

CHAPTER 833
Medical Marihuana Facilities

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CROSS REFERENCES

Medical Marihuana Facilities Licensing Act generally Act 281 of 2016, M.C.L.A. 333.27101 - 333.27801

Michigan Public Health Code, M.C.L.A. 333.7410

Zoning - Ch. 1230 generally and Chapter 1299

Licensing in general; fees, bonds and insurance - see B.R. & T. Ch. 802

833.01 FINDINGS AND PURPOSE.

The City intends to issue permits for and to regulate marihuana facilities to the extent they are permitted under the Michigan Medical Marihuana Facilities Licensing Act. The City does not intend that permitting and regulation under this chapter be construed as a finding that such facilities comply with any law. By requiring a City MMF permit and compliance with the requirements of this chapter, the City intends to protect the public health, safety and welfare by:

(a) Promoting the safe, regulated manufacturing, production, and sale by state-licensed facilities of medical marihuana, and to ensure the safe access to medical marihuana to the City's patients;

(b) Discouraging the sale of unsafe and unlicensed medical marihuana products;

(c) Preserving and protecting the health, safety, and welfare of the residents of the City and the general public by minimizing unsafe and unregulated medical marihuana production and sale; and

(d) Establishing standards and procedures by which the siting, operating, and maintaining of a Medical Marihuana Facility shall be governed.

(Ord. 02-2018. Passed 2-6-18.)

833.02 DEFINITIONS.

(a) Words and phrases contained in the Medical Marihuana Facilities Licensing Act ("MMFLA"). This Chapter contains many words and phrases that are defined in the MMFLA. As used in this Chapter, they have the same meaning as provided in the MMFLA, except that if at any time the definition of a word or phrase set forth in this section conflicts with the definition in the MMFLA, then the definition in the MMFLA shall apply. The following words and phrases are, and mean, as follows:

- (1) "Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.
- (2) "Licensee" means a person holding a state operating license.
- (3) "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, M.C.L.A. 333.7106.
- (4) "Marihuana facility" means a location at which a license holder is licensed to operate under the MMFLA.
- (5) "Marihuana plant" means any plant of the species *Cannabis sativa* L.
- (6) "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 purposes of the food law, 2000 PA 92, M.C.L.A. 289.1101 to 289.8111.
- (7) "Michigan medical marihuana act" means the Michigan medical marihuana act, M.C.L.A. 333.26421 to 333.26430.
- (8) "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- (9) "Plant" means any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.
- (10) "Processor" means a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.
- (11) "Provisioning center" means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center for purposes of this act.
- (12) "Rules" means rules promulgated under the administrative procedures act of 1969, 1969 PA 306, M.C.L.A. 24.201 to 24.328, by the department in consultation with the board to implement this act, which shall include but is not limited to Emergency Rules issued under the administrative procedures act.
- (13) "Safety compliance facility" means a licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.
- (14) "Secure transporter" means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.
- (15) "State operating license" or, unless the context requires a different meaning, "license" means a license that is issued under this act that allows the licensee to operate as one of the following, specified in the license:
 - (A) A grower
 - (B) A processor.
 - (C) A secure transporter.
 - (D) A provisioning center.
 - (E) A safety compliance facility.

(b) Other words and phrases. The words and phrases in this Chapter, as used in this Chapter, shall have the following meanings:

(1) "Applicant" means a person as defined by M.C.L.A. 333.27102 (i.e., the Applicant/Licensee under the State License) who applies for a City MMF Permit.

(2) "Authorized person" means:

(A) An owner of a medical marihuana facility;

(B) The directors, officers, members, partners, and individuals of a medical marihuana facility that is a corporation, limited liability company, partnership, or sole partnership.

(C) Any person who is in charge of and on the premises of the medical marihuana facility during business hours.

(3) "Class A grower" means a grower of not more than 500 marihuana plants.

(4) "Class B grower" means a grower of not more than 1,000 marihuana plants.

(5) "Class C grower" means a grower of not more than 1,500 marihuana plants.

(6) "Conditional Approval Permit" means 90-day authorization to the Applicant to apply for and seek site plan review approval, and building/trade permits. A Conditional Approval Permit does not authorize use of a Facility.

(7) "Facility" means "marihuana facility" as defined in the MMFLA.

(8) "Licensee" means a person holding a City MMF Permit under this Chapter.

