUDING BUT NOT LIMITED TO
HEALTHCARE, RETIREMENT, AND PAID TIME OFF.

(17) SUBMISSION OF AN ODOR PLAN TO ADDRESS ANY POTENTIAL ODORS STEMMING
FROM THE USE, STORAGE, GROWING, OR PROCESSING OF MARIHUANA.

(18) EXECUTION OF THE FINANCIAL RESOURCES LITIGATION HISTORY FORM MADE
AVAILABLE BY THE CITY CLERK.

(19) EXECUTION OF THE MORALS, GOOD ORDER AND GENERAL WELFARE LITIGATION
HISTORY FORM MADE AVAILABLE BY THE CITY CLERK.

(20) Any other information REQUESTED BY THE CITY CLERK TO ASSIST IN THE REVIEW OF
THE APPLICATION. ~~which may be required by Commission rule or City Council ordinance from~~
~~time to time.~~ FAILURE TO PROVIDE REQUIRED OR REQUESTED INFORMATION MAY
RESULT IN A INCOMPLETE APPLICATION DETERMINATION AND MAY RESULT IN
DENIAL OR REVOCATION OF LICENSURE.

(21) THERE IS AN ONGOING OBLIGATION TO PROVIDE UPDATED INFORMATION TO THE
CITY CLERK. SHOULD THERE BE A CHANGE TO ANY PORTION OF AN APPLICATION,
THE APPLICATION MUST ADVISE THE CITY CLERK WITHIN 7 DAYS AND PROVIDE ANY
DOCUMENTATION TO SUPPORT THE CHANGE IN APPLICATION. FAILURE TO PROVIDE
DOCUMENTATION SHALL RESULT IN AN INCOMPLETE APPLICATION DETERMINATION
AND IS SUBJECT TO DENIAL OF LICENSURE.

(c) ~~Each~~ All applications shall be accompanied by a license application fee in an amount of \$5,000.00.
~~Should the applicant not receive a license, one-half of the application fee shall be returned.~~

(d) Upon receipt of a completed application meeting the requirements of this section and the appropriate license application fee, the City Clerk shall refer a copy of the application to each of the following for their approval: the CITY ATTORNEY ~~Fire Department~~, the Building Safety Office, the Police Department, the Zoning Administrator, and the City Treasurer.

(e) ~~Except as provided in Section 1300.18, n~~ No application shall be approved unless:

(1) ~~The Fire Department and the Building Safety Office has~~ve inspected the proposed location OR APPROVED PROPOSED SITE PLANS for compliance with all laws for which they are charged with enforcement and for compliance with the requirements of this ~~e~~Chapter.

(2) The Zoning Administrator has confirmed that the proposed location complies with the Zoning Code and this ~~e~~Chapter, ~~including any variances granted under Section 1300.18.~~

(3) The City Treasurer has confirmed that the applicant and each stakeholder of the applicant ~~and the proposed location of the establishment~~ are not in default to the City.

(4) The Police Department has REVIEWED THE CRIMINAL HISTORY BACKGROUND CHECKS FOR EACH APPLICANT, STAKEHOLDER, AND EMPLOYEES PROVIDED BY THE APPLICANT. ~~determined that the applicant has met the requirements of this chapter with respect to the background check and security plan.~~

(5) THE CITY ATTORNEY'S OFFICE HAS REVIEWED AND APPROVED AS TO FORM THE INSURANCE AND EITHER THE SURETY BOND OR ESCROW ACCOUNT DOCUMENTATION FOR COMPLIANCE WITH STATE AND LOCAL LAWS.

1300.056. - License application evaluation.

(a) THE CLERK MAY OPEN A 30 DAY ENROLLMENT PERIOD AT HIS DISCRETION.

(b) The City Clerk shall assess, evaluate, score and rank all COMPLETE MEDICAL MARIHUANA PROVISIONING CENTER AND MARIHUANA RETAILER applications submitted according to the

provisions of this eChapter. No application WILL BE EVALUATED, SCORED, OR RANKED ~~shall be~~
~~accepted for assessment, evaluation, scoring, and ranking~~ unless such application contains the
 approvals required by Section 1300.04(e)5 AND THE APPLICATION CONTAINS ALL REQUIRED
 INFORMATION OUTLINED IN 1300.04. ALL OTHER TYPES OF MARIHUANA OPERATION
 LICENSES SHALL BE ASSESSED FOR COMPLETENESS AND COMPLIANCE WITH THE
 TERMS OF THIS CHAPTER.

(bc) THE CITY CLERK'S ASSESSMENT, EVALUATION, SCORE, AND RANK OF EACH MEDICAL
 MARIHUANA PROVISIONING CENTER AND MARIHUANA RETAILER APPLICATION SHALL BE
 BASED UPON A SCORING CRITERIA CREATED BY THE CITY CLERK CONSISTENT WITH THE
 REQUIREMENTS AND CONDITIONS OF THIS CHAPTER. SCORING SHALL FALL UNDER THE
 FOLLOWING GENERAL CATEGORIES: CONTENT AND SUFFICIENCY, CONSISTENCY WITH
 SURROUNDING LAND USE AND RESIDENT SAFETY, DEMONSTRATION OF SUFFICIENT
 FINANCIAL RESOURCES, AND PROMOTION OF LOCAL BUSINESS. THE CITY CLERK SHALL
 AWARD CONDITIONAL APPROVAL OR LICENSES TO THE TOP SCORING COMPLETE
 APPLICATIONS FOR THE NUMBER OF LICENSES AVAILABLE DURING EACH ENROLLMENT
 PERIOD. SCORING AND RANKING RENEWS WITH EACH ENROLLMENT PERIOD. ~~In its~~
~~application assessment, evaluation, scoring, and ranking, deliberations, the Clerk shall assess,~~
~~evaluate, score, and rank each application based upon a scoring and ranking procedure developed~~
~~by the Clerk consistent with the requirements, conditions, and provisions of this chapter in each of~~
~~the categories set forth below in this subsection.~~ Overall scoring and ranking shall be conducted and
 applied by the Clerk on the basis of assigned points from zero points to 100 points with the lowest
 overall total score as zero points and the highest possible total score being 100 points. THE CLERK
 RETAINS THE RIGHT TO AWARD FEWER LICENSES THAN THE NUMBER OF AVAILABLE
 LICENSES IF THE SCORES FALL BELOW 75/100.

(d) IN THE ASSESSMENT, EVALUATION, SCORE, AND RANKING OF MEDICAL MARIHUANA
 PROVISIONING CENTERS AND MARIHUANA RETAILERS THE CITY CLERK MAY GIVE PREFERENCE TO
 LOCATIONS THAT IMPROVE ACCESS TO MEDICAL MARIHUANA PATIENTS, ARE CONSISTENT WITH

SURROUNDING AND NEARBY LAND USE, AND LIMIT POTENTIAL EXPOSURE OR DISTURBANCE OF
NEIGHBORHOODS.

