

ARTICLE 11. - TEMPORARY OPERATION OF MEDICAL MARIHUANA FACILITIES

Sec. 14-237. - Intent.

- (a) The purpose of this article is pursuant to the Medical Marihuana Facilities Licensing Act, MCL 223.27101, et seq., ("Act") to authorize the establishment of a certain type of medical marihuana facility in the city for temporary operation.
- (b) Nothing in this article, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for the growing, sale, consumption, use, distribution or possession of marihuana in any form or manner that is not in compliance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., the Marihuana Tracking Act, MCL 333.27901 et seq., and all other applicable rules promulgated by the state.
- (c) Because federal law is not affected by state law or rules, nothing in this article, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall any provision of this article or this Code, be construed as granting immunity from criminal prosecution under federal law. The Act does not protect patients, users, care givers or the owners of properties on which the medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.
- (d) The city, as stated in its resolution of intent adopted concurrently with this emergency ordinance, is in the process of developing, reviewing and thereafter adopting an authorizing ordinance and zoning ordinance allowing for the location(s), type(s), and number of medical marihuana facilities under the Act.
- (e) That such ordinance will not be adopted before December 15, 2017, which is the date the Act has established for allowing applications for a state operating license.
- (f) If this emergency ordinance is not adopted, any proposed marihuana facility that may currently be in operation within the city will be required to close its operation before making application to the state for an operating license.
- (g) To promote the continued operation of medical marihuana facilities that may be currently operating, the department of licensing and regulatory affairs ("LARA") has issued Emergency Rule 19, issued December 4, 2017 that sets forth certain requirements, which if satisfied, will allow the temporary operation of a proposed marihuana facility until such time it obtains a state operating license.
- (h) To enable and ensure the continued protection of medical marihuana patients and their access to clean and tested marihuana without disruption, council deems this an emergency ordinance.

(Ord. No. 17-05, 12-12-2017)

Sec. 14-238. - Marihuana facilities allowed.

Pursuant to Section 205(1) of the Act and Emergency Rule 19, and in addition to any other emergency or permanent rule passed by LARA covering the temporary operation of a proposed medical marihuana facility, the city authorizes that only provisioning centers meeting the conditions in this emergency ordinance under the Act be permitted to temporarily operate in the city.

(Ord. No. 17-05, 12-12-2017)

Sec. 14-239. - Conditions.

A proposed medical marihuana facility is allowed to temporarily operate in the city only under the following conditions:

- (1) The medical marihuana facility has been in operation within the city on a continuous basis for at least one year previous to the date of adoption of this emergency ordinance, being December 12, 2017.
- (2) The proposed marihuana facility tests the medical marihuana sold to its customers by using an independent third party accredited laboratory.
- (3) The proposed medical marihuana facility has been in continuous operation at the same location in a permanent building for at least the previous year before the date of adoption of this emergency ordinance.
- (4) The proposed medical marihuana facility has been a commercial enterprise recognized as an ongoing business by factors such as signage, website, posted hours of operation, informational written materials and other similar items, and located in the B-3 business district continuously for the previous year before the adoption of this emergency ordinance.
- (5) The proposed medical marihuana facility has received a temporary operating permit from the City, or if required by LARA, the city clerk is authorized to sign a LARA form attesting that a proposed medical marihuana facility meets the requirements of this emergency ordinance.
- (6) The parcel on which the proposed medical marihuana facility is located is not contiguous to any residential zoning district.
- (7) During the past six months, at least one person in the city administration has performed an official tour and/or inspection supervised and consented to by one or more principals of the facility.
- (8) An owner or principal of a proposed medical marihuana facility has signed an affidavit verifying that the above conditions are satisfied.

(Ord. No. 17-05, 12-12-2017)

Sec. 14-240. - Noncompliance.

Any proposed medical marihuana facility that does not comply with Emergency Rule 19 shall not operate temporarily under this emergency ordinance.

(Ord. No. 17-05, 12-12-2017)

Sec. 14-241. - Repeal.

This emergency ordinance shall automatically be repealed on June 15, 2018 and any temporary operation of a proposed medical marihuana facility under this emergency ordinance will no longer be permitted.

(Ord. No. 17-05, 12-12-2017)

Sec. 14-242. - Subsequent medical marihuana facility ordinances.

A proposed medical marihuana facility temporarily operating under this emergency ordinance shall be subject to all conditions and requirements contained under any subsequent medical marihuana facility ordinance adopted by the city. Further, nothing in this emergency ordinance shall be construed as a guarantee for any license, permit, zoning approval or any other benefit conferred upon a medical marihuana facility under a subsequently adopted city licensing ordinance.

(Ord. No. 17-05, 12-12-2017)

Sec. 14-243. - Savings clause.

This emergency ordinance is intended to allow the temporary operation of proposed medical marihuana facility under the requirements of Emergency Rule 19, dated December 4, 2017 permitting a municipality to adopt an authorizing ordinance pursuant to Section 205 of the MMFLA prior to December 15, 2017. If any section or part of this emergency ordinance is found by any state board or agency to deprive a particular proposed medical marihuana facility from obtaining temporary operation under the emergency rule, the city may at its option, choose to amend such emergency ordinance to correct such deficiency. Such amendment shall be retroactive to the date of adoption of this original emergency ordinance so as to comply with the emergency rule.

(Ord. No. 17-05, 12-12-2017)

Sec. 14-244. - Immediate effect.

Pursuant to Section 5.3.B of the Portage City Charter, this article was introduced and adopted at a special meeting of the city council by a vote of not less than five members of the council as an emergency ordinance and, as such, pursuant to Section 5.5.A of the Portage City Charter shall take immediate effect upon its adoption.

(Ord. No. 17-05, 12-12-2017)

ARTICLE 12. - MEDICAL MARIHUANA FACILITIES

Sec. 14-245. - Purpose.

- (a) The purpose of this article is, pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., to authorize the establishment of certain types of medical marihuana facilities in the city; provide for standards and procedures for the review, issuance, renewal, or revocation of permits for such facilities; and establish fees for such permits.
- (b) Nothing in this article, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for the growing, sale, consumption, use, distribution or possession of marihuana in any form or manner that is not in compliance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., the Marihuana Tracking Act, MCL 333.27901 et seq., and all other applicable rules promulgated by the state of Michigan.
- (c) Because federal law is not affected by state law or rules, nothing in this article, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall any provision of this article or this Code, be construed as granting immunity from criminal prosecution under federal law. The act does not protect patients, users, care givers, licensees, or the owners or occupants of properties on which the medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-246. - Definitions.

As used in this article, the following terms shall have the meanings indicated:

Act means the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., as amended.

Board means the medical marihuana licensing board created in Section 301 of the Act.

Building means a combination of materials forming a structure affording a facility or shelter for use or occupancy by individuals or property. Building includes a part or parts of the building and all equipment of 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, or a greenhouse.