(9) "Marihuana" means "marihuana" as defined in the MMFLA.

(10) "Marihuana facility" means "marihuana facility" as defined in the MMFLA.

(11) "Medical Marihuana Facilities Licensing Act" and "MMFLA" mean Public Act 281 of 2016, M.C.L.A. 333.27101, et. seq.

(12) "MMF Permit" or, unless the context requires a different meaning, "permit" means a medical marihuana facilities permit that is issued under this Chapter that allows the permittee to operate as one of the following, specified in the MMF permit:

(A) A grower.

(B) A processor.

(C) A secure transporter.

(D) A provisioning center.

(E) A safety compliance facility.

(13) "Person" means the entities included in the definition of "person" in Section 202.03 of the City of Battle Creek Ordinances, in addition to the entities included in the definition of "person" in the MMFLA.

(14) "Sponsorship" means any marketing or advertising in association with a specific event, project, or program, including but not limited to where a person or entity pays for all or some of the associated costs.

(Ord. 02-2018. Passed 2-6-18.)

833.03 MARIHUANA FACILITIES AUTHORIZED.

Pursuant to the MMFLA, the City of Battle Creek authorizes the operation in the City of the following marihuana facilities, provided they possess a state operating license issued under the MMFLA and they comply with the additional requirements of this Chapter, Chapter 1299 Medical Marihuana (Zoning) and all other applicable laws, administrative rules, and ordinances:

(a) Grower, including Class A grower; Class B grower; and Class C grower.

(b) Processor.

(c) Provisioning center.

(d) Secure transporter.

(e) Safety compliance facility.

(Ord. 02-2018. Passed 2-6-18.)

833.04 CITY MMF PERMIT REQUIRED.

(a) No person shall operate a facility for which an annual MMF Permit as provided for in this Chapter has not been issued.

(b) No person or entity that was open or operating any facility purporting to produce, manufacture, test, transfer or transport medical marihuana or marihuana prior to the adoption of this ordinance by the City Commission shall be considered a lawful use or lawful nonconforming use.

(c) The MMF permit requirement in this chapter applies to all facilities that exist on the effective date of this chapter or are established after the effective date of this chapter. This includes all persons who engage or have engaged in any of the activities that are included in the definitions in the MMFLA of the types of entities that may obtain a state operating license, without regard to whether they called or call their businesses "dispensaries," "cultivation facilities," "clubs," "cooperatives," or any other similar label. A person who engaged in any of the activities that are included in the definitions in the MMFLA of the types of entities that may obtain a state operating license before the effective date of the MMFLA or before obtaining a state operating license does not have a vested right to obtain a City MMF Permit.

(d) The MMF permit requirement in this Chapter applies to all facilities whether operated for profit or not for profit.

(e) The MMF permit requirement in this Chapter shall be in addition to any other requirements imposed by any other state or local law, including but not limited to state or local laws applicable to commercial entities performing functions similar to the functions performed by marihuana facilities.

(f) The issuance of any MMF permit pursuant to this Chapter does not create an exception, defense or immunity to any person with regard to any potential criminal or civil liability the person may have under any federal or state law or city ordinance.

(g) This section does not apply to, or regulate, any protected patient or caregiver conduct pursuant to the Michigan Medical Marihuana Act of 2008.

(h) An MMF permit issued under this Chapter shall be valid for one year after the date of issuance. To renew an existing license, the licensee shall submit an application in the same manner as is required to apply for a new license no sooner than 90 days before the expiration date and no later than 60 days before the expiration date.

(Ord. 02-2018. Passed 2-6-18.)

833.05 GENERAL PROVISIONS.

(a) An MMF permit issued under this Chapter is valid only for the location of the facility and type of facility that is listed on the MMF permit application and is valid only for the operation of the facility at that location by the MMF permit Applicant, providing the facility remains in compliance with all other requirements in this chapter and Chapter 1299.

(b) An MMF permit issued under this chapter is valid only if the permit holder also holds a valid current state operating license, and a copy of the valid current State license has been provided to the City Clerk by the MMF permit holder.

(c) The revocation, suspension, and placement of restrictions by the state on a state operating license apply equally to an MMF permit issued by the City.

(d) The expiration date of the state operating license that corresponds to an MMF Permit issued under this chapter constitutes the expiration date of the license, however, operation of the facility under the expired license is permitted to the extent that operation under the expired state operating license is permitted under the MMFLA.