~~(1) The content and sufficiency of the information contained in 1300.05(b)(12) and (23); the
maximum number of scoring points in this category shall be 50 points.~~

~~(2) Whether the proposed establishment will be consistent with land use for the surrounding
neighborhood and not have a detrimental effect on traffic patterns and resident safety. The
maximum number of scoring points in this category shall be 20 points.~~

~~(3) Planned outreach on behalf of the proposed establishment, and whether the applicant or its
stakeholders have made, or plan to make, significant physical improvements to the building
housing the medical marijuana establishment, including plans to eliminate or minimize traffic,
noise, and odor effects on the surrounding neighborhood. The maximum number of scoring
points in this category shall be ten points.~~

~~(4) Whether the applicant or any of its stakeholders have a record of acts detrimental to the public
health, security, safety, morals, good order, or general welfare prior to the date of the
application; whether the applicant or any of its stakeholders have previously operated an illegal
business of any kind, including any violation of City medical marijuana moratoriums. The
maximum number of scoring points in this category shall be ten points.~~

~~(5) Whether the applicant has reasonably and tangibly demonstrated it possesses sufficient
financial resources to fund, and the requisite business experience to execute, the submitted
business plan and other plans required by Section 1300.05. The maximum number of scoring
points in this category shall be ten points.~~

(ee) Based upon testimony, written and oral comments from the public feedback, RECOMMENDATIONS
FROM RELEVANT BOARDS AND COMMISSIONS, ~~Planning Board review~~, maps, historical data,
Council committee deliberations, and public hearings, the City Council finds and determines that it is
in the public interest and serves a public purpose that the maximum number of LOCATIONS FOR
BOTH MEDICAL MARIHUANA PROVISIONING CENTERS AND MARIHUANA RETAILERS

~~licenses issued for medical marihuana provisioning centers shall be capped at 2825. and implemented in a two-phase process in order to balance serving patients' needs and spreading economic development. A SINGLE LOCATION MAY SERVE AS BOTH A MEDICAL MARIHUANA PROVISIONING CENTER AND MARIHUANA RETAILER.~~

~~(1) Phase one: At the conclusion of a 30-day enrollment period set by the City Clerk, the City Clerk shall begin processing of applications for authorization of a maximum of 20 provisioning center licenses to allow for an efficient and manageable administrative review. The City Clerk may adjust distribution of phase two licenses to meet patients' needs.~~

~~(2) Phase two: At the conclusion of a second 30-day enrollment period set by the Clerk, which is open to new applications and amended applications, the Clerk may authorize a maximum of five additional provisioning center licenses during the two-phase process. An application submitted during phase one to the Clerk, but not selected for approval during phase one, may be considered for approval during phase two. The Clerk will initiate phase two within one year of the start of phase one.~~

~~(f) In the event that there are more applicants for provisioning center licenses who meet the minimum requirements set forth in Section 1300.06(b) than there are licenses available in either phase one or two, the top scoring 20 applicants in phase one and top scoring five applicants in phase two, shall be eligible to receive provisioning center licenses in accordance with the assessment, evaluation, scoring, and ranking procedures established in this chapter. In the event of an evaluation scoring tie during AN ENROLLMENT PERIOD either phase one or phase two, which causes there to be more APPLICANTS THAN LICENSES OR LOCATIONS AVAILABLE than 20 and five highest scoring applicants respectively, the scoring-tied applicants will be entered into a random draw using procedures set by the City Clerk consistent with subsections 1300.06(c) and (d). Those applications randomly selected shall be eligible to receive THE LICENSE APPLIED FOR CONSISTENT WITH THIS CHAPTER. a provisioning center license; however, in no event shall the maximum number of provisioning center licenses ever exceed 25. All license applications must be submitted during the open enrollment periods set by the Clerk.~~

(eg) Nothing in this section is intended to confer a property or other right, duty, privilege or interest in a license of any kind or nature whatsoever including, but not limited to, any claim of entitlement.

(fh) The Clerk may engage professional expert assistance in performing the Clerk's duties and responsibilities under the eChapter.

(i) IF THE APPLICANT APPLIES FOR A STATE LICENSE, THE APPLICANT MUST NOTIFY THE CITY CLERK OF THE PENDING APPLICATION WITHIN 7 DAYS IN WRITING BY CERTIFIED MAIL.

(j) IF THE APPLICANT HAS NOT APPLIED FOR A STATE LICENSE, THE APPLICANT MUST APPLY FOR A STATE LICENSE WITHIN 30 DAYS OF SUBMITTING AN APPLICATION TO THE CITY CLERK.

1300.076. - License renewal application.

(a) Application for a license renewal required by this eChapter shall be made in writing to the City Clerk at least ~~2830~~ days prior to the expiration of an existing license.

(b) An application for a license renewal required by this eChapter shall be made under oath on forms provided by the City, and shall contain all of the information required by Section 1300.0504(b).

(c) An application for a license renewal shall be accompanied by a renewal fee in an amount of \$5,000.00. ~~which half will be returned should the license not be renewed.~~ The renewal fee is established to defray the costs of the administration AND ENFORCEMENT of this eChapter EXPENDED BY THE CITY CLERK'S OFFICE, POLICE DEPARTMENT, CITY ATTORNEY'S OFFICE, TREASURY, BUILDING SAFETY OFFICE, AND ZONING ADMINISTRATOR.

(d) Upon receipt of a completed application for a license renewal meeting the requirements of this eChapter and the license renewal fee, the City Clerk shall refer a copy of the renewal application to each of the following for their approval: the CITY ATTORNEY'S OFFICE ~~Fire Department~~, the Building Safety Office, the Police Department, the Zoning Administrator, and the City Treasurer.

(e) No application for a license renewal shall be approved unless:

~~(1)i.~~ The Fire Department and the Building Safety Office have inspected the proposed location OR APPROVED PROPOSED SITE PLANS for compliance with all laws for which they are charged with enforcement within the past calendar year.

~~(2)ii.~~ The Zoning Administrator has confirmed that the location complies with the Zoning Code and this eChapter, ~~at the time a license is granted, including any variances granted under Section 1300.18.~~

~~(3)iii.~~ The City Treasurer has confirmed that the applicant and each stakeholder of the applicant and the location of the MARIHUANA OPERATION ~~medical-marihuana establishment~~ are not currently in default to the City.

~~(4)iv.~~ The Police Department has reviewed THE CRIMINAL HISTORY BACKGROUND CHECKS FOR EACH APPLICANT, STAKEHOLDER, AND EMPLOYEE, AS PROVIDED BY THE APPLICANT. ~~the application and determined that the applicant has satisfied the requirements of this chapter with respect to the background check and security plan.~~

~~(5)v.~~ THE CITY ATTORNEY'S OFFICE HAS REVIEWED AND APPROVED AS TO FORM THE INSURANCE AND EITHER THE SURETY BOND OR ESCROW ACCOUNT DOCUMENTATION FOR COMPLIANCE WITH STATE AND LOCAL LAWS.

~~(5)vi.~~ The applicant possesses the necessary State licenses or approvals, ~~including those issued pursuant to the MMFLA.~~

~~(6)vii.~~ The applicant has operated the MARIHUANA OPERATION ~~medical-marihuana establishment~~ in accordance with the conditions and requirements of this eChapter AS WELL AS FEDERAL AND STATE LAWS AND REGULATIONS.

~~(7)viii.~~ The MARIHUANA OPERATION ~~medical-marihuana establishment~~ has not been declared a public nuisance.

~~(8)~~ ~~The applicant is operating the medical-marihuana establishment in accordance with Federal, State, and local laws and regulations.~~

- (f) If written approval is given by each individual, department, or entity identified in subsection (e), the City Clerk AND THE CITY CLERK CONFIRMS COMPLIANCE WITH SUBSECTION (b) AND RECEIPT OF THE RENEWAL FEE THE CITY CLERK shall issue a license renewal to the applicant. ~~If no renewal license is issued, half of the renewal fee shall be returned.~~ The renewal shall be deemed approved if the City has not issued formal notice of denial within 60 days of the filing date of the application, unless the applicant is advised of non-compliance under Section 1300.076(e) during such period.

1300.087. - Licenses generally.

- (a) To the extent permissible under law, all information submitted in conjunction with an application for a license or license renewal required by this eChapter 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 CITY. ~~Medical Marijuana Commission.~~
- (b) Licensees may transfer a license issued under this eChapter to a different location upon receiving written approval from the City Clerk. In order to request approval to transfer a license location, the licensee must make a written request to the City Clerk, indicating the current license location and the proposed license location. Upon receiving the written request, the City Clerk shall refer a copy of the written request to each of the following for their approval: the CITY ATTORNEY'S OFFICE ~~Fire Department~~, the Building Safety Office, the Police Department, the Zoning Administrator, 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 eChapter, including but not limited to Section 1300.0504(e), and the City Clerk has determined that the proposed location meets the requirements of Sections 1300.0506(b)(2) and (3). APPLICATIONS MAY NOT CHANGE LOCATIONS DURING THE APPLICATION REVIEW PERIOD.

