

# Data Compendium for Informed Policy: Zoning for Cannabis-Related Uses



*Prepared: July 3, 2018*

*Amended: July 18, 2018*

*By: City of Grand Rapids Planning Department, Design & Development*

## **Purpose**

*This document was prepared in response to requests for data and additional information in relation to proposed Zoning Ordinance changes concerning cannabis-related uses within the City. The document is intended to establish a general level of understanding, through the use of data and published works, regarding potential land uses associated with cannabis. The body of work should be considered in DRAFT form given the limited amount of resources and time available. In fact, it should be considered a “living” document – meaning that it may continue to be expanded upon based on the questions asked, and knowledge learned, during the course of the City Commission’s policy discussion. The data contained herein is based on information that is accessible to the general public. The exercise of aligning data with documentation was undertaken in an attempt to provide context to the discussion surrounding housing policy and should not be construed to be a particular position of the Planning Department.*

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## **Please explore the City’s Medical Marihuana webpage**

<https://www.grandrapidsmi.gov/MedicalMarijuana>

*This web page includes a story map feature which allows the user to explore parcels in the city that may or may not be available for cannabis-related land uses if given separation distances are applied. Such separation distances may include buffers from other medical marihuana facilities, sensitive land uses such as schools, parks, childcare, rehabilitation centers, etc., and/or residential areas or municipal boundaries. Also on the web page are the proposed ordinance language as recommended by the Planning Director, and also by the Planning Commission. Finally, links are provided to pertinent legislation and to scholarly articles and research.*

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# Background

# Michigan Medical Marihuana Act

The **Michigan Medical Marihuana Act (MMMA)** was passed by voters in November 2008. The act allows patients having a debilitating condition, and their primary caregiver, permitted to possess, cultivate, manufacture, use, deliver, or transfer marihuana or paraphernalia to treat or improve the qualifying patient's debilitating medical condition. Any qualifying patient in Michigan may only possess 2.5 ounces of usable marihuana. The patient may possess 12 marihuana plants in a locked room if the qualifying patient has not designated a primary caregiver to cultivate and possess the same. A registered primary care giver may possess up to 2.5 ounces of usable marihuana for each qualifying patient. Any registered primary caregiver may cultivate and possess 12 marihuana plants in an enclosed, locked facility if he/she is designated to do the same. The locked room shall be accessed only by the registered qualifying patient and registered primary caregiver.

The Act restricts use of medical marihuana under certain circumstances. Medical use of marihuana is permitted only if the use is in accordance with the state laws. The Medical Marihuana Act does not allow medical use of marihuana in school bus, school ground or any correctional centers. In Michigan, undertaking any task under the influence of marihuana constitutes negligence or professional malpractice. It also does not provide for the establishment of facilities, such as dispensaries.

## Medical Marihuana Facilities Licensing Act

On September 21, 2016 Governor Snyder signed a package of bills (2016 Public Act 281-283, including the **Medical Marihuana Facilities Licensing Act, or MMFLA**) that expands the types of medical marihuana facilities permitted under state law and establishes a licensing program. The Act (PA 281) allows for the legal growing, processing, transporting and distribution of marihuana by licensed operators within the State of Michigan.

Among other things, the Act:

- Creates the Medical Marihuana Licensing Board within the Michigan Department of Licensing and Regulatory Affairs (LARA) to issue licenses for various medical marihuana facilities.
- Requires an annual license for any of the following entities to operate a marihuana facility:
  - *Growers*—licensees that cultivate, dry, trim, or cure and package marihuana for sale to a processor or provisioning center. Registered patients and primary caregivers who lawfully cultivate marihuana in the quantities and for the purposes permitted under the Medical Marihuana Act are not considered “growers” under the new legislation. Grower licenses will come in three classes, from a maximum 500 plants to a maximum 1,500 plants. Growing facilities are specifically limited to areas zoned Industrial or Agriculture.
  - *Processors*—licensees that purchase marihuana from a grower and extract resin from the marihuana or create a marihuana-infused product for sale and transfer in packaged form to a provisioning center.
  - *Provisioning centers*—licensees that purchase marihuana from a grower or processor and sell, supply, or provide marihuana to patients, directly or through the patient's caregiver.
  - *Secure transporters*—licensees that store marihuana and transport it between marihuana facilities for a fee.
  - *Safety compliance facilities*—licensees that receive marihuana from a marihuana facility or primary caregiver and test it for contaminants and other substances.

- Allows municipalities to choose whether to allow **any** of these medical marihuana facilities within their jurisdictions. If the municipality takes no action, none of the facilities are allowed. A municipality that wishes to allow these facilities must enact an ordinance explicitly authorizing them.

## Petition to Allow Marihuana Facilities

On April 20, 2018 the “Smart & Safe GR” campaign announced the creation of a petition to require the City of Grand Rapids to opt-in to allow marihuana facilities, as allowed in the Michigan Medical Marihuana Facilities Act. This petition would not place a cap on the number of facilities that could locate in Grand Rapids.

### Initiative Language

#### **Section 1001. Purpose**

- A. *It is the intent of this ordinance to authorize the establishment of certain types of marijuana facilities in the City of Grand Rapids and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this ordinance to help defray administrative and enforcement costs associated with the operation of a marijuana facility in the City of Grand Rapids through imposition of an annual, nonrefundable fee of not more than \$5,000.00 on each marijuana facility licensee. Authority for the enactment of these provisions is set forth in, but not limited to, the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., or any other legislation of the State of Michigan or under federal law authorizing marijuana facilities or establishments hereafter enacted.*
- B. *Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marijuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, 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. *As of the effective date of this ordinance, marijuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., which makes it unlawful to manufacture, distribute, or dispense marijuana, or possess marijuana with intent to manufacture, distribute, or dispense marijuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws.*

#### **Section 1002. Definitions**

*See Petition for Definitions*

#### **Section 1003. Authorization of Facilities and Fee.**

- A. *The City of Grand Rapids shall not limit the number of each type of marijuana facility or establishment allowed, or place additional regulations beyond what is required by state law.*
- B. *A nonrefundable fee shall be paid by each marijuana facility licensed under this ordinance in an annual amount of not more than \$5,000.00.*

**Section 1004. Requirements and Procedure for Issuing License**

- A. *No person shall operate a marijuana facility in the City of Grand Rapids without a valid marijuana facility license issued by the City of Grand Rapids pursuant to the provisions of this ordinance.*
- B. *Every applicant for a license to operate a marijuana facility shall file an application in the City Clerk's office upon a form provided by the City of Grand Rapids. The application shall contain the following information:*
- C. *Every applicant for a license to operate a marijuana facility shall submit with the application a photocopy of the applicant's valid and current license issued by the State of Michigan in accordance with the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.*
- D. *Upon an applicant's completion of the above-provided form and furnishing of all required information and documentation, the Clerk shall accept the application and assign it a sequential application number by facility type based on the date and time of acceptance. The Clerk shall act to approve or deny an application not later than fourteen (14) days from the date the application was accepted. If approved, the Clerk shall issue the applicant a provisional license.*
- E. *A provisional license means only that the applicant has submitted a valid application for a marijuana facility license, and the applicant shall not locate or operate a marijuana facility without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the City of Grand Rapids. A provisional license will lapse and be void if such permits and approvals are not diligently pursued to completion.*
- F. *Within fourteen (14) days from the applicant submitting proof of obtaining all other required permits and approvals and payment of the license fee, the Clerk shall approve or deny the marijuana facility license. The Clerk shall issue marijuana facility licenses in order of the sequential application number previously assigned.*
- G. *Maintaining a valid marijuana facility license issued by the state is a condition for the issuance and maintenance of a marijuana facility license under this ordinance and continued operation of any marijuana facility.*
- H. *A marijuana facility license issued under this ordinance is transferable upon approval by the Clerk.*

See Petition language at <http://www.smartandsafegr.com/about-the-initiative.html> for the following:



**Section 1005. License Renewal**

**Section 1006. Applicability**

**Section 1007. Penalties and Enforcement.**

**Section 1008. Severability.**

**Section 1009. Interpretation**

## City Response and Action

The City Commission directed the Planning Department to formulate a draft ordinance that would permit some or all of the state-enabled license types. The Planning Department worked with the City's Police Department, Attorney's Office and City Clerk, did extensive research and evaluation, and met with other municipal planners in the region.

Planning staff evaluated several other municipal marijuana ordinances, including Denver, Los Angeles and Phoenix and modeled those ordinances over Grand Rapids' zoning map as a comparison exercise. Staff also researched other Michigan communities (Lansing, Detroit, Ann Arbor, and Kalamazoo) to observe their experiences with medical marijuana as early adopters. The draft ordinance was presented to the Planning Commission on May 24th, 2018 for review, discussion, and ultimately a recommendation to the City Commission. During the public hearing, public testimony heavily focused on how the use was for medical purposes and that medical marijuana was medicine that should be readily available for patients.

Following the hearing, the Planning Commission engaged in a robust discussion of the issue, which is well captured the [official meeting minutes](#). The Commission determined that they were not considering the potential future of recreational marijuana facilities within the city given that the recreational ballot measure has not yet been passed by voters. That decision informed the Planning Commission's discussion and ultimately their recommended changes.

Ordinance language was presented to the City Commission on June 12, 2018 for initial discussion. Both versions of the proposed ordinance – that drafted by staff as well as modifications as recommended by the Planning Commission – were evaluated. The City Commission decided to notice the draft language as prepared by staff, understanding that the Planning Commission's recommendations could still be considered.

The City Commission scheduled a public hearing for proposed Zoning Ordinance language on July 10, 2018 at 7PM in the City Commission Chambers at City Hall, 300 Monroe NW.

# Current Law

## City and Region under MMMA

In Michigan, a licensed medical marihuana caregiver is a person who has agreed to assist with a patient's medical use of marihuana. Each patient can only have one primary caregiver. The primary caregiver may assist no more than 5 qualifying patients with their use of marihuana. In 2017, there was one licensed caregiver through the City of Grand Rapids City Clerk.

Patient and caregiver data is available from the State of Michigan only at the county level. Therefore, it is not possible to provide data specific to the City of Grand Rapids. (Note: This information would be particularly useful to guide discussions about appropriate number of facilities to serve qualifying patients that reside within the City of Grand Rapids.) The earliest available data, beginning in 2013, show a trend of a decrease in the number of both new patient cards issued and card renewals from 2013 to 2015, followed by an increase since then.

As of 2016, the estimated population within the City of Grand Rapids was **196,458** (U.S. Census 2016 American Community Survey). The estimated population of Kent County for 2016 was **642,173**, and **1,047,099** for the Grand Rapids-Wyoming Metropolitan Area (U.S. Census 2016 American Community Survey).

### Kent County

In 2017, there were 10,654 medical marihuana patients in Kent County; this is ~ 1.7% of the County population. There are 1,544 licensed medical marihuana caregivers in the county. Since 2013, 18,728 new medical marihuana cards have been issued.

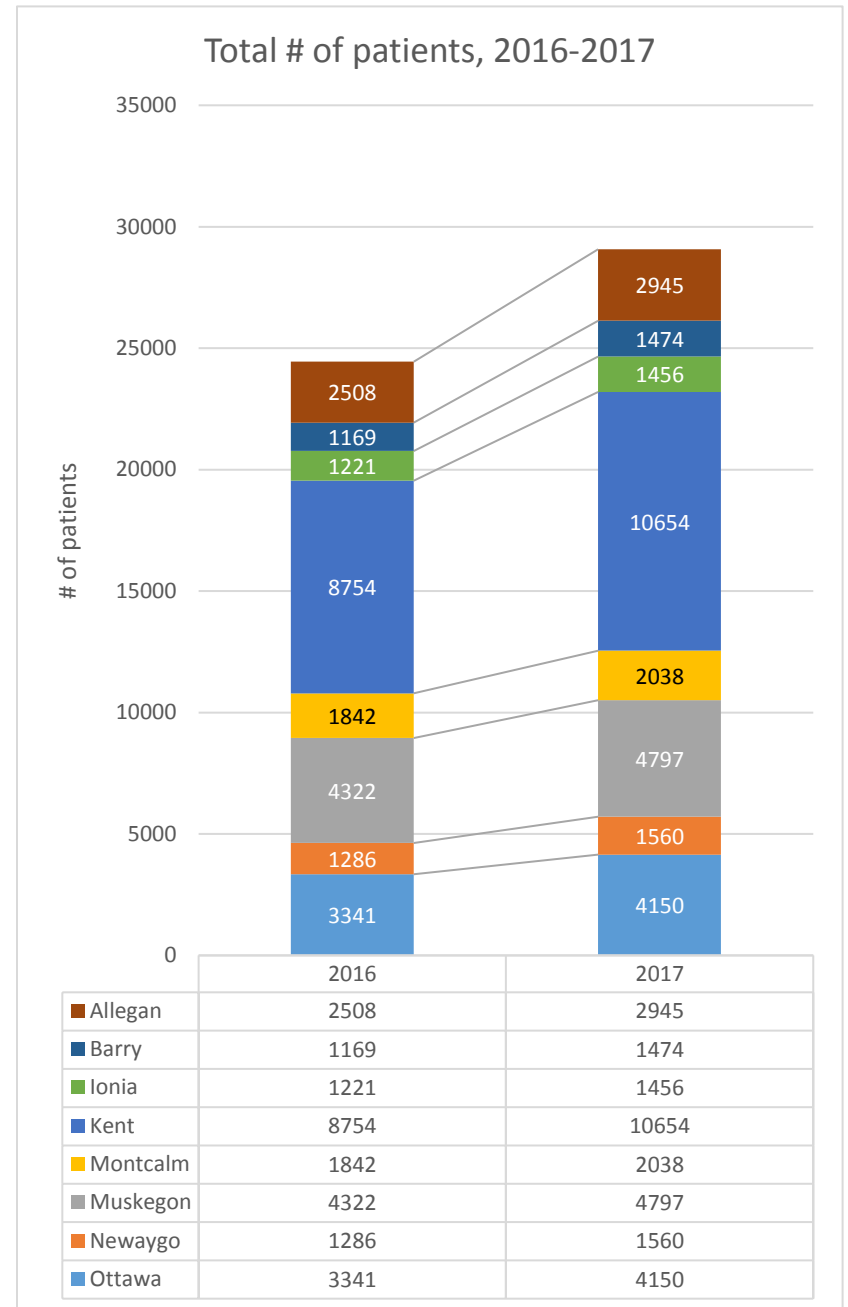
### Region

In 2016, there were a total of **24,443** patients in the region, which includes Kent County and seven other counties. In 2017, this number increased to **29,074** patients, representing an increase of **4,631** patients (**18.94%**) in one year. equating to ~2.8% of the region's population. Of this total number, patients residing in Kent County comprised **10,654** of 29,074 (**36.64%**) in 2017. 2018 patient data is not yet available from the State of Michigan.

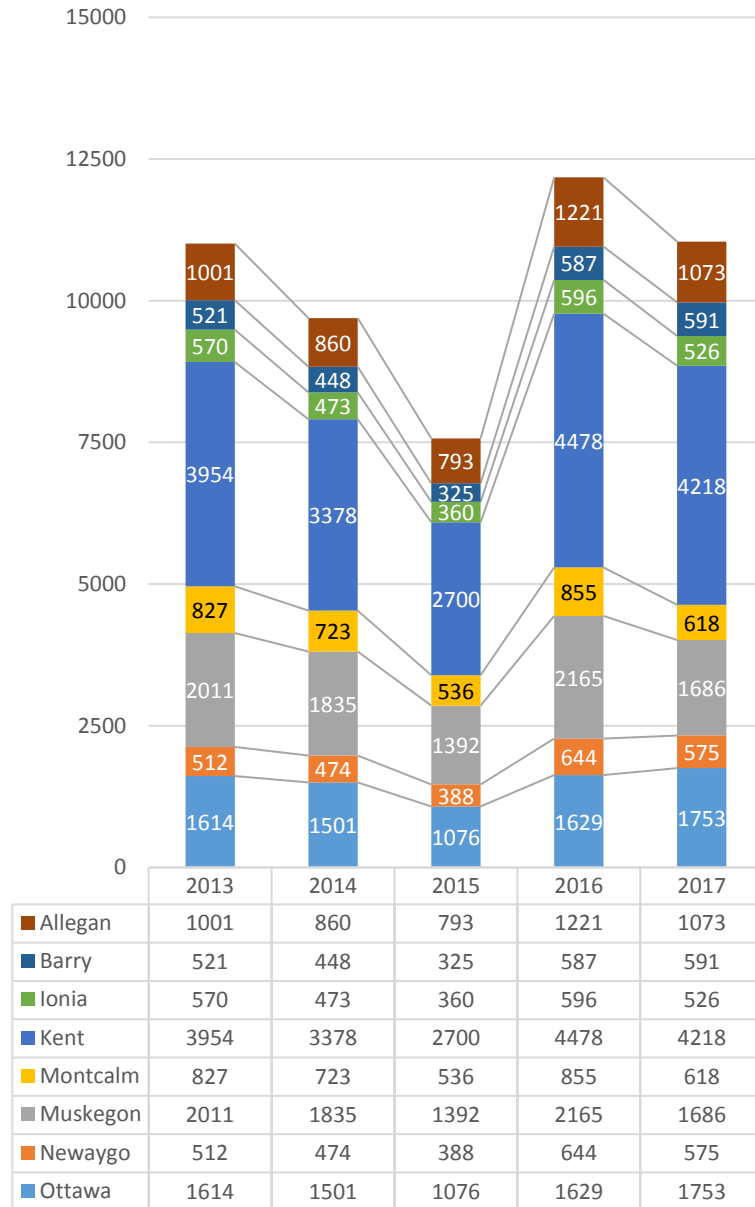
2017 population estimates show the population of Kent County increasing by 1% to **648,594**, which represents **44.37%** of the total estimated population of the eight counties (1,461,786).

| Total # of patients and caregivers in Kent and surrounding counties, 2017 |               |              |
|---|---------------|--------------|
| County  | Patients      | Caregivers   |
| Allegan   | 2,945         | 562          |
| Barry   | 1,474         | 300          |
| Ionia   | 1,456         | 228          |
| <b>Kent</b>   | <b>10,654</b> | <b>1,544</b> |
| Montcalm  | 2,038         | 443          |
| Muskegon  | 4,797         | 718          |
| Newaygo   | 1,560         | 278          |
| Ottawa  | 4,150         | 549          |
| <b>Total in surrounding counties</b>                                      | <b>18,420</b> | <b>3,078</b> |
| <b>Total including Kent County</b>  | <b>29,074</b> | <b>4,622</b> |

| # of new & renewed cards in Kent and surrounding counties, 2017 |                          |                      |
|---|--------------------------|----------------------|
| County  | New Patient Cards Issued | Card Renewals Issued |
| Allegan   | 4,948                    | 1,567                |
| Barry   | 2,472                    | 842                  |
| Ionia   | 2,525                    | 813                  |
| <b>Kent</b>   | <b>4,218</b>             | <b>935</b>           |
| Montcalm  | 3,559                    | 1,383                |
| Muskegon  | 1,686                    | 435                  |
| Newaygo   | 2,593                    | 785                  |
| Ottawa  | 7,573                    | 1,967                |
| <b>Total in surrounding counties</b>                            | <b>25,356</b>            | <b>7,792</b>         |
| <b>Total including Kent County</b>                              | <b>29,574</b>            | <b>8,727</b>         |

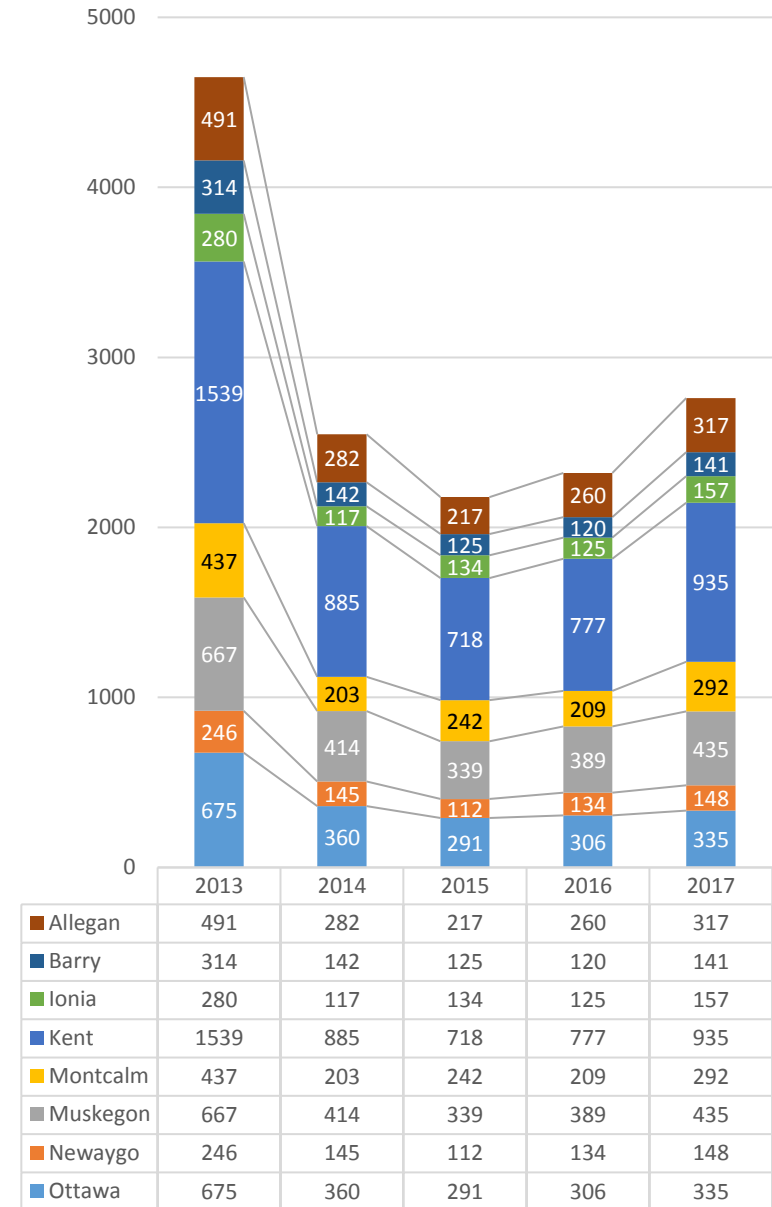


### New Patient Cards Issued 2013-2017



Source: State of Michigan, Bureau of Medical Marihuana Regulation, 2018

### Card Renewals Issued 2013-2017



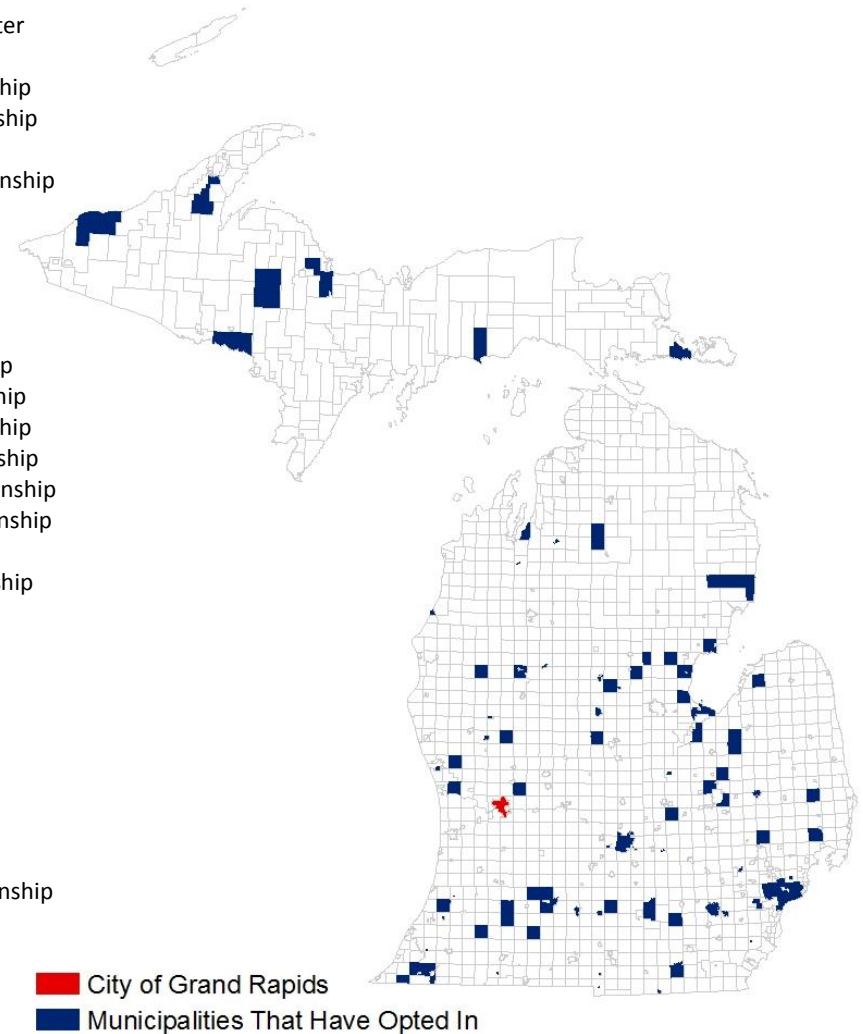
Source: State of Michigan, Bureau of Medical Marihuana Regulation, 2018

# City and Region under MMFLA

As of July 6, 2018, **106** municipalities in the State have opted in to the MMFLA (Medical Marihuana Facilities Licensing Act). This number comprises **5.98%** of all municipalities in the state (There are 1,773 municipalities – incl. 276 cities, 257 villages, and 1,240 townships.)

