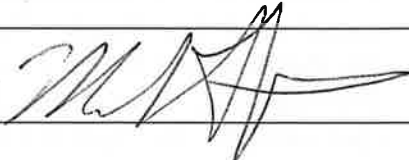




# CITY OF GRAND RAPIDS ADMINISTRATIVE POLICY

NUMBER: 19-02	DATE: 4/10/19
REVISIONS:	
ISSUED BY: City Manager	SIGNED: 

**SUBJECT: Marijuana Application Administrative Process**

**PURPOSE:** To establish various administrative processes for City staff to efficiently and objectively process the applications for marijuana land use applications

## **POLICY:**

### **I. RECEIPT OF APPLICATIONS**

- A. Due to demonstrated strong interest by property owners and persons in the marijuana industry, and the complexity of managing multiple new marijuana-related land uses, the City Commission established March 4, 2019 as the first date for which applications requiring Special Land Use (SLU) approval may be received by the Planning Department. Those marijuana-related uses that may receive Director Approval commenced on January 22, 2019.
- B. The Planning Department set March 4, 2019 8:00am to March 15, 2019, 4:00pm as the application window for marijuana-related SLU applications to initially be received. The ordering for consideration of each application is described in Part II of this policy.
- C. Special Land Use applications received outside of the above-described application window shall be placed on the Planning Commission agenda in order of the date and time received by the Planning Department after all complete applications submitted during the window are considered or otherwise resolved, and it is determined that the property associated with the request is in a qualifying location.

### **II. DRAW OF COMPLETE APPLICATIONS**

- A. To maintain a fair, objective, safe, and reliable ordering of applications and to avoid the need for an applicant to stand in a queue for long periods of time, the Planning Director shall provide for an initial random draw of complete applications submitted for Planning Commission consideration relative to marijuana applications as specified below.

- B. A random draw system (“the draw”) is determined to be a rational means of setting an order for a new, high-demand industry where separation buffers have been established by ordinance. The draw avoids conflicts between property owners and ensures efficient administration and better customer service; it also allows every applicant an opportunity to apply without evoking security concerns or other issues associated with a first-come, first-served approach experienced in other cities (e.g. standing in line for extended periods of time, including overnight; restroom facilities; interference with other business customers; and “buying” a better position in line).
- C. The Planning Director shall have the authority to determine administrative details as it pertains to the acceptance of applications and the draw. The applications shall be sorted such that those with the same amount of voluntarily-offered commitments on the Marijuana Industry Voluntary Equitable Development Agreement (MIVEDA), as detailed below, are placed together in a group. For each voluntarily-offered commitment, an applicant will be given a final total tally and those applications with the most verified voluntarily-offered commitments will be drawn first. The next most voluntarily-offered commitments will be drawn second and so on. Any ambiguity or interpretation regarding the draw shall be resolved finally by the Planning Director.
- D. Determination of applications included in the draw:
1. Applications for marijuana grower, processor, provisioning center, or co-location of marijuana facilities that were submitted during the application window are reviewed for inclusion in the draw.
  2. Initial review. The Planning Director shall direct staff to conduct an initial review of all applications received within the window for timeliness, completeness, eligibility, and MIVEDA verification to determine which applications will be included in the draw.
    - a. Timeliness. The Planning Department shall verify that applications were timely filed.
    - b. Completeness. The Planning Department shall review applications to ensure that all required documentation has been submitted. If deficiencies are noted in the completeness of an application, staff shall notify the applicant via email of such deficiencies. The applicant shall be afforded two business days (48 hours) from the date of the notice to provide the necessary information.
    - c. Eligibility. The Planning Department shall review all timely, complete applications to ensure they are eligible to submit a SLU application pursuant to Section 5.9.19 of the Zoning Ordinance. Applications that are ineligible cannot be included in the draw. Potential issues that affect eligibility may include, but are not limited to:
      - i. Incomplete application. Notice and opportunity to correct incomplete applications was provided to the applicant as outlined above, but the applicant did not provide the

necessary documentation.