(c) Licensees may transfer a license issued under this Chapter to a different individual or entity upon receiving written approval by the City Clerk. In order to request approval to transfer a license to a different individual or entity, the licensee must make a written request to the City Clerk, indicating the current licensee and the proposed licensee. Upon receiving the written request, the City Clerk shall REVIEW THE APPLICATION FOR CONFORMITY WITH ~~consider the request as a new application for a license and the procedures set forth in~~ Sections 1300.0504 and 1300.0605 shall be followed including submission of the license application fee. Application fees are non-transferable.

(d) Licensees shall report any other change in the information required by this chapter to the City Clerk within ~~ten~~ 7 business days of the change. Failure to do so may result in suspension or revocation of the license.

~~(e) Any license application approved pursuant to this chapter shall not be effective, and no medical marijuana establishment may operate, unless the medical marijuana establishment is operated pursuant to a license or approval issued under the MMFLA.~~

(Ord. No. 1217, § 1, 9-7-17)

1300.098. - Minimum operational standards of a MARIHUANA OPERATION ~~medical marijuana provisioning center.~~

Except as may be preempted by state law or regulation:

(a) Every ~~Medical Marijuana Provisioning Center~~ AND MARIHUANA RETAILER must be located in a ~~Building~~, as defined under Section 1300.02.

(b) No ~~Medical Marijuana Provisioning Center~~ OR MARIHUANA RETAILER shall be open between the hours of 10:00 p.m. and 9:00 a.m.

(c) Consumption of marijuana shall be prohibited on the premises of a MARIHUANA OPERATION ~~medical marijuana provisioning center~~ except as permitted by City Charter Section 8-501, and State law, AND A DESIGNATED CONSUMPTION ESTABLISHMENT LICENSE HAS BEEN OBTAINED.

~~(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 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/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/patients. Medical marihuana may be displayed in a sales area only if permitted by the MMFLA.~~

~~(g) Any usable medical 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) Reserved.~~

~~(id) No MARIHUANA OPERATION 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 MARIHUANA OPERATION medical marihuana provisioning center is operated; or any other nuisance that hinders the public health, safety and welfare of the residents of the City.~~

~~(je) The license required by this Chapter shall be prominently displayed on the premises of a MARIHUANA OPERATION medical marihuana provisioning center.~~

~~(k) 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.~~

~~(l) 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 alphanumeric identifier for the cultivation source of the marihuana.~~

~~(3) That the package contains marihuana.~~

~~(4) The date of delivery, weight, type of marihuana and dollar amount or other consideration being exchanged in the transaction.~~

~~(5) A certification that all marihuana in any form contained in the package was cultivated, manufactured, and packaged in the state of Michigan.~~

~~(6) The warning that "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."~~

~~(7) The name, address, email address, and telephone number of an authorized representative of the dispensary whom a patient can contact with any questions regarding the product.~~

~~(m) 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.~~

~~(nf) 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. REFUSAL TO PERMIT INSPECTION MAY RESULT IN REVOCATION OR SUSPENSION OF LICENSURE.~~

(eg) It shall be prohibited to display any signs that are inconsistent with local laws or regulations or State law.

(ph) NO OTHER ACCESSORY USES ARE PERMITTED WITHIN THE SAME ESTABLISHMENT OR FACILITY UNLESS EXPRESSLY PERMITTED BY STATE OR LOCAL LAW. ~~It shall be prohibited to use advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors.~~

(qi) ALL PROCESSING ACTIVITY SHALL BE PERFORMED INDOORS IN A BUILDING. ~~No licensed medical marihuana provisioning center shall place or maintain, or cause to be placed or maintained, an advertisement of medical marihuana in any form or through any medium within the distance limitations set forth in Section 1300.13(a).~~

~~(r) Certified laboratory testing results that display at a minimum the Tetrahydrocannabinol (THC), Cannabidiol (CBD), total cannabinoid testing results, 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 and prominently displayed.~~

(j) All persons working in direct contact with medical marihuana shall conform to hygienic practices while on duty, including but not limited to:

- i. Maintaining adequate personal cleanliness;
- ii. 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;
- iii. Refraining from having direct contact with medical 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) MARIHUANA OPERATIONS ~~Establishments~~ must be kept clean and in good repair, including proper disposal of all waste and litter.

(Ord. No. 1217, § 1, 9-7-17)

~~1300.10. Minimum operational standards of a medical marihuana grower facility.~~

~~(a) Except as may be preempted by State law or regulation, the following minimum standards for medical marihuana grower facilities shall apply:~~

~~(1) The medical marihuana grower facility shall comply at all times and in all circumstances with the MMMA, the MMFLA, the MTA, and the general rules of the Department of Licensing and Regulatory Affairs, or their successors, as they may be amended from time to time.~~

~~(2) Except as provided by State law and City Charter, consumption and/or use of medical marihuana shall be prohibited at the grower facility.~~

~~(3) All grower activity related to the grower facility shall be performed in a building.~~

~~(4) 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.~~

~~(5) Any medical marihuana grower facility shall comply with the MTA and shall maintain a log book and/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. 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.~~

~~(6) 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.~~

~~(7) 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 and/or watering devices that support the cultivation, growing or harvesting of marihuana are located.~~

~~(8) That portion of the structure where any chemicals such as herbicides, pesticides, and fertilizers are stored shall be subject to inspection and approval by the Fire Department to ensure compliance with the State Fire Codes.~~

~~(9) The dispensing of medical marihuana at the medical marihuana grower facility shall be prohibited.~~

~~(10) There shall be no other accessory uses permitted within the same facility other than those associated with cultivating, processing, or testing medical marihuana. Multi-tenant commercial buildings may permit accessory uses in suites segregated from medical marihuana grower facility.~~

~~(11) All persons working in direct contact with medical marihuana shall conform to hygienic practices while on duty, including but not limited to:~~

~~i. Maintaining adequate personal cleanliness;~~

~~ii. 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;~~

~~iii. Refraining from having direct contact with medical 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.~~

~~(12) 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.~~

~~(13) Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.~~

~~(14) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to 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.~~

~~(15) Any buildings, fixtures and other facilities shall be maintained in a sanitary condition.~~

~~(16) Each cultivation center shall provide its occupants with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.~~

~~(17) Medical marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.~~

~~(18) Medical marihuana grower facilities shall be free from infestation by insects, rodents, birds, or vermin or any kind.~~

~~(19) Medical marihuana grower facilities shall produce no products other than useable medical marihuana intended for human consumption.~~

~~(b) In furtherance of the public health, safety, and welfare, exterior signage or advertising identifying the facility as a medical marihuana grower facility shall be prohibited.~~

~~(c) Venting of marihuana odors into the areas surrounding the medical marihuana grower facility is deemed and declared to be a public nuisance.~~

(Ord. No. 1217, § 1, 9-7-17)

~~1300.11. Minimum operational standards of a medical marihuana safety compliance facility.~~

~~(a) Except as may be preempted by State law or regulation, the following minimum standards for safety compliance facilities shall apply:~~

~~(1) The safety compliance facility shall comply at all times and in all circumstances with the MMMA, the MMFLA, the MTA, and the general rules of the Medical Marihuana Licensing Board as they may be amended from time to time.~~

~~(2) Except as provided by State law and Section 8-501 of the City Charter consumption and/or use of medical marihuana shall be prohibited at the facility.~~

~~(3) 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.~~

~~(4) Any safety compliance facility shall maintain a log book and/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 Michigan Medical Marihuana Act, as amended from time to time.~~