These municipalities are:

- |                            |                            |                            |                            |
|----------------------------|----------------------------|----------------------------|----------------------------|
| • Acme Township            | • DeTour Village           | • Lansing                  | • Portage Charter Township |
| • Adrian                   | • DeTour Township          | • Lansing Charter Township | • Porter Township          |
| • Albion                   | • Detroit                  | • Lapeer                   | • Pulaski Township         |
| • Almont Village           | • Eau Claire Village       | • Lenox Township           | • Reading                  |
| • Ann Arbor                | • East Lansing             | • Leoni Township           | • Republic Township        |
| • Au Gres Township         | • Egelston Township        | • Madison Township         | • Richmond Township        |
| • Au Sable Township        | • Emmett Township          | • Manistee                 | • River Rouge              |
| • Bangor                   | • Evart                    | • Marshall                 | • Rose Lake Township       |
| • Bangor Township          | • Ferndale                 | • Mastodon Township        | • Ross Township            |
| • Battle Creek             | • Flint                    | • Morenci                  | • Sands Township           |
| • Bay City                 | • Frederic Township        | • Mount Morris Township    | • Seville Township         |
| • Beaverton Township       | • Galien Township          | • Mt. Pleasant             | • Sharon Township          |
| • Bedford Charter Township | • Garden City              | • Mueller Township         | • Thetford Township        |
| • Benton Harbor            | • Gibson Township          | • Muskegon                 | • Tobacco Township         |
| • Breedsville Village      | • Hampton Charter Township | • Negaunee                 | • Vassar                   |
| • Buchanan                 | • Harrison Township        | • Newaygo                  | • Vassar Township          |
| • Buena Vista Township     | • Hartford                 | • Niles                    | • Webberville              |
| • Burton                   | • Hay Township             | • Omer                     | • Wakeshma Township        |
| • Cannon Township          | • Hazel Park               | • Orion Township           | • Walled Lake              |
| • Camden Village           | • Humboldt Township        | • Oscoda Township          | • Warren                   |
| • Carleton                 | • Inkster                  | • Owosso                   | • Webberville              |
| • Carp Lake Township       | • Juniata Township         | • Parma Township           | • White Cloud              |
| • Center Line              | • Kalamazoo                | • Pinconning Township      | • White Lake Township      |
| • Chesaning Village        | • Kalamazoo Township       | • Pleasant Plains Township | • Windsor Township         |
| • Clare                    | • Kalkaska                 | • Portage                  | • Ypsilanti                |
| • Coleman                  | • Kawkawlin Township       |                            |                            |
| • Constantine Village      | • Kingsley                 |                            |                            |
| • Crockery Township        |                            |                            |                            |



Within Kent County, just one municipality – **Cannon Township** – has opted in thus far, allowing one (1) grower license, one (1) processor license, and none of the other facility types. In the seven surrounding counties, (Allegan, Barry, Ionia, Montcalm, Muskegon, Newaygo, and Ottawa) five municipalities have opted in:

|   |  |
|---|--|
| <b>Crockery Township (Ottawa County)</b>          | Allows one (1) each of grower and provisioning center licenses.  |
| <b>Egelston Township (Muskegon County)</b>        | Allows eight (8) grower licenses, three (3) processor licenses, and two (2) each of provisioning center, safety compliance, and secure transporter licenses.                 |
| <b>City of Muskegon Heights (Muskegon County)</b> | Allows five (5) each of grower and processor licenses, and two (2) each of safety compliance and secure transporter licenses.  |
| <b>City of Newaygo (Newaygo County)</b>           | Allows one (1) each of grower, processor, and safety compliance licenses.  |
| <b>City of White Cloud (Newaygo County)</b>       | Allows growers licenses with no cap, six (6) processor licenses, one (1) provisioning center license, and two (2) each of safety compliance and secure transporter licenses. |

As of July 6, 2018 the **City of Muskegon (Muskegon County)** has not been added to the State’s official list of communities that have opted in. However, the City Commission passed an ordinance on May 8, 2018 that will allow unlimited licenses of all types within a single ~100-acre (~.16 square miles) overlay district.

Based on the FY2017 data from LARA, the ratio of patients to caregivers in Kent and each of the surrounding counties is as follows:

| <b>County</b> | <b>Patient-to-Caregiver Ratio</b> |
|---------------|-----------------------------------|
| Allegan       | 5:1                               |
| Barry         | 5:1                               |
| Ionia         | 6:1                               |
| <b>Kent</b>   | <b>7:1</b>                        |
| Montcalm      | 5:1                               |
| Muskegon      | 7:1                               |
| Newaygo       | 6:1                               |
| Ottawa        | 8:1                               |

This corresponds to an overall patient-caregiver ratio for the region of **6.3 patients per caregiver**. This is notable because the Michigan Medical Marihuana Act allows a primary caregiver may assist no more than 5 qualifying patients.

# Medical Marihuana



# Frequently Asked Questions

## Why isn't the marijuana plant an FDA-approved medicine?

The FDA requires carefully conducted studies (clinical trials) in hundreds to thousands of human subjects to determine the benefits and risks of a possible medication. So far, researchers haven't conducted enough large-scale clinical trials that show that the benefits of the marijuana plant (as opposed to its cannabinoid ingredients) outweigh its risks in patients it's meant to treat.

## How might cannabinoids be useful as medicine?

Currently, the two main cannabinoids from the marijuana plant that are of medical interest are THC and CBD.

THC can increase appetite and reduce nausea. THC may also decrease pain, inflammation (swelling and redness), and muscle control problems.

Unlike THC, CBD is a cannabinoid that doesn't make people "high." These drugs aren't popular for recreational use because they aren't intoxicating. It may be useful in reducing pain and inflammation, controlling epileptic seizures, and possibly even treating mental illness and addictions. The FDA approved a CBD-based liquid medication called Epidiolex® for the treatment of two forms of severe childhood epilepsy, Dravet syndrome and Lennox-Gastaut syndrome.

Many researchers, including those funded by the National Institutes of Health (NIH), are continuing to explore the possible uses of THC, CBD, and other cannabinoids for medical treatment.

### Quick Facts

- The term *medical marijuana* refers to treating symptoms of illness and other conditions with the whole, unprocessed marijuana plant or its basic extracts.
- The FDA has not recognized or approved the marijuana plant as medicine.
- However, scientific study of the chemicals in marijuana called *cannabinoids* has led to two FDA-approved medications in pill form, dronabinol and nabilone, used to treat nausea and boost appetite.
- Cannabinoids are chemicals related to *delta-9-tetrahydrocannabinol* (THC), marijuana's main mind-altering ingredient.
- Currently, the two main cannabinoids from the marijuana plant that are of interest for medical treatment are THC and *cannabidiol* (CBD).
- The body also produces its own cannabinoid chemicals.
- Scientists are conducting preclinical and clinical trials with marijuana and its extracts to treat symptoms of illness and other conditions.

<https://www.drugabuse.gov/publications/drugfacts/marijuana-medicine>

# Medical vs. Recreational Marijuana

“There are various differences between the two different types of marijuana. These main differences include:

- **Medical weed usually contains a higher CBD content than recreational.** This means when you’re taking it, you don’t feel the “high” that’s associated with the recreational variety. Even though there’s no actual difference between the concentrates and flowers of both types, medical edible potency is frequently higher than its recreational counterpart.
- **Recreational weed typically contains a higher THC content than medical.** This means people usually take this variety more for the “high” effect than the benefits.
- **You need a recommendation for medical marijuana.** Recreational marijuana can be bought by anyone — however, you need to have a qualifying condition to get a medical marijuana recommendation, and this must be renewed regularly. This is a key difference between medical and recreational marijuana.
- **You don’t need a recommendation for recreational marijuana.** You can go into any recreational dispensary and buy what you need if that’s legal in your state and you’re over the required minimum age. No medical card is required to buy the recreational variety, which is another significant medical marijuana vs. recreational contrast.
- **You need to be over 18 to purchase medical marijuana from a dispensary.** Although you must be 18 or over to buy medical marijuana for yourself, there are certain circumstances where people under 18 can apply for a medical marijuana card. These vary from state to state, so it’s crucial to do your research if this applies to you.
- **You need to be over 21 to purchase recreational marijuana from a dispensary.** To buy recreational marijuana in states where it’s legal, you must prove you’re over 21. If you live in a state where recreational pot is legal and you’re over 21, you can easily obtain the drug by simply walking into a dispensary with your driver’s license and buying it. In legal states, you can also possess pot and even grow it if you’re over 21.
- **You can buy medical marijuana from a regulated dispensary.** Medical weed can be obtained from any medical pot dispensary.
- **You can buy recreational pot from a dispensary if they’re legal in your state.** You can obtain recreational weed either from a dispensary or it can often be found alternatively off the street.”

<https://docmj.com/2017/06/05/difference-medical-recreational-marijuana/>

# State Requirements

## State Rules and Fees

LARA requires a Pre-Qualification for any license, which includes a full background check of the applicant and all supplemental applicants. This includes – but is not limited to – individuals or businesses with an ownership interest (direct or indirect) in the applicant. As part of the Pre-Qualification, applicants must disclose any individuals and businesses with an indirect or direct ownership interest.

There is a \$6,000 application fee for Pre-Qualification. If multiple licenses are sought (for co-location, for example), a \$6,000 application fee is required for each Pre-Qualification request.

In addition to the Pre-Qualification fee, the State will levy a “Regulatory Assessment” on an annual basis to all classes of facility except for *Safety Compliance Facilities*. This Assessment offsets operational costs and other statutory mandates including LARA’s costs to implement the act. It also offsets the cost of medical-marihuana-related services provided to LARA by the Michigan Attorney General’s office, MSP, and the Dept. of Treasury. By statute, the assessment must also provide \$500,000 annually to LARA for licensing substance abuse disorder programs in addition to five percent of the other state departments’ costs to the Michigan Department of Health and Human Services for substance abuse-related expenses.

LARA has recently released the annual regulatory assessments for each of the five license categories authorized by MMFLA. *Grower A* licenses are capped, by statute, at \$10,000. *Grower B and C, Processor, Transporter, and Provisioning Center* licenses will be assessed \$48,000. No regulatory assessment will be levied on *Safety Compliance Facility* licenses.

Additionally, the MMFLA authorizes the following:

- Late renewal fees as established by rule (Sec. 402(11))
- A 3% tax on each provisioning center’s gross retail receipts (Sec. 601(1))
- Actual costs of investigation and processing that exceed the application fee paid by an applicant (Sec. 401(5))

The MMFLA also authorizes municipalities to assess fees of up to \$5,000 per license.

# State Capitalization Requirements

An applicant submitting for a license must demonstrate capitalization of the proposed marihuana facility in the following amounts:

|    |                            |           |
|----|----------------------------|-----------|
| a. | Grower: Class A            | \$150,000 |
| b. | Grower: Class B            | \$300,000 |
| c. | Grower: Class C            | \$500,000 |
| d. | Processor                  | \$300,000 |
| e. | Provisioning Center        | \$300,000 |
| f. | Secure Transporter         | \$200,000 |
| g. | Safety Compliance Facility | \$200,000 |

Capitalization amounts and sources must be validated by CPA-attested financial statements. Sources of capital can be demonstrated as follows:

- At least 25% is in liquid assets. Liquid assets include assets easily convertible to cash. Examples of liquid assets may include, cash, marihuana inventory (in compliance with the administrative rules), CD's, 401(k), stocks, and bonds.
- Remaining capitalization may be evidenced in either additional liquid assets or non-liquid forms, for example equity in real property, supplies, equipment, and fixtures.
- Evidence must be provided proving that there is no lien or encumbrance on the asset provided as a source of capitalization.

## Applications in 2017

As of January 19, 2018, the following license applications were submitted to the State of Michigan, for the total number of applications statewide. Location information is not available (Source: State of Michigan BMMR 2018)

| License Type               | Number submitted | In process |
|----------------------------|------------------|------------|
| Prequalification           | 143              | 477        |
| Grower- Class A            | 3                | 14         |
| Grower- Class B            | 2                | 1          |
| Grower- Class C            | 23               | 8          |
| Processor                  | 7                | 4          |
| Provisioning Center        | 11               | 4          |
| Secure Transporter         | 0                | 4          |
| Safety Compliance Facility | 1                | 0          |
| <b>Total</b>               | <b>190</b>       | <b>512</b> |

# Other State Requirements

## Co-Location

The MMFLA allows operation at the same location (commonly referred to as **co-location**) for *Grower*, *Processor*, and *Provisioning Center* licenses when specific requirements are met (emphasis added):

- The operation at a same location shall not be in violation of any municipal ordinances or zoning regulations.
- The municipality shall not limit the type or number of marihuana facilities under section 205 of the act or prohibit the operation at the same location by local ordinance or zoning regulations.
  - For clarification purposes, the intent is that the applicant cannot circumvent the municipal ordinance or zoning regulation, **which may limit the type or number of marihuana facilities** under section 205 of the act, simply by operating at a same location.
- Each license has distinct and identifiable areas with designated structures that are contiguous and specific to the state operating license.
- Have separate entrances and exits, inventory, record keeping, and point of sale operations, if applicable.
- Operation of a state operating license at the same location that includes a licensed provisioning center shall have the entrance and exit to the licensed provisioning center and entire inventory physically separated from any of the other licensed marihuana facility or facilities so that persons can clearly identify the retail entrance and exit.
- Any other requirements outlined in the emergency administrative rules or MMFLA.

Section 205 of the Medical Marihuana Facilities Licensing Act requires local zoning approval for the operation of a licensed facility.

Co-location of *Secure Transporter* or *Safety Compliance Facility* licenses with another type of license is **not permitted** under the MMFLA. In this context, it is notable that zero (0) applications (statewide) were received in 2017 for secure transporter licenses.

## Stacking

A grower that has already been issued a state operating license specified as a *Grower C* license, for up to 1,500 marihuana plants, may apply to “**stack**” a license at a marihuana facility specified in the state operating license, subject to payment of a separate regulatory assessment for each license, and may be subject to additional fees.

## Provisioning Center Sales Room

The State requires that a provisioning center shall have a separate room that is dedicated as the point of sale area for the transfer or sale of marihuana product as provided in the act and rules. The provisioning center shall keep marihuana products 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.

# Federal Law

# Conflict between Federal and State Law

“Despite medical cannabis laws in 46 states, cannabis is still illegal under federal law. The federal government regulates drugs through the Controlled Substances Act (CSA) (21 U.S.C. § 811), which does not recognize the difference between medical and recreational use of cannabis. These laws are generally applied only against persons who possess, cultivate, or distribute large quantities of cannabis.

Under federal law, cannabis is treated like every other controlled substance, such as cocaine and heroin. The federal government places every controlled substance in a schedule, in principle according to its relative potential for abuse and medicinal value. Under the CSA, cannabis is classified as a Schedule I drug, which means that the federal government views cannabis as highly addictive and having no medical value. Doctors may not “prescribe” cannabis for medical use under federal law, though they can “recommend” its use under the First Amendment.

Federal cannabis laws are very serious, and punishment for people found guilty is frequently very steep. Federal law still considers cannabis a dangerous illegal drug with no acceptable medicinal value. In several federal cases, judges have ruled that medical issues cannot be used as a defense, though defense attorneys should attempt to raise the issue whenever possible during trial. Federal law applies throughout Washington D.C. and the United States, not just on federal property.” (Americans for Safe Access)

“Criminal prosecution is not the only problem facing private individuals, government officials and businesses involved in marijuana activities. Federal law dictates that marijuana users may be prohibited from owning guns or living in public housing, yet state disability laws prohibit discrimination against medical marijuana users. Employers and employees are uncertain how state-authorized marijuana use can impact hiring and firing decisions. Insurance companies do not know whether they violate federal law if they provide state-required medical marijuana coverage or pay claims for damaged or stolen marijuana. Military veterans, despite a recent directive authorizing Veterans Affairs doctors to discuss (but not facilitate) medical marijuana use with their patients, are concerned their participation in medical marijuana programs will impact their benefits. Business owners risk civil forfeiture of their profits and assets, and they may lose banking services that had been opened to them by the Obama administration.” (Boegel 2018)

As a Schedule I drug, pharmacists cannot dispense marijuana to qualifying patients, and federally insured banks cannot accept monies for marijuana related businesses.

Federal law continues to prohibit the possession or use of any amount of marijuana. Cannabis is a Schedule I drug according to the Controlled Substances Act of 1970, which classified cannabis as having:

- High potential for abuse;
- No medical use; and
- Not safe to use without medical supervision.

As a result, federal law enforcement officers may technically arrest anyone for possession or use of any amount of marijuana as a violation of federal law.

<https://statelaws.findlaw.com/criminal-laws/details-on-state-marijuana-laws.html>



# Authority

“Federal authority to regulate marijuana is based on the [Commerce Clause](#). But state authority to regulate marijuana is based on traditional police and public health powers and the [Tenth Amendment](#). Overlaps between federal and state powers that result in legislative conflicts are resolved by applying the constitutional principles of federalism and pre-emption. That is, state governments have sovereign powers, but they are not equals of the federal government, and the [Supremacy Clause](#) gives the federal government primacy over the states. Deference is given to states when they act pursuant to their historic police powers, but state laws that prevent the enforcement of constitutionally authorized federal laws are routinely struck down by the courts as pre-empted by federal law.

Thus, state decriminalization of marijuana does not conflict with federal law, as states are free to write their own criminal statutes. But medical marijuana and legalization laws differ in that they provide state approval, rather than mere disinterest, to federally prohibited activities. The [U.S. Supreme Court](#) has ruled that compliance with a state’s marijuana law is not a shield from federal prosecution under the Controlled Substances Act. Nevertheless, state marijuana laws are not in and of themselves unconstitutional. They may be implemented by the states as long as they do not [interfere with federal law enforcement](#) efforts. It is unclear whether the federal government can take action against state officials, and possibly the states themselves, for aiding marijuana use, production and distribution.” (Boegel 2018)



# Land Use Analysis

# Land Uses

How should marihuana businesses be treated? There are examples – both good and bad - throughout the country and in Michigan. One complication is whether medical marihuana facilities should be viewed the same as recreational marihuana facilities. Medical marihuana facilities are currently allowed in the State; recreational marihuana will be on the November 2018 ballot and polls appear favorable. The goods and services that might be sold at either a medical or recreational marihuana facility could generally be the same, but with a different intended purpose. From a zoning perspective, a basic tenet is that similar uses must be treated the same. It would be very difficult to regulate one type of marihuana facility differently from the other because of this. Zoning looks at the *use* of the land – not *who* the business owner or prospective customers might be. The City of Grand Rapids approves the location of the use, while LARA approves who buys and sells marihuana for various purposes.

With that understanding, then, should marihuana provisioning centers or dispensaries be treated like a pharmacy? A medical office? A retail storefront? A bar or restaurant? A party store? Provisioning centers in some cities are treated like retail stores, while in others they are regulated more similarly to an office use. Medical office uses provide a discrete location for diagnosis, and sometimes treatment, of patients needing care; there may or may not be a retail component. Whereas, a recreational marihuana business might be managed similarly to a business involved in alcohol sales (for off-site consumption) in that a key facet is the retail sale of products that may have intoxicating effects offered to the general public. As a relatively new legal land use, the potential land use impacts of marihuana-related businesses are worth considering. Several such potential impacts are explored later in this document.

Of course, many land uses are impactful to the areas in which they tend to locate. Religious institutions such as churches, temples, or mosques tend to locate in residential areas but have a traffic impact at punctuated times of the week due to their assembly use. Banks tend to have a high amount of cash in secured buildings, much like marihuana provisioning centers may be expected to have. Finally, although alcohol has generally not been found to be comparable in societal effect to medical cannabis uses, it may be useful to understand the number and location of alcohol sales and/or service uses and how those relate to their surroundings.