(e) An MMF Permit issued by the City under this chapter and the State Medical Marihuana Facility License shall be conspicuously posted in the facility where it is easily open to public view, City officials, including BCPD and the Department.

(f) Acceptance of an MMF Permit from the city under this chapter constitutes consent by the permittee, owners, managers and

employees to permit the City Administrator or designee to conduct inspections of the facility to ensure compliance with this chapter.

(Ord. 02-2018. Passed 2-6-18.)

833.06 APPLICATION REQUIREMENTS FOR AND ISSUANCE OF A NEW CITY MMF PERMIT; CONDITIONAL APPROVAL.

(a) Application for new annual MMF Permit. An application for a new annual MMF permit for a marihuana facility shall be submitted in person by the Applicant to the City Clerk on a form provided by the City, which shall fulfill all of the requirements indicated on the form. An Applicant shall truthfully and fully provide all of information requested on the application, including but not limited to, the following:

(1) The name and address of the proposed facility and any other contact information requested on the application form.

(2) The Applicant's full name, business address, e-mail address and phone number and presentation of a valid, government-issued photo identification.

(3) The name and address of all owners of the real property where the facility is located.

(4) Name and address of all business managers of the facility.

(5) A statement with respect to each person named on the application whether the person has:

(A) Ever been convicted of a felony involving controlled substances as defined under the Michigan Public Health Code, M.C.L.A. 333.1101 et seq., the federal law, or the law of any other state and, if so, the date of the conviction and the law under which the person was convicted.

(B) Ever been convicted of any other type of felony under the law of Michigan, the United States, or another state, and, if so, the date of the conviction and the law under which the person was convicted.

(6) Proof of an Applicant's ownership or legal possession of the premises and, if the Applicant is not the owner, the written, notarized consent of the property owner where the facility is proposed to be located to operate a facility at that location.

(7) A City-issued signed zoning assurance letter, provided with the MMF Permit application, which affirms that the Applicant has reviewed all applicable zoning ordinances relative to the proposed use, including Ch. 1299 and all regulations addressing site development including, but not limited to parking, setbacks, and signage.

(8) State of Michigan Licensing and Regulatory Affairs Department verification affirming completeness and accuracy of information and documents as required under the Department's Step 1: Prequalification Document Checklist.

(9) If the type(s) of Facility under the MMFLA application consists of a grower's permit, the maximum number of plants that the Applicant intends to grow. The application form for a grower's permit is the same for a Class A, Class B, or Class C license and one application fee for a grower's license shall apply without regard to the class of state operating license the permit application seeks.

(10) Payment of a non-refundable application fee, which shall be established by resolution of the City Commission and set out in the Fee, Bond, and Insurance schedule provided for in Section 802.24.

(b) Conditional Approval Permit. Approval of the new annual MMF Permit application after review as set out in below Section 833.11 will result in the issuance of a 90 day Conditional Approval Permit, which authorizes the Applicant to apply for and seek site plan review approval, and building/trade permits. A Conditional Approval Permit does not authorize use of a Facility. Within 90 days of issuance of the Conditional Approval Permit, the Applicant shall submit proof of an approved City site plan review and building/trade permits to the City Clerk.

(1) If application for site plan approval and local permits as outlined above were made but are not obtained within 90 days, the Conditional Approval Permit shall expire and a new permit application shall be submitted pursuant to Section 833.06. Extensions may be approved by the City Clerk based on substantial work having been completed as determined by the City and at the request of the Applicant 30 days prior to the expiration of the Conditional Approval Permit.

(2) If no site plan or building plans have been submitted for permits within the 90 days, the Conditional Approval Permit expires, and an Applicant will be required to wait 30 days before submitting a new application.

(Ord. 02-2018. Passed 2-6-18.)

833.07 ISSUANCE OF FINAL MMF PERMIT AND AUTHORIZATION TO OPERATE FACILITY UNDER PERMIT.

(a) If the MMF permit Applicant has successfully demonstrated compliance with all requirements included within the Conditional Approval Permit for issuance of a Permit, including but not limited to, the location conforming to all standards of the zoning district in which it is located, then the City Clerk shall issue a Final MMF permit to the Applicant, or grant renewal of an existing MMF permit.

