

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING ARTICLE 12, MEDICAL
MARIHUANA FACILITIES, OF CHAPTER 14, BUSINESSES**

THE CITY OF PORTAGE ORDAINS:

That Chapter 14, Article 12, Medical Marihuana Facilities, shall be amended as follows:

CHAPTER 14. BUSINESSES.

ARTICLE 12. MARIHUANA BUSINESSES.

Sec. 14-245. Purpose.

- (a) The purpose of this article is, pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.* (Medical Facilities Act) and the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 *et seq.*, (Adult-use Act) to: authorize the establishment of certain types of medical marihuana facilities and adult-use marihuana establishments (marihuana businesses) in the City of Portage; provide for standards and procedures for the review, issuance, renewal, or revocation of permits for such businesses; 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.*, (Medical Marihuana Act) the Medical Facilities Act, the Marihuana Tracking Act, MCL 333.27901 *et seq.*, (Tracking Act) the Adult-use Act 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. Neither the Medical Facilities Act nor the Adult-Use Act protects patients, users, care givers, licensees, or the owners or occupants of properties on which the medical or adult-use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.

Sec. 14-246. Definitions.

- (a) As used in this article, the following terms shall have the meanings indicated:

Applicant means the person who applied for and received prequalification for a license under either the Marihuana Facilities Act or the Adult-use Act, and who then applied for a marihuana business permit under this article or a marihuana facilities permit under the previous version of this article.

Equivalent licenses means any of the following held by a single licensee:

- (1) A marihuana grower license, of any class, issued under Adult-use Act Adult-use Act and a grower license, of any class, issued under the Medical Facilities Act.

- (2) A marihuana processor license issued under Adult-use Act and a processor license issued under the Medical Facilities Act.
- (3) A marihuana retailer license issued under MRTMA and a provisioning center license issued under the MMFLA.
- (4) A marihuana secure transporter license issued under Adult-use Act and a secure transporter license issued under the Medical Facilities Act.
- (5) A marihuana safety compliance facility license issued under Adult-use Act and a safety compliance facility license issued under the Medical Facilities Act.

Grower means a licensee and permittee that, under either the Medical facilities Act and Rules or the Adult-use Act and Rules, is a commercial entity located in this city that cultivates, dries, trims, or cures and packages marihuana for sale to a processor, provisioning center, or marihuana retailer.

License, Marihuana Business License or Business License means a state operating license issued under the Medical Facilities Act or the Adult-use Act.

Licensee means a person holding a state operating license issued under the Medical Facilities Act or the Adult-use Act. *Marihuana* means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

Marihuana business or *business* means the licensed and permitted operation at a property location in the city as a grower, processor, provisioning center, safety compliance facility, or secure transporter, under the Medical Facilities Act and this article or the prior version of this article, or a grower, processor, retailer, safety compliance facility, secure transporter, microbusiness, or marihuana event organizer under the Adult-use Act and this article.

Marihuana business permit means a permit issued under this article that allows a person to operate either a medical marihuana facility permitted under the Medical Facilities Act and this article, or an adult-use establishment permitted under the Adult-use Act and this article, in this city.

Marihuana facilities permit. means a permit issued under the previous version of this article for a medical marihuana facility under the Medical Facilities Act and that article.

Marihuana Microbusiness or Microbusiness means a licensee and permittee that is a commercial entity in this city that, consistent with the Adult-use Act and Rules, cultivates not more than 150 marihuana plants, processes and packages marihuana, and sells or transfers marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments or to medical marihuana facilities.

Marihuana plant means any plant of the species *Cannabis sativa* L. Marihuana plant does not include industrial hemp as that term is defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

- (a) *Marihuana product* means marihuana or marihuana-infused product, or both, as those terms are defined in the in the Medical Facilities Act or the Adult-Use 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 as defined in the Medical Facilities Act or the Adult-Use Act. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 *et seq.*

Marihuana Retailer or Retailer means a licensee and permittee that is a commercial entity located in this city that, consistent with the Adult-use Act and Rules purchases marihuana products from an adult-use grower or adult-use processor and sells, supplies, or provides marihuana to persons over 21 years of age or older. Retailer includes any commercial property where marihuana products are sold at retail to registered persons over 21 years of age or older as provided in the Adult-use Act and Rules. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the MRA marihuana registration process in accordance with the Medical Marihuana Act is not a provisioning center for purposes of this article.