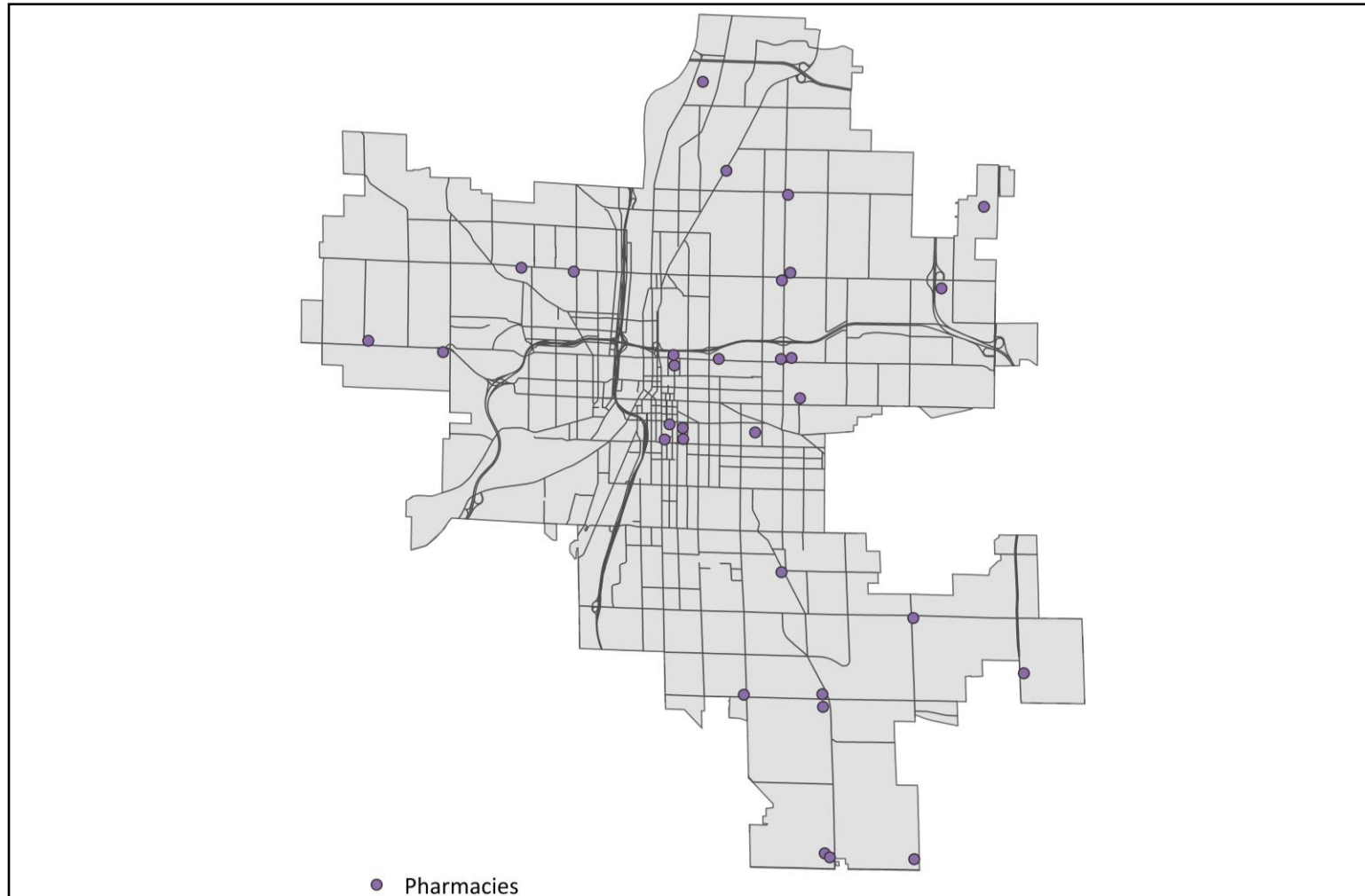
There are also several land uses that are considered “**sensitive**”, which become especially important when considering placement of marihuana-related facilities, with required separation distances from such land uses generally considered a reasonable method of mitigating potential impacts. Sensitive land uses are places where potentially vulnerable populations are located, such as children and families; persons who may object on religious or moral grounds to a use; and persons that are in recovery from addiction. In the context of medical marihuana uses, sensitive land uses are typically considered the following:

- public or private K-12 schools;
- child care centers
- parks or playgrounds;
- religious institutions;
- rehabilitation facilities & substance abuse clinics; and
- residentially-zoned areas.

For the purposes of this policy discussion, the Planning Department researched various uses that may be considered to be a similar use. Potentially sensitive uses were also identified and mapped. The following maps illustrate both.

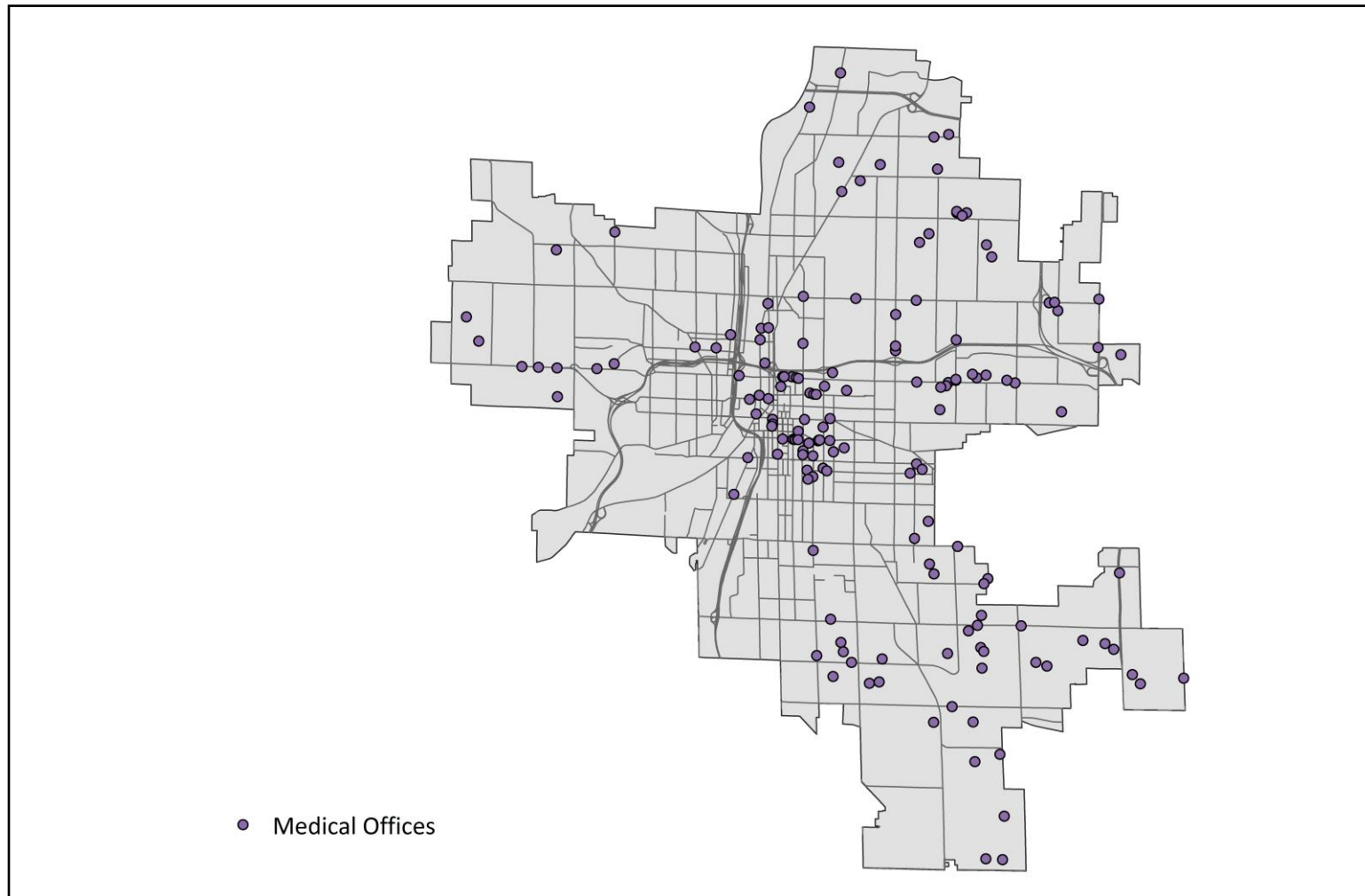
## Pharmacies

There are **37** licensed pharmacies within the City. This represents a rate of **1 pharmacy per 5,310 people**.



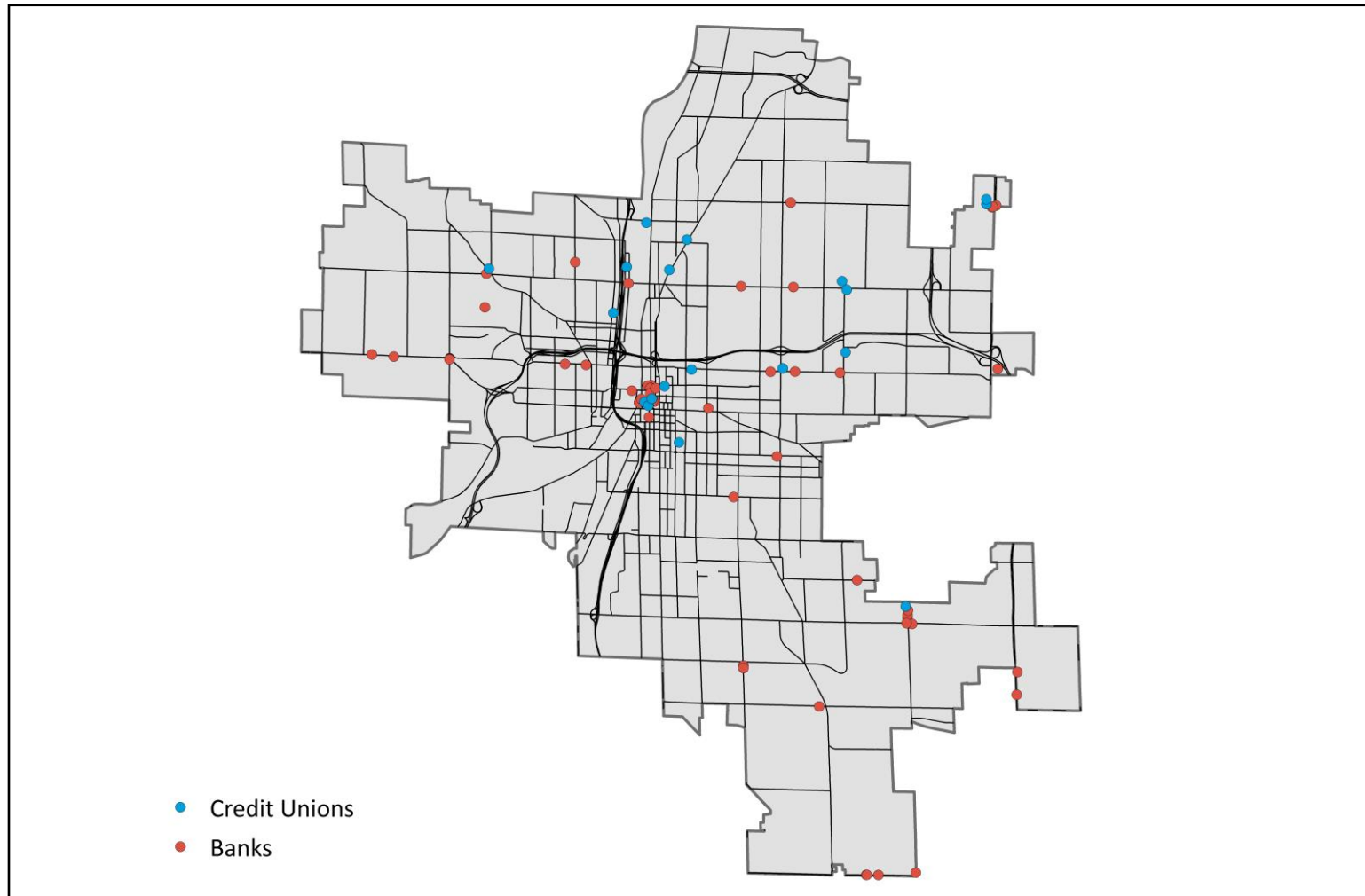
## Medical Offices

There are **158** licensed medical offices within the City. This represents a rate of **1 medical office per 1,243 people**.



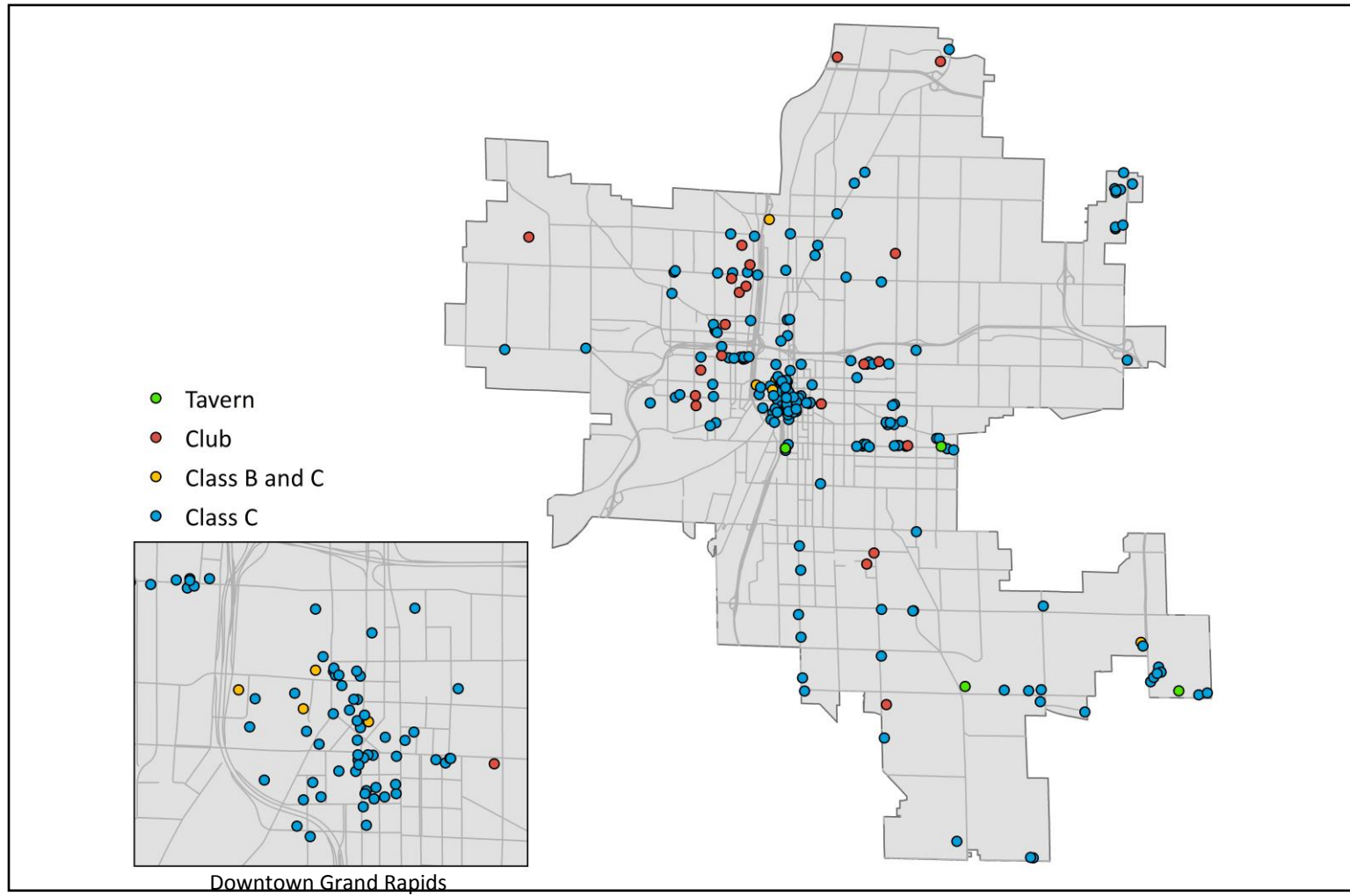
## Financial Institutions

There are **69** regulated banks (50) or credit unions (19) in the City. This represents a rate of **1 regulated bank or credit union per 2,847 people**.



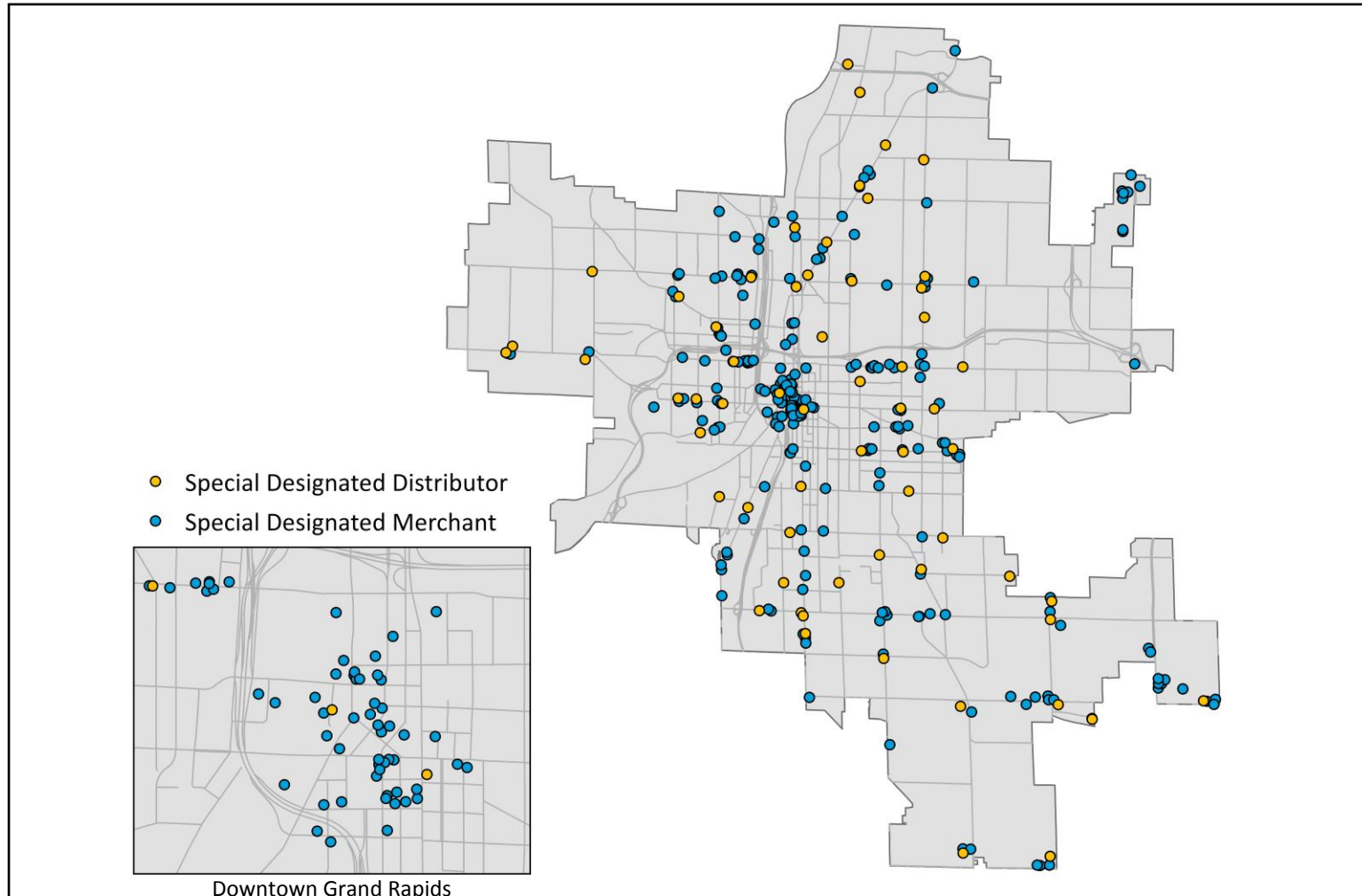
## Class A, B, C, Club, and Tavern alcohol licenses (on-premises)

There are **222** Class A (0), B (6), C (191), Club (21), or Tavern (4) alcohol sellers within the City. Class A and B alcohol sales licenses allow the sale of beer, wine, and spirits for consumption on the premises when associated with a hotel. Class C alcohol sales license allow the sale and service of alcohol for consumption on the premises, and may include bars, restaurants, entertainment venues, etc. Club licenses allow sale and service of alcohol for consumption on the premises by members of a particular organization. Tavern licenses allow the sale of beer and wine, but not spirits, for consumption on the premises. This number of licenses in the City represents a rate of **1 on-premise alcohol license per 885 people**.



## Specially Designated Merchant/Distributor (off-premises)

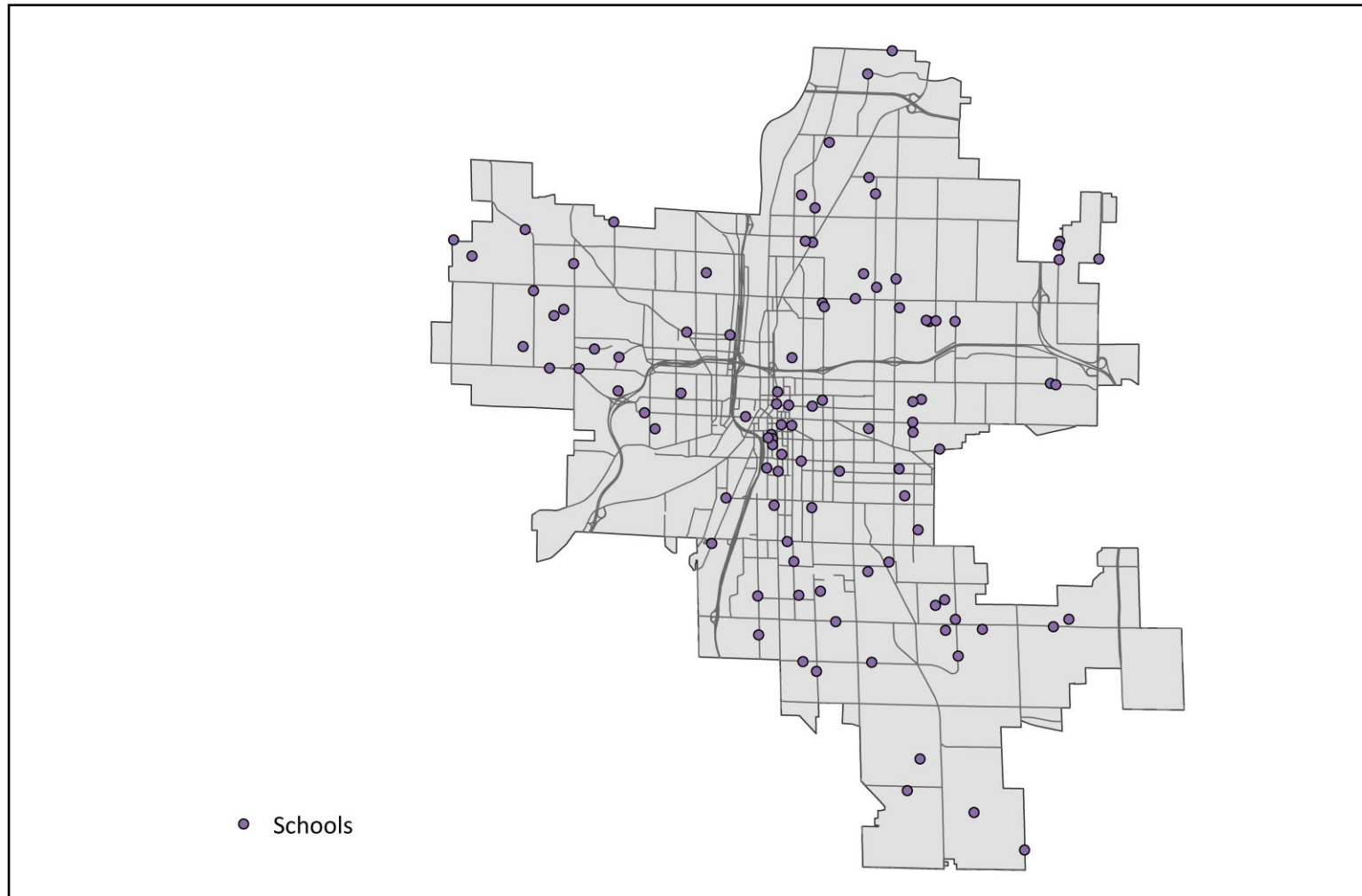
There are **354** SDM (292) or SDD (62) alcohol sellers within the City. SDM alcohol sales licenses allow the sale of beer and wine for consumption off the premises, and typically includes grocery stores and gas stations. Additionally, many restaurants or bars hold off-premise licenses as well as on-premises licenses to allow for corkage and other guest services. SDD (Specially Designated Distributor) licenses allow the sale of spirits for consumption off the premises, and are typically held by party stores. All SDD licenses are held by SDM license-holders. This number represents a rate of **1 off-premise alcohol license per 555 people**. There are **140** SDM (80) and SDD (60) licenses that are **NOT affiliated with an on-premise license** (such as Class C). This number represents a rate of **1 off-premise-ONLY alcohol license per 1,403 people**.