Grower means a licensee and permittee that is a commercial entity located in this city that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

LARA means the Michigan Department of Licensing and Regulatory Affairs.

Licensee means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

Marihuana means that term as defined in Section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.

Marihuana facility means a location at which a licensee and permittee is licensed and permitted to operate as a grower, processor, provisioning center, safety compliance facility, or secure transporter under the Act and this article.

Marihuana plant means any plant of the species *Cannabis sativa* L.

Marihuana product means marihuana or marihuana-infused product, or both, as those terms are defined in the Act unless otherwise provided for in the rules and this article.

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, MCL 289.1101 et seq.

Paraphernalia means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacturing, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marihuana.

Permittee means a person who has been issued a medical marihuana facilities permit pursuant to this article.

Person means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity, as well as those persons defined as "true party of interest".

Proposed marihuana facility means a location at which an applicant plans to operate under the Act, rules, and this article if the applicant is issued a state license, and a permit under this article.

Provisioning center means a licensee and permittee that is a commercial entity located in this city 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 Michigan Department of Licensing and Regulatory Affairs' (LARA) marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of this article.

Rules mean the emergency and general rules of the Michigan Department of Licensing and Regulatory Affairs adopted pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., and the Marihuana Tracking Act, MCL 333.27901 et seq., as may be amended from time to time.

Safety compliance facility means a licensee and permittee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

Secure transporter means a licensee and permittee that is a commercial entity located in this city that stores marihuana and transports marihuana between marihuana facilities for a fee.

Stacked license means more than one state operating license issued to a single licensee to operate as a grower of class C (1,500 plants) as specified in each license at a marihuana facility.

State operating license or *license* means a license that is issued the Act that allows the licensee to operate as one of the following, specified in the license:

- (1) A grower.
- (2) A processor.
- (3) A secure transporter.
- (4) A provisioning center.
- (5) A safety compliance facility.

Statewide monitoring system or, unless the context requires a different meaning, "system" means an internet-based, statewide database established, implemented, and maintained by the department under the Marihuana Tracking Act, that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

- (1) Tracking marihuana transfer and transportation by licensees, including transferee, date, quantity, and price.
- (2) Verifying in commercially reasonable time that a transfer will not exceed the limit that the patient or caregiver is authorized to receive under Section 4 of the Michigan Medical Marihuana Act.

Tracking Act means the Marihuana Tracking Act, MCL 333.27901 et seq.

True party of interest means the following:

- (1) For an individual or sole proprietorship: the proprietor and spouse.
- (2) For a partnership and limited liability partnership: all partners and their spouses. For a limited partnership and limited liability limited partnership: all general and limited partners and their spouses. For a limited liability company: all members, managers, and their spouses.
- (3) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses and all stockholders and their spouses.
- (4) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses.
- (5) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive a percentage of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.
- (6) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

"True party of interest" does not mean:

- (1) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.
- (2) A person who receives a bonus as an employee if the employee is on a fixed wage or salary and the bonus is not more than 25 percent of the employee's pre-bonus annual compensation or if the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

Unless the context requires a different meaning, any term used in this article that is defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq. shall have the definition given in that act.

Unless the context requires a different meaning, any term used in this article that is defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in that act.

Unless the context requires a different meaning, any term used in this article that is defined by the Marihuana Tracking Act, MCL 333.27901 et seq. shall have the definition given in that act.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-247. - Adoption of state rules and regulations.

All activities related to medical marihuana shall be in compliance with the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., the Marihuana Tracking Act, MCL 333.27901 et seq., and all other applicable rules promulgated by the state of Michigan.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-248. - Marihuana facilities allowed.

- (a) Pursuant to Section 205(1) of the act the city authorizes the following types of marihuana facilities to be permitted in the city without limitation as to the number of facilities: class A, B, and C growers, processors, secure transporters, provisioning centers, and safety compliance facilities.
- (b) Operation of provisioning centers, processors and growers at the same location is not authorized.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-249. - Permit required.

No person shall own or operate a marihuana facility in the city without first applying for and receiving a permit from the city clerk and state operating license. No person who has received a city permit and state license to operate a class C grower facility shall grow more than 1,500 plants at the facility without first applying for and receiving a permit from the city manager for each additional class C license the person desires to stack with its original state operating license, and a stacked class C state operating license or licenses.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-250. - Application for permit.

- (a) Permit applications for medical marihuana facilities and applications for stacked class C grower licenses at an existing class C grower facility, shall be received by the city annually during a period specifically designated by the city manager for that purpose, and at no other time. The city will initially begin receiving permit applications for marihuana facilities on a date determined by the city manager as soon after the effective date of this article as the city manager deems practicable.
- (b) Except as provided in this article, the city manager shall be responsible for establishing the procedure for receiving, reviewing and processing permits, establishing the beginning and ending dates during which permits will initially be received, establishing the beginning and ending dates during which permits may be received each year, and providing public notice regarding the permitting process and of the time period within which the city will receive permits.

- (c) Any person desiring to secure a permit shall make application to the city clerk upon a form provided by the city clerk. All permit applicants, except applicants with regard to a stacked class C grower license or licenses, must be prequalified for a medical marihuana facilities license by the Michigan Department of Licensing and Regulatory Affairs (LARA) before submitting an application. A copy of all applications received shall be distributed by the city clerk to the office of the city manager, department of public safety and department of community development for review to determine that the application is complete. If an application is incomplete or missing information the city clerk shall notify the applicant of the incomplete or missing information in writing by mail or electronic mail sent to the address provided by the applicant in the application or notification. The applicant shall have ten days of the date of mailing of the written notice to provide the incomplete or missing information to the city clerk.
- (d) Information requested in the application shall be provided for each true party of interest in the applicant; any other person who controls, directly or indirectly, the applicant; any other person who is controlled, directly or indirectly, by the applicant or by a person who controls, directly or indirectly, the applicant; and each stockholder or other person having a one percent or greater beneficial interest in the proposed marihuana facility. The application for a permit shall include at a minimum the information and documentation listed below under oath:
- (1) The name, business address, business telephone number, social security number, and, if applicable, federal tax identification number of the applicant.
 - (2) All residential addresses of the applicant for the past three years.
 - (3) The business, occupation or employment of the applicant for five years immediately preceding the date of application.
 - (4) Documentation evidencing that the applicant has been prequalified for a medical marihuana facilities license by LARA.
 - (5) Whether the applicant has been indicted for, charged with, arrested for, convicted of, pled guilty or nolo contendere to, or forfeited bail concerning, a felony under the laws of this state, any other state, or the United States, or a controlled substance-related felony, within the past ten years preceding the date of the application.
 - (6) Whether the applicant has been indicted for, charged with, arrested for, convicted of, pled guilty or nolo contendere to, or forfeited bail concerning, 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 within the past five years.
 - (7) Whether the applicant has previously violated this article or a substantially similar ordinance in another municipality preceding the date of the application.
 - (8) A comprehensive operating plan for the marihuana facility for which the application is being submitted that includes all of the information required for the marihuana facilities plan to be submitted in connection with a state license pursuant to the rules, the operational standards in sections 14-261 through 14-266 of this article, as applicable, and the following at a minimum:
 - a. A description of the type of marihuana facility applied for.
 - b. A security plan for the marihuana facility that addresses all required security measures of the rules and addresses at a minimum the ability to meet the security measures of the rules. The security plan must contain the specification details of each piece of security equipment to be utilized by the marihuana facility and comply with the provisions of article 2 and article 3 of chapter 26 of this Code, sections 14-261(c) and (d), as well as any other applicable provisions of this Code and the rules.
 - c. An HVAC plan for the marihuana facility describing in detail among other things the equipment or systems that will be used to prevent any odor of marihuana from leaving the premises.