MRA means the Marijuana Regulatory Agency created by E.R.O. No. 2019-2, compiled at MCL 333.27001.

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 marihuana business permit pursuant to this article or a medical facilities permit under the previous version of 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.

Proposed marihuana business means a location in the city at which an applicant plans to operate a marihuana business under the Medical Facilities Act and/or Adult-use Act, rules, and this article if the applicant is issued a state license, and a permit under this article.

Provisional approval means a determination that an applicant has submitted an application that meets all of the requirements for a complete permit in section 14-250 of this article, and the requirements for acceptance of the application in section 14-252 of this article.

Provisioning center means a licensee and permittee that is a commercial entity located in this city that, consistent with the Medical Facilities Act and Rules, purchases marihuana products from a medical facility grower or medical facility processor and sells, supplies, or provides marihuana products to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana products are sold at retail to registered qualifying patients or registered primary caregivers as provided in the Medical Facilities Act and Rules. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the MRA marihuana registration process in accordance with the Medical Marihuana Act is not a provisioning center for purposes of this article.

Rules mean the emergency and general rules of MRA adopted pursuant to the Medical Facilities Act the Tracking Act and the Adult-use Act as may be amended from time to time.

Safety compliance facility means a licensee and permittee that under either the Medical Facilities Act and Rules or Adult-use Act and Rules is a commercial entity that receives

marihuana from a marihuana business 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 business.

Secure transporter means a licensee and permittee that under either the Medical Facilities Act and Rules or Adult-use Act and Rules 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 class C grower as specified in each license at a marihuana business under either the Medical Facilities Act and Rules or the Adult-use Act and Rules.

State operating license business license, or license means a license that is issued under the Medical Facilities Act or Adult-use Act that allows the licensee to operate as 1 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.
- (6) A microbusiness.
- (7) An excess marihuana grower.
- (8) A marijuana event organizer.
- (9) A designated consumption establishment.
- (10) A temporary marihuana event.
- (11) A marihuana retailer

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.
 - (a) Unless the context requires a different meaning, any term used in this article that is defined by the Medical Marihuana Act shall have the definition given in that act.
 - (b) Unless the context requires a different meaning, any term used in this article as it is defined by the Medical Facilities Act 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 Tracking Act shall have the definition given

in that act.

- (c) Unless the context requires a different meaning, any term used in this article that is defined by the Adult-use Act shall have the definition given in that act.

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

All activities related to marihuana shall be in compliance with the Tracking Act, Medical Facilities Act, or the Adult-use Act and all other applicable rules promulgated by the state of Michigan.

Sec. 14-248 Marihuana businesses allowed.

- (a) Pursuant to Section 205(1) of the Medical Facilities Act and Section 6(1) of the Adult-use Act, the city authorizes the following types of marihuana businesses to be permitted in the city, without limitation as to the number of businesses:
- (1) Under the Medical Facilities Act:
 - i. Provisioning center
 - ii. Class A grower;
 - iii. Class B grower;
 - iv. Class C grower;
 - v. Stacked license Class C grower;
 - vi. Processor;
 - vii. Safety compliance facility;
 - viii. Secure transporter.
 - (2) Under the Adult-use Act:
 - i. Retailer;
 - ii. Class A grower;
 - iii. Class B grower;
 - iv. Class C grower;
 - v. Stacked license Class C grower;
 - vi. Processor;
 - vii. Safety compliance facility;
 - viii. Secure transporter;
 - ix. Microbusiness.
- (b) Marihuana business permits are not authorized by this article for designated consumption establishments, excess marihuana growers, marihuana event organizers, and temporary marihuana events under the Adult-use Act, or other marihuana related licenses that may be allowed by any State law or administrative rule in the future.
- (c) The council reserves the right to amend the number and types of marihuana businesses allowed within the city, subject to the laws, rules, and other regulations promulgated by the State of Michigan, or the MRA.