~~(5) All medical marihuana shall be contained within the building in an enclosed, locked facility in accordance with the MMMA, the MMFLA, and the MTA, and the rules and regulations of the Medical Marihuana Licensing Board, as amended.~~

~~(6) There shall be no other accessory uses permitted within the same facility other than those associated with testing medical marihuana.~~

~~(7) All persons working in direct contact with medical marihuana shall conform to hygienic practices while on duty; training programs shall be developed and implemented for all employees on recognized safe health practices in a safety compliance facility.~~

~~(8) 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.~~

~~(9) Floors, walls and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.~~

~~(10) Any buildings, fixtures and other facilities shall be maintained in a sanitary condition.~~

~~(11) Medical marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.~~

~~(b) Exterior signage or advertising identifying the facility as a medical marihuana safety compliance facility shall be prohibited.~~

(Ord. No. 1217, § 1, 9-7-17)

~~1300.12. Minimum operational standards of a medical marihuana processor facility and a medical marihuana secure transporter.~~

~~(a) Except as may be preempted by State law or regulation, the following minimum standards for a medical marihuana processor facility and a medical marihuana secure transporter shall apply:~~

~~(1) The processor and secure transporter shall comply at all times and in all circumstances 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.~~

~~(2) Except as provided by State law and Section 8-501 of the City Charter, consumption and/or use of medical marihuana shall be prohibited at the processor or secure transporter facility.~~

~~(3) All activity related to the processor facility shall be performed indoors in a building.~~

~~(4) 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.~~

~~(5) Any processor and/or secure transporter facility shall maintain a log book and/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, 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.~~

~~(6) All medical marijuana will be tagged with unique identification.~~

~~(7) 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.~~

~~(8) 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.~~

~~(9) That portion of the structure where the storage of any chemicals exists shall be subject to inspection and approval by the Fire Department to ensure compliance with the Michigan Fire Protection Code.~~

~~(10) The dispensing of medical marihuana at the medical marihuana processor or secure transporter facility shall be prohibited except as authorized by City Charter and State law.~~

~~(11) There shall be no other accessory uses permitted within the same facility other than those associated with the processing multi-tenant commercial buildings may permit accessory uses in suites segregated from the processor facility.~~

~~(12) All persons working in direct contact with medical marihuana shall conform to hygienic practices while on duty, including but not limited to:~~

~~i. Maintaining adequate personal cleanliness;~~

~~ii. 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;~~

~~iii. Refraining from having direct contact with medical 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.~~

~~(13) 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.~~

~~(14) Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.~~

~~(15) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as 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.~~

~~(16) Any buildings, fixtures and other facilities shall be maintained in a sanitary condition.~~

~~(17) 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.~~

~~(18) Medical marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.~~

~~(19) Processor facilities shall be free from infestation by insects, rodents, birds, or vermin or any kind.~~

~~(20) Processor facilities shall produce no products other than useable medical marihuana intended for human consumption.~~

~~(21) All medical marihuana processors shall be certified as accredited under a recognized food safety system such as SQF, ISO 22000, BRC, or the FDA's FSMA (Food Safety Modernization Act) rules or demonstrate that they are actively pursuing said certification at the time of the licensing and obtain said certification within 18 months of operation.~~

~~(22) The processor shall pay for and complete an annual audit using an accredited third party auditor recognized under whatever food safety system the processor is accredited under. A copy of the audit report shall be provided to the City by the auditor within ten days of the audit completion. In the event there are deficiencies identified by the auditor, the processor shall submit to the City a correction action plan to address the deficiencies. All deficiencies shall be addressed within 30 days of submittal of the initial deficiency report.~~

~~(b) In furtherance of the public health, safety, and welfare, exterior signage or advertising identifying the facility as a medical marihuana processor facility and/or medical marihuana secure transporter facility shall be prohibited.~~

(Ord. No. 1217, § 1, 9-7-17)

935 1300.1309. - Location, buffering, dispersion, and zoning requirements for ~~Medical~~ ~~Marihuana~~
 936 ~~Provisioning~~ ~~Centers AND MARIHUANA RETAILER.~~

937 (a) ~~Except in accordance with Section 1300.18, for buffering and dispersion purposes, No~~ ~~Medical~~
 938 ~~Marihuana~~ ~~Provisioning~~ ~~Center OR MARIHUANA RETAILER shall be located within:~~

939 (1) One thousand feet, of an operational school, including pre-kindergarten that is located within a
 940 school; or

941 (2) Five hundred feet, of the following buffered uses: public playground equipment located in a
 942 park; a commercial child care organization (non-home occupation) that is required to be
 943 licensed or registered with the Michigan Department of Health and Human Services, or its
 944 successor agency; a church; a facility at which substance USE DISORDER ~~abuse~~ prevention
 945 services or substance USE DISORDER ~~abuse~~ treatment and rehabilitation services and those
 946 terms are defined in THE MENTAL HEALTH CODE, PA 258 OF 1974, MCL 330.1001, ET.
 947 SEQ. ~~Part 61 or PA 368 of 1978, MCL 333.6101 et seq., are offered;~~ or another ~~Medical~~
 948 ~~Marihuana~~ ~~Provisioning~~ ~~Center OR MARIHUANA RETAILER.~~

949 (b) ~~Medical~~ ~~Marihuana~~ ~~Provisioning~~ ~~Centers AND MARIHUANA RETAILERS shall be limited to F~~
 950 ~~and F1-Commercial, G2-Wholesale, H-Light Industrial, and I-Heavy Industrial as such districts are~~
 951 ~~described and designated as provided in the Zoning Code provisions of the this Code.~~

952 (c) No ~~Medical~~ ~~Marihuana~~ ~~Provisioning~~ ~~Center OR MARIHUANA RETAILER shall be located~~
 953 ~~within another business except as permitted by the MARIJUANA REGULATORY AGENCY~~ ~~Medical~~
 954 ~~Marihuana Licensing Board regulations.~~

955 (d) For the purpose of calculating the buffering and dispersion requirements of this Section ~~1300.13,~~
 956 the distance shall be measured along the center line of the street or streets of address between two
 957 fixed points on the center line determined by projecting straight lines, at right angles to the center
 958 line, from the part of the buffered use nearest to the contemplated location of the MARIHUANA
 959 OPERATION ~~medical marihuana establishment~~ and from the part of the contemplated location
 960 nearest to the buffered use. The distances from the MARIHUANA OPERATION ~~medical marihuana~~

~~establishment~~ to the point on the centerline and from the buffered use to the point on the centerline shall be included in the calculation. For MEDICAL MARIHUANA PROVISIONING CENTERS AND MARIHUANA RETAILERS ~~provisioning centers~~ located within a commercial strip mall or retail center, the measurement shall be from the property line of the MEDICAL MARIHUANA PROVISIONING CENTER AND MARIHUANA RETAILER ~~provisioning center~~ to the property line of BUFFERD USE. ~~another provisioning center.~~

~~(e) Except as otherwise permissible under the City Charter at Section 8-501, no person shall allow the consumption of marihuana or marihuana infused products on licensed premises.~~

(fe) No MARIHUANA OPERATION ~~medical marihuana establishment~~ shall be located in an unzoned area or in an area subject to an agreement entered into pursuant to Public Act 425 of 1984.

(Ord. No. 1217, § 1, 9-7-17)

1300.1410. - Location of ~~medical mMarihuana gGrowerS facilities, medical mMarihuana sSafety eCompliance fFacilities, medical mMarihuana pProcessorS facilities, and medical mMarihuana sSecure tTransporters~~ AND MARIHUANA MICROBUSINESSES

(a) All ~~medical mMarihuana gGrowerS facilities~~ AND MARIHUANA MICROBUSINESSES shall be ~~subject to subsection 1300.13(e) and~~ limited to H-Light Industrial and I-Heavy Industrial zoning districts as identified in this Code.