- d. A staffing plan that addresses the number of persons estimated to be employed at the facility, estimated employee salaries, and employee hiring, and an employee training manual that includes, but is not limited to, employee safety procedures, employee guidelines, security protocol, and educational training, including, but not limited to, where appropriate, marihuana product information, dosage and daily limits, or educational materials.
- e. A marketing plan that at a minimum:
 - 1. Details how the marihuana facility will comply with all municipal ordinances and state law regulating signs and advertising;
 - 2. Provides that marihuana products must be marketed or advertised as "medical marihuana" for use only by registered qualifying patients or registered primary caregivers;
 - 3. Provides that marihuana products must not be marketed or advertised to minors aged 17 years or younger.
- f. An inventory and record keeping plan.
- g. A technology plan.
- h. A scaled conceptual plan.
- i. Written policies and procedures to timely address any concerns or complaints expressed by residents and businesses within the neighborhood surrounding the proposed location of the medical marihuana facility.
- j. For growers, the operational plan shall also include a cultivation plan that includes but is not limited to:
 - 1. The cultivation process or processes that will be used including a description of the grow medium, the equipment, and the fertilizer to be used;
 - 2. The estimated electrical and water usage and a statement of the projected daily average and peak electrical load anticipated to be used by the marihuana facility, a certification from a licensed electrician that the premises are equipped to safely accept and utilize the required or anticipated electric load for the facility, and a certification from the electrical utility supplying electricity to the facility that the anticipated electrical loads required for the facility will not exceed the capacity of the electrical supply system;
 - 3. A wastewater plan that details how wastewater generated during the cultivation of marihuana shall be disposed of in compliance with applicable state and local laws and regulation;
 - 4. A plant waste disposal plan that at a minimum:
 - (a) Details how marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form and recorded in the statewide monitoring system. Disposal by on-site burning or via the sewer system is prohibited;
 - (b) Provides that all waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106;
 - (c) Provides that marihuana product waste shall be disposed of in a secured waste receptacle using one or more of the following:
 - (1) A manned and permitted solid waste landfill;
 - (2) A manned compostable materials operation or facility;
 - (3) An in-vessel digester; and

- (4) Provides disposal will be in a manner in compliance with applicable state and local laws and regulations.
 5. A mold, mildew and pest prevention plan;
 6. An air quality plan addressing monitoring, clearance, temperate and humidity control, Co2, ozone, fumigation, and odor mitigation;
 7. A pesticide and chemical safety plan which shall include a detailed description of all toxic, hazardous, or flammable materials, chemicals and pesticides, that will be kept or used at the marihuana facility, and a detailed plan describing where and how such materials, chemicals and pesticides will be stored in the marihuana facility, and the means of disposing of unused toxic or flammable materials, chemicals, and pesticides.
 - k. For a provisioning center, the operational plan shall also include:
 1. A detailed description of the products and services to be provided;
 2. A plant waste disposal plan that at a minimum:
 - (a) Details how marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form and recorded in the statewide monitoring system. Disposal by on-site burning or via the sewer system is prohibited;
 - (b) Provides that all waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106;
 - (c) Provides that marihuana product waste shall be disposed of in a secured waste receptacle using one or more of the following:
 - (1) A manned and permitted solid waste landfill;
 - (2) A manned compostable materials operation or facility;
 - (3) An in-vessel digester; and
 - (4) Provides disposal will be in a manner in compliance with applicable state and local laws and regulations.
 - l. For a processor, the operational plan shall also include:
 1. A detailed description of the products to be produced;
 2. A wastewater plan that details how wastewater generated during the processing of marihuana products shall be disposed of in compliance with applicable state and local laws and regulation;
 3. A plant waste disposal plan that at a minimum:
 - (a) Details how marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form and recorded in the statewide monitoring system. Disposal by on-site burning or via the sewer system is prohibited;
 - (b) Provides that all waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106;
 - (c) Provides that marihuana product waste shall be disposed of in a secured waste receptacle using one or more of the following:
 - (1) A manned and permitted solid waste landfill;
 - (2) A manned compostable materials operation or facility;
 - (3) An in-vessel digester; and

- (4) Provides disposal will be in a manner in compliance with applicable state and local laws and regulations.
- (9) The address of the proposed marihuana facility to be operated by the applicant.
- (10) Proof that the applicant has or will have lawful possession of the premises proposed for the marihuana facility for the period during which the permit will be issued, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing, or letter of intent by the owner of the premises indicating an intent to lease the premises to the applicant contingent upon the applicant successfully obtaining a state operating license and local permit.
- (11) Whether the applicant 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.
- (12) The mailing address and electronic address at which the applicant desires to receive notification under the article, and phone numbers at which the applicant desires to be contacted.
- (13) Whether the applicant has ever applied for or has been granted any commercial license or certificate issued by LARA or any other jurisdiction concerning medical marihuana or marihuana that has been denied, restricted, suspended, revoked or not renewed, and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.
- (14) Whether the applicant has an interest in any other marihuana facility under the Act, and if so the type of facility, name, and location of the facility the applicant has an interest in.
- (15) A statement that the applicant will not violate any of the laws of the state or the ordinances of the city in conducting the business in which the license will be used, and that a violation on the premises may be cause for nonrenewal of a permit issued under this article, or for revocation of the permit.
- (16) A statement that the applicant understands that the issuance of a permit under this article is not intended to grant, nor shall be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana in any form or manner that is not in compliance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., the Marihuana Tracking Act, MCL 333.27901 et seq., and all other applicable rules promulgated by the state of Michigan, or from criminal prosecution or the seizure of property by federal authorities under the Federal Controlled Substances Act.
- (17) All marihuana facilities licensed and permitted to operate in the city shall at all times maintain in full force and effect workers compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000.00 per occurrence and a \$2,000,000.00 aggregate limit issued by the company licensed to do business in Michigan having an A.M. Best rating of at least A-. Applicants shall provide evidence of such insurance in the form of a certificate of insurance evidencing the existence of a valid and effective policy, or, evidence that the applicant is able to obtain such insurance and state the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, policy number if known, and the names of additional insured which shall include the city, its officials, and employees.
- (18) Whether the applicant has filed, or been served with a complaint or other notice filed with any public body regarding the delinquency in the payment of or dispute over the filings concerning the payment of any tax required under federal, state, or local law, including the amount of any tax, taxing agency and time periods involved.
- (19) Applicants have a continuing duty to provide the city with up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the applicant provides to the city.