(b) The issuance of a Final MMF permit under this chapter authorizes operation of the facility only after the following additional requirements are met:

(1) The Applicant has provided the City Clerk with copies of the Applicant's state operating license and the Certificate of Occupancy for the premises.

(2) The Applicant has provided the City Clerk a copy of the State approved premises security plan. The said security measures on the premises are subject to inspection and must be approved by the Battle Creek Police Department and comply with the following:

(A) Fully operational security cameras shall monitor all areas of the premises as required by State Administrative Rules, including but not limited to Emergency Rule 27.

(B) Recordings from security cameras shall be maintained for a minimum of 14 days, except for in instances of investigation or inspection by the Department, or the City Police Department (BCPD), through its investigators, agents, auditors, or the State Police, in which case the MMF permittee shall retain the recordings and make them available to BCPD upon request until such time as the department or the City notifies the MMF permittee that the recordings may be destroyed.

(C) The City Manager may adopt regulations implementing security measures, including but not limited to regulations on the design, location, maintenance, and access to the cameras and recordings so long as they do not conflict with state rules and regulations. City regulations shall take effect 30 days after being filed with the City Clerk unless modified or disapproved by the City Commission.

(D) A monitored alarm system consistent with State Administrative Rules, including but not limited to Emergency Rule 27.

(E) A storage room for overnight storage of any marihuana product and cash on the premises. The storage room shall have only one door for entry and no other potential means of entry, lawful or unlawful, such as a window or crawl space. The door shall be equipped with a locking mechanism that is different from other locks on any door within the facility.

(c) The Applicant shall provide the City with a certificate signed by a qualified agent of an insurance company evidencing the existence of valid and effective policies of the following types of insurance, as well as a copy of an endorsement placed on each policy requiring 10 days' notice by mail to the city before the insurer may cancel the policy for any reason:

(1) Worker's compensation insurance in accordance with Michigan statutory limits and Employers Liability Insurance with a minimum limit of \$100,000.00 for each accident for any employee.

(2) Public liability and personal injury insurance with minimum limits of \$500,000.00 for each occurrence with respect to bodily injury liability or property damage liability, or both combined.

Documentation must explicitly state the following: (a) the policy number; (b) name of insurance company; (c) name and address of the agent or authorized representative; (d) name and address of the insured; (e) location of coverage; (f) policy expiration dates; and (g) specific coverage amounts.

An original certificate of insurance may be provided as an initial indication of the required insurance. Applicant shall be required to continue without interruption during the term of the MMF permit the above named insurance coverages. If any of the above coverages expire by their terms during the term of a permit, the Applicant shall deliver proof of renewal and/or new policies to the City Clerk at least 10 days prior to the expiration date. Insurance companies, named insured and policy forms shall be subject to the approval of the City Insurance Loss Control Specialist or designee, within 5 business days. Insurance policies shall not contain endorsements or policy conditions which reduce coverage required under the terms of the MMF permit.

(Ord. 02-2018. Passed 2-6-18.)

833.08 APPLICATION REQUIREMENTS FOR AND ISSUANCE OF RENEWALS AND AMENDMENTS OF EXISTING MMF PERMITS.

(a) Renewal or amendment of existing MMF Permits.

(1) The same application procedures, including the non-refundable fee, that apply to submittal of a new MMF permit application shall apply.

(2) An application for renewal of an existing MMF permit shall be submitted no sooner than 90 days before the existing permit expires.

(b) Amended Applications.

(1) An amended application shall be submitted under either or both of the following circumstances:

(A) When there is a change in any information the permit Applicant is required to provide in the most recent application on file with the city; and/or

(B) When there is a change in any information the permit Applicant is required to provide in the most recent application for a state operating license on file with the state of Michigan.

(2) An application to amend an existing permit to change the location of the facility shall follow the procedure listed in Section 833.06, and shall be submitted no later than 90 days before the existing permit expires. An application to amend an existing permit to change any other information on the most recent application on file with the city may be submitted at any time.

(3) Applications for renewal or amendment of existing permits shall be reviewed and granted or denied before applications for new permits are considered.

(c) A person or entity that receives an MMF Permit under this chapter shall display its Permit and, when issued, its State Medical Marihuana Facility License in plain view clearly visible to City officials and State Medical Marihuana Licensing Board authorized agents.

(Ord. 02-2018. Passed 2-6-18.)