(b) All ~~medical mMarihuana sSafety eCompliance fFacilities, medical mMarihuana pProcessorS facilities, and medical mMarihuana sSecure tTransporterS facilities~~ shall be ~~subject to Section 1300.13(e) and shall be~~ limited to the H-Light Industrial, I-Heavy Industrial, or G2-Wholesale zoning districts as identified in this Code.

(c) No MARIHUANA OPERATION ~~medical marihuana establishment~~ shall be located in an unzoned area or in an area subject to an agreement entered into pursuant to Public Act 425 of 1984.

~~(d) Except as otherwise permissible under the City Charter at Section 8-501, no person shall allow the consumption of marihuana or marihuana infused products on licensed premises.~~

(Ord. No. 1217, § 1, 9-7-17)

1300.1511. – APPLICATION DENIAL OR License revocation; bases for revocation; appeal of license denial
OR REVOCATION.

(a) Any license issued under this eChapter may be revoked by the City Clerk after an administrative hearing if the City Clerk finds and determines that grounds for revocation exist. Any grounds for revocation must be provided to the licensee at least ten 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 Clerk in writing subsequent to the filing of an application.

(b) A license applied for or issued under this eChapter may be denied or revoked on any of the following bases:

(1) A material violation of any provision of this eChapter, including, but not limited to, the failure to provide the information required by THIS ORDINANCE ~~Subsection 1300.16(a)~~; or

(2) Any conviction of a disqualifying felony by the licensee, stakeholder, or any person holding an ownership interest in the license; or

(3) Commission of fraud or misrepresentation or the making of a false statement by the applicant, licensee, or any stakeholder of the applicant or licensee while engaging in any activity for which this eChapter requires a license; or

(4) Failure to obtain or maintain a license or renewed license from the City Clerk pursuant to this eChapter; or

(5) Failure of the licensee or the medical marihuana establishment to obtain or maintain a license or approval from the State pursuant to the MMFLA OR MRTMA; or

(6) The medical marihuana establishment 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.

(7) CULTIVATION, PROCESSING, SALE, OR DISPLAY OF MARIHUANA OR MARIHUANA ACCESSORIES
THAT IS VISIBLE FROM A PUBLIC PLACE.

(c) Appeal of denial of an application or revocation of a license: the City Clerk 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 REQUEST RECONSIDERATION ~~be heard~~. AN APPEAL OF DENIAL OF APPLICATION FOR LICENSURE SHALL BE A PAPER HEARING. Any applicant aggrieved by the denial or revocation of a license or adverse decision under this eChapter may appeal to the City Clerk. ~~who shall appoint a hearing officer to hear and evaluate the appeal and make a recommendation to the Clerk.~~ Such appeal shall be taken by filing with the City Clerk, within 7 ~~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 Clerk, a written statement setting forth fully the grounds for the appeal. The Clerk shall review the APPEAL ~~report and recommendation of the hearing officer~~ and make a decision on the matter. ~~The Clerk's decision may be further appealed to the commission if applied for in writing to the commission no later than 30 days from the Clerk's decision. The review on appeal of a denial or revocation or adverse action shall be by the commission pursuant to Section 1300.03.~~ Any decision by the CITY CLERK ~~commission on an appeal~~ shall be final for purposes of judicial review. The Clerk may engage professional experts to assist with the proceedings under this Section 1300.1505.

(Ord. No. 1217, § 1, 9-7-17)

1300.1612. - Penalties; temporary suspension of a license.

(a) The City may require an applicant or licensee of a MARIHUANA ~~OPERATION~~ medical marijuana facility to produce documents, records, or any other material pertinent to the investigation of an application or alleged violation of this eChapter. Failure to provide the required material may be grounds for application denial or license revocation.

- 1034 (b) Any person in violation of any provision of this eChapter, including the operation of a MARIHUANA
 1035 OPERATION ~~medical marihuana establishment~~ without a license issued pursuant to this eChapter,
 1036 shall be subject to a civil fine OF \$500.00, PLUS COSTS, PER DAY OF VIOLATION. ~~and costs.~~
 1037 ~~Increased civil fines may be imposed for a repeat violation. As used in this section "repeat violation"~~
 1038 ~~shall mean a second or any subsequent infraction of the same requirement or provision committed~~
 1039 ~~by a person or establishment within any 12 month period. Unless otherwise specifically provided in~~
 1040 ~~this chapter, the penalty schedule is as follows:~~
- 1041 (1) ~~\$750.00, plus costs, for the first violation.~~
- 1042 (2) ~~\$1,000.00, plus costs, for a repeat violation.~~
- 1043 (3) ~~\$1,000.00, plus costs, per day, plus costs, for any violation that continues for more than one~~
 1044 ~~day.~~
- 1045 (c) All fines imposed under this eChapter shall be paid within 45 days after the effective date of the
 1046 order imposing the fine or as otherwise specified in the order.
- 1047 (d) The Clerk may temporarily suspend a ~~medical marihuana establishment~~ license without a prior
 1048 hearing if the ~~m~~Mayor finds that public safety or welfare requires emergency action affecting the
 1049 public health, safety, or welfare. The Clerk shall cause the temporary suspension by issuing a
 1050 suspension notice in connection with institution of proceedings for notice and a hearing.
- 1051 (e) If the Clerk temporarily suspends a license without a prior hearing, the licensee is entitled to a
 1052 hearing within 30 days after the suspension notice has been served on the licensee or posted on the
 1053 licensed premises. In the case of a license issued for a ~~medical m~~Marihuana gGrower facility, the
 1054 hearing shall be held within seven days after the notice has been served on the licensee or posted
 1055 on the premises of the licensed facility. The hearing shall be limited to the issues cited in the
 1056 suspension notice.
- 1057 (f) If the Clerk does not hold a hearing within 30 days after the date the suspension was served on the
 1058 licensee or posted on the licensed premises, or in the case of a MARIHUANA gGrower facility seven
 1059 days, then the suspended license shall be automatically reinstated and the suspension vacated.

(g) The penalty provisions of this eChapter are not intended to foreclose any other remedy or sanction that might be available to, or imposed by the City, including criminal prosecution.

(Ord. No. 1217, § 1, 9-7-17)

1300.13. – CONSUMPTION IN A PUBLIC PLACE.

CONSUMPTION OR MARIHUANA IN ANY PUBLIC PLACE WITHIN THE CITY OF LANSING IS PROHIBITED EXCEPT IN AREAS SPECIFICALLY DESIGNATED FOR MARIHUANA CONSUMPTION THAT ARE NOT ACCESSIBLE TO PERSONS UNDER 21 YEARS OF AGE AND HAVE BEEN AUTHORIZED THROUGH DIRECTIVE OR ORDER ADOPTED BY THE MAYOR.

(Ord. No. 1217, § 1, 9-7-17)

1300.14. – DESIGNATED CONSUMPTION ESTABLISHMENTS

(A) ANY COMMERCIAL SPACE THAT LEGALLY PERMITS THE USE OF MARIHUANA SHALL DESIGNATE AN AREA FOR CONSUMPTION ACCESSIBLE ONLY TO PERSONS 21 YEARS OF AGE OR OLDER, OR, ONLY BE ACCESSIBLE BY PERSONS 21 YEARS OF AGE OR OLDER SHALL OBTAIN AND MAINTAIN A LICENSE FROM THE STATE AND CITY. AN APPLICATION FOR LICENSURE SHALL BE AWARDED UPON SUBMISSION OF A COMPLETE APPLICATION CONTAINING THE DOCUMENTATION REQUIRED IN SECTIONS 1300.04(B)(1), (2), (3), (6), (8), (9), (10), (11), (12), (16), (17), (20), AND (21).