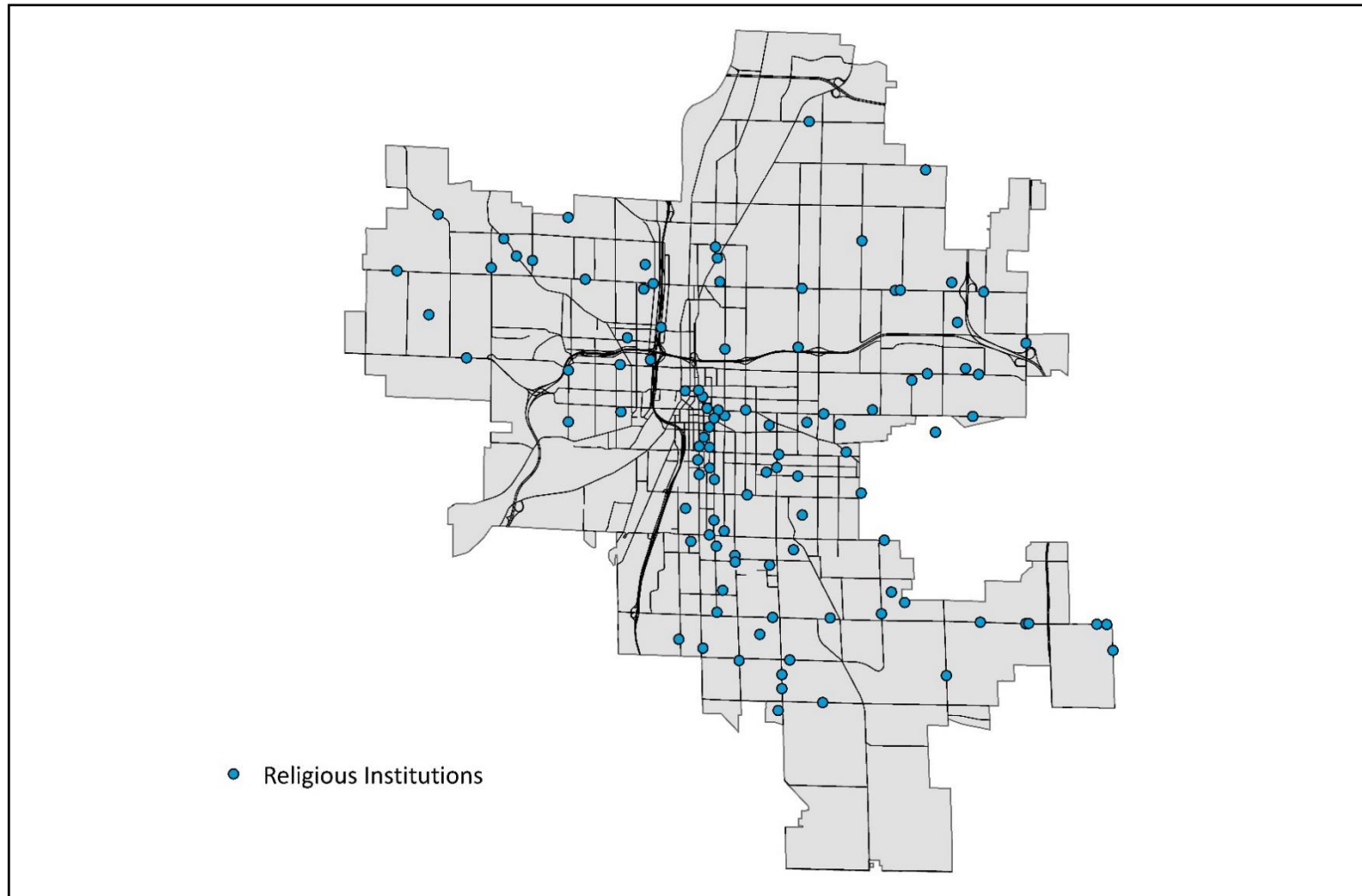
## Public or Private K-12 Schools

There are **104** public or private K-12 schools within the City. This represents a rate of **1 school per 1,889 people**.



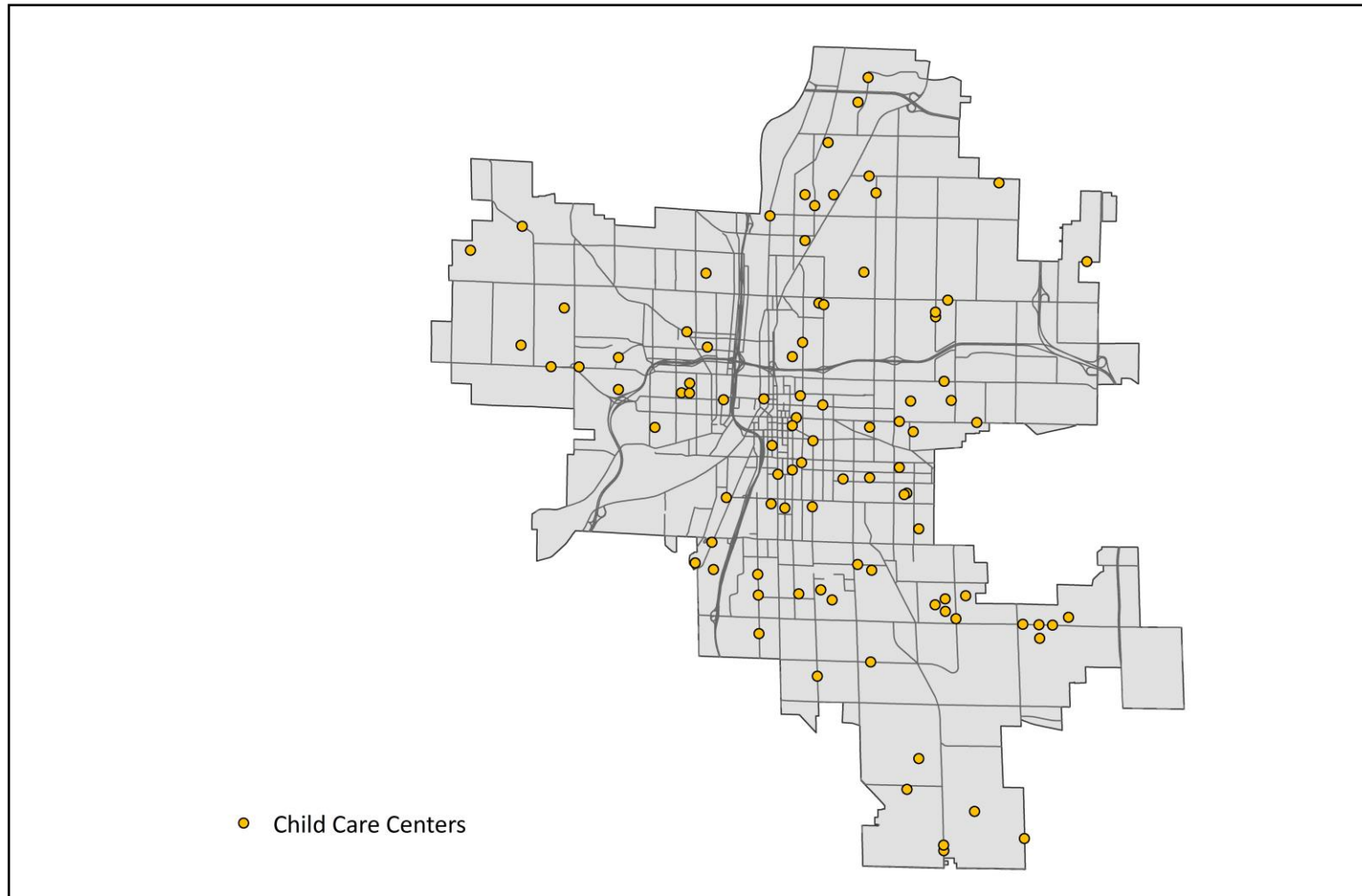
## Religious Institutions

There are **110** approved religious institutions within the City. This represents a rate of **1 such institution per 1,786 people**.



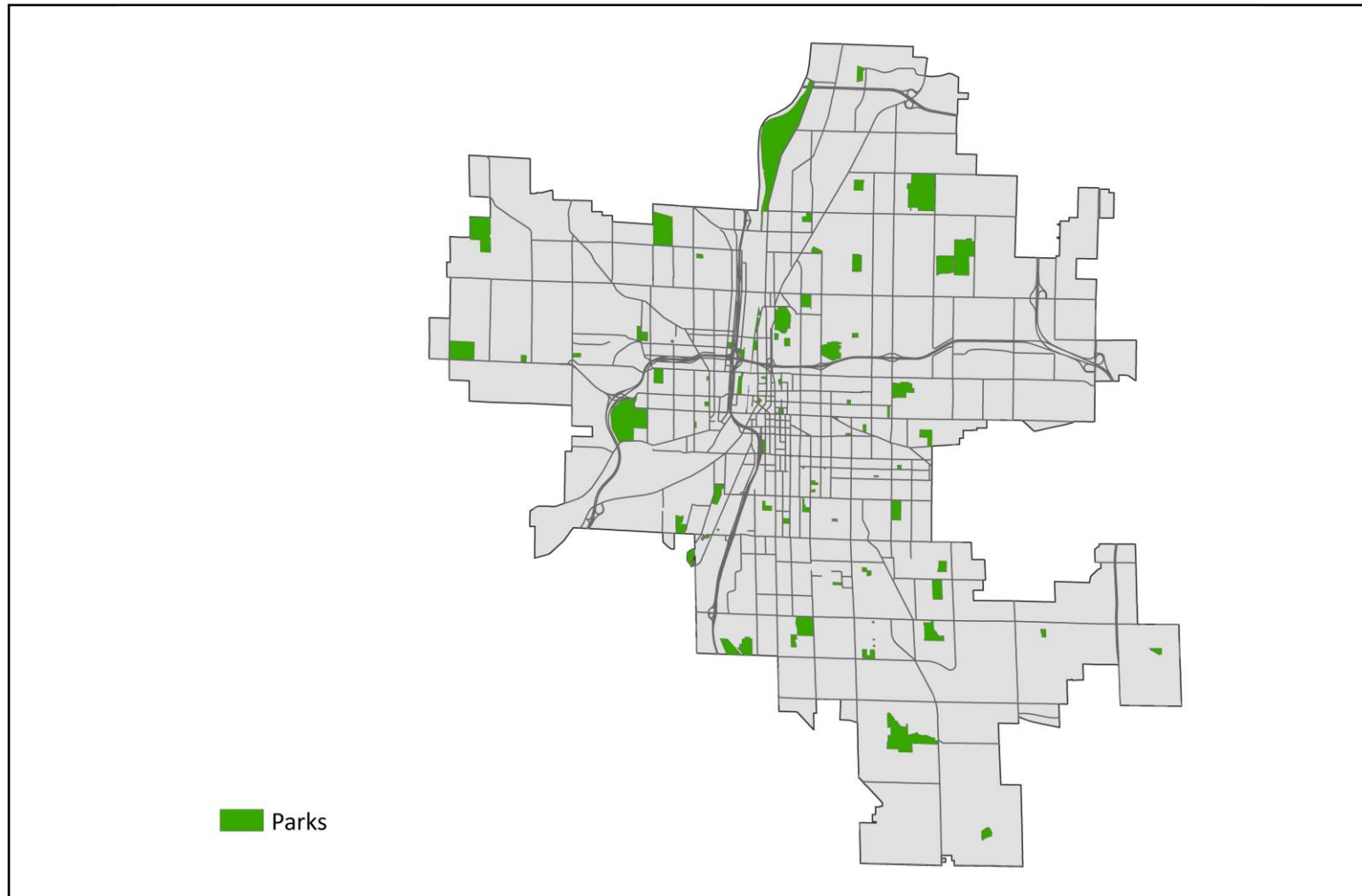
## Childcare Centers

There are **97** approved childcare centers within the City. This represents a rate of **1 center per 2,025 people**.



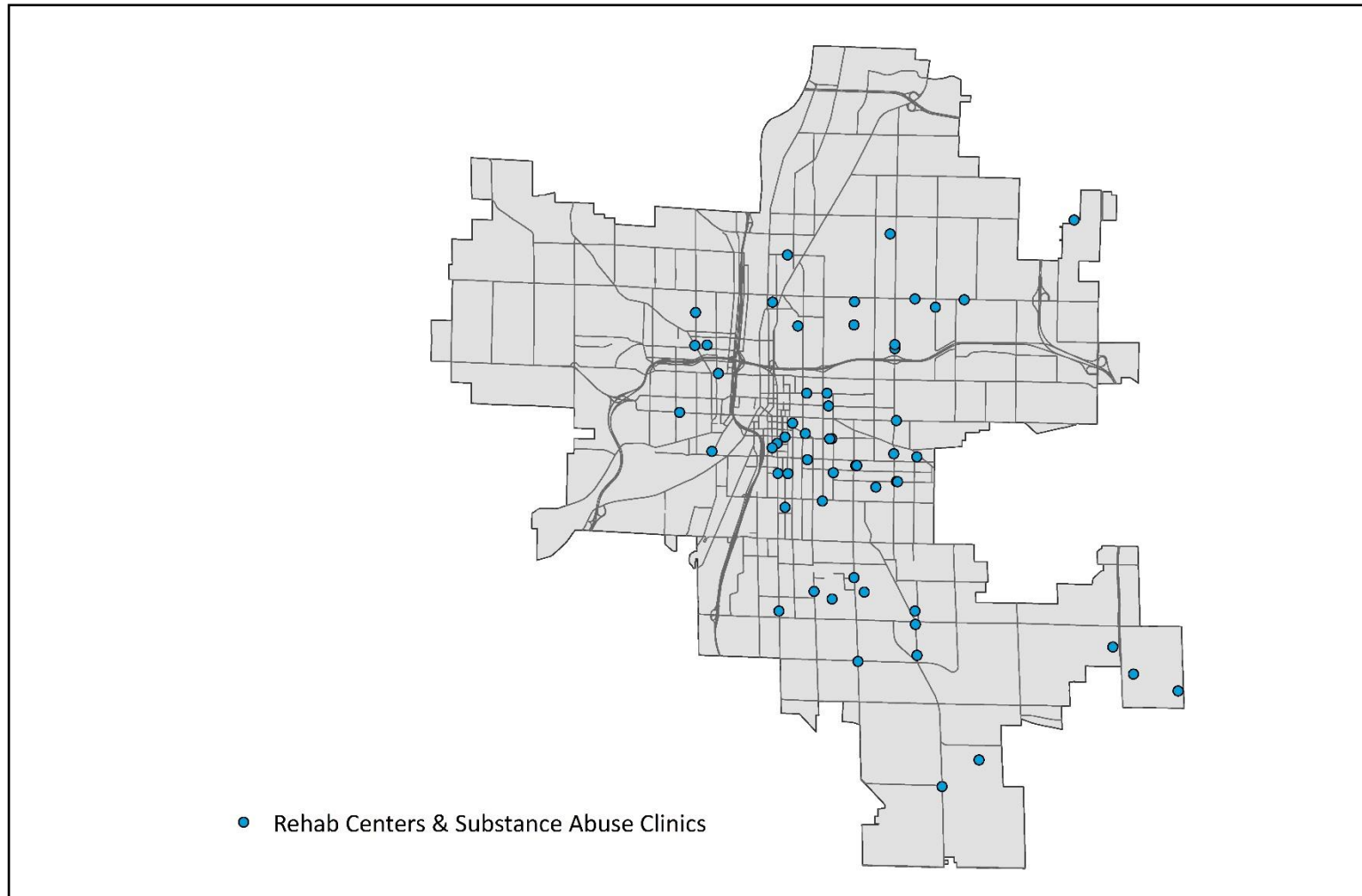
## Parks and Playgrounds

There are **97** parks and playgrounds within the City. This represents a rate of **1 park or playground per 2,025 people**.



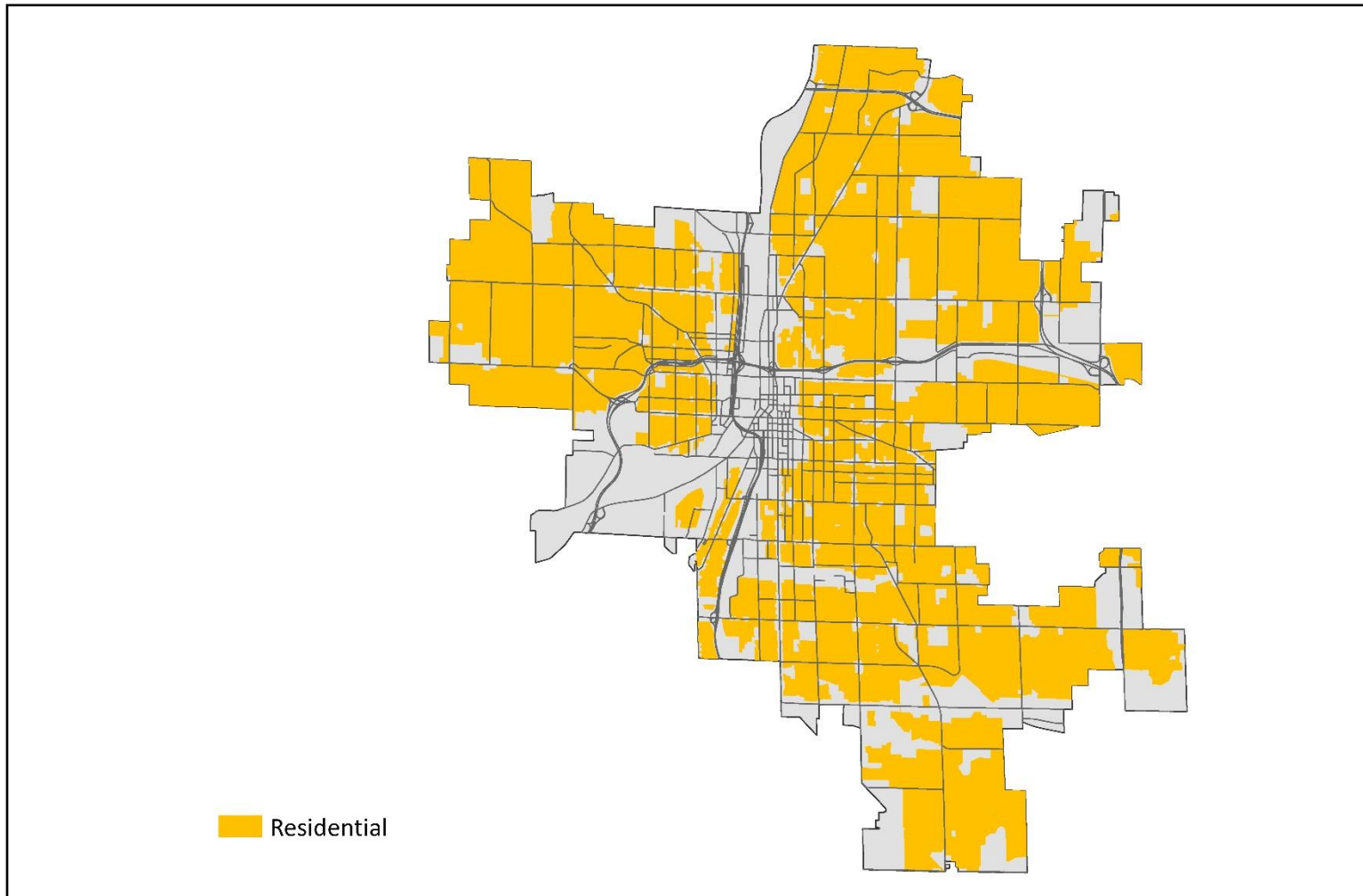
## Rehabilitation Facilities & Substance Abuse Clinics

There are **57** rehabilitation centers or substance abuse clinics within the City. This represents a rate of **1 center per 3,447 people**.



## Residentially-Zoned Areas

There are **57,992** residentially-zoned parcels, comprising **19,244** acres of land, within the City. This represents **87.64%** of the City's parcels, and **68.75%** of the City's total land area.



# Potential Impacts

# Revenue

Medical marihuana provisioning centers are a multi-billion dollar business in America. Colorado alone had sales of \$996 million in 2015. Much of this revenue benefits the community through taxes, registration fees and license fees. In California, medical marihuana establishments have been credited with helping revitalize the Uptown neighborhood of Oakland City, as well as promote local entrepreneurship in Colorado Springs, Colorado (Németh, 2014).

In the case of the recently passed Public Act 281 (Medical Marihuana Facilities Licensing Act), a tax is imposed on each provisioning center at the rate of **3%** of the provisioning center's gross retail receipts, paid quarterly to the Michigan Department of Treasury. The 3% tax is deposited into the medical marihuana excise fund and must be allocated, upon appropriation, as follows:

- **25% to municipalities in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the municipality.**
- 30% to counties in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the county.
- 5% to counties in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the county. Money allocated under this subdivision must be used exclusively to support the county sheriffs and must be in addition to and not in replacement of any other funding received by the county sheriffs.
- 30% to the State for deposit in the first responder presumed coverage fund
- 5% to the Michigan Commission On Law Enforcement Standards for training local law enforcement officers.
- 5% to the Department of State Police.

The recreational marihuana question that will be on the statewide ballot in November 2018 would authorize the recreational or nonmedical use of marihuana. If this law is enacted, the 3% provisioning center tax would go away, beginning 90 days after the law's effective date. In place of the 3% provisioning center tax, a 10 percent excise tax is proposed, which would be distributed differently. First, the revenue is required cover the cost the state bears for regulating the program. For two years, \$20 million will come of the top to fund research analyzing the benefits of medical marijuana for treating veterans. The money left after those two items will distributed with 35 percent to the state School Aid Fund for K-12 education; 35 percent to the Michigan Transportation Fund to repair roads and bridges; 15 percent to municipalities where a marijuana business is located; and 15 percent to counties where a marijuana business is located. (Lawler)

Under the current ordinance, at the State level, it is estimated that the total administration cost for regulation of the Medical Marihuana Facilities Licensing Act is \$21 million a year. Of that, 62.6% (\$13.2 million) is proposed to fund LARA staff. An equivalent of 113 full time employees will be hired. LARA employees will be responsible for processing applications, licensing, and enforcement. Another 28.4% (13.2 million) will fund the Department of State Police for enforcement activities, with an estimated equivalent of 34 full time employees to be hired. Attorney General costs are expected to comprise 2.9% (\$550,000). Finally, 7.1% (\$1.5 million) will fund miscellaneous expenses. This includes travel, contractual services, civil service assessments and other overhead cost.