- (20) The city manager may from time to time establish other qualifications for the application and permit which shall be provided in writing to prospective applicants with the application form.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-251. - Fees.

A nonrefundable permit fee set by resolution of city council, but not to exceed \$5,000.00, shall be submitted with the application for a permit. This fee shall be in addition to, and not in lieu of, any other fees for licensing or permitting requirements including but not limited to site plan review, zoning, or building permits.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-252. - Acceptance or denial of application.

- (a) Applications received may be denied by the city manager if the applicant, upon written notice, fails to provide missing or incomplete information within the time specified in section 14-250(c) of this article. The city manager shall deny an application for any of the following reasons:
- (1) The applicant has not been prequalified for a marihuana facility state license by LARA.
 - (2) The applicant did not pay the required application fee at the time of submission of the application.
 - (3) The applicant has not provided satisfactory proof that the applicant has or will have lawful possession of the premises proposed for the location of the marihuana facility for the period during which the permit will be issued.
 - (4) The applicant's proposed location does not comply with the zoning regulations in article 4 of chapter 42 of this Code. That a proposed facility is located less than the minimum spacing required by article 4 of chapter 42 of this Code from another proposed facility however, will not alone be grounds for denial of an application. Any application that meets all of the requirements for acceptance of the application except for the minimum spacing distance required by article 4 of chapter 24 of this Code between the medical marihuana facility proposed by that applicant and the medical marihuana facility proposed by any other applicant, will be entered in a lottery as provided in section 14-253(b)(3) to determine which of those applications will be accepted and issued a provisional permit and which applications will not. After the initial application period, an application for a proposed facility that meets all of the requirements for acceptance of the application except for the minimum spacing distance required by article 4 of chapter 42 from an existing medical marihuana facility will be denied.
 - (5) The city manager determines that the applicant has not satisfactorily complied with all of the permit requirements in section 14-250 of this article.
 - (6) The applicant has been granted a commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction concerning medical marihuana or marihuana that has been denied or not renewed, or is currently restricted suspended or revoked.
 - (7) The city manager determines that the applicant has submitted an application containing false, misleading, or fraudulent information, or who has intentionally omitted pertinent information on the application for a medical marihuana facilities permit.
 - (8) The applicant is delinquent in the payment of any taxes, fees or other charges owed to or collected by the city.

- (9) The comprehensive operating plan submitted by the applicant with the application pursuant to section 14-250(d)(8) does not comply with the requirements for a marihuana facilities plan as required by the rules, the requirements of section 14-250(d)(8), or the Act.
 - (10) Notice of denial of an application shall be sent to the applicant in writing by mail or electronic mail to the last known address of the applicant on file with the city. An applicant whose application is denied may appeal denial to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of denial.
- (b) All applications that are not denied as provided in subsection (a) above, and comply with all of the requirements for an application in section 14-250 of this article and the zoning provisions of article 4 of chapter 42 of this Code shall be accepted by the city clerk. All applications that meet the application requirements of section 14-250 and the zoning requirements of article 4 of chapter 42 of this Code except the minimum spacing requirements from another proposed medical marihuana facility will be entered in a lottery as provided in section 14-253(b)(3) to determine which of those applications will be accepted and issued a provisional permit.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-253. - Provisional permit.

- (a) Provisional permits will be issued by the city manager to applicants whose applications are accepted as provided in this section.
- (b) The city manager, in connection with the initial permit application period, shall issue provisional permits in three phases:
 - (1) In the first phase, the city manager shall issue a provisional permit to applicants whose permit has been accepted and who were issued a temporary operating permit pursuant to chapter 14, article 11 of this Code entitled temporary operation of medical marihuana facilities.
 - (2) In the second phase, the city manager shall issue provisional permits to applicants whose application was accepted and whose proposed facility complies fully with the zoning regulations in article 4 of chapter 42 of this Code;
 - (3) The third phase will determine which applicants will receive a provisional permit from among those applicants whose proposed medical marihuana facility is less than the minimum spacing distance required by article 4 of chapter 42 of this Code from another proposed medical marihuana facility. All such applicants will be entered in a lottery to determine which applicant will receive a provisional permit. The name of each such applicant will be drawn individually in sequence, with each applicant being assigned a number corresponding to the order in which their name was drawn. The lottery will continue until the names of all such applicants are drawn and assigned a number. The location of the medical marihuana facility proposed by the applicant whose name is drawn first in the lottery shall then be reviewed to determine if the proposed location of the applicant will comply with the applicable spacing requirements of article 4 of chapter 42 for the proposed facility with respect to any proposed facility for which it has previously been determined will be issued a provisional permit by the city manager. If the proposed facility will comply with the spacing requirements with respect to any proposed facility for which it has previously been determined will be issued a provisional permit by the city manager, the applicant will be issued a provisional permit. Otherwise, the applicant will be denied a provisional permit. The location of the facility proposed by each of the other applicants will then be evaluated in the same manner and in the order their name was drawn to determine compliance with the applicable spacing requirements of article 4 of chapter 42, and will be issued a provisional permit if the location will comply with the spacing requirements with respect to any proposed facility for which it has previously been determined will be issued a provisional permit by the city manager, and denied a provisional permit if it will not. All lottery drawings shall be conducted by the city manager or the city manager's designee with all entrants in the lottery

advised of the date and time of the lottery and afforded the opportunity to attend and witness the drawing.