Sec.14-249. Permit required.

No person shall own or operate a marihuana business in the city without first applying for and receiving a license from MRA, and either a marihuana facilities permit under the previous version of this article, or a marihuana business permit under this article. No person who has received a city permit and state license to operate a medical marihuana 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 medical marihuana class C license the person desires to stack with its original state operating license, and a stacked medical marihuana class C state operating license or licenses. Additionally, no person who has received a city permit and state license to operate an adult-use marihuana class C grower establishment shall grow more than 2,000 plants at the establishment without first applying for and receiving a permit from the city manager for each additional adult-use marihuana class C license the person desires to stack with its original state operating license, and a stacked adult-use marihuana class C state operating license or licenses. For two years from November 1, 2019, the date MRA began receiving license applications under the Adult-use Act, no person shall receive a permit for a marijuana retail business that has not first received a Marihuana facilities permit from the city and a medical marihuana state operating license

Sec. 14-250. Application for permit.

- (a) Any person desiring to secure a marihuana business permit shall make application to the city clerk upon a form provided by the city clerk at a time established by the city manager pursuant to section 14-250(c). The city clerk will stamp the permit application with the date and time received and mark the application "received". The review of applications as provided by this article will be completed, and all applications will be either accepted or denied within 90 days of the date the application is marked "received" by the city clerk.
 - (1) All permit applicants, except applicants regarding a medical facility or adult-use stacked class C grower license or licenses, before applying for a permit must be prequalified by MRA for a medical marihuana facility license if they are applying for a permit to operate a medical marihuana facility under the Medical Facilities Act, or marihuana establishment license if they are applying for a permit to operate a marihuana establishment under the Adult-use Act.
 - (2) The applicant must be the same person who received prequalification from MRA.
 - (3) A copy of all applications received shall be distributed by the city clerk to the appropriate city departments for review. All applications will be reviewed in the order received by the city clerk to determine that the application contains all information and documentation required by section 14-250(d) and the location of the proposed facility complies with the zoning requirements in article 4 of chapter 42 of this Code. Applications that are not missing any required information or documentation and comply with the zoning requirements of article 4 of chapter 42 of this Code will be stamped by the city clerk with the date and time the application is deemed to be complete, and marked "complete". Applications that do not comply with the zoning requirements of article 4 of chapter 42 of this Code will be denied pursuant to section 14-252.
 - (4) 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 for notification by the applicant. The applicant shall have five business days from the date of mailing by regular or electronic mail of the written notice to provide the incomplete or missing information to the city clerk. Failure to provide the missing or incomplete information within the time specified may result in

denial of the application. Applications with incomplete or missing information shall not be reviewed by city staff or marked or stamped complete until all incomplete or missing information is received by the city clerk and that date will be used to determine the order of review of the application in relation to other applications.

- (5) An application will be accepted at the date and time the application is stamped or marked complete pursuant to subsection 14-250(a)(3) or (4) of this section.
 - (6) If on the effective date of this article there is an application for a medical marijuana facility that was submitted to the city clerk under the previous version of this article and a provisional permit has not yet been issued to the applicant, the application will be reviewed and processed before any application received under this article.
- (b) Permit applications for marijuana businesses and applications for stacked class C grower licenses at an existing class C grower, shall be submitted to the city clerk at a time or within the time periods established by the city manager.
 - (c) The city manager shall be responsible for establishing the procedure for receiving, reviewing and processing permits.
 - (d) 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, and, if applicable, federal tax identification number of the applicant.
 - (2) A copy of the notice from MRA that the applicant has been prequalified for a license.
 - (3) Whether the applicant has previously violated this article or a substantially similar ordinance in another municipality preceding the date of the application.
 - (4) A description of the type of marijuana business applied for.
 - (5) A security plan for the marijuana business that addresses all required security measures of the Medical Facilities and Adult-use rules and addresses at a minimum the ability to meet the security measures of those rules.
 - (6) An HVAC plan for the marijuana business describing in detail among other things the equipment or systems that will be used to preclude marijuana odors from emanating from the premises 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.
 - (7) A scaled conceptual site plan and floor plan.
 - (8) The property address of the proposed marijuana business to be operated by the applicant.
 - (9) Proof that the applicant has or will have lawful possession of the premises proposed for the marijuana business 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.
 - (10) The mailing address and electronic address at which the applicant desires to receive notification under this article, and phone numbers at which the applicant desires to be contacted.