Using different models from established cities can help to create a zoning code that is practical for the geographical and cultural context of Grand Rapids and prevent disproportionate location of facilities within the community. Local costs for similar impacts, such as additional licensing, code enforcement, law enforcement and legal staff should be considered when choosing to allow such facilities within the City and when establishing application fees. County and local costs incurred for permitting, coordination with LARA, enforcement, calls for service, or other expenses have not been quantified.

The fiscal impacts related to land use may vary. Because medical marihuana facilities are relatively new as a widely permitted land use, there is little longitudinal data available regarding the effects of any such use on property values of surrounding land. There are concerns that should be considered when zoning for medical marihuana facilities. First, there may be a loss of revenue from businesses choosing not to locate in an area near medical marihuana facility. Also, because medical marihuana facilities may be considered a locally unwanted land use (LULU) by some, there is potential that a disproportionate amount of facilities may be located in areas that do not have the resources to resist establishment. (Morrison, 2014). Finally, if use restrictions leave only minimal locations for placement of these facilities, it may create a 'hot spot' of real estate value and competition for these properties, pushing out other tenants or uses. This could be further amplified if establishments are allowed to locate in close proximity to one another. The Planning Commission discussed concerns surrounding the concentration of uses at their meeting on May 24th.

Through the MMFLA, the State of Michigan enables local governments to assess an annual, nonrefundable fee of up to \$5,000.00 to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the municipality. The ordinance recommended by staff **allows for the City to assess this fee**. The Planning Commission recommended to **remove this fee entirely**. The citizen petition of Smart & Safe GR allows for the \$5,000 fee.

# Property Values

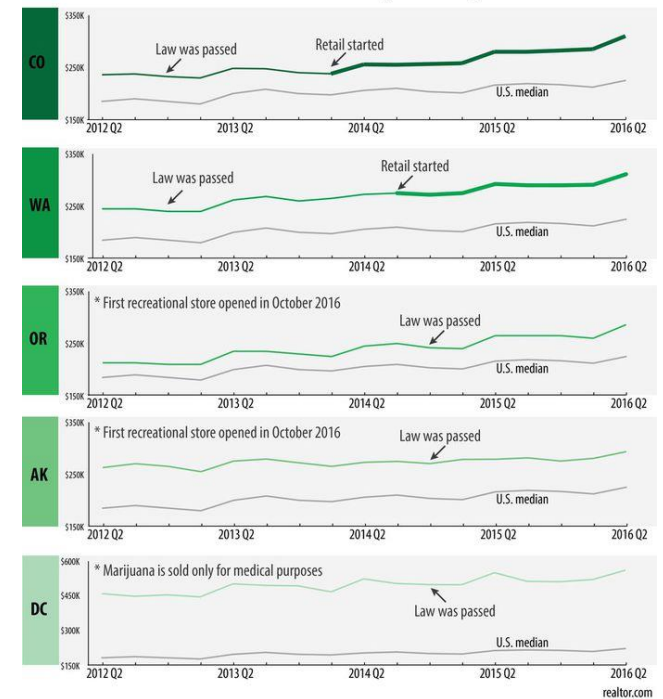
In addition to potential local revenue impacts, the addition of medical marihuana facilities has the potential to affect residential or commercial property markets. While retail rents are likely to be affected initially, housing prices may also be boosted, if the experiences in other jurisdictions that have legalized marihuana are repeated.

A 2017 article in the Journal of Real Estate Economics explored how the *conversion* of medical marihuana stores to recreational marijuana stores affected housing prices in Denver, Colo., where the recreational sale of marihuana was legalized in January 2014. Homes located near such converted stores experienced a much higher increase in value than houses located farther away — as much as 8 per cent more. Specifically, single-family residences situated within 0.1 mile (528 feet) of a medical marihuana store that became a recreational marihuana store experienced an increase of 8 per cent relative to homes sold farther away. However, dwellings located between 0.1 mile and 0.25 mile from a converted store did not experience any proximity premium. (Conklin, et al. 2017) This result would suggest that the proximity premium is highly localized.

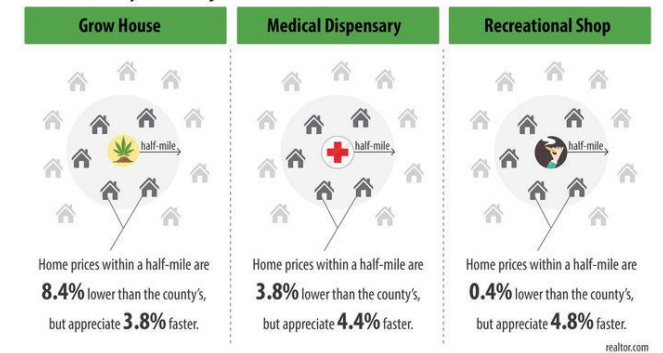
A realtor industry article following up on this research found a correlation between an influx of new residents to Colorado and the legalization of marihuana. The median home sale price in the state increased from \$248,000 in the first half of 2014 (with the legalization of recreational marihuana becoming effective on January 1 of that year) to \$298,000 in the first half of 2016 (Pan & Trepasso, 2016). It is important to note that such results were found to be more highly correlated to *recreational* sales of marihuana, and not as strongly for strictly *medical* sales.

In another study, researchers found a 6 per cent premium in prices for homes sold in Colorado municipalities that legalized retail sales of marijuana, versus those that didn't (Cheng 2018). However, a competing analysis holds that the correlation is due not to the marihuana businesses, but that census tracts in which marihuana facilities were located tended to have higher education levels, which tend to be a driver of house appreciation and/or growth nationwide (Weinberg, 2018).

Home Prices in States Where Recreational Marijuana Is Legal



How Proximity to a Marijuana Business Affects Home Prices



# Equity Considerations

There has been discussion of the possibility of cannabis-related businesses being an opportunity to remedy historical burdens on people that have been disparately affected by enforcement practices, which have generally been communities of color (MCBA, 2017). There are programs elsewhere in the country that establish a framework for the lawful cultivation, possession, use, manufacture, distribution, and sale of cannabis, and also attempt to remedy the adverse consequences of prior cannabis prohibition on persons and communities of color, and to avoid similar adverse consequences in the future.

The Zoning Ordinance is a land use regulatory tool. The applicant, their history, background, or personal characteristics should not be a factor in a land use decision as governed by the Zoning Ordinance. As mentioned earlier, zoning regulations must be applied without regard to the applicant. LARA is responsible for screening and determining the appropriateness of a licensee.

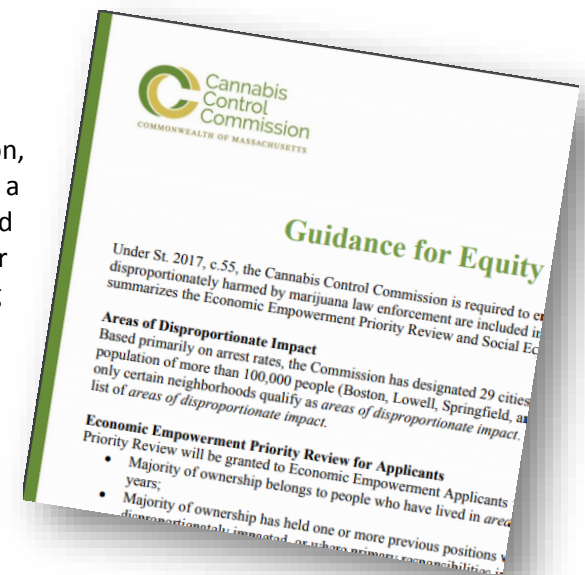
Policies to ensure racial, ethnic, and gender diversity in the cannabis industry, however, can be implemented outside of the Zoning Ordinance. There are potentially significant barriers to industry entry for all people at the state level, as outlined earlier in this document. Local non-zoning policies or ordinances can lessen such barriers through applicant-based policies, where so enabled.

## Examples of Equity Policies for Marihuana-Related Industries

**Massachusetts.** The Massachusetts Cannabis Control Commission, as enabled by statewide legislation, designated 29 cities as areas of disproportionate impact, based primarily on arrest rates. Cities with a population of more than 100,000 people (Boston, Lowell, Springfield, and Worcester) are subdivided to reflect that only certain neighborhoods qualify as areas of disproportionate impact. Applicants or licensees are eligible for the social equity program if they demonstrate at least one of the following criteria:

- They have resided in an area of disproportionate impact for at least 5 of the past 10 years;
- They have a past drug conviction and they have been residents of Mass. for at least the preceding 12 months; or
- They have been married to or are the child of a person with a drug conviction and they have been residents of Massachusetts for at least the preceding 12 months.

Qualifying applicants and licensees can receive training and technical assistance in management, recruitment, and employee trainings; accounting and sales forecasting; tax prediction and legal compliance; business plan creation and operational development; marihuana industry best practices; and assistance with identifying/raising funds or capital. (Mass. Act 55, 2017)

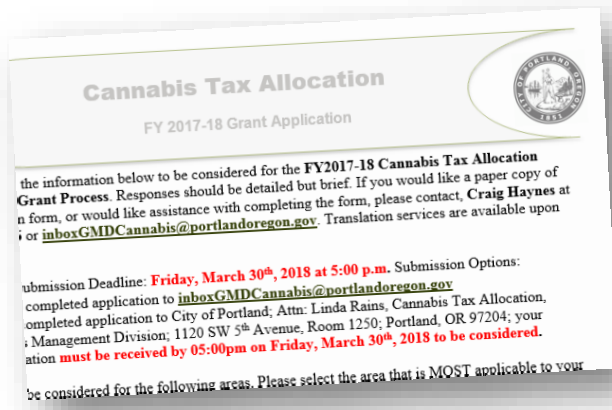


**Oakland, California.** In Oakland, at least 50% of new cannabis business permits, issued by the city at a maximum rate of eight a year, are required to be awarded to “equity applicants”. Equity applicants must earn less than 80% of the city’s median income; and they must either have been residents of police beats disproportionately targeted by law enforcement in recent decades, or were sent to prison on cannabis charges within the last 20 years (Oakland, 2017).

**Portland, Oregon.** The Portland City Council approved \$500,000 in their FY2017-18 Adopted Budget for a portion of projected annual revenues from a local tax on recreational marihuana sales. Oregon began taxing marihuana sales at a rate of 17% beginning in July 2015, and an additional 3% sales tax was referred to the ballot by Portland’s City Council and passed by voters in November 2016. At the Council’s direction, a community steering committee process and community survey provided guidance on how funding should be appropriately allocated to address the areas identified in the November 2016 ballot: *“Support for neighborhood small businesses, especially women-owned and minority-owned businesses, including but not limited to business incubator programs, management training, and job training opportunities; and providing economic opportunity and education to communities disproportionately-impacted by cannabis prohibition.”*

Based on community input, the City of Portland will dedicate \$350,000 in grant funding to the area of record clearing and workforce development for individuals disproportionately impacted by cannabis prohibition. An additional \$150,000 will be allocated to grants in the area of cannabis industry-specific support and technical assistance. Funding in the Portland program may be awarded for:

- **Record clearing**, intended to undo direct harm to those disproportionately impacted by cannabis prohibition by removing barriers to housing, employment, and education through legal support including but not limited to expungement, fine reduction, and charge reduction;
- **Workforce development**, for programs that will create pathways for people disproportionately impacted by previous cannabis laws to obtain family-wage jobs, including, but not limited to, training, mentorship, and other workforce reentry support;
- **Industry support**, to remove financial barriers to entry in the cannabis industry, including startup capital, incubator/office space, and grants to existing businesses for one-time costs such as equipment; and
- **Technical assistance**, by providing support to entrepreneurs in the form of business education, process navigation help, assistance with OSHA compliance, and legal services. (Portland, 2017).



Laws of the State of Michigan must be reviewed by the City Attorney’s office in order to determine if the listed examples are feasible for the City Commission to consider. Additional local taxes, selection of equity applicants, or local licensing based on race, class, or other such factors are likely not allowed in Michigan. However, there may be opportunities to advance policies where regulated entities could promote participation of diverse groups and provide equal access to employment; business policies can be adopted that encourage diverse groups for contracting or professional services; and economic development incentives may be directed towards economically disadvantaged entities and persons or communities disproportionately affected by cannabis prohibition. Possible approaches in development of a Good Neighbor Plan or Voluntary Equitable Development Agreement as provided for in the proposed ordinance also have potential.

# Odor

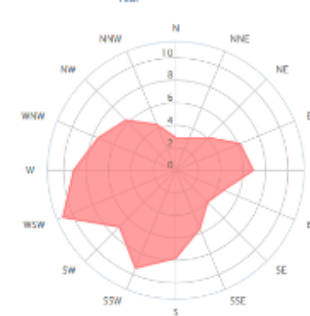
Concerns about odors generally relate to **growing** or **processing** operations. Peer-reviewed studies have not shown a strong correlation of cannabis-related odors and nuisance, but most odor laws surround the growing and cultivation of cannabis require mitigation methods. Retail uses such as provisioning centers are typically **not** subject to odor control regulations. The ordinance as proposed by Planning staff prohibits outdoor operations.

Municipalities that have adopted odor control ordinances typically see a cost associated with administration and enforcement, including the purchase of specialized equipment, and in some cases a need for additional staff. Typical wind speed and direction may be considerations when choosing sites where growing and processing operations may be permitted. In Grand Rapids, there is a **slight** trend of wind origination from the WSW and SSW direction.

| Month of year                      | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Year |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|------|
|                                    | 01  | 02  | 03  | 04  | 05  | 06  | 07  | 08  | 09  | 10  | 11  | 12  | 1-12 |
| Dominant wind direction            | ↖   | ↗   | ↖   | ↖   | ↗   | ↗   | ↗   | ↗   | ↗   | ↖   | ↖   | ↖   | ↗    |
| Wind probability >= 4 Beaufort (%) | 44  | 40  | 41  | 50  | 36  | 30  | 22  | 19  | 23  | 32  | 39  | 34  | 34   |
| Average Wind speed (mph)           | 13  | 13  | 12  | 14  | 12  | 10  | 9   | 9   | 9   | 10  | 12  | 12  | 10   |
| Average air temp. (°F)             | 27  | 28  | 37  | 48  | 63  | 72  | 75  | 73  | 66  | 55  | 43  | 34  | 52   |

Source: Grand Rapids airport weather station, on windfinder.com

Wind direction distribution in %  
Year



The proposed ordinance seeks to minimize potential odor impacts by requiring that:

b. *No marihuana or equipment used in the growing, production, sale, processing, or transport of marihuana can be placed or stored outside of an enclosed building.”* (Proposed Sec. 5.9.19.F.1.b.)

...

h. *Odors must be controlled and eliminated by the following methods:*

- i. *The building must be equipped with an activated air scrubbing and carbon filtration system that eliminates all odors prior to leaving the building. Fan(s) must be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.*
- ii. *Air scrubbing and filtration system must be maintained in working order and must be in use at all times. Filters must be changed per manufacturers’ recommendation to ensure optimal performance.*
- iii. *Negative air pressure must be maintained inside the building.*
- iv. *Doors and windows must remain closed, except for the minimum time length needed to allow people to ingress or egress the building.*
- v. *An Administrative Departure may be granted for an alternative odor control system if a mechanical engineer licensed in the State of Michigan submits a report that sufficiently demonstrates the alternative system will be equal to or better than the air scrubbing and carbon filtration system otherwise required. (Proposed Sec. 5.9.19.F.2.h.)*

## EXAMPLES

In May 2016, Denver updated its odor ordinance, and included in the updates a requirement for certain odor-producing industries, including the cannabis industry, to develop an odor control plan which describes specific odor mitigation technologies and techniques a facility uses. A Denver Odor Control Plan (OCP) is required for specific industries, including pet food manufacturing, meat rendering and processing, asphalt shingle manufacturing, sewage treatment, and marihuana growing and processing facilities. Provisioning centers are exempt from this requirement.

*Odor Control Plans for marihuana-related businesses must specify odor mitigation practices such as:*

- *Building management responsibilities (e.g. isolating odor-emitting activities from other areas of the buildings through closing doors and windows);*
- *The organizational responsibility(ies) and the role/title(s) of the staff members who will be trained about odor control, the specific administrative and engineering activities that the training will encompass; and the frequency, duration, and format of the training;*
- *A description of the records that will be maintained (e.g., records of purchases of replacement carbon, performed maintenance tracking, documentation and notification of malfunctions, scheduled and performed training sessions, and monitoring of administrative and engineering controls).*
- *Engineering controls such as carbon filtration, or a statement explaining the basis for not having such controls, subject to review;*
- *Technical system designs, a description of technical process(es), and equipment maintenance plan*
- *A description of the odor control technologies to be installed and implemented at the facility (e.g., carbon filtration) and to which odor-emitting activities, sources, and locations they will be applied;*
- *A description of critical design factors and criteria, with supporting calculations presented as appropriate (e.g., desired air exchanges per hour required to treat odorous air from specific areas, odor capture mechanisms, exhaust flow rates, rates of carbon adsorption consumption, etc.);*
- *A description of activities that will be undertaken to ensure the odor mitigation system remains functional, the frequency with which such activities will be performed, and the title/role(s) of the personnel responsible for such activities;*
- *A maintenance plan should include a description of the maintenance activities that will be performed, the frequency with which such activities will be performed, and the role/title(s) of the personnel responsible for maintenance activities. The activities should serve to maintain the odor mitigation system and optimize performance (e.g., change carbon filter, every 6 months, carried out by the facility manager);*
- *A comprehensive timeline for the design, review process, installation, and operation of the various odor mitigation practices;*
- *The mechanism for, and the responsible staff involved in, receiving odor-related complaints, how and by whom such complaints will be addressed, and how the odor complaint and response will be recorded (e.g. logbook, complaint report).*





(DDPHE 2017)

A February 2017 model ordinance developed by Michigan State University included the following provisions aimed at odor mitigation for growers and processors:

*As used in this subsection, building means the building, or portion thereof, used for marihuana production or marihuana processing.*

- a. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.*
- b. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.*
- c. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.*
- d. Negative air pressure shall be maintained inside the building.*
- e. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.*
- f. An alternative odor control system is permitted if the special use permit applicant submits and the municipality accepts a report by a mechanical engineer licensed in the state of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.*

(Walker 2017)



# Traffic

There have been concerns expressed about the use of cannabis and associated traffic impacts, in many cases drawing parallels between the effects of cannabis use on drivers under the influence, as with alcohol use.

A 2016 study found that *acute* cannabis intoxication is associated with a statistically significant **increase** in motor vehicle crash risk (Rogeberg 2016), showing a 20 to 30 percent relative increase (a “low to medium magnitude” change, according to the report) in car crashes associated with short-term cannabis use, and a 2017 study by the Insurance Institute for Highway Safety found a positive correlation between the legalization of recreational marihuana with an increased rate of car crashes, with collision claim frequencies about **3 percent higher** overall than would have been expected without legalization (HLDI 2017).

However, a 2017 study in the American Journal of Public Health examined the association between medical marihuana laws and traffic fatalities separately for each state enacting such laws, and also evaluated the association between marihuana provisioning centers and traffic fatalities. The study found that, on average, states with laws allowing medical marihuana had **lower** traffic fatality rates than non-MML states. (Aydelotte, et al. 2017). Medical marihuana laws were associated with immediate **reductions** in traffic fatalities in those aged 15 to 24 and 25 to 44 years, and with additional yearly gradual reductions in those aged 25 to 44 years. However, state-specific results showed that only 7 states experienced post-MML reductions. Provisioning centers were also associated with traffic fatality **reductions** in those aged 25 to 44 years (Santaella-Tenorio, et al., 2017).

A traffic-related outcome of medical (or recreational) marihuana uses is the *generation* of traffic. A 2015 study found marihuana dispensaries to be one of the biggest retail traffic generators in the United States, generating approximately 5 times the traffic than a typical pharmacy and 10 times that of a typical retail store (ITE Trip Generation Manual, 9th ed.,).

It is worth noting that many new land uses have artificially high trip generation numbers at their time of establishment, which may be attributable to the novelty of the use. Over time, this traffic impact decreases. In fact, the same 2015 study attributed part of the traffic impact of marihuana dispensaries to their newness and limited number.

| Weekday                    | Rate - Trips Per KSF |   |  |  |
|----------------------------|----------------------|---|--|--|
|                            | Marijuana Dispensary | ITE 880: Pharmacy w/o Drive Thru <sup>1</sup> | ITE 881: Pharmacy w/ Drive Thru <sup>1</sup> | ITE 826: Specialty Retail <sup>1</sup> |
| Daily                      | 402.27               | 90.06   | 96.91  | 44.32                                  |
| AM Generator               | 37.31                | 7.71  | 8.36   | 6.84                                   |
| AM Adjacent Street (7-9am) | 16.86                | 2.94  | 3.45   | n/a                                    |
| PM Generator               | 63.61                | 11.07   | 9.72   | 5.02                                   |
| PM Adjacent Street (4-6pm) | 54.64                | 8.40  | 9.91   | 2.71                                   |

<sup>1</sup> From the Institute of Transportation Engineers' [Trip Generation Manual, 9th Edition](#).  
“KSF” = 1,000 square feet

| Saturday                   | Rate - Trips Per KSF |   |  |  |
|----------------------------|----------------------|---|--|--|
|                            | Marijuana Dispensary | ITE 880: Pharmacy w/o Drive Thru <sup>1</sup> | ITE 881: Pharmacy w/ Drive Thru <sup>1</sup> | ITE 826: Specialty Retail <sup>1</sup> |
| Daily                      | 418.25               | n/a   | n/a  | 42.04                                  |
| Peak Generator             | 58.28                | 10.68   | 8.20   | n/a                                    |
| AM Adjacent Street (7-9am) | 9.02                 | n/a   | n/a  | n/a                                    |
| PM Adjacent Street (4-6pm) | 55.92                | n/a   | n/a  | n/a                                    |

<sup>1</sup> From the Institute of Transportation Engineers' [Trip Generation Manual, 9th Edition](#).  
“KSF” = 1,000 square feet



# Crime

An October 2017 survey by the Pew Research Center found that 61% of adults support legalization of medical marijuana (Geiger, 2018). Even so, 44% would feel somewhat or very uncomfortable if a provision center opened near their home (Németh, 2014).