833.09 CONDUCT OF BUSINESS AT A FACILITY.

(a) A facility shall be conducted in compliance with the MMFLA, the rules promulgated pursuant to the MMFLA, including but not limited to the Emergency Rules, the MMMA, and all other laws, rules, and regulations of the state of Michigan and the City of Battle Creek.

(b) All marihuana in any form kept at the location of the medical marihuana facility shall be kept within an enclosed, secured building and shall not be visible from any location outside of the building except as may specifically be provided under City zoning ordinances.

(c) Marihuana facilities shall be closed for business, and no sale or any distribution, delivery or receipt of marihuana in any form shall occur upon the premises between the hours of 9:00 p.m. and 7:00 a.m.

(d) An authorized person shall consent to the entry into a marihuana facility by the Building Official and Zoning Inspectors or their designee for the purpose of inspection to determine compliance with this chapter and Ch. 1299, pursuant to a notice posted in a conspicuous place on the premises two or more days before the date of the inspection or sent by first class mail to the address of the premises four or more calendar days before the date of the inspection.

(e) All security measures required in this chapter shall be maintained in good working order. The premises shall be monitored and secured 24 hours per day.

(f) All marihuana in any form on the premises of a marihuana facility shall be marihuana cultivated, manufactured, testing, sold, and packaged in the State of Michigan.

(g) Access to the facility is restricted to the MMF permittee, employees of the permittee, and registered qualifying patients and registered primary caregivers with valid registry cards, if applicable, and the department, through its investigators, agents, auditors, or the State Police or BCPD. A separate waiting area may be created for visitors not authorized to enter the marihuana facility.

(h) Marihuana products must be marketed or advertised as "medical marihuana" for use only by registered qualifying patients or registered primary caregivers.

833.10 PROHIBITED ACTS.

It shall be unlawful:

- (a) For any person to violate any provision of this chapter or any condition of any permit granted pursuant to this chapter.
- (b) For any person to produce, distribute or possess more marihuana than allowed by any applicable state or local law.
- (c) For any person to produce, distribute or possess marihuana in violation of this chapter or any other applicable state or local law, including but not limited to applicable zoning ordinances, Chapter 1230 of these ordinances, and state administrative rules, including Emergency Rules.
- (d) For any person to make any changes or allow any changes to be made in the operation of the marihuana facility as represented in the MMF permit application, without first notifying the City by amending its application.
- (e) For any MMF permittee to advertise marihuana product where the advertisement is visible to members of the public from any street, sidewalk, park, or other public place.
- (f) For any person to market or advertise marihuana products to minors aged 17 years or younger. Sponsorships targeted to members aged 17 years or younger are prohibited.
- (g) For an MMF permittee of a facility to allow a physician to conduct a medical examination or issue a medical certification document on the premises for the purpose of obtaining a registry identification card, regardless of whether the Permittee was present at the time the prohibited conduct took place.
- (h) For an MMF permittee of a facility to allow the sale, consumption, or use of alcohol or tobacco products on the premises.
- (i) For any person to reside or permit any person to reside in or on the premises of a Marihuana Facility.
- (j) For any person to use medical marihuana, in any form, anywhere within a facility or on the property or a facility.

833.11 REVIEW OF APPLICATION; GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF MMF PERMIT; MMF PERMIT FORFEITURE; HEARING.

Upon filing of the application for an MMF Permit, the City Clerk shall review and evaluate the application, along with the Chief of Police or his or her designee, who shall cause an investigation to be made. In determining whether an MMF Permit should be issued, the City Clerk shall evaluate whether the application is complete.

(a) Grounds for Denial.

(1) The City Clerk shall reject any application that does not meet the requirements of the MMFLA or this Chapter. The City Clerk shall reject any application that contains any misrepresentation or omission of any material fact (materiality as determined by the City), or false or misleading information, or the Applicant has provided the city with any other false or misleading information related to the facility.

(2) An Applicant is ineligible to receive a license under this Chapter if any of the following circumstances exist regarding the Applicant or an Applicant's Affiliate (as defined by the MMFLA):

(A) Conviction of or release from incarceration for a felony under the laws of this state, any other state, or the United States within the past ten years or conviction of a controlled substance-related felony within the past ten years.

(B) Within the past five years, conviction of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state.