- (11) Whether the applicant intends that a combination of marihuana businesses will operate as separate businesses at the same location, and if so, a description of the types of marihuana business intended to be located at the same location.
- (12) Whether the applicant intends that equivalent licenses will operate as separate businesses at the same location and if so, a description of the equivalent marihuana businesses intended to be located at the same location.
- (13) A copy of the marihuana facilities plan to be submitted in connection with a state license application under the Medical Facilities Act for the marihuana business for which provisional approval was issued, or a copy of the marihuana establishment plan to be submitted in connection with a state license application under the Adult-use Act for the marihuana business for which provisional approval was issued
- (14) 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.
- (15) A statement that the applicant understands that the issuance of a marihuana business 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 Marihuana Act, the Medical Facilities Act, the Tracking Act, the Adult-Use Act, and all other applicable rules promulgated by the MRA, or from criminal prosecution or the seizure of property by federal authorities under the Federal Controlled Substances Act.
- (16) 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.
- (17) 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.
- (18) The city manager may require the applicant to provide, within 5 business days of a written demand any document, report, graph or other information which applicant has supplied to MRA and that is not specifically required by this section.

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.

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

- (a) Applications received may be denied by the city manager if the applicant fails to provide

missing or incomplete information within the time specified in section 14-250(a)(4) 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 business license by MRA.
 - (2) During the period from November 1, 2019 to November 1, 2021 an applicant for a marihuana business under the Adult-use Act, does not hold a valid and unexpired marihuana facilities permit issued by the city and a medical marihuana state operating license.
 - (3) The applicant did not pay the required application fee at the time of submission of the application.
 - (4) 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 business for the period during which the permit will be issued.
 - (5) The applicant's proposed marihuana business does not comply with the zoning regulations in article 4 of chapter 42 of this code.
 - (6) The city manager determines that the applicant has not satisfactorily complied with all permit requirements in section 14-250 of this article.
 - (7) The applicant was granted a commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction concerning medical marihuana or marihuana that was denied or not renewed, or is currently restricted suspended or revoked.
 - (8) The city manager determines that the applicant submitted an application containing false, misleading, or fraudulent information, or who intentionally omitted pertinent information on the application for a marihuana business permit.
 - (9) The applicant is delinquent in the payment of any taxes, fees or other charges owed to or collected by the city.
- (b) 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.

Sec. 14-253. Provisional approval.

- (a) Provisional approval will be issued by the city manager to applicants whose applications are accepted as provided in this section. The effective date of the provisional approval will be the date an application is accepted as provided in section 14-250(a)(5).
- (b) Provisional approval does not authorize the applicant to operate a marihuana business without first obtaining a state operating license for the marihuana business, and obtaining all other permits, inspections, and approvals required by this article and all other applicable provisions of this code. Upon issuance of provisional approval, the city clerk will be authorized to execute an attestation of compliance with city ordinances to MRA to accompany an application for a license as required by the Medical Facilities Act or the Adult-use Act.