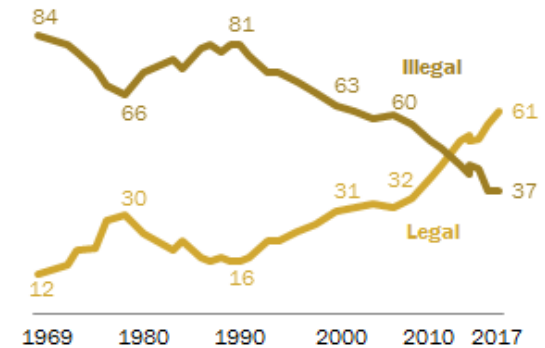
The opening of medical marijuana facilities is perceived to have association with increased loitering, noxious odors, and exposure to minors, gang activity, and sales of other illegal drugs. There are also fears that the facility may attract violent crime and property crime (Tilton, 2009). It is important to note that, though these fears are present, there have not yet been studies that have found a direct causative relationship between medical marijuana facilities and crime.

A Sacramento case study obtained violent crime information, including homicide, assaults, robbery, and aggravated assault, from the Sacramento Police Department. Using statistical analysis, they compared the relationship between violent crime and security strategies with a 100, 250, 500 and 1,000 foot buffer. Researchers analyzed effectiveness of locked metal screen doors, a pass-through on the door (the clients would be buzzed in), the presence of a doorman outside, security cameras, and signs that prescription identification card were necessary to enter. This study concluded that provision centers with security cameras and centers requiring identification prescription cards had significantly lower levels of violent crime within the 100 and 250 feet buffer. The presents of a doorman was helpful, but not scientifically significant. (Freisthler, 2012). The Denver Police Department also examined crime rates in areas in and around dispensaries. Over the same period in 2010, in which the city's overall crime rate decreased by 8.2%, crime rates in areas with the highest concentration of dispensaries saw greater decreases in crime than neighborhoods with no dispensaries. (Denver Post, 1/26/2010)

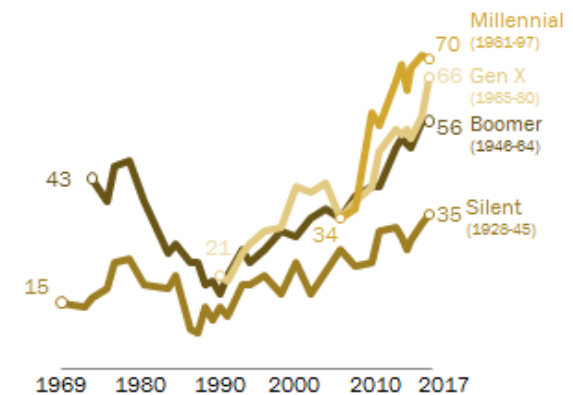
Recent studies show that there are **no inherent crime rate increases** caused by the establishment of a marijuana provisioning centers. This may be accurate overall, but a report produced by the California Police Chief's Association Task Force on Marijuana Dispensaries, published in 2009, documented numerous accounts of criminal activity related to such centers. This report showed multiple cases of armed robbery, murder, burglaries and organized crime in and around provisioning centers (Tilton, 2009). However, a survey of the Los Angeles Police Department showed that there were 47 robbery reports filed for the City's more than 800 medical marijuana dispensaries (~5.8%), compared to 71 robbery reports filed in the same time period for the City's 350 banks (~20.2%). Los Angeles Police Chief Charlie Beck stated that he tried to verify that

## U.S. public opinion on legalizing marijuana, 1969-2017

*Do you think the use of marijuana should be made legal, or not? (%)*



*% who say marijuana should be made legal*



Note: Don't know responses not shown. 1973-2008 data from General Social Survey; 1969 and 1972 data from Gallup. Source: Survey of U.S. adults conducted Oct. 25-30, 2017.

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dispensaries are crime magnets, “because, of course, that is the mantra. It doesn’t really bear out... Banks are more likely to get robbed than medical marihuana dispensaries.” (LA Daily News, 1/17/2010)

An ecological, cross-sectional design was used to explore the spatial relationship between density of medical marihuana dispensaries and two types of crime rates (violent crime and property crime) in 95 census tracts in Sacramento, CA. This study showed that the density of medical marihuana dispensaries **was not associated** with violent or property crime rates. In fact, there were **no observed cross-sectional associations** between the density of medical marihuana dispensaries and either violent or property crime rates in the study (Kepper & Freisthler, 2010). These results suggest that the density of medical marihuana provisioning centers may not be associated with crime rates, or that other factors, such as measures provisioning centers take – or are required to take – to reduce crime (i.e., doormen, video cameras), may increase guardianship such that it deters possible motivated offenders.

Scientific peer reviewed studies have found a link between **density** of provisioning centers and increase in crime rates. The most recent study to posit this correlation examined the relationship between medical marihuana dispensaries and crime within the city of Long Beach, California. Data was analyzed for a 24 month period. Within that time, Long Beach closed down 29 of the 37 dispensaries. This number fluctuated within this timeframe. The study factored out spatial variables related to routine activity and found that there was a correlation between the density of provision centers and an increase in property related crime (Freisthler, 2015). However, the rate of crime was linked in part to a high proportion of cash present at such facilities rather than any other factor. One researcher ascribed this to patients’ reluctance to use non-cash payments in light of fluctuating policies towards enforcement of federal marihuana-related laws by federal law enforcement agencies.

While studies show that crime rates increase with density of provisioning centers, it has not been scientifically linked to individual provisioning centers. Since California was the first state to legalize marihuana, its cities can be used as model cities for density regulations. The use of medical marihuana was first legalized on a state level in 1996. In 2010, Sacramento and Los Angeles, California passed legislation limiting the density of provisioning centers.

Interestingly, one study found that, because crime has a tendency to follow retail concentrations, medical marihuana centers are more likely to be opened in areas that have higher crime rates – just like any other retail business. Because of this, medical marihuana facilities, in their effect on crime rates, “are more similar to drugstores and coffee shops” (Boggess, et al. 2014) than to LULUs.

# Proposed Ordinance

# Zone District Descriptions

Cannabis-related facilities could potentially be permitted, via any variety of review and approval methods, in any area of the City. However, discussion at all levels for commercial businesses as allowed by the MMFLA has been centered solely on such businesses being located within commercial or industrial zone districts, and generally not in residential or special zone districts. It is important to note that land use decisions run with the property, not with the applicant; meaning that a property right is being given to the land to allow a particular use to be situated on it. Land owners, tenants, licensees, others with an interest in a business are granted the ability to maintain the use even if parties change – so long as the use is not abandoned, there are no zoning violations, or there is not some other cause that legally extinguishes the use.

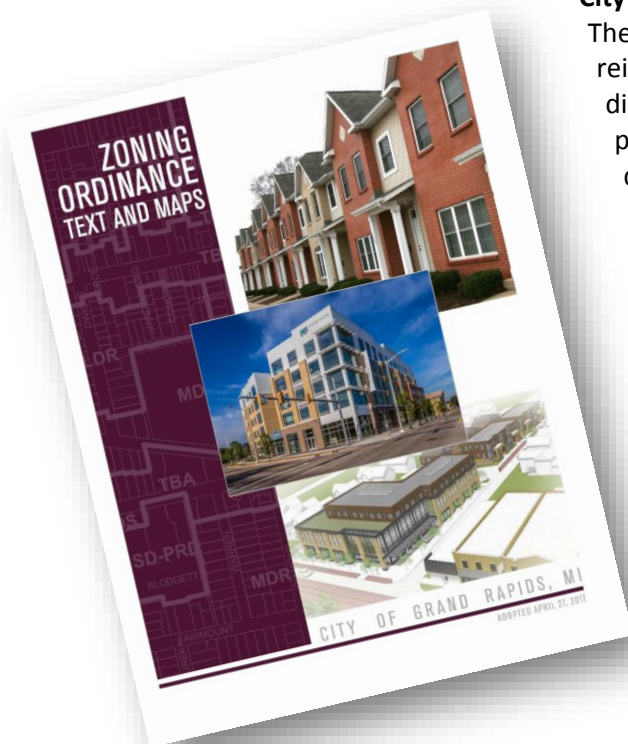
Brief descriptions of the commercial and industrial zone districts are:

## City Center (CC)

The City Center Zone District is designed to maintain and enhance the vitality of downtown, reinforce its intense development pattern, provide compatible services near one another, allow diverse uses, and keep older, often historic, buildings in viable use. The compact development pattern of downtown establishes a pedestrian-oriented and transit-friendly environment. This district stresses pedestrian circulation, urban and civic design, protection of natural features, and encourages the reuse of existing buildings. The City Center zone is very permissive in regards to most commercial uses, and allows for upper-floor residential and non-retail commercial uses. Very few light industrial uses are allowed in this zone district, and ground floor offices are restricted along Targeted Commercial Corridors, which are designated along portions of Bridge Street, South Division Avenue, Ionia Avenue, Monroe Center Street, and Pearl Street.

## Transitional City Center (TCC)

The Transitional City Center Zone District is the buffer district between the dense City Center Zone District and surrounding near-downtown neighborhoods. This District provides a transition in the intensity of the downtown development pattern for adjacent areas, however, it allows for more development than would ordinarily be allowed in general neighborhood commercial locations. TCC-zoned areas are marked by the presence of older, often historic, large warehouse buildings, which tend to require dense redevelopment to ensure proper reuse of such structures. The TCC zone allows some light industrial uses, typically with the review and approval by the Planning Commission under Special Land Use procedures.



### **Traditional Business Area (TBA)**

The Traditional Business Area Zone District is designed to reinforce a pedestrian and transit friendly environment in a compact area characterized by a mix of uses. New development on primary and secondary street frontages shall be compatible in use and scale with surrounding, existing uses and structures. Buildings are meant to have enough developable density to allow for a mix of uses, including residential and non-retail uses on upper floors. Most of the City's neighborhood business districts are zoned TN-TBA, and tend to be located along commercial streets, with residential uses in close proximity.

### **Transit-Oriented Development (TOD)**

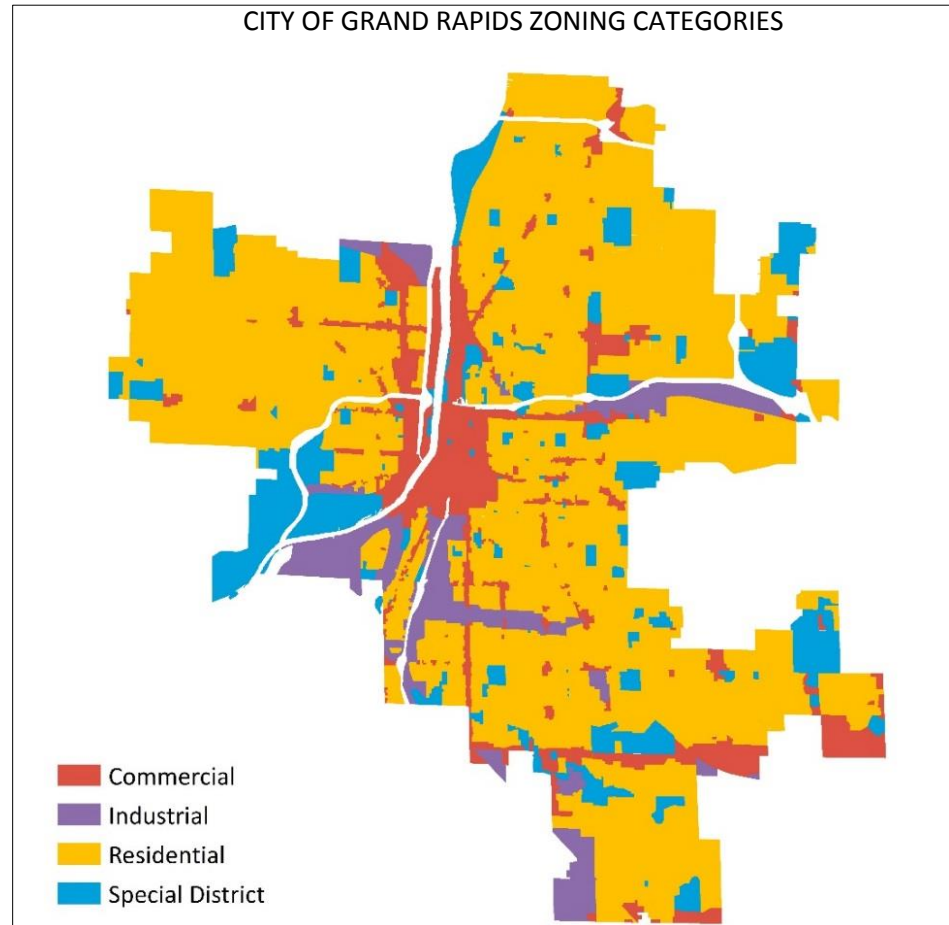
The Transit-Oriented Development Zone District is intended to be located on transit routes and may contain public spaces for shared activities. Building height, density and parking incentives are provided to encourage transit ridership. TOD zoning fosters the preservation and creation of compact, walkable, transit-oriented, mixed-use centers in existing commercial areas by encouraging the clustering of ground floor retail uses as a shopping destination and focus of neighborhood activity.

### **Commercial (C)**

The Commercial zone districts are meant to accommodate a broad range of business, service and commercial uses. Development in these districts is generally more destination-oriented; with a greater dependence upon vehicles. High-intensity business, service and commercial uses take place on larger sites that have primary access to major streets. Major modern commercial corridors such as 28th Street, Plainfield Avenue north of I-96, and Lake Michigan Drive west of I-196 are generally zoned this way.

### **Neighborhood Office Service (NOS)**

The Neighborhood Office Service Zone District is meant to allow for small-scale office and service uses that serve the immediate neighborhood and which, by their nature, have minimal effects upon surrounding land uses and public infrastructure. Retail uses are generally prohibited in favor of lower intensity small office and residential uses.



### Industrial-Transportation (IT)

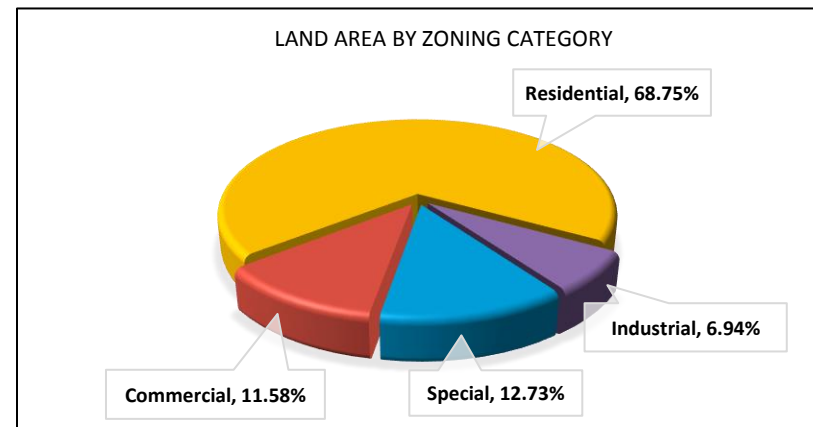
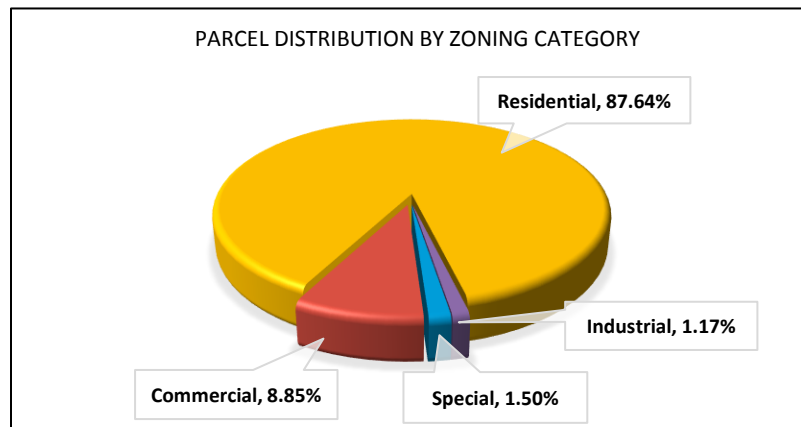
The Industrial-Transportation Zone District is meant to allow a wide range of light industrial and manufacturing uses, heavy manufacturing and processing of raw materials. Regulated adult uses are included within this Zone District to preserve the character and integrity of residential neighborhoods and family-oriented institutions, such as places of worship and recreation. Reasonable protection of adjacent land uses is also an important component of this Special District. Typical light industrial uses are permitted within this Zone District, while typical heavy industrial uses shall be considered as Special Land Uses. Within the IT Zone, office, retail, and commercial uses may only serve a principal industrial use and may not exceed 25% of the building's entire gross floor area. (Examples include Ferris Nut & Coffee and Notions Marketing)

## Zoning Breakdown by Type

The City is divided into several zone districts, which govern land use, and neighborhood types, which govern form. The following illustrates the distribution of these zone districts across the City. The "Industrial-Transportation" zone district is considered a Special zone district in the Zoning Ordinance. However, for the purposes of this analysis, "industrial" as a type is considered separately from other "special" districts.

| Type                                      | # of parcels  | % of total parcels | Land area (acres) | % total land area |
|---|---------------|--------------------|-------------------|-------------------|
| Commercial (CC, TCC, TBA, TOD, C, NOS)    | 5,857         | 8.85%              | 3,240.75          | 11.58%            |
| Residential (LDR, MDR)                    | 57,992        | 87.64%             | 19,244.13         | 68.75%            |
| Industrial (IT)                           | 772           | 1.17%              | 1942.48           | 6.94%             |
| Other Special Districts (PRD, OS, AP, IC) | 997           | 1.51%              | 3562.02           | 12.73%            |
| <b>Total</b>                              | <b>66,170</b> | <b>100%*</b>       | <b>27,989.43</b>  | <b>100%</b>       |

\*percentages may not add up to exactly 100% due to rounding of numbers to two decimal places.

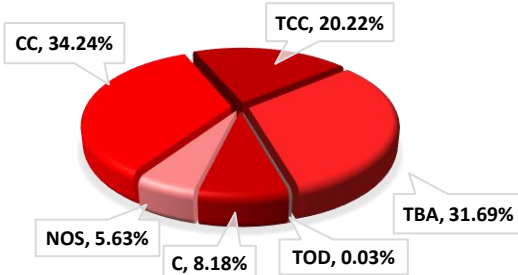


# Detailed Zoning Category Breakdown

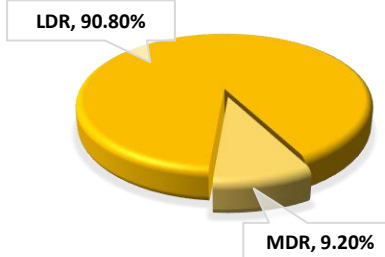
| Type                               | # of parcels  | % of parcels in category | Land area (acres) | % land area in category |
|------------------------------------|---------------|--------------------------|-------------------|-------------------------|
| <b>Commercial</b>                  |               |                          |                   |                         |
| CC City Center                     | 2,006         | 34.24%                   | 663.62            | 20.47%                  |
| TCC Transitional City Center       | 1,184         | 20.22%                   | 773.79            | 23.87%                  |
| TBA Traditional Business Area      | 1,856         | 31.69%                   | 677.07            | 20.89%                  |
| TOD Transit-Oriented Development   | 2             | 0.03%                    | 1.08              | 0.03%                   |
| C Commercial                       | 479           | 8.18%                    | 701.74            | 21.65%                  |
| NOS Neighborhood Office Service    | 330           | 5.63%                    | 424.45            | 13.09%                  |
| <b>Total in category</b>           | <b>5,857</b>  | <b>100%*</b>             | <b>3,241.75</b>   | <b>100%*</b>            |
| <b>Residential</b>                 |               |                          |                   |                         |
| LDR Low-Density Residential        | 52,657        | 90.80%                   | 17,114.24         | 88.93%                  |
| MDR Mixed-Density Residential      | 5,336         | 9.20%                    | 2129.83           | 11.07%                  |
| <b>Total in category</b>           | <b>57,993</b> | <b>100%</b>              | <b>19,244.07</b>  | <b>100%</b>             |
| <b>Special</b>                     |               |                          |                   |                         |
| IT Industrial-Transportation       | 772           | 43.64%                   | 1,942.48          | 35.02%                  |
| PRD Planned Redevelopment District | 693           | 39.17%                   | 860.27            | 15.51%                  |
| AP Airport                         | 6             | 0.34%                    | 41.64             | 0.75%                   |
| OS Open Space                      | 246           | 13.91%                   | 2,175.27          | 39.22%                  |
| IC Institutional Campus            | 58            | 3.28%                    | 526.48            | 9.49%                   |
| <b>Total in category</b>           | <b>1,769</b>  | <b>100%*</b>             | <b>5,546.14</b>   | <b>100%*</b>            |

\*percentages may not add up to exactly 100% due to rounding of numbers to two decimal places

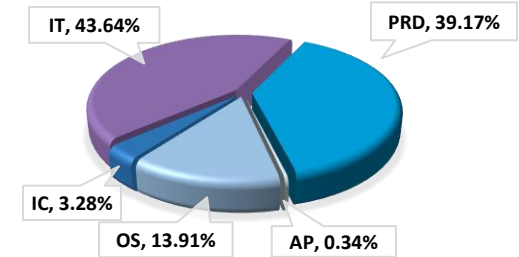
PARCEL DISTRIBUTION, COMMERCIAL ZONES



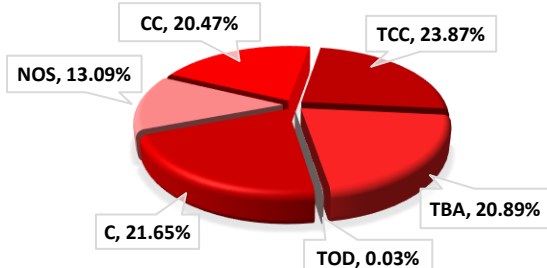
PARCEL DISTRIBUTION, RESIDENTIAL ZONES



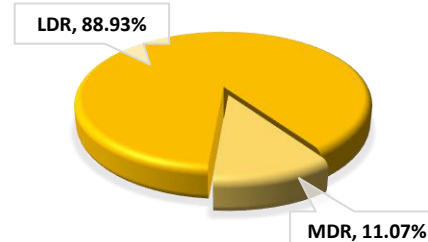
PARCEL DISTRIBUTION, SPECIAL ZONES



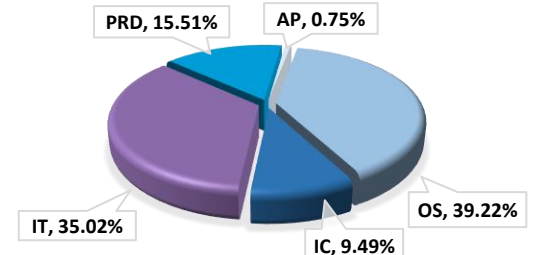
LAND AREA, COMMERCIAL ZONES



LAND AREA, RESIDENTIAL ZONES



LAND AREA, SPECIAL ZONES



# Original Staff Recommendation

The draft ordinance as prepared by the Planning Department, which was developed in collaboration with the City's Police Department, Attorney's Office and City Clerk, included an extensive research and evaluation process. The Planning Department evaluated several other municipal marihuana ordinances, including Denver, Ann Arbor, Los Angeles and Phoenix and modeled their ordinance over Grand Rapids' zoning map. This process helped identify commonly buffered uses, including residential zone districts, daycare centers, schools, parks, rehabilitation facilities and religious institutions. Other relevant issues were also examined including revenue impacts, crime statistics and the relationship between suitable land and the City's Vital Streets Plan and equity data.