(B) DESIGNATED CONSUMPTION ESTABLISHMENTS SHALL BE LIMITED TO F AND F1-COMMERCIAL, G2-WHOLESALE, H-LIGHT INDUSTRIAL, AND I-HEAVY INDUSTRIAL AS SUCH DISTRICTS ARE DESCRIBED AND DESIGNATED AS PROVIDED IN THE ZONING CODE PROVISIONS OF THE THIS CODE.

(C) A DESIGNATED CONSUMPTION ESTABLISHMENT MUST COMPLY WITH ALL LAWS AND RULES PURSUANT TO THE MRTMA, INCLUDING BUT NOT LIMITED TO, A VENTILATION SYSTEM THAT DIRECTS AIR FROM THE MARIHUANA CONSUMPTION AREA TO THE OUTSIDE OF THE

BUILDING THROUGH A FILTRATION SYSTEMS SUFFICIENT TO REMOVE VISIBLE SMOKE
CONSISTENT WITH ALL APPLICABLE BUILDING CODES AND ORDINANCES AND ADEQUATE TO
ELIMINATE ODOR AT THE PROPERTY LINE. USE OF MARIHUANA AT A PRIVATE BUSINESS
SHALL NOT VIOLATE CHAPTERS 662 (DRUGS) AND 664 (DISTURBING THE PEACE). THE SALE OF
MARIHUANA IS LIMITED ONLY TO ESTABLISHMENTS LICENSED TO CONDUCT SALES OF
MARIHUANA.

(D) AN INITIAL LICENSE APPLICATION FEE OF \$5,000.00 IS REQUIRED. IF AN APPLICATION
IS SUBMITTED WITH ANOTHER LICENSE TYPE THE LICENSE APPLICATION FEE SHALL BE
\$2,500.00.

(E) AN APPLICATION FOR RENEWAL SHALL INCLUDE ANY UPDATED INFORMATION
REQUIRED IN SECTION 1300.14(B) AS WELL AS A RENEWAL FEE OF \$2,500.00.

~~1300.17~~15. - No vested rights.

A property owner lessor, license applicant, or licensee shall not have vested rights or nonconforming
use rights that would serve as a basis for failing to comply with this chapter or any amendment of this
chapter.

(Ord. No. 1217, § 1, 9-7-17)

~~1300.18. - Zoning Board of Appeals.~~

~~(a) When applying for a license as a provisioning center, an applicant who does not meet the
requirements of Sections 1300.13(a)(1) or (2) 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 Clerk 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 and the~~

~~applicant has received written approvals required under this chapter, the City Clerk shall immediately forward the application to the Board of Zoning Appeals.~~

~~(1) The application must identify all of the reasons the applicant does not meet the requirements of Section 1300.13(a), including, if applicable, the name and address of any substance abuse treatment, prevention, or rehabilitation facility; church or other structure used for religious services; public park containing public playground equipment; or provisioning center that is within 500 feet of the applicant's location.~~

~~(2) Upon receipt of an application meeting the requirements of Subsection (a), the Board shall give notice to the occupants of any residential or commercial buildings within the buffered use distances set forth in Section 1300.13(a) of the applicant's location. If the occupant's name is not known, the term "occupant" may be used. The notices shall be delivered personally or by mail at the address given in the last assessment roll.~~

~~(3) The Board of Zoning Appeals shall either grant or deny the variance within a reasonable time. In determining whether to grant or deny the variance, the Board of Zoning Appeals shall consider all of the following:~~

~~i. The amount of time, if any, that the applicant has been operating in compliance with this chapter at the present location;~~

~~ii. The extent to which the applicant has demonstrated a commitment to the land use and public nuisance concerns in the surrounding neighborhood;~~

~~iii. The distance between the applicant's location and any medical marihuana provisioning center that is within 500 feet of the applicant's location;~~

~~iv. The need for a provisioning center at the location in order to provide the safe and efficient access to medical marihuana within the City;~~

~~v. The character of the structure and its surroundings; and~~

~~vi. The impact of the variance on the character of the structure's surroundings and owners of other properties in the vicinity.~~

1134 ~~(4) If the Board of Zoning Appeals approves the variance, the application and decision shall~~
1135 ~~immediately be submitted to the City Clerk for further processing under this chapter.~~

1136 (Ord. No. 1217, § 1, 9-7-17)

1137 1300.196. - Sunset.

1138 Pursuant to Section 3-307 of the City Charter, this Chapter shall expire December 1, 20279.

1139 (Ord. No. 1217, § 1, 9-7-17)

CHAPTER 1300- MARIHUANA ORDINANCE AMENDMENTS - COMMITTEE ON PUBLIC SAFETY

Intial Meeting Date Review	Page Number Lines Numbers		Draft		ITEM FOR FURTHER DISCUSSION OR TO BE RSOLVED	Resolved Date
7/30/2019	Page 3	Lines 67-77	# 1	7/18/2019	<i>Building</i> means an independent, enclosed structure having a roof supported by columns or walls, intended and/or used for shelter or enclosure of persons or chattels. When any portion of a structure is completely separated from every other part by dividing walls from the ground up, and without openings, each portion of such structure shall be deemed a separate structure, regardless of whether the portions of such structure share common pipes, ducts, boilers, tanks, furnaces, or other such systems. This definition refers only to permanent structures, and does not include tents, sheds, greenhouses and private garages on residential property, stables, or other accessory structures not in compliance with MMMA OR MRTMA. A building does not include such structures with interior areas not normally accessible for human use, such as gas holders, tanks, smoke stacks, grain elevators, coal bunkers, oil cracking towers or similar structures.	
7/30/2019	Page 4	Line 79	#1	7/18/2019	OCA research: <i>Church</i> means an entire building.....	
7/30/2019	Page 6	Lines 145-152	#1	7/18/2019	<i>MARIHUANA MICROBUSINESS</i> MEANS A PERSON OR ENTITY LICENSED TO CULTIVATE NOT MORE THAN 150 MARIHUANA PLANTS; PROCESS AND PACKAGE MARIHUANA; AND SELL OR OTHERWISE TRANSFER MARIHUANA TO INDIVIDUALS WHO ARE 21 YEARS OF AGE OR OLDER OR TO A MARIHUANA SAFETY COMPLIANCE FACILITY, BUT NOT TO OTHER MARIHUANA ESTABLISHMENTS, LOCATED IN THE CITY THAT IS LICENSED OR APPROVED TO OPERATE BY THE STATE PURSUANT TO THE MRTMA AND IS LICENSED BY THE CITY PURSUANT TO THE TERMS AND CONDITIONS OF THIS CHAPTER.	
7/30/2019	Page 7	Lines 165-177	#1	7/18/2019	<i>MARIHUANA RETAILER</i> MEANS A LICENSEE LOCATED IN THE CITY THAT IS LICENSED OR APPROVED TO OPERATE BY THE STATE PURSUANT TO THE MRTMA AND IS LICENSED BY THE CITY PURSUANT TO THE TERMS AND CONDITIONS OF THIS CHAPTER TO OBTAIN MARIHUANA FROM MARIHUANA ESTABLISHMENTS AND TO SELL OR OTHERWISE TRANSFER MARIHUANA TO A MARIHUANA ESTABLISHMENT AND TO INDIVIDUALS WHO ARE 21 YEARS OF AGE OR OLDER. <i>MARIHUANA SAFETY COMPLIANCE FACILITY OR MEDICAL MARIHUANA SAFETY COMPLIANCE FACILITY</i> MEANS A COMMERCIAL OR BUSINESS ENTITY LOCATED IN THE CITY THAT IS LICENSED OR APPROVED TO OPERATE BY THE STATE PURSUANT TO THE MMFLA OR MRTMA AND IS LICENSED BY THE CITY PURSUANT TO THE TERMS AND CONDITIONS OF THIS CHAPTER, THAT TESTS MARIHUANA, INCLUDING CERTIFICATION FOR POTENCY, THE PRESENCE OF CONTAMINANTS, AND TETRAHYDROCANNABINOL AND OTHER CANNABINOIDS.	
7/30/2019			#1	7/18/2019	OCA Provide "Umbrella Chart" outlining differences in facilities medical and recreational	