- (c) The city manager, in connection with any permit application period after the initial permit application period, shall issue provisional permits to applicants whose application has been accepted in two phases:
 - (1) In the first phase, the city manager shall issue provisional permits to applicants whose application was accepted and whose proposed facility complies fully with the zoning regulations in article 4 of chapter 42 of this Code. Applicants whose proposed facility is less than the minimum spacing distance required by article 4, chapter 42 of this Code from an existing medical marihuana facility shall be denied a provisional permit;
 - (2) The second phase shall determine which applicants will receive a provisional permit if the applicant's proposed medical marihuana facility complies with the minimum spacing distance required by article 4 of chapter 42 of this Code from an existing facility, but is less than the minimum spacing distance required by article 4, chapter 42 from another proposed medical marihuana facility. Such applicants will be entered in a lottery conducted in the same manner as in phase 3 in section 14-253(b), above to determine which of them will receive a provisional permit. All lottery drawings shall be conducted by the city manager or the city manager's designee with all entrants in the lottery advised of the date and time of the lottery and afforded the opportunity to attend and witness the drawing.
- (d) A provisional permit does not authorize the applicant to operate a marihuana facility without first obtaining a state operating license for the facility, and obtaining all other permits, inspections, and approvals required by this article and all other applicable provisions of this Code. Upon issuance of a provisional permit the city clerk will be authorized to execute an affirmation to accompany an application for a facilities license that discloses that the city has adopted an ordinance under Section 205 of the Act, the limitations on the number and type of each facility if any imposed by the ordinance, a description of the city zoning regulations that apply, and any other information that may be required by the Act or the rules for such an attestation.
- (e) A provisional permit will lapse and be void six months from the date it has been issued if a state operating license, or all inspections and other permits and approvals required by city ordinance are not obtained, or if an applicant is denied a state operating license. The city manager or his or her designee shall notify LARA of all persons whose provisional permit has lapsed or become void. A provisional permit may be extended by the city manager upon a showing of good cause, such as a delay in obtaining a state license, or other good cause that is not the fault of the applicant, for an additional period not to exceed six months.
- (f) A provisional permittee has a continuing duty to provide the city with up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the provisional permittee provides to the city.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-254. - Termination, revocation, suspension, or restriction of provisional permit.

- (a) A provisional permit may be terminated, revoked, suspended or restricted by the city manager in writing for any of the following reasons:
 - (1) The provisional permittee is denied a state operating license;
 - (2) The marihuana facility is substantially different from the comprehensive operating plan, marihuana facility plan, conceptual plan or other representations;
 - (3) Officers of the city are unable to access the proposed facility for permit inspections or are denied access by the provisional permittee;

- (4) The provisional permittee fails, refuses, or becomes unable to obtain site plan approval and an occupancy permit issued by the city.
- (5) Any violation of the Act, rules, or this article.
- (b) If a provisional permit is terminated, revoked, suspended or restricted, the city manager or his or her designee will notify in writing by mail or electronic mail both the permit holder, at the last known address on file with the city for notification of the applicant, and the Michigan Department of Licensing and Regulatory Affairs of the termination, revocation, suspension, or restriction of the permit and the reasons therefore in writing.
- (c) The holder of a provisional permit under this article that is terminated, revoked, suspended or restricted may appeal the termination, revocation, suspension or restriction to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of the termination, revocation, suspension or restriction.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-255. - Medical marihuana facilities permit.

- (a) Medical marihuana facilities permits will be issued by the city manager. In order to be issued a marihuana facilities permit an applicant who holds a valid provisional permit shall: successfully complete the inspection required by subsection (c) of this section; submit proof to the city manager of obtaining all permits and approvals required by all applicable ordinances of the city including but not limited to an approved site plan and occupancy permit; and, proof of insurance required by this article in the form of a certificate of insurance evidencing the existence of a valid and effective policy, stating the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, policy number, and the names of additional insureds which shall include the city, its officials, and employees. An applicant who holds a provisional permit for a secure transporter permit shall additionally show proof of auto insurance, vehicle registration and registration as a commercial motor vehicle as applicable for any transporting vehicles used to transport marihuana product in order to be issued a marihuana facilities permit by the city manager.
- (b) The site plan required for issuance of a marihuana facilities permit shall be consistent with the requirements of section 42-482.A of this Code. The site plan will be reviewed administratively consistent with section 42-482.B and in accordance with the standards of section 42-483, except that no review by the planning commission of the site plan will be made. The site plan will be approved consistent with the provisions of section 42-484 except that any appeal of a site plan approval shall be to the city manager who will have the discretion whether or not to reverse an order of the director.
- (c) Before issuance of a marihuana facilities permit the city shall conduct an inspection of the proposed marihuana facility to verify that the marihuana facility is ready to open for business, the premises of facility are constructed and can be operated in accordance with the application submitted, the approved site plan, the requirements of this Code and any other applicable law, rule, or regulation. No marihuana facilities permit may be issued and no marihuana facility may conduct any business or operations until the inspection is completed and it is determined that the marihuana facility is ready to open for business, the premises of facility are constructed and can be operated in accordance with the application, marihuana facilities plan, and comprehensive operating plan submitted with the application as well as the approved site plan, and the facility is in compliance with the requirements of this Code and any other applicable law, rule, or regulation.
- (d) The marihuana facilities permit shall be issued only in the name of the true party of interest.
- (e) A marihuana facilities permit issued under this article is a revocable privilege granted by the city and is not a property right. Granting the permit does not create or vest any right, title, franchise or other property interest.

- (f) Each permit is exclusive to the person who is issued the permit and that person must apply for and receive approval of the city manager pursuant to section 14-258 of this article before a permit is transferred, sold, or purchased.
- (g) The marihuana facilities permit and state operating license shall be displayed in a conspicuous public place in the business establishment.
- (h) Acceptance of a marihuana facilities permit under this article shall constitute permission to any officer of the city, within the authority granted him or her by this Code under which such permit was granted, to enter upon and inspect the premises of the marihuana facility at all reasonable times.
- (i) A permittee has a continuing duty to provide the city with up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the permittee provides to the city.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-256. - Renewal of permit.

- (a) A marihuana facilities permit shall run concurrent with the state operating license issued for the facility and shall be renewed annually unless revoked as provided by law.
- (b) Renewal of marihuana facilities permit shall be made by application to the city clerk. The application for renewal must be filed before the permit expires at such time as is established by the city manager, but in no event less than 30 days before the expiration of the permit. The application for renewal shall be upon a form provided by the city clerk and shall contain the same information required for an application for a new permit, be given under oath or affirmation, and shall be reviewed and approved in the same manner. Renewal of permits issued in connection with class C grower stacked licenses will require only a single application form for the original class C grower permit and all stacked license permits issued to the applicant. The renewal application shall indicate that the application is for the renewal of permits issued in connection with class C grower stacked licenses and the permit or permits the applicant is seeking to renew.
- (c) The city clerk shall notify the permittee by mail or electronic mail at the last known address on file with the city for notification of the permittee, advising of the time, and procedure for renewing the permit. Failure of the permittee to receive notice under this subsection does not relieve the permittee of the responsibility for renewing the permit.
- (d) A permit renewal application may be denied by the city manager if the permit renewal application is not received by the city clerk on or before the expiration date of the permit to be renewed. The city manager shall deny a permit renewal application if any of the following occur:
 - (1) The permit to be renewed has been terminated or revoked.
 - (2) The permit is suspended or restricted.
 - (3) The applicant did not pay the required application fee at the time of submission of the renewal application.
 - (4) At the time of submission of the renewal application the applicant is delinquent in the payment of any taxes, fees or other charges owed to or collected by the city.
 - (5) The city manager determines that the applicant is not in compliance with all qualifications established by section 14-250 of this article, the Act or the rules.
 - (6) The applicant failed to correct any deficiencies in the renewal application.
 - (7) The city manager determines that applicant submitted a renewal application containing false, misleading, or fraudulent information, or intentionally omitted pertinent information on the renewal application.
 - (8) The applicant fails to provide evidence of insurance as required by section 14-250(d)(17).