The Planning Department also met with other municipal planners in the region on several occasions to discuss the Medical Marihuana Facilities Act, potential planning/zoning implications and whether their municipality would adopt an ordinance to opt-in. The most recent meeting took place on May 20th, 2018 where the Planning Department presented the proposed ordinance amendment and summarized the changes to be reviewed by the Planning Commission at their May 24th public hearing (changes are summarized below). In general, planners for the adjacent jurisdictions expressed appreciation for the work done by the City of Grand Rapids, general support for the Ordinance language as drafted, and expressed support for jurisdictional buffers. Additionally, on June 11, 2018, the mayors of Kentwood, Wyoming, and Walker, and supervisors of Plainfield Township, Cascade Township, and Grand Rapids Charter Township submitted a letter addressed to the Grand Rapids City Commission, requesting a 1,000 foot buffer from municipal boundaries, until "such a time that a neighboring community adopts provisions largely similar to Grand Rapids."

The proposed regulations provided a framework that allows the City the ability to amend and change the ordinance as needed to suit the desires of the community.

In developing the original draft ordinance, the Planning Department evaluated whether the City should utilize a quota system versus separation distance requirements to determine the number of medical marihuana facilities. Based on research, it was determined that the quota system creates a heavy administrative burden and oftentimes lawsuits arise when a community selects who should be licensed. The use of stringent separation distances has the same effect of limiting the number of facilities, but allows the private market to work within the limited space provided. This is similar to how billboards are regulated within the City.

The original draft ordinance focused on regulating provisioning centers (i.e. dispensaries), safety compliance facilities, processing facilities and secure transport facilities. In all cases, the proposed uses would require a Special Land Use approval by the Planning Commission and subject to the following buffers:

- 1,000 feet of a child care center, or a public or private K-12 school;
- 1,000 feet of a publicly owned park or playground;
- 1,000 feet of a church or place of worship;
- 1,000 feet of a substance abuse clinic or rehabilitation facility;
- 250 feet of a residential zone district (Article 5);
- 1,000 feet from municipal boundaries with adjoining jurisdictions; and
- 600 feet of another facility, or facilities on the same parcel.



The original ordinance permitted the co-location of licensed facilities; requires each application to include a Good Neighbor Plan (GNP) with a Voluntary Equitable Development Agreement; and proposes an annual fee of \$5,000 to help defray administrative and enforcement costs.

The Planning Department completed a mapping exercise of the original draft ordinance, including some scenario based exercises, so to understand the implications of the ordinance requirements, and specifically the buffer distances. These scenarios provided an estimate of the number of medical marihuana facilities that could operate within the City if the recommended draft ordinance were adopted. With the proposed buffers listed above and including a 1,000 foot buffer from a jurisdiction line approximately 99 acres of commercially zoned land and 318 acres of industrial zoned land was deemed “suitable” for 43 medical marihuana facilities. It is important to note that the ordinance recommended by staff would permit marihuana facilities in all commercial zone districts **except the CC (City Center) district**, and industrial districts. This would remove two suitable parcels from the calculation, resulting in **41** suitable parcels instead of 43. This number represents **1 medical marihuana facility (of any type) per 4,792 people** in the City. For the purposes of this exercise, the term “suitable” land refers to land that is zoned commercial or industrial and meets the required separation distances required by the original ordinance.

A total of **208 parcels** were found to meet the separation requirements. Should a licensed medical marihuana facility locate on any of those 208 parcels, the facility separation requirement of 600’, as proposed, would then apply.

# of properties suitable for all facilities without facility separation requirement: **208** (288.21 acres)

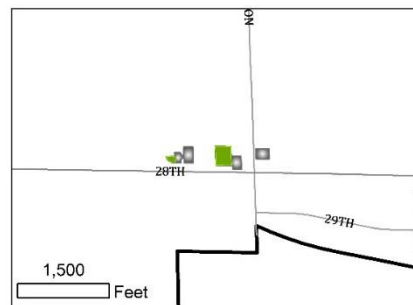
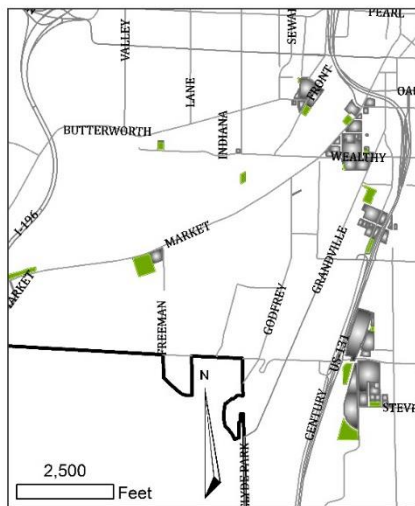
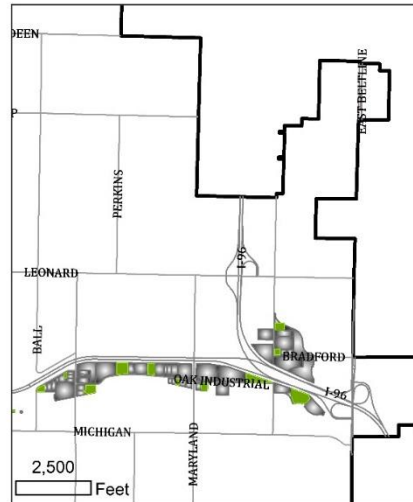
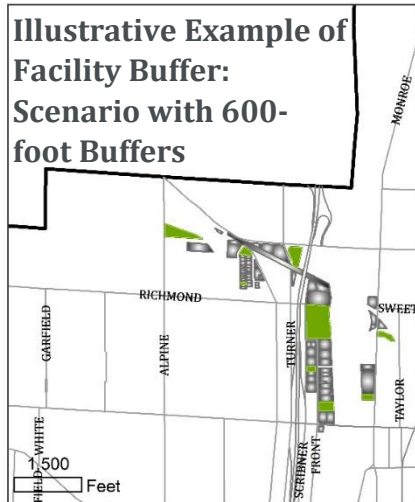
# of properties suitable for all facilities, with facility separation requirement: **41**

Ward 1: **23**

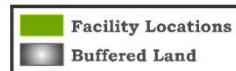
Ward 2: **15**

Ward 3: **3**

## Map of Original Staff Recommendation



| Distance Buffer | Maximum Possible Facilities |
|-----------------|-----------------------------|
| 600 Foot        | 43                          |
| 1,000 Foot      | 32                          |
| 1,250 Foot      | 26                          |
| 1,500 Foot      | 24                          |



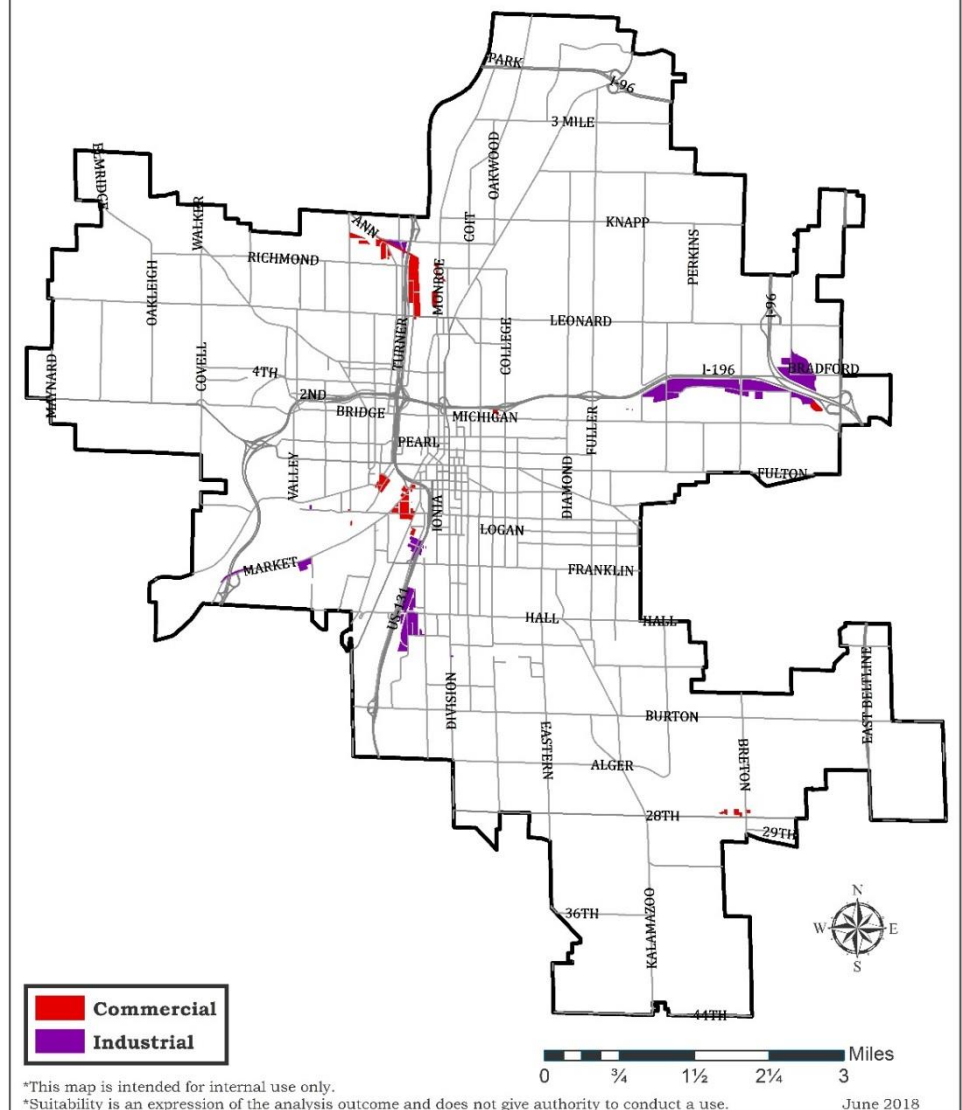
The purpose of this map is to demonstrate how buffers between facilities would impact suitable land.

\*This map is intended for internal use only.

\*Suitability is an expression of the analysis outcome and does not give authority to conduct a use.

May 2018

## Suitable Land with Proposed Zoning Ordinance Amendments



# Planning Commission Recommendation

On May 24th, the Planning Commission held a public hearing on the ordinance that would permit medical marihuana facilities in some commercial and industrial zone districts, as proposed by staff. During the hearing, public testimony heavily focused on how the use was for medical purposes and that medical marihuana was medicine that should be readily available for patients. Following the hearing, the Planning Commission engaged in a robust discussion of the issue, which is captured the official meeting minutes. The Commission determined that they were not considering the potential future of recreational marihuana facilities within the city given that the recreational ballot measure has not yet been passed by voters. That decision informed the Commission's discussion, and ultimately their recommended changes.

The following is a summary of the changes to the proposed ordinance as recommended by the Planning Commission:

- Clarify that that ordinance is directly for medical marihuana use only, similar to a medical office use
- Include growers and processing
- Divide the separation distances for provisioning centers from other marihuana facilities (growers, processors, testing, and transport)
- Modify separation distances for provisioning centers as follows:
  - Keep 1,000' from child care centers, schools and parks
  - Increase separation distance between provisioning centers from 600' to 1,000'
  - Eliminate separation distances for churches/places of worship, rehab facilities, and residential zone districts entirely (Items c, d, and e in the draft)
- Modify separation distances for growers, processors, testing and transport as follows:
  - Keep 1,000' from child care centers and schools
  - Keep 600' separation distance between facilities
  - Eliminate separation distances for parks, churches/places of worship, rehab facilities, and residential zone districts entirely (Items b, c, d, and e in the draft)
- Eliminate separation distances between jurisdictional boundaries for all uses.
- Eliminate the requirement for a Voluntary Equitable Development Agreement, and also eliminate the \$5,000 annual licensing fee.

The Planning Department completed a mapping exercise of the Planning Commission's recommended changes and determined that approximately 1,910 acres of commercially and industrial zoned land would be "suitable" for a medical marihuana facility. In repeating the scenario based exercise for provisioning centers, by providing the listed buffers from schools, childcare centers and parks and utilizing a 1,000 foot buffer between provisioning centers, the estimated maximum number of **provisioning centers** is **143 (1 per 1,374 people in the City)**.

For the grower, processor, secure transporter, or safety compliance facilities, by providing the listed buffers from schools and childcare centers and utilizing a 600 foot buffer between facilities, the estimated number of **other cannabis-related facilities (other than provisioning centers)** is **293 (1 per 671 people in the City)**. This number (293) represents the **maximum possible total number of medical marihuana facilities** under the Planning Commission's recommended ordinance language (in the case that no provisioning centers were established within the City).

Similar to the Planning staff recommendation, it is important to note that a total of **2,605 parcels** were found to meet the requirements for separation from other land uses, such as childcare centers, schools, and parks. Should a licensed medical marihuana facility locate on any of those parcels, the facility separation requirement of 1000' for provisioning centers and 600' for other facilities, as proposed by the Planning Commission, would then apply. For the purposes of determining the maximum likely number of properties, the 600' separation distance was used, as any marihuana-related facility could be located on suitable land, not just provisioning centers (which would require a 1000' separation distance).

# of properties suitable for all facilities, **without** separation requirements: **2,605** (2,639 acres)

# of properties suitable for provisioning centers: **143**

Ward 1: **59**

Ward 2: **45**

Ward 3: **39**

# of properties suitable for all cannabis facilities: **293**

Ward 1: **130**

Ward 2: **81**

Ward 3: **82**

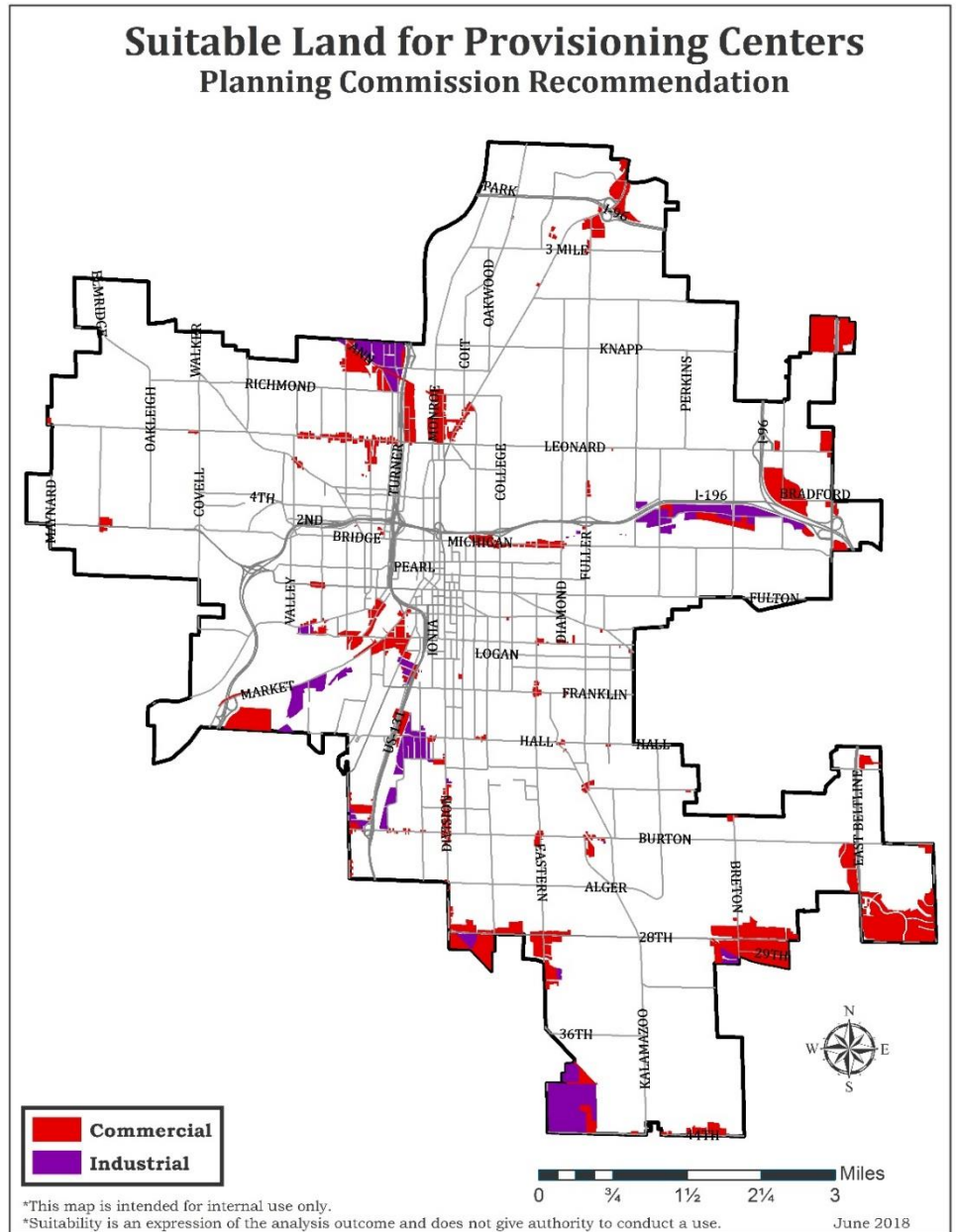
## Map of Planning Commission Recommendation: Provisioning Centers



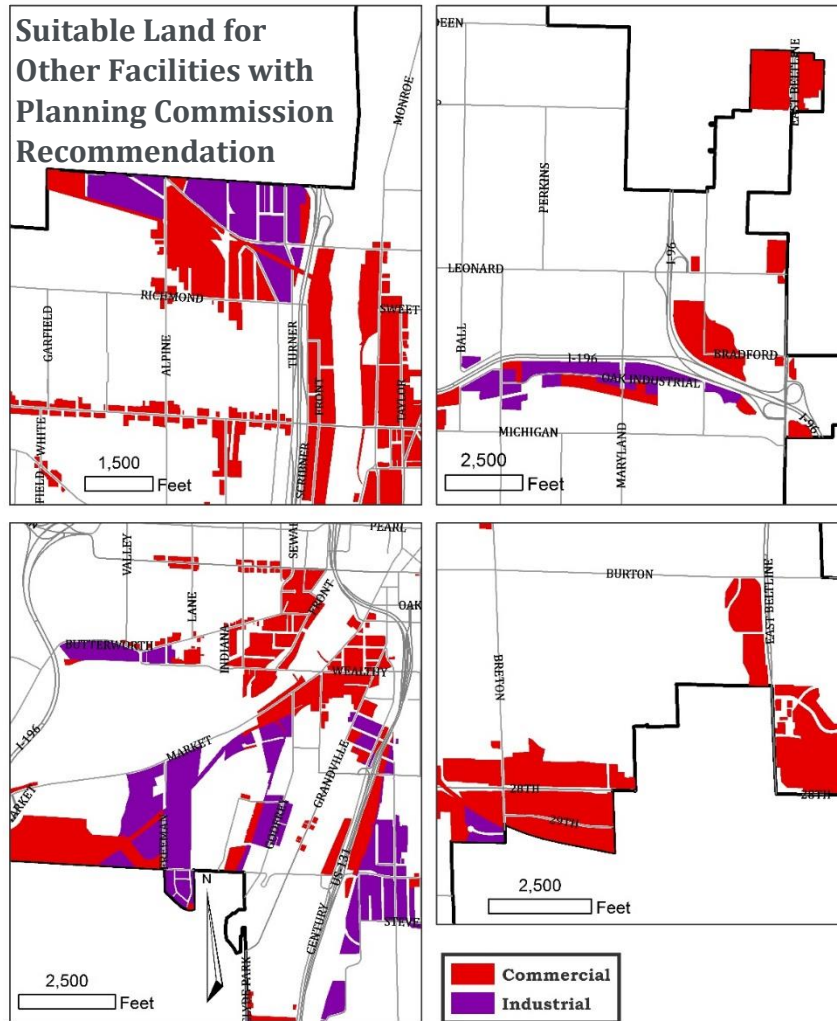
\*This map is intended for internal use only.

\*Suitability is an expression of the analysis outcome and does not give authority to conduct a use.

June 2018



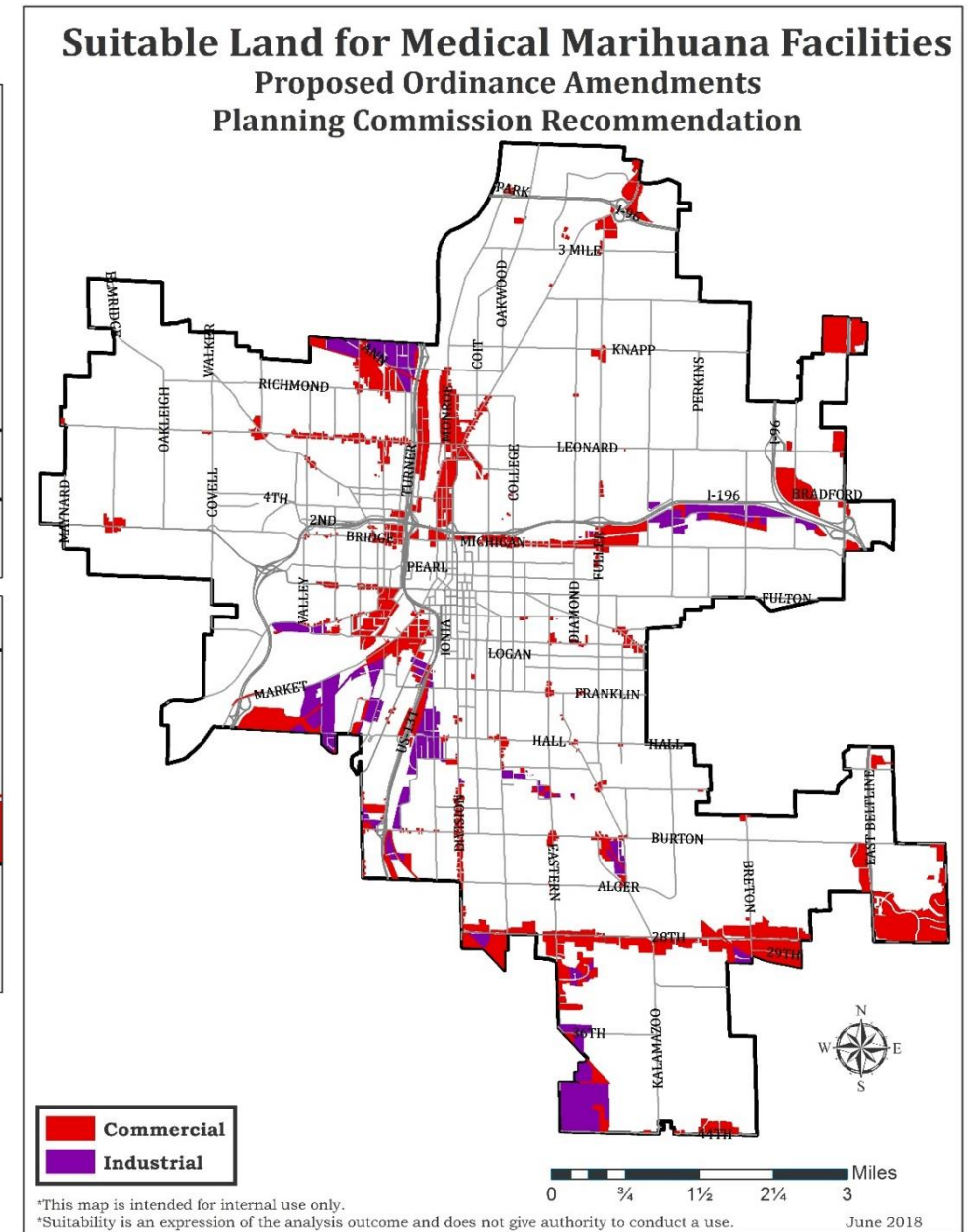
## Map of Planning Commission Recommendation: Other Facilities



\*This map is intended for internal use only.