- ii. The SLU as requested on the application is not authorized by the ordinance. Such deficiencies can include, for example, the type of facility requested on the application is not authorized within that zone district; the applicant has not received pre-qualification from the State of Michigan; multiple competing applications for the same parcel were filed and not rectified after notice to the applicants; the parcel is within a sensitive use separation distance for which no waiver is permitted; or other defect that would render approval of the SLU application a violation of the zoning ordinance.
- iii. The application is ineligible for SLU consideration by the Planning Commission without a condition precedent occurring *and* the condition precedent will not occur before the date of the draw (e.g., a use variance or rezoning is required but has not been approved).

d. MIVEDA verification. The Planning Department shall verify that sufficient evidence exists to support commitments offered under section A. (local residency) and C. (streamlined applications). Sufficient evidence means the documents contained in the application file show that it is more likely than not that the applicant satisfies the condition. The Planning Department will recognize commitments made under section B. (local economy) but those commitments will be verified and monitored by city staff later, if SLU is approved, through documentation demonstrating incorporation of the offered commitment(s) into the project. If the Planning Department lacks sufficient evidence to verify the MIVEDA commitments claimed under section A. (local residency) or C. (streamlined applications), the Planning Department shall give notice to the applicant of the nature of the discrepancies and two business days (48 hours) to provide any additional information for consideration. The Planning Director, in consultation with the City Attorney's Office, will make the final determination as to the number of verified commitments in the MIVEDA for use in the draw.

3. The Planning Director, after consultation with the City Attorney's Office, will have final determination whether an application is eligible for the draw.

E. The Draw. To promote transparency and minimize the potential for errors, the following process will be used.

1. The draw is scheduled for April 26, 2019 at 2:00pm. The draw will be conducted in a setting that is open to the public and live-streamed on the internet. City staff will ensure that adequate public notice of the draw is disseminated to the applicants and the public.

2. The Planning Department shall publish on the City website a list of the applications that will be included in the draw, providing the applicant name, location (address), type of facility requested, influence area, and the city-verified number of MIVEDA commitments (“the list”). The list shall be publicly available before the draw as soon as practical after completion of the initial review outlined above, at least eighteen hours before the scheduled date of the draw. An applicant may raise a dispute as to the accuracy of the list but such disputes are limited to correcting information concerning *its own* application. The Planning Director will make the final determination to resolve the dispute, in consultation with the City Attorney’s Office.
  3. Each application will have one physical token (e.g. a ping pong ball) representing it in the draw. The application tokens shall be organized into pools in accordance with the number of city-verified MIVEDA commitments contained in the application. The City shall conduct one random draw for each of these pools, starting with the pool containing the applications with the most verified-MIVEDA commitments first, then second most, and so on, with the possibility of conducting up to nine (9) draws.
  4. The applicants will have an opportunity to view the layout of the draw before the draw occurs. Any applicant that is listed in the draw may raise a dispute that the physical set up of the draw does not match the information contained in the list (e.g., an application is listed as having six MIVEDA commitments, but the physical token for that application was placed in the seven-commitment pool). These disputes are limited to correcting discrepancies between the information contained on the list and the physical layout of the draw. The Planning Director will make the final determination as to the resolution of any disputes, in consultation with the City Attorney’s Office.
  5. The individual drawing the tokens shall not have any involvement with any other part of the SLU application process.
  6. As tokens are drawn, the information will be announced and recorded on the list in a manner that can be viewed by the public.
- F. Applications ineligible for the draw. Applications that are deemed ineligible for the draw, but that submitted during the application window, will be provided notice via email. The applicant will have the choice to withdraw the application and be refunded a portion of the application fee, as outlined below, or the Planning Department will keep the application “on file” for up to sixty (60) days from the date of the notice to allow the applicant the opportunity to correct any deficiencies for the purposes of creating a complete application. Applications that are “on file” do not have any priority in terms of order or precedence in obtaining a place on the Planning Commission agenda. Applications that have been placed “on file”, but which the applicant later submits sufficient information to demonstrate eligibility for SLU consideration will be placed in order of the date and time it is deemed to be complete on the Planning



Commission agenda with any other applications that have been received after the draw, after all applications submitted during the window and considered in the draw have been heard, and it is determined that the property associated with the request is in a qualifying location. Changes in eligibility, discussed below, shall apply.

### III. PLANNING COMMISSION AGENDAS

- A. The scheduling of the Planning Commission agenda shall be performed by the Planning Director. The Planning Director shall determine the appropriate mix of marijuana applications and non-marijuana applications such that the normal operation of development in the City is maintained.
- B. Due to the unique nature of separation buffers between sensitive uses and other marijuana facilities, and in order to create an efficient, fair, and accurate representation to those applications that are drawn subsequent to others, the Planning Director may set the agenda such that any marijuana application that will be potentially affected by another marijuana application shall be scheduled at a Planning Commission