(C) Any person required to be named on the permit application is convicted of a crime which, if it had occurred prior to submittal of the application, could have been cause for denial of the permit application.

(D) The Applicant has knowingly submitted an application for a license that contains false, misleading or fraudulent information, or who has intentionally omitted pertinent information on the application for a license.

(E) Is a member of the Board as defined by M.C.L.A. 333.27102(d).

(F) The Applicant fails to provide and maintain adequate premises liability and casualty insurance for its proposed marijuana facility.

(G) Holds an elective office of a governmental unit of this state, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit in this state, another state, or the federal government; or is employed by a governmental unit of this state. This subdivision does not apply to an elected officer of or employee of a federally recognized Indian tribe or to an elected precinct delegate.

(H) The Applicant, if an individual, has been a resident of this state for less than a continuous two-year period immediately preceding the date of filing the application. This requirement does not apply after June 30, 2018.

(I) The Applicant fails to meet other criteria established by State-issued rule.

(b) MMF Permit Forfeiture. In the event that a medical marijuana facility does not commence operations within one year of issuance of a City MMF Permit, the MMF Permit shall be deemed forfeited; the business may not commence operations and the license is not eligible for renewal.

(c) MMF Permit as Revocable Privilege. An MMF Permit granted by this Chapter is a revocable privilege granted by the City and is not a property right. Granting an MMF Permit does not create or vest any right, title, or other property interest. Each MMF Permit is exclusive to the Permittee, and a Permittee or any other person must apply for and receive the City's approval before a Permit is transferred, sold, or purchased. An MMF Permittee or any other person shall not lease, pledge, or borrow or loan money against an MMF Permit. The attempted transfer, sale or other conveyance of an interest in a license without prior Board approval is grounds for suspension or revocation of the MMF Permit or for other sanction considered appropriate by the City.

(d) Nonrenewal, suspension or revocation of MMF Permit.

(1) The City Clerk may, after notice and hearing, suspend, revoke or refuse to renew an MMF Permit for any of the following reasons:

(A) The Applicant or Permittee, or his or her agent, manager or employee, has violated, does not meet, or has failed to comply with any of the terms, requirements, conditions or provisions of this Chapter or with any applicable state or local law, regulation or rule;

(B) The Applicant or Permittee, or his or her agent, manager or employee, has failed to comply with any special terms or conditions of its license pursuant to an order of the state or local permitting authority, including those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the Permit;

(C) The City, the County, or any other governmental entity with jurisdiction, has closed the facility temporarily or permanently or has issued any sanction for failure to comply with the health and safety provisions of this chapter or other applicable state or local laws related to public health and safety;

(D) The facility is determined by the City to have become a public nuisance pursuant to Chapter 662 Public Nuisance Abatement of these City Ordinances;

(E) The facility's state operating license has been suspended or revoked; or

(F) The marijuana commercial entity has been operated in a manner that adversely affects the public health, safety or welfare.

(2) Evidence to support a finding under this Section may include, without limitation, a continuing pattern of conduct, a continuing pattern or drug-related criminal conduct within the premises of the marijuana commercial entity or in the immediate area surrounding such business, a continuing pattern of criminal conduct directly related to or arising from the operation of the marijuana commercial entity, or an ongoing nuisance condition emanating from or caused by the marijuana commercial entity. Criminal conduct considered shall be limited to the violation of a State law or regulation or city ordinance.

(3) In addition to the basis for revocation and/or suspension in subsection (1) above, the City Commission may revoke a permit for cause in accordance with Section 802.17.

(e) Any person whose Permit is denied, revoked or suspended shall be entitled to a hearing in accordance with Section 802.16.

(Ord. 02-2018. Passed 2-6-18.)

833.12 REVOCATION NOT EXCLUSIVE PENALTY.

Nothing in this chapter shall be deemed to prohibit the City Administrator or designee from imposing other penalties authorized by the City of Battle Creek ordinances or other ordinance of the city, including filing a public nuisance action or any other legal action in a court of competent jurisdiction.

(Ord. 02-2018. Passed 2-6-18.)

833.99 PENALTY.

Except as otherwise provided in this chapter, a person who violates or fails to comply with any of the provisions of this chapter is responsible for a Class F Municipal civil infraction and shall be subject to the civil fines provided in Section 202.98 and any other relief that may be imposed by the court.

(Ord. 02-2018. Passed 2-6-18.)