- (9) An inspection conducted by the city reveals that the medical marihuana facility to which the renewal application pertains is not in compliance with this article, this Code of ordinances, the Act and rules.
- (e) Notice of denial of a renewal application shall be sent to the applicant in writing by mail or electronic mail to the last known address of the applicant on file with the city for notification of the applicant. An applicant whose renewal application is denied may appeal denial to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of denial.
- (f) The city manager or his or her designee shall inform in writing by mail or electronic mail the Michigan Department of Licensing and Regulatory Affairs of all permittees whose permit is renewed and if a permittee fails to renew a permit, or the permittee's renewal application is denied.
- (g) A medical marihuana facility shall not be in violation of the spacing requirements from certain protected uses as specified in article 4, chapter 42 of this Code in the event any of those protected uses was located less than the minimum spacing distance from the medical marihuana facility at any time after a permit under this article and a state license to operate the facility were issued.
- (h) The city manager may grant relief to any renewal applicant from the provisions of this section upon a showing of good cause.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-257. - Revocation, termination or suspension of permit.

- (a) Any marihuana facilities permit shall automatically terminate and become void if the state license for the permitted use is revoked, terminates or becomes void.
- (b) Any marihuana facilities permit may be revoked upon the occurrence of any of the following:
 - (1) Operation of the permitted use is not commenced within one year of the date of issuance of the marihuana facilities permit.
 - (2) If the permitted use ceases or is discontinued for 90 days or more.
- (c) Any marihuana facilities permit may be revoked or suspended in the discretion of the city manager upon the occurrence of any of the following:
 - (1) Any violation of the provisions of this article, this Code of ordinances, the Act, the Tracking Act, and the rules. A medical marihuana facility shall not be in violation of the spacing requirements from certain protected uses as specified in article 4, chapter 42 of this Code in the event any of those protected uses was located less than the minimum spacing distance from the medical marihuana facility at any time after a permit under this article and a state license to operate the facility were issued.
 - (2) The conduct of business in an unlawful manner or in such a way as to constitute a public nuisance or negatively impacts the health, safety, or general welfare of surrounding property or city residents.
- (d) A medical marihuana facilities permit will be suspended for the transfer or attempted transfer of the permit or any interest in such permit without first obtaining approval of the city manager to do so.
- (e) Any marihuana facilities permit shall automatically be suspended if the state operating license for the permitted use is suspended. The terms and conditions of suspension shall correspond to the suspension of the state operating license.
- (f) Any medical marihuana facilities permit shall automatically be restricted if the state license for the permitted use is restricted. The terms and conditions of the restriction shall correspond to the restriction of the state license.
- (g) If a medical marihuana facilities permit is terminated, revoked, suspended or restricted, the city manager will notify the permittee, at the permittee's last known address on file with the city for

notification of the permittee, and the Michigan Department of Licensing and Regulatory Affairs of the termination, revocation, suspension, or restriction of the permit and the reasons therefore in writing by mail or electronic mail.

- (h) The holder of a marihuana facilities permit under this article that is terminated, revoked, suspended or restricted may appeal the termination, revocation, suspension or restriction to the city council within ten days of receipt of the notice of the termination, revocation, suspension or restriction.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-258. - Transfer, sale or purchase of permits or licenses.

- (a) No marihuana facilities permit may be transferred, sold, or purchased without making application to and obtaining approval of the city manager.
- (b) Any transferee, buyer or purchaser of a permit must meet all requirements and conditions for the issuance of a permit under this article for the type of facility the permit was issued for before the transfer, sale or purchase of the permit will be finally approved. The transfer, sale, or purchase will be conditioned upon the transferee, buyer or purchaser obtaining a state license for the type of facility the permit was issued for within 180 days of the approval of the transfer, sale, or purchase.
- (c) Transfer or attempted transfer of a medical marihuana facilities permit or any interest in such permit without first obtaining approval of the city manager to do so will be grounds for suspension of the permit pursuant to section 14-257(c) and a violation of this article.
- (d) For the purposes of a sale, transfer, or purchase of a medical marihuana facility the facility shall not be in violation of the spacing requirements from certain protected uses as specified in article 4, chapter 42 of this Code in the event any of those protected uses was located less than the minimum spacing distance from the medical marihuana facility at any time after a permit under this article and a state license to operate the facility were issued.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-259. - Changes to marihuana facilities.

- (a) Any change or modification of a marihuana facility after it receives a state license, and a permit under this article is governed by the standards and procedures of the Act and rules, and the standards, and standards and procedures of this Code including but not limited to standards and procedures relating to zoning, site plans, and, building, plumbing, electrical, mechanical, and fire safety codes. Changes or modifications to a marihuana facility may, however, be made at any time, but must be approved by LARA and the city before any changes or modifications are made. The permittee must obtain all required city permits before the change or modification is commenced, and provide evidence to the city of the approval of LARA for any change or modification to a medical marihuana facility.
- (b) Change of location of a marihuana facility requires a permit application that includes the same information listed in section 14-250 of this article for a permit application and an application fee. The proposed new location of the medical marihuana facility, in addition to complying with the provisions of section 14-250, but must also comply with the provisions of article 4, chapter 42 that pertain to the type of medical marihuana facility in question. The change of location permit will be submitted and approved or denied in the same manner as an application for a medical marihuana facility permit, and provisional and full permits for the change of location will be issued in the same manner as for a medical marihuana facilities permit application. Applications for a change of location may be made at any time.
- (c) Failure to obtain prior approval of a change or modification of a marihuana facility from LARA and the city or to obtain all necessary permits for the change or modification, and, failure to obtain

approval of a change of location of a medical marihuana facility are violations of the provisions of this article for which a medical marihuana facilities permit may be revoked or suspended pursuant to section 14-257 of this article.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-260. - Disclosure of information.

Consistent with MCL 333.27205(4), and to the extent otherwise permitted by law, all information submitted in conjunction with an application for a marihuana facilities permit or permit renewal required under this article is exempt from disclosure under the Michigan Freedom of Information Act, MCL 15.231 et seq.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-261. - Minimum operational standards for all marihuana facilities.