PROVIDED BY LAW 8/5/2019

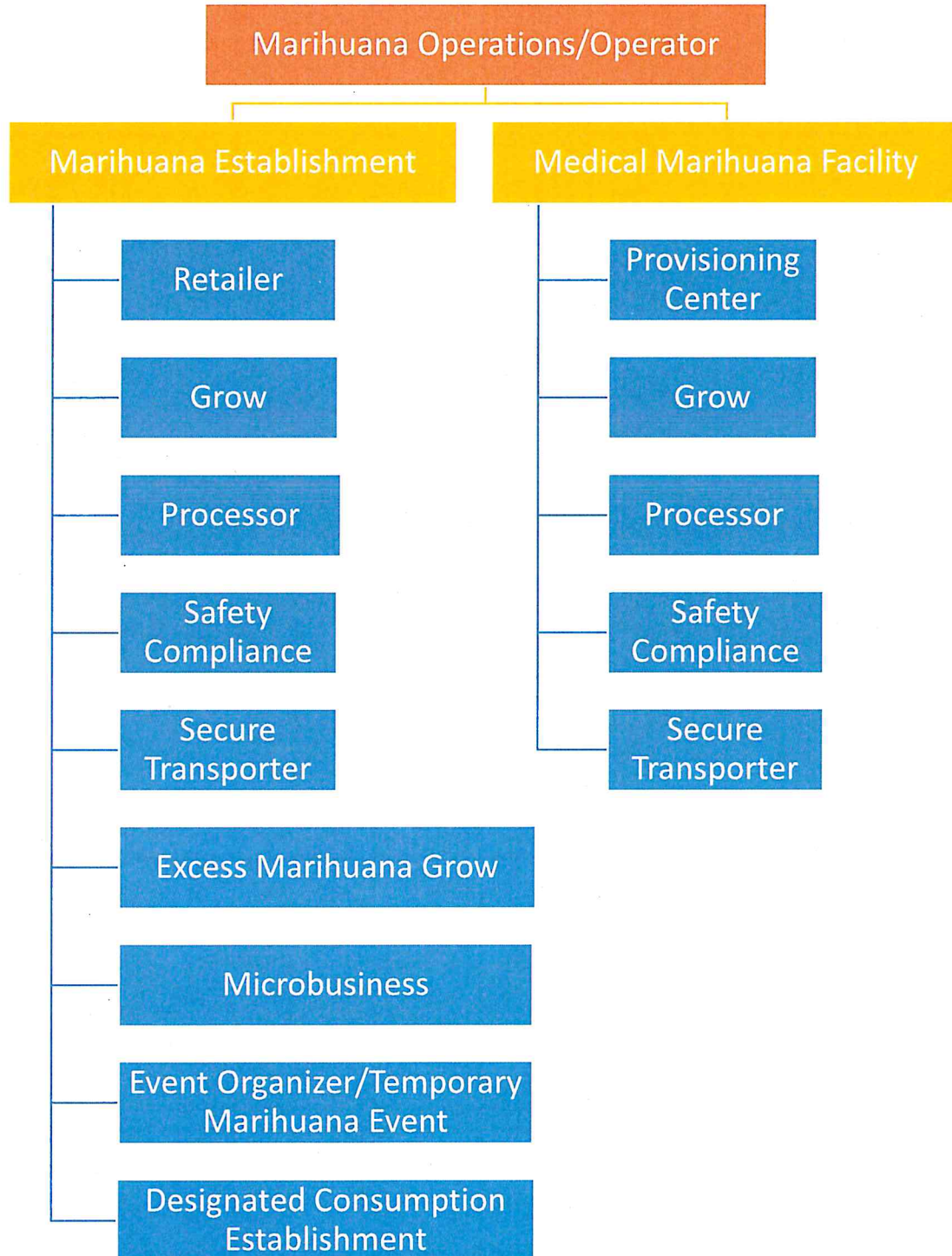
The Emergency Rules for recreational marihuana and the Administrative Rules for medical marihuana:

Emergency Rules :

Definition of Building: means a combination of materials forming a structure affording an establishment or shelter for use or occupancy by individuals or property. Building includes a part or parts of the building and all equipment in the building. A building shall not be construed to mean a building incidental to the use for agricultural purposes of the land on which the building is located.

submitted @cmx

Marihuana Organization Flow Chart



LITIGATION INVOLVING CHAPTER 1300

Open:

- 3208 MKL Inc v. City of Lansing, Clerk, and City of Lansing Medical Marihuana Commission (Ingham County Circuit Court)
- Greenwave Naturals, LLC v. Clerk (Ingham County Circuit Court, then Michigan Court of Appeals)

Closed:

- 2117 Cedar Inc v. City of Lansing, Clerk, and City of Lansing Medical Marihuana Commission (Ingham County Circuit Court)
- Greenwave Naturals, LLC v. City of Lansing (Ingham County Circuit Court)
- First Property Holdings, LLC v. City of Lansing Medical Marihuana Commission (Ingham County Circuit Court)
- Huron Wellness and Solutions, LLC v. City of Lansing (Ingham County Circuit Court)
- Superior Wellness and Solutions, LLC v. City of Lansing (Ingham County Circuit Court)
- Chris Swope and City of Lansing v. LARA (Court of Claims)
- Seman Consulting Services, Inc. v. City of Lansing (Ingham County Circuit Court)
- RODA Investments LLC v. City of Lansing, BZA (Ingham County Circuit Court)
- RODA Investments LLC v. City of Lansing, BZA (Ingham County Circuit Court)
- First Class Inc v. City of Lansing (Ingham County Circuit Court)
- Barron, Ribar, Ozwald, Babbie and Hanosh v City of Lansing (Ingham County Circuit Court)
- Let Lansing Vote v. Swope (Ingham County Circuit Court)

District Court Enforcement (All are Closed):

- City of Lansing v Chelsey Barron (54-A District Court)
- City of Lansing v Chelsey Barron (54-A District Court)
- City of Lansing v Kimberly Gaetano (54-A District Court)
- City of Lansing v Mike Hanna (54-A District Court)
- City of Lansing v Selwan Kesto (54-A District Court)
- City of Lansing v Ronnie Some (54-A District Court)
- City of Lansing v David Younger (54-A District Court)

submitted @ mth

RECEIVED AUG 05 2019

STATE OF MICHIGAN
IN THE 30TH JUDICIAL CIRCUIT FOR INGHAM COUNTY

2117 CEDAR INC., a Michigan
Profit Corporation,

Appellant,

v

CLERK, CITY OF LANSING, and
LANSING MEDICAL MARIHUANA
COMMISSION,

Appellee.

OPINION & ORDER

CASE NO. 19-215-AA

HON. WANDA M. STOKES

At a session of said Court,
held in the Circuit Court for the
County of Ingham, State of Michigan
this 21 day of July, 2019.

PRESENT: HON. WANDA M. STOKES

This matter comes before the Court on Appellant's appeal from a decision of the Lansing City Clerk and the Lansing Marihuana Commission that Denied Appellant's application for a license to operate a medical marihuana provisioning center in the City of Lansing. The Court having reviewed the parties' written briefs, the Court finds that the briefs adequately represent the facts and legal arguments, and the Court's deliberation would not be aided by oral argument. The Court therefore dispenses with oral argument, under MCR 7.114(A). The Court, being fully apprised of the facts, and otherwise fully advised in the premises, now **AFFIRMS** the decision below.