\*Suitability is an expression of the analysis outcome and does not give authority to conduct a use.

June 2018





## New Hybrid Ordinance

Following the Planning Commission's public hearing on May 24th, the City Commission met on June 12, 2018, and determined that a public hearing by the City Commission on this ordinance would be scheduled for July 10, 2018. Following that meeting, Planning department staff undertook a significant amount of additional research and discussion, and scheduled four public informational meetings, in all three wards and at varying times of day. This was done in order to make the meetings as accessible and convenient for as wide a range of citizens as possible.

Meetings averaged 12 people in attendance, although approximately forty people attended the final community meeting on the evening of Monday, July 9 at West Grand Neighborhood Organization. The next evening, the City Commission hosted a public hearing, at which at least 38 people spoke. Comments were overwhelmingly in favor of passing a medical marihuana ordinance, and generally supported the Planning Commission's recommendation over that of staff. Many of the comments in the public hearing and at the City Commission's public hearing focused on potential issues of equity. Specifically, many addressed concerns that the restrictions in staff's proposed ordinance would be prohibitively difficult for smaller and startup operators to meet, and rather would give an advantage to larger, established operations from outside of the area or State.

In addition, petition-initiated legislation will be on the Michigan ballot this November that would allow recreational marihuana. The Michigan Regulation and Taxation of Marihuana Act (MRTMA) provides for a sixth license type:

- Marihuana microbusiness – a license “to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.”

The intent is to provide opportunity and access for small start-ups in a highly competitive, well-resourced industry. This should be viewed similarly to a microbrewery or microdistillery, where the product to be sold is produced on-site. The MRTMA, if adopted, would require:

- LARA could only issue a microbusiness license to a Michigan resident for the first 24 months after the department begins to accept applications for licensure;
- Ownership interest cannot be in both a marihuana microbusiness and any other type of marihuana facility license; and
- Ownership interest is only allowed in one (1) marihuana microbusiness until if, after January 1, 2023, LARA creates a rule authorizing an individual to hold an ownership interest in more than one (1) microbusiness.

In response to the concerns expressed in informational meetings and at the City Commission's public hearing, staff developed a new proposed ordinance that would also allow marihuana microbusinesses.

- **Microbusinesses** would be allowed as a Special Land Use following a model closer to the Planning Commission's recommendation. Such licenses would be permitted as a Special Land Use in all commercial and industrial zone districts, with a required 1000' separation from schools, childcare centers, parks, jurisdictional boundaries and other facilities.

- **Growers** and **processors** would be allowed as a Special Land Use according to staff’s original recommendation (including setbacks from residential zones, substance abuse/rehab clinics, and places of worship), in IT industrial zone districts.
- **Provisioning centers** would be allowed as a Special Land Use when co-located in industrial districts, as well as in **all** commercial zone districts, including CC (City Center). The original recommendation had precluded any facilities in the CC zone district.
- **Safety compliance laboratories** and **secure transport** facilities would be allowed in IT industrial districts with director review (i.e. without Planning Commission approval). Safety compliance facilities would be allowed in TCC, C, and NOS commercial zone districts with Special Land Use approval by the Planning Commission.
- Non-microbusiness facilities would have a 600’ separation requirement from other facilities. Microbusinesses would have a 1,000’ separation requirement from other facilities.

For the purposes of this exercise, the term “suitable” land refers to land that is zoned appropriately and meets the required separation distances required by the proposed ordinance. A total of **208 parcels** (on 288.21 acres) were found to meet the separation requirements for **all licenses other than microbusinesses**. Should a licensed non-microbusiness medical marihuana facility locate on any of those 208 parcels, the facility separation requirement of 600’, as proposed, would then apply. For **microbusinesses**, a total of **1253 parcels** (on 859.56 acres) of suitable land would meet the proposed 1000’ separation requirements.

Given the proposed separation distances, these changes result in an increase of total facility parcels to a maximum possible **98** including the previous allowance of **41** facility parcels, an additional **2** parcels within the CC zone district, and up to **55** additional parcels that could support microbusinesses (37 of which are located within a CID or DID). This number represents **1 medical marihuana facility (of any type) per 2,005 people** in the City.

# of properties suitable for **all** facilities: **1253** (859.56 acres)  
(*without* facility separation requirement)

# of properties suitable for all **non-microbusiness** facilities: **43**  
(*with* 600’ facility separation requirement)

Breakdown by ward

| Ward 1    | Ward 2    | Ward 3   |
|-----------|-----------|----------|
| <b>25</b> | <b>15</b> | <b>3</b> |

# of properties suitable for all facilities, including microbusiness: **98**  
(*with* 1000’ facility separation requirement)

Breakdown by ward

| Ward 1    | Ward 2    | Ward 3    |
|-----------|-----------|-----------|
| <b>45</b> | <b>36</b> | <b>17</b> |

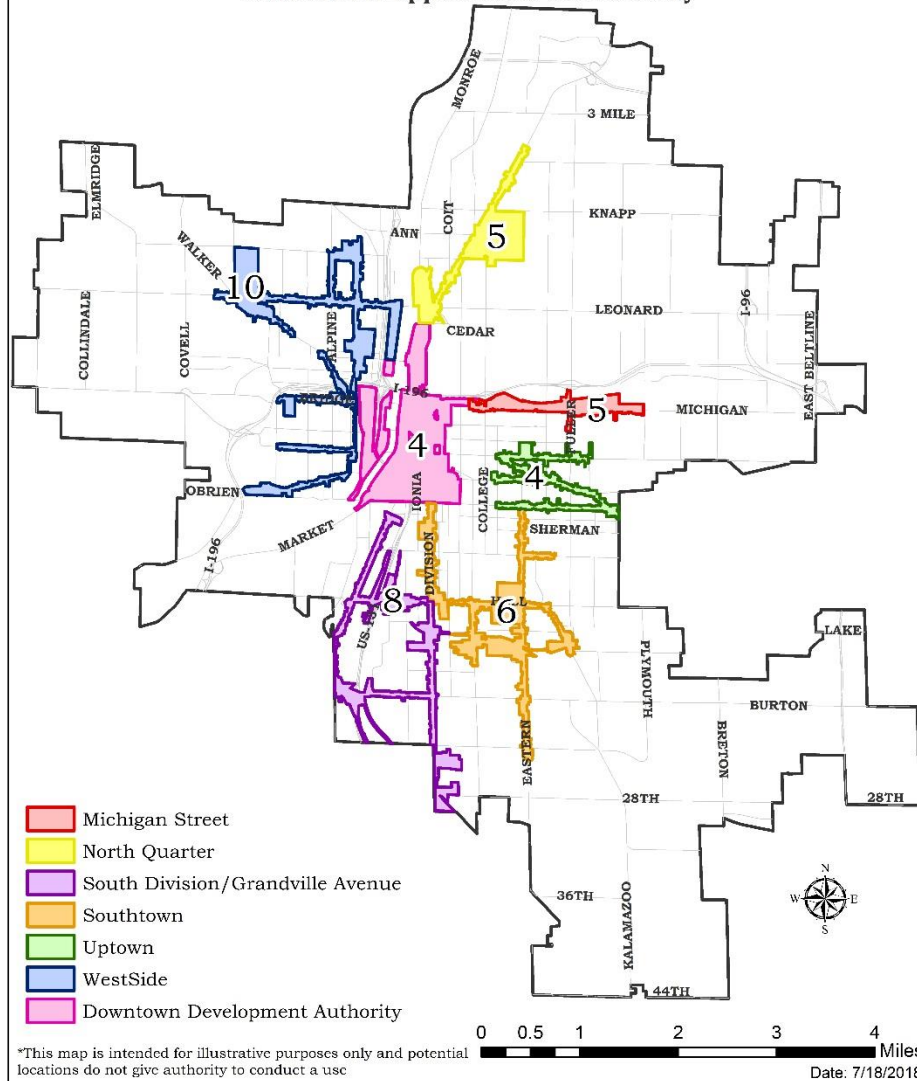
Breakdown by CID/DID

Michigan Street: **5**  
North Quarter: **5**  
Southtown: **6**  
S. Division/Grandville: **8**  
Uptown: **4**  
West Side: **10**  
City Center: **4**  
**Outside of a CID: 13**



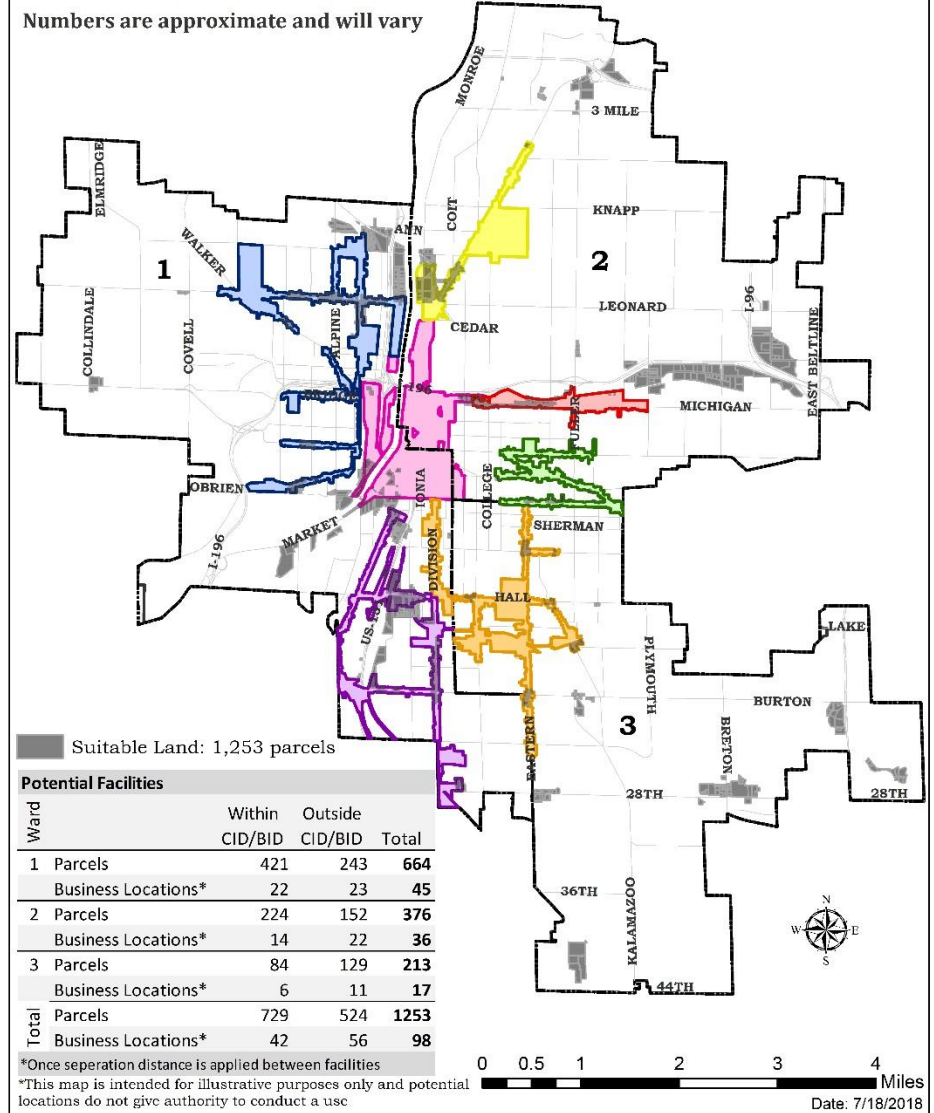
## Potential Number of Marihuana Microbusinesses by Corridor or Business Improvement District

Numbers are approximate and will vary

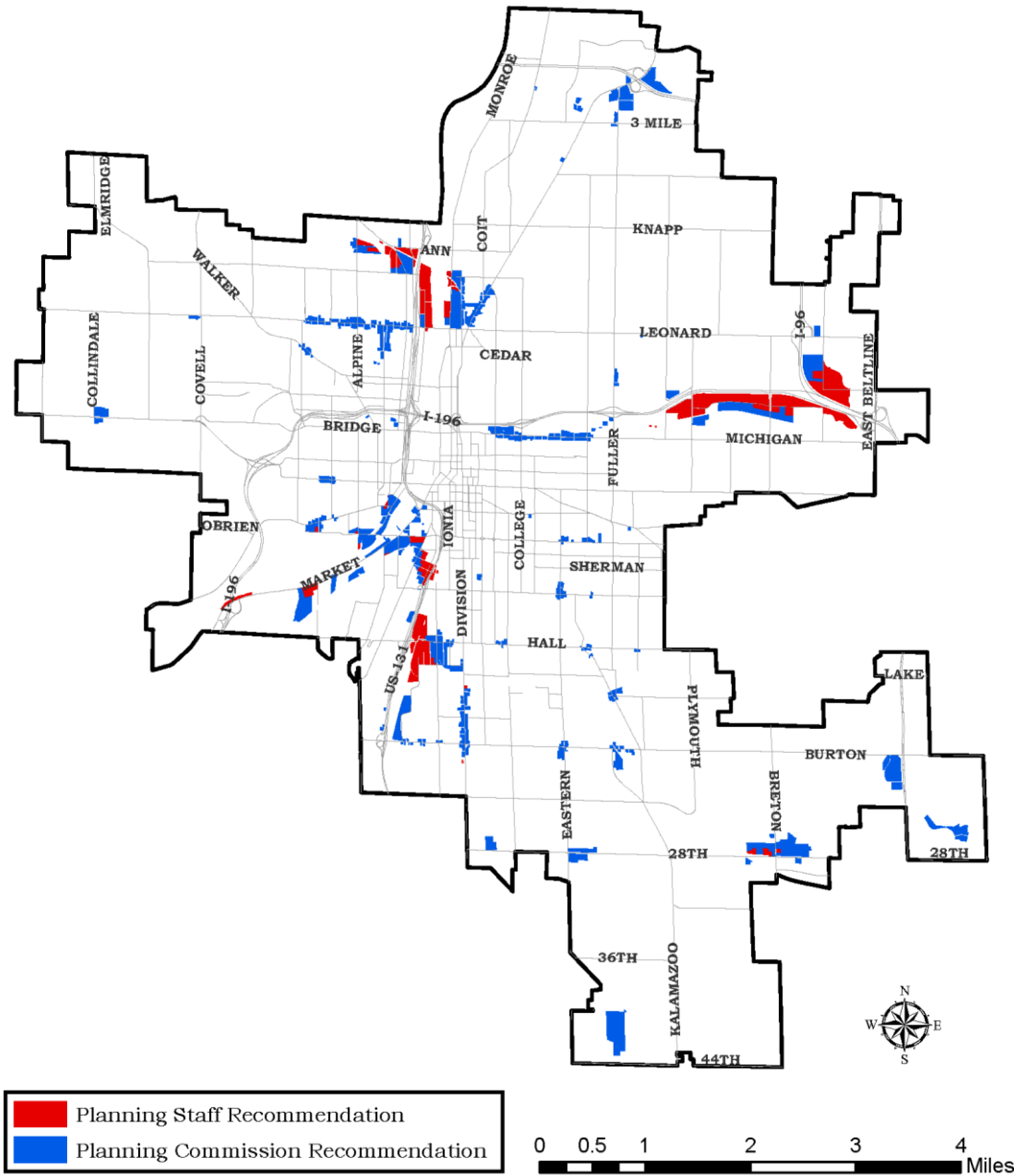


## Potential Number of Marihuana Microbusinesses

Numbers are approximate and will vary



# Suitable Land With Zoning Ordinance Recommendations Planning Staff and Planning Commission Revisions



\*This map is intended for illustrative purposes only and is not to be considered as part of the ordinance  
 \*Suitability is an expression of the analysis outcome and does not give authority to conduct a use.

Date: 7/13/2018

## Comparison: Number of Facilities

|   | Original staff-recommended ordinance |            | Planning Commission recommended ordinance |             | New hybrid ordinance        |    |
|---|--------------------------------------|------------|---|-------------|-----------------------------|----|
| # of properties suitable for all facilities <b>without</b> facility separation requirement                                      | 208 parcels (288.21 acres)           |            | 2,605 parcels (2,639 acres)               |             | 1253 parcels (859.56 acres) |    |
| # of properties suitable for <b>all facilities, with</b> facility separation requirement  | 41 parcels                           |            | N/A                                       |             | 98 parcels                  |    |
|   | Ward 1                               | 23 parcels |   |             | Ward 1                      | 45 |
|   | Ward 2                               | 15 parcels |   |             | Ward 2                      | 36 |
|   | Ward 3                               | 3 parcels  |   |             | Ward 3                      | 17 |
| # of properties suitable for <b>provisioning centers</b> , with facility separation requirement                                 | N/A                                  |            | 143 parcels                               |             | N/A                         |    |
| # of properties suitable for marihuana <b>facilities other than provisioning centers</b> , with facility separation requirement |                                      |            | Ward 1                                    | 59 parcels  |                             |    |
|   |                                      |            | Ward 2                                    | 45 parcels  |                             |    |
|   |                                      |            | Ward 3                                    | 39 parcels  |                             |    |
|   |                                      |            | 293 parcels                               |             |                             |    |
|   |                                      |            | Ward 1                                    | 130 parcels |                             |    |
|   |                                      |            | Ward 2                                    | 81 parcels  |                             |    |
|   | Ward 3                               | 82 parcels |   |             |                             |    |

## Comparison: Ordinance Recommendations *(changes highlighted)*

|  | Planning Director Recommendation  |  | Planning Commission Recommendation  |   | Hybrid Recommendation  |  |
|--|---|--|---|---|--|--|
| Review Process<br>(Sec. 5.6.06.B, 5.7.04.B)              | Provisioning Centers are Special Land Use in TCC, TBA, TOD, C and NOS zone districts.   |  | No changes but expressed desire to permit grower and processor licenses.  |   | Provisioning centers and microbusiness are SLU in CC, TCC, TBA, TOD, C, NOS. Microbusinesses are SLU in industrial zones.  |  |
|  | Safety Compliance Facilities are Special Land Use in TCC, TBA, TOD, C and NOS zone districts.   |  |   |   | Safety Compliance Facilities are Special Land Use in TCC, TBA, TOD, C and NOS zone districts.  |  |
|  | Processor facilities are Special Land Use in TCC, TBA, TOD, C and NOS zone districts.   |  |   |   | Processor under 15,000 sf is SLU in TCC, TBA, TOD, and C, and over 15,000 sf in TCC and C zone districts.  |  |
|  | Growing, processing, safety compliance, and secure transport are Special Land Use in the IT zone. Provisioning Centers permitted as Accessory Use (not to exceed 25% of the Gross Floor Area).    |  |   |   | Growing, processing, safety compliance, and secure transport and microbusiness are Special Land Use in the IT zone. Provisioning Centers permitted as Accessory (up to 25% of the Gross Floor Area). |  |
|  | Registered caregivers may operate as a Home Occupation (no change from current code)  |  |   |   | Safety compliance & Secure Transport require director review in IT zone.<br>Registered caregivers may operate as a Home Occupation (no change from current code)                                     |  |
| Use Regulations – Separation Distances (Sec. 5.9.19.D.1) | From all medical marihuana facilities   | <ul style="list-style-type: none"><li>1,000’ from child care centers, public or private K-12 schools, publicly owned park or playground, church or place of worship, substance abuse clinic or rehabilitation facility, boundaries of adjacent jurisdictions.</li><li>250’ from residential zone district</li><li>600’ from another facility</li></ul> | From Provisioning Centers   | <ul style="list-style-type: none"><li>1,000’ from child care center, public or private K-12 school, or publicly owned park or playground</li><li>1,000’ from church or place of worship, substance abuse clinic or rehabilitation facility, boundaries of adjacent jurisdictions</li><li>250’ from residential zone district</li><li>600 1,000’ from another facility</li></ul> | From Marihuana Microbusinesses   | <ul style="list-style-type: none"><li>1,000’ from child care center, public or private K-12 school, publicly owned park or playground, boundaries of adjacent jurisdictions.</li><li>1,000’ from church or place of worship, substance abuse clinic or rehabilitation facility,</li><li>250’ from residential zone district</li><li>600 1,000’ from another facility</li></ul> |
|  |   |  | From all other medical marihuana facilities   | <ul style="list-style-type: none"><li>1,000 feet from child care center, or public or private K-12 school</li><li>1,000’ from publicly owned park or playground, church or place of worship, substance abuse clinic or rehabilitation facility, boundaries of adjacent jurisdictions</li><li>250’ from residential zone district</li><li>600’ from another facility</li></ul>   | From all other medical marihuana facilities  | <ul style="list-style-type: none"><li>1,000’ from child care centers, public or private K-12 schools, publicly owned park or playground, church or place of worship, substance abuse clinic or rehabilitation facility, boundaries of adjacent jurisdictions.</li><li>250’ from residential zone district</li><li>600’ from another facility</li></ul>                         |
| Application Reqs (Sec. 5.9.19.E)                         | <ul style="list-style-type: none"><li>Verification of requested license</li><li>Owner Consent</li><li>Copy of LARA application</li><li>Building Elevations</li><li>Site &amp; Sign Plan</li></ul> | <ul style="list-style-type: none"><li>Radius Map demonstrating proximity to sensitive uses</li><li>CPTED Plan</li><li>Operations and Management Plan</li><li>Good Neighbor Plan</li><li>VEDA</li></ul>   | <ul style="list-style-type: none"><li>Verification of requested license</li><li>Owner Consent</li><li>Copy of LARA application</li><li>Building Elevations</li><li>Site &amp; Sign Plan</li></ul> | <ul style="list-style-type: none"><li>Radius Map demonstrating proximity to sensitive uses (as defined by ordinance)</li><li>CPTED Plan</li><li>Operations and Management Plan</li><li>Good Neighbor Plan</li><li>VEDA</li></ul>  | <ul style="list-style-type: none"><li>Verification of requested license</li><li>Owner Consent</li><li>Copy of LARA application</li><li>Building Elevations</li><li>Site &amp; Sign Plan</li></ul>    | <ul style="list-style-type: none"><li>Radius Map demonstrating proximity to sensitive uses</li><li>CPTED Plan</li><li>Operations and Management Plan</li><li>Good Neighbor Plan</li><li>VEDA</li></ul>   |
| Fee (Sec. 5.9.19.G)                                      | \$5,000 annual fee  |  | \$5,000 annual fee  |   | \$5,000 annual fee   |  |

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