All marihuana facilities shall at a minimum comply with the following operational standards:

- (1) Marihuana facilities shall be open for inspection upon request by the building official, the fire division, or law enforcement officials for determination of compliance with all applicable laws and rules, during the stated hours of operation/use and at such other times as anyone is present on the premises. Inspections may include inspection of the facility premises, surveillance records, camera recordings, reports, records or other materials required as a condition of a permit under this article or a state operating license. Acceptance of a marihuana facilities permit or leasing property to a marihuana facility constitutes consent to such inspections and the seizure of any surveillance records, camera recordings, reports record or other materials required as a condition of the permit under this article or a state operating license without a search warrant. The person issued a permit, or an employee or agent of the thereof shall not hinder or obstruct a law enforcement officer or employee of the city from conducting inspections pursuant to this section, and shall not refuse, fail, or neglect to cooperate with a law enforcement officer or city employee in the performance of his or her duties in enforcing this article, the Act, or applicable state administrative rules.
- (2) Marihuana facilities shall conduct the activities of the marihuana facility, including, without limitation, the cultivating, growing, processing, displaying, manufacturing, selling, storage of marihuana and marihuana-infused products, and storage of all materials used in connection with the cultivating, growing, processing, displaying, manufacturing, and selling of marihuana and marihuana-infused products indoors in a building and out of public view.
- (3) Marihuana facilities shall install a fire alarm and a burglar alarm system. The fire alarm system shall meet the requirements of this Code for a newly installed system and be monitored by a listed central station. All burglar alarm systems shall be monitored by a company that is staffed 24 hours a day, seven days a week.
- (4) Marihuana facilities shall have a video surveillance system that complies with the rules at a minimum, and that makes, retains, and stores surveillance recordings as provided in the rules.
- (5) Surveillance recordings of marihuana facilities shall be subject to inspection and review by the city upon request. All surveillance recordings shall be kept in a manner that allows the city to view and obtain copies of the recordings immediately upon request.
- (6) Marihuana facilities shall utilize sufficient measures and means to prevent smoke, odor, debris, dust, fluids and other substances from exiting the premises of the facility at any time. In the event that any smoke, odor, debris, dust, fluids or other substances exit the marihuana facility in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property, or that causes damage to property, the permittee for the facility

and the owner of the premises shall be jointly and severally liable for such conditions and shall be responsible for immediate, full cleanup and correction of such condition. The permittee shall properly dispose of all such materials, items and other substances in a safe, sanitary, and secure manner in compliance with all federal and state laws and regulations, and this Code.

- (7) Marihuana facilities shall install and maintain in operable condition a system to preclude marihuana odors from emanating from the premises of the marihuana facility in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property as determined by the objective standards of a reasonable person of normal sensitivity.
- (8) Subject to the laws of this state, before hiring a prospective employee, a permittee shall conduct a background check of the prospective employee. If the background check indicates a pending charge or conviction within the past ten years for a controlled substance-related felony, the permittee shall not hire the prospective employee without written permission of the board.
- (9) Access to the marihuana facility is restricted to the permittee, employees of the permittee, and registered qualifying patients and registered primary caregivers with valid registry cards, if applicable, LARA through its investigators, agents, auditors or the state police, and, local law and code enforcement officers.
- (10) All marihuana facilities must be at a fixed location. Mobile marihuana facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products by marihuana facilities as otherwise expressly authorized by the Act.
- (11) All marihuana facilities shall comply with all provisions of this Code, state law and administrative rules regulating signs and advertising.
- (12) The business, operations, marketing and advertising of all marihuana facilities and marihuana product shall comply at all times with applicable state law and regulations, and this Code.
- (13) Marihuana products not identified and recorded in the statewide monitoring system pursuant to the Act, the Tracking Act, and the rules are prohibited from being on the premises of any marihuana facility, and shall not be sold or transferred by any licensee.
- (14) Any marihuana product without a batch number or identification tag pursuant to the rules is prohibited from being at or on the premises of any medical marihuana facility.
- (15) Marihuana facilities shall comply with the building and fire safety provisions of the rules as are applicable to the particular type of facility at all times.
- (16) Marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form in a manner that prevents its acquisition by any person who may not lawfully possess it, and recorded in the statewide monitoring system. Marihuana product waste shall be disposed of in a secured waste receptacle using one or more of the following:
 - a. A manned and permitted solid waste landfill;
 - b. A manned compostable materials operation or facility;
 - c. An in-vessel digester.
- (17) All marihuana product waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106.
- (18) All marihuana product waste or marihuana products that are to be destroyed, or that LARA orders to be destroyed, shall not be sold.
- (19) All inventory of marihuana products must be stored in a secured limited access area or restricted access area, and identified and tracked consistent with the statewide monitoring system under the Act, the Tracking Act, and the rules.

- (20) All containers used to store marihuana products for transfer or sale between marihuana facilities shall meet the requirements of the rules for such containers.
- (21) All chemicals or solvents must be stored separately from marihuana products and kept in locked storage areas.
- (22) Marihuana-infused products or materials used in direct contact with such products must have separate storage areas from toxic or flammable materials.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-262. - Minimum operational standards applicable to provisioning centers.

All provisioning centers shall, in addition to the operational standards in section 14-261, comply with the following operational standards at a minimum:

- (1) Provisioning centers shall open no earlier than 8:00 a.m. and close no later than 8:00 p.m.
- (2) No alcohol or tobacco products may be sold, used, or consumed on the premises. No marihuana or marihuana-infused products may be used or consumed on the premises.
- (3) No marihuana plants shall be allowed on the premises.
- (4) During times when the provisioning center is not open to the public, processed marihuana, marihuana products, cash and currency shall be stored in a safe or security vault that is incorporated into the building structure or securely attached to the building structure or a safe room with a security vault or other secure door.
- (5) A provisioning center shall purchase marihuana only from a grower or processor.
- (6) All transfers of marihuana to a provisioning center from a separate marihuana facility shall be by means of a secure transporter.
- (7) A provisioning center shall sell or transfer marihuana only to a registered qualifying patient or registered primary caregiver.
- (8) A provisioning center shall transfer marihuana to or from a safety compliance facility for testing by means of a secure transporter.
- (9) The sale or transfer marihuana to a registered qualifying patient or registered primary caregiver shall only occur after it has been tested and bears the label required for retail sale by the Act and the rules.
- (10) Before selling or transferring marihuana to a registered qualifying patient or to a registered primary caregiver on behalf of a registered qualifying patient, a provisioning center shall inquire of the statewide monitoring system to determine whether the patient and, if applicable, the caregiver hold a valid, current, unexpired, and unrevoked registry identification card and that the sale or transfer will not exceed the daily purchasing limit established by the board under the Act.
- (11) All transactions, current inventory, and other information of the provisioning center shall be entered into the statewide monitoring system as required by the Act, rules, and the Marihuana Tracking Act.
- (12) A provisioning center shall not 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.
- (13) Marihuana and marihuana paraphernalia shall not be sold, given away, or dispensed from any outdoor location.
- (14) A provisioning center shall have a separate room that is dedicated as the point of sale area for the transfer or sale of marihuana products.