1 limited on

FACTS

The City of Lansing denied Appellant's application for a medical marihuana provisioning license on August 3, 2018, finding its score of 72 out of 100 insufficient. Appellant appealed that decision to the Lansing City Clerk who increased Appellant's score to 75 points and denied the application on December 6, 2018. Appellant again appealed the scoring to the Medical Marihuana Commission ("MMC") under Lansing Ordinance 1300.15(C). The MMC increased Appellant's score again, to 78 points. The Lansing City Clerk's Office provided written notice to the Appellant on March 11, 2019, again denying its provisioning license.

Having exhausted its administrative remedies, Appellant brings this appeal for review of the scoring determinations by the Lansing City Clerk's Office and the Lansing Marihuana Commission that denied its provisioning license.

APPLICABLE LAW

In order to operate in Lansing, a marihuana provisioning center must be licensed through both the City and the State. Lansing Code of Ordinances, § 1300.02.

The City's process is governed under Chapter 1300 of the Lansing Code of Ordinances. While categorized under the zoning Part and Title, Chapter 1300 pertains in large part to licensing and regulation of marihuana businesses.

Ordinance 1300.15(c) sets forth the appeal process from license denials decided by the City. On denial, the first appeal is to the City Clerk, via an appointed hearing officer. Next, appeal may be taken to the city's Medical Marihuana Commission, whose determination is considered final for purposes of judicial review.

STANDARD OF REVIEW

Final decisions of agencies may be reviewed by courts, which must determine if the decisions appealed from are authorized by law. Const 1963 art 6, § 28. If a hearing is required, courts must also determine whether the decisions were “supported by competent, material and substantial evidence on the whole record.” *Id.*

“Cities are municipal corporations, deriving their powers from the state . . . within the range of the Constitution.” *Streat v Vermilya*, 268 Mich 1, 6; 255 NW 604, 606 (1934).

ANALYSIS

Appellant argues that Appellee’s denial of its application for a provisioning license violated its due process rights, was not authorized by law, and was not supported by substantial evidence. As stated above, this Court recognizes that the applicable standard of review in this appeal proceeding is whether the Appellee’s decision was authorized by law, *and* whether the decision is “supported by competent, material and substantial evidence on the whole record.” Appellee argues that no hearing is required, meaning that the latter part of this standard would not apply. However, Lansing Code of Ordinances § 1300.15(c) provides that

the City Clerk shall notify an applicant of the reason(s) for denial of an application for a license . . . and provide the applicant with the opportunity to be heard. Any applicant aggrieved by the denial . . . of a license . . . may appeal to the City Clerk, who shall appoint a hearing officer to hear and evaluate the appeal and make a recommendation to the Clerk. (Emphasis added).

The December 6, 2018 denial letter from the City Clerk to Appellant indicates that the “hearing” referred to in this ordinance “will be conducted as a paper hearing without oral presentation.” A hearing, even a “paper hearing,” satisfies the ordinance requirements for a hearing. The Clerk’s attestation is sufficient to persuade this Court that the applicable due process requirements as set forth in Article VI, §28 of the Michigan Constitution have been met.

I. PROCEDURAL DUE PROCESS

“Procedural due process limits actions by the government and requires it to institute safeguards in proceedings that affect those rights protected by due process, such as life, liberty, or property.” *Kampf v Kampf*, 237 Mich App 377, 381–82; 603 NW2d 295, 298 (1999).

Therefore, if no right is affected, there is no procedural due process violation.

Lansing Code of Ordinances, § 1300.06(e) states that “[n]othing in this section is intended to confer a property or other right, duty, privilege or interest in a license of any kind or nature whatsoever including, but not limited to, any claim of entitlement.” No other evidence, or any argument from Appellant, indicates an affected property or liberty right. For that reason, Appellant’s procedural due process argument is unpersuasive.

II. APPLICATION OF APPELLATE REVIEW STANDARD

The “authorized by law” and “competent, material and substantial evidence” standards are both applicable to the instant case. Under either standard, the decision of the Medical Marihuana Commission (“MMC”) below must be affirmed.

Appellant requests that this Court examine the record below, substitute its judgment for that of the Appellees, evaluate Appellant’s business at a higher score under Appellees’ scoring system, and require the Appellee city to issue a provisioning license to Appellant. It is not the Court’s role to substitute its judgment for that of the commission; but rather to ensure that administrative decisions of agencies and other administrative bodies are made in accordance with the law, and are supported by the evidence.

A. STATUTORY CONSTRUCTION

The City of Lansing is permitted, under the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*, and the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*,

to allow the sale of marihuana within its boundaries. On September 7, 2017, the City of Lansing did so allow, by adopting the present Chapter 1300 of its ordinances, establishing a regime for the sale of marihuana. Chapter 1300 sets forth procedures for licensing, zoning, safety standards, appellate rights, and other matters pertaining to regulation of the sale and use of marihuana. Ordinance 1300.06(a) directs the City Clerk to “assess, evaluate, score and rank all applications submitted according to the provisions of this chapter.” Appellant argues that the City Clerk’s criteria were inconsistent with the city ordinances, but the main evidence provided on this point appears to be Appellee’s failure to acknowledge all of Appellant’s application materials, along with Appellant’s own disagreement with what it views as an insufficient score. There is no material or competent evidence in the record demonstrating that the City Clerk’s scoring criteria was inconsistent with statute, or that either Appellee acted beyond the authority vested in it by these statutes and ordinances. Rather, the record suggests that the hearing officer and the MMC exercised their judgment, and rendered decisions authorized by law.

B. APPELLATE PROCEDURE

Ordinance 1300.15 sets forth the appellate process for licensing denials, allowing for appeal to a hearing officer appointed by the City Clerk; then to the MMC; and next to this Court for judicial review. In reviewing the decision below, this Court must consider whether the decision is “supported by competent, material and substantial evidence on the whole record,” as required for appeals in which a hearing is required under Article VI, §28 of the Michigan Constitution. When engaging in this analysis, “[t]he reviewing court should not substitute its opinion for that of the administrative agency where there is the requisite evidence to support the administrative decision, notwithstanding that the court might have reached a different result had it been sitting as the agency.” *Murphy v Oakland Co Dept of Health*, 95 Mich App 337, 339–40;

290 NW2d 139, 140 (1980)(citing *Union Bank & Trust Co v First Michigan Bank & Trust Co*, 44 Mich App 83, 205 NW2d 54 (1972)).

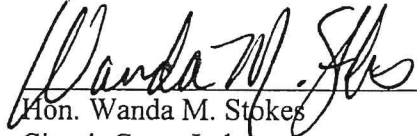
Appellant's arguments focus on Appellees' judgment as to Appellants' application materials. Appellant argues that more points should have been awarded for job creation, marketing materials, plans to eliminate noise and odor, and business litigation history, among other categories. While some of the "Scoring Insights" notes incorrectly cite to the contents of Appellant's license application, it appears that these errors were rectified during the appeal process, where an additional six points were awarded to Appellant.

Even in the most unflattering light to Appellees (which the Court notes is not the correct standard of review), the decision below is supported by the evidence, because the City Clerk and MMC conformed with the required appellate process, applied criteria in conformance with applicable statute, ordinances, and case law, and made a decision rationally based on the contents of Appellant's licensing application. Nothing in the record suggests impropriety, and the Appellee's decision is supported by competent, material, and substantial evidence.

THEREFORE IT IS ORDERED that the decision below is **AFFIRMED**.

In accordance with MCR 2.602(A) (3), this is a final order, and closes the case.

7/31/19
Date


Hon. Wanda M. Stokes
Circuit Court Judge

PROOF OF SERVICE

I hereby certify that I served a copy of the above ORDER to each attorney of record, or to the parties, by hand delivery, or by placing a true copy in a sealed envelope, addressed to each, with full postage prepaid and placing said envelope in the United States mail, on July 31, 2019.


Tyler Smith (P-82780)
Law Clerk/Court Officer