- (c) Provisional approval will lapse and be void one year from the date it is issued or the expiration of the applicant's prequalification status for a license from MRA, whichever occurs first. The city manager or his or her designee shall notify MRA of all persons whose provisional approval has lapsed or become void. Provisional approval 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 6 months.
- (d) An applicant who has received provisional approval has a continuing duty to provide the city with the following:
 - (1) 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.
 - (2) A copy of any amendments or changes to the marihuana facilities plan under the Medical Facilities Act submitted in connection with the application for the marihuana business permit for which provisional approval was issued, or a copy of the marihuana establishment plan under the Adult-use Act submitted in connection with the application for the marihuana business for which provisional approval was issued.
- (e) Provisional approval is exclusive to the person who received the provisional approval or provisional permit. Provisional approval or a provisional permit is a revocable privilege granted by the city, is not a property right, and does not create or vest any right, title, franchise or other property interest. No provisional approval or provisional permit issued under the previous version of this article shall be transferred or assigned. Any attempted transfer or assignment shall be void.

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

- (a) Provisional approval may be terminated, revoked, suspended or restricted by the city manager in writing for any of the following reasons:
 - (1) The applicant is denied a state operating license by MRA;
 - (2) The marihuana business is substantially different from the, marihuana facilities plan to be submitted in connection with a state license application under the Medical Facilities Act for the marihuana business for which provisional approval was issued, or a copy of the marihuana establishment plan to be submitted in connection with a state license application under the Adult-use Act for the marihuana business for which provisional approval was issued conceptual plan or other representations;
 - (3) Officers of the city are unable to access the proposed marihuana business for permit inspections or are denied access by the applicant or those acting in behalf of the applicant;
 - (4) The applicant fails, refuses, or becomes unable to obtain site plan approval and an occupancy permit issued by the city;
 - (5) Any violation of the Medical Facilities Act and rules, Adult-use Act and rules, an applicable city ordinance, or this article.
- (b) If provisional approval 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 applicant, at the last known address on file with the city for notification of the applicant, and MRA, of the

termination, revocation, suspension, or restriction of the provisional approval and the reasons therefore in writing.

- (c) The applicant who has received provisional approval 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 (10) days of receipt of the notice of the termination, revocation, suspension or restriction.

Sec. 14-255. Marihuana business permit.

- (a) Marihuana business permits will be issued by the city manager. In order to be issued a marihuana business permit, an applicant who has received provisional approval and whose provisional approval has not been revoked as provided in section 14-254 shall:
 - (1) Successfully complete the inspection required by subsection 14-255(b) of this section.
 - (2) 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.
 - (3) Submit 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 of Portage, its officials, and employees.
 - (4) 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 business permit by the city manager.
 - (5) The site plan required for issuance of a marihuana business 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 to reverse an order of the director.
- (b) Before issuance of a marihuana business permit the city shall conduct an inspection of the proposed marihuana business to verify that the marihuana business is ready to open for business, the premises of the business 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 business permit may be issued and no marihuana business may conduct any business or operations until the inspection is completed and it is determined that the marihuana business is ready to open for business, the premises of the marihuana business are constructed and can be operated in accordance with the application, marihuana facilities plan, or the marihuana establishment plan submitted with the application as well as the approved site plan, and the marihuana business is in compliance with the requirements of this code and any other applicable law, rule, or regulation.

- (c) The marihuana business permit shall be issued only in the name of the applicant.
- (d) 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.
- (e) The marihuana business permit and state operating license shall be displayed in a conspicuous public place inside the marihuana business.
- (f) Acceptance of a marihuana business 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 business at all reasonable times.
- (g) 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.

Sec. 14-256. Renewal of permit.

- (a) A marihuana business permit or marihuana facilities permit issued under the previous version of this article shall be renewed annually unless revoked as provided by Section 14-257.
- (b) Renewal of marihuana business permit shall be made by application to the city clerk and payment of a nonrefundable permit renewal fee set by resolution of city council, but not to exceed \$5,000.00. 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 due date for annual renewal of the permittee's license for the permittee's marihuana business. The application for renewal shall be upon a form provided by the city clerk and shall contain an update of all information required in the applicant's permit application, be given under oath or affirmation, including an affirmation that all information in the renewal application is up to date and current, and shall be reviewed and approved in the same manner as the permit application. 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 due date for renewal of the permit established pursuant to section 14-256(b) . 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 Medical Facilities Act and rules, or the Adult-use Act and 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.