- (15) All marihuana products shall be kept behind a counter or other barrier to ensure a registered qualifying patient or registered primary caregiver does not have direct access to the marihuana products.
- (16) A provisioning center shall comply with all packaging and labeling requirements of the rules before selling or transferring marihuana products.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-263. - Minimum operational standards applicable to grow facilities.

All grow facilities shall, in addition to the operational standards in section 14-261, comply with the following operational standards at a minimum:

- (1) Until December 31, 2021, the permittee or an active employee shall have, a minimum of two years experience as a registered primary caregiver.
- (2) While holding a permit for grower facility, no permittee shall be a registered primary caregiver and shall not employ an individual who is simultaneously a registered primary caregiver.
- (3) All transactions, current inventory, and other information of the grow facility shall be entered into the statewide monitoring system as required by the Act, rules, and the Tracking Act.
- (4) All activities and operations of the grow facility, including cultivation, shall take place indoors within a building.
- (5) The use of compressed gases such as carbon dioxide in multiple processes in the cultivation of marihuana shall meet the requirements of the rules for such processes.
- (6) A grow facility shall not use any pesticides in the cultivation of marihuana that has not been approved by LARA for such purpose.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-264. - Minimum operational standards applicable to processor facilities.

All processor facilities shall, in addition to the operational standards in section 14-261, comply with the following operational standards at a minimum:

- (1) A processor shall purchase marihuana only from a grower and shall sell marihuana-infused products or marihuana only to a provisioning center.
- (2) A processor shall transfer marihuana only by means of a secure transporter.
- (3) Until December 31, 2021, the permittee or an active employee shall have, a minimum of two years experience as a registered primary caregiver.
- (4) While holding a permit for processor facility, no permittee shall be a registered primary caregiver and shall not employ an individual who is simultaneously a registered primary caregiver.
- (5) All transactions, current inventory, and other information of the processor facility shall be entered into the statewide monitoring system as required by the Act, rules, and the Marihuana Tracking Act.
- (6) Processes that extract oil from marihuana plants and marihuana products using flammable gas, flammable liquid, or compressed gases of varying materials including, but not limited to, butane, propane, and carbon dioxide shall meet the requirements of the rules for such processes.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-265. - Minimum standards applicable to secure transporters.

All secure transporter facilities shall, in addition to the operational standards in section 14-261, comply with the following operational standards at a minimum:

- (1) May take physical custody of marihuana or money but legal custody belongs to the transferor or transferee.
- (2) May not sell or purchase marihuana products.
- (3) May store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana facilities for a fee.
- (4) Marihuana may not be transported to a registered qualifying patient or registered primary caregiver.
- (5) Marihuana product may only be transported in a locked, secured, sealed container that is not accessible while in transit. Money associated with the purchase or sale of marihuana product between facilities shall be locked in a sealed container kept separate from the marihuana product and only accessible to the secure transporter licensee/permittee and its employees.
- (6) Each driver transporting marihuana must have a chauffeur's license issued by this state.
- (7) Each employee who has custody of marihuana or money that is related to a marihuana transaction shall not have been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past five years or have been convicted of a misdemeanor involving a controlled substance within the past five years.
- (8) Each vehicle shall be operated with a two-person crew with at least one individual remaining with the vehicle at all times during the transportation of marihuana.
- (9) A route plan and manifest shall be entered into the statewide monitoring system, and a copy shall be carried in the transporting vehicle and presented to a law enforcement officer upon request.
- (10) A secure transporting vehicle shall not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.
- (11) A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with the Act and this article.
- (12) All transactions, current inventory, and other information of the secure transporter shall be entered into the statewide monitoring system as required by the Act, rules, and the Tracking Act.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-266. - Minimum standards applicable to safety compliance facilities.

All safety compliance facilities shall, in addition to the operational standards in section 14-261, comply with the following operational standards at a minimum:

- (1) A safety compliance facility is authorized to only receive marihuana from, test marihuana for, and return marihuana to a marihuana facility.
- (2) A safety compliance facility must be accredited by an entity approved by the board by one year after the date the license is issued or have previously provided drug testing services to this state

or this state's court system and be a vendor in good standing in regard to those services unless a variance from this requirement is granted by the board as provided by the Act.

- (3) A safety compliance facility shall:
- a. Perform tests to certify that marihuana is reasonably free of chemical residues such as fungicides and insecticides.
 - b. Use validated test methods to determine tetrahydrocannabinol, tetrahydrocannabinol acid, cannabidiol, and cannabidiol acid levels.
 - c. Perform tests that determine whether marihuana complies with the standards the board establishes for microbial and mycotoxin contents.
 - d. Perform other tests necessary to determine compliance with any other good manufacturing practices as prescribed in rules.
 - e. Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the Marihuana Tracking Act.
 - f. Have a secured laboratory space that cannot be accessed by the general public.
 - g. Retain and employ at least one staff member with a relevant advanced degree in a medical or laboratory science.
 - h. Comply with all provisions of the rules regarding the testing, retesting, and sampling of marihuana and marihuana products.
 - i. Establish an adequate chain of custody and instructions for sample and storage requirements.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-267. - Conflicts, future laws and regulations.

In the event of any conflict between the provisions of this article and the provisions of the Act or the rules, the conflicting provisions of this article will be preempted and the provisions of the Act or the rules will control. Should the state in the future adopt additional or stricter laws or regulations governing the production, processing, transporting, testing, sale and distribution of marihuana, the additional or stricter laws and regulations shall control the establishment or operation of any marihuana facility in the city, as well as the issuance, denial, suspension, or revocation of any permit under this article.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-268. - Penalty and remedies.

- (a) Any violation of this article is a municipal civil infraction subject to penalties imposed on municipal civil infractions by section 1-7(e) of this Code and state law.
- (b) In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of the provisions of this Code, or any ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist.
- (c) In addition to the penalties in this section, any violation of this article, the Act, or the rules may result in the denial of a permit, or the revocation, suspension, or non-renewal of a permit issued under this article.
- (d) Nothing in this article shall prevent the city from pursuing any other remedy provided by law and equity, including an injunction, in conjunction with or in lieu of prosecuting persons under this section for violation of this article.

(Ord. No. 18-01, 2-27-2018)

Sec. 14-269. - Effect tie-barred.

This amendment to chapter 14 to add article 12, "Medical Marihuana Facilities" shall only take effect if chapter 42 is amended to add section 42-262.B.16, section 42-280.B.21, section 42-280.B.22, section 42-281.B.7, and section 42-821.B.8.

(Ord. No. 18-01, 2-27-2018)