The applicant fails to provide evidence of insurance as required by section 14-250(d)(17).

- (8). An inspection conducted by the city reveals that the marihuana business to which the renewal application pertains is not in compliance with this article, this code of ordinances, the Medical Facilities Act and rules, or the Adult-use 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 (10) days of receipt of the notice of denial.
- (f) The city manager or his or her designee shall inform MRA in writing by mail or electronic mail of all permittees whose permit is renewed, if a permittee fails to renew a permit, or the permittee's renewal application is denied. The city clerk will file an affirmation of renewal with MRA for all permits that are renewed.
- (g) For the purposes of a renewal application, a marihuana business 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 marihuana business at any time after a permit under this article and a state license to operate the business 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.

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

- (a) Any marihuana business permit issued under this article, or marihuana facilities permit issued under the previous version of this article, shall automatically terminate and become void if the state license for the permitted use is revoked, terminates or becomes void.
- (b) Any marihuana business permit issued under this article, or marihuana facilities permit issued under the previous version of this article, may be revoked upon the occurrence of any of the following:

- (1) Any violation of the provisions of this article or, this code of ordinances. A marihuana business 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 marihuana business at any time after a permit under this article and a state license to operate the business were issued.
 - (2) The conduct of business in an unlawful manner or in such a way as to constitute a public nuisance or in a way that negatively impacts the health, safety, or general welfare of surrounding property or city residents.
- (c) A marihuana business permit or 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.
 - (d) Any marihuana business permit or 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.
 - (e) Any marihuana business permit or 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.
 - (f) If a marihuana business permit, or marihuana facilities permit issued under the previous version of this article, 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 MRA of the termination, revocation, suspension, or restriction of the permit and the reasons therefore.
 - (g) If a marihuana business permit or marihuana facilities permit is revoked under this subsection the permittee shall immediately cease operation of its marihuana business.
 - (h) The holder of a marihuana business permit or 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 (10) days of receipt of the notice of the termination, revocation, suspension or restriction.

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

- (a) No marihuana business permit, or marihuana facilities permit issued under the previous version of this article, may be transferred without making application to, and obtaining approval of, the city manager. Applications for transfer of a permit shall be made on a form provided by the city clerk. The application shall contain the following information at a minimum:
 - (1) The name and address of the marihuana business proposed to be transferred.
 - (2) The name, address, and other contact information for the owner of the marihuana business proposed to be transferred.
 - (3) The name, address, and other contact information for the proposed transferee.
 - (4) A plan detailing any changes or modifications of the marihuana business desired by the transferee, which must be approved by the city consistent with Section 14-259(a). No certificate of occupancy will be issued to the transferee until all changes have

been completed and approved by the city consistent with all applicable codes.

- (b) Any transferee of a permit issued pursuant to this ordinance must meet all requirements and conditions for the issuance of a permit under this article for the type of marihuana business for which the permit was issued prior to the approval of a transfer. The transfer will be conditioned upon the transferee obtaining a state license for the type of marihuana business the permit was issued for within 90 days of the approval of the transfer.

Sec. 14-259. Changes to marihuana businesses.

- (a) Any change or modification of a marihuana business after it receives a state license, and a permit under this article is governed by the standards and procedures of the Medical Facilities Act and rules, and the Adult-use 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 business may, however, be made at any time, but must be approved by MRA 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 MRA for any change or modification to a marihuana business.
- (b) Change of location of a marihuana business 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 set by resolution of city council, but not to exceed \$5,000.00. The proposed new location of the marihuana business, in addition to complying with the provisions of section 14-250, must also comply with the provisions of article 4, chapter 42 regarding zoning. The change of location permit will be submitted and approved or denied in the same manner as an application for a marihuana business permit and a permit for the change of location will be issued in the same manner as for a marihuana business 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 business from MRA 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 marihuana business are violations of the provisions of this article for which a marihuana business permit may be revoked or suspended pursuant to section 14-257 of this article.

Sec. 14-260. Disclosure of information.

Consistent with MCL 333.27205(4) and MCL 333.27959(7), and to the extent otherwise permitted by law, all information submitted in conjunction with an application for a marihuana business permit, permit renewal required, change or modification, or change of location under this article is exempt from disclosure under the Michigan Freedom of Information Act, MCL 15.231 *et seq.*

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

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

- (a) Marihuana businesses 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 business 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 business permit or leasing property to a marihuana business 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 Medical Facilities Act and Adult-use Act, or applicable state administrative rules.

- (b) Marihuana businesses shall conduct the activities of the marihuana business, including, without limitation, 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. Cultivating and growing marihuana may take place outdoors consistent with the Medical Facilities Act, the Adult-use Act or applicable state administrative rules.
- (c) Marihuana businesses 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 twenty-four hours a day, seven days a week.
- (d) Marihuana businesses shall have a video surveillance system that complies with the applicable administrative rules at a minimum, and that makes, retains, and stores surveillance recordings as provided in those rules.
- (e) Surveillance recordings of marihuana businesses 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.
- (f) Marihuana businesses shall utilize sufficient measures and means to prevent smoke, odor, debris, dust, fluids and other substances from exiting the premises of the business at any time. In the event that any smoke, odor, debris, dust, fluids or other substances exit the marihuana business 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 marihuana business 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.
- (g) Marihuana businesses shall install and maintain in operable condition a system to preclude marihuana odors from emanating from the premises of the marihuana business 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.
- (h) Access to the marihuana business is restricted to the permittee, employees of the permittee, registered qualifying patients and registered primary caregivers with valid registry cards, if applicable, adults 21 years of age or older, if applicable, MRA through its investigators, agents, auditors or the state police, and, local law and code enforcement officers.

- (i) All marihuana businesses must be at a fixed location. Mobile marihuana businesses 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 businesses as otherwise expressly authorized by the Medical Facilities Act or Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by those Acts or the rules corresponding to those Acts.
- (j) All marihuana businesses shall comply with all provisions of this code, state law and administrative rules regulating signs and advertising.
- (k) The business, operations, marketing and advertising of all marihuana businesses and marihuana product shall comply at all times with applicable state law and regulations, and this code.(l) Marihuana businesses shall comply with the building and fire safety provisions of the rules as are applicable to the particular type of marihuana business at all times.

Sec. 14-262. Conflicts, Future laws and regulations.

In the event of any conflict between the provisions of this article and the provisions of the Medical Facilities Act and rules, Adult-use Act and the rules, the conflicting provisions of this article will be preempted and the provisions of the Medical Facilities Act and rules, or the Adult-use Act and rules will control. Should the State of Michigan 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 business in the city, as well as the issuance, denial, suspension, or revocation of any permit under this article.

Sec. 14-263. Penalty and remedies.

- (a) Any violation of this article is a civil infraction subject to a fine of not more than \$500.00.
- (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 Medical Facilities Act and rules or Adult-use Act and 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.

Sec. 14-264. Severability.

The various parts, sections and clauses of this article are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the article shall not be affected.

Sec. 14-265. Repealer.

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provisions of this article are repealed to the extent of such conflict, and the provisions of this article shall be and remain controlling as to the matters regulated herein.

Sec. 14-266. Effect tie-barred.

This amendment to Chapter 14 "Businesses", Article 12, "Marihuana Businesses" shall only take effect if Chapter 42 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) regarding zones where marihuana businesses are allowed are amended.

Dated: June 17, 2020

Patricia M. Randall, Mayor

FIRST READING: April 28, 2020

SECOND READING: May 26, 2020

ORDINANCE #: 19/20-6

EFFECTIVE DATE: June 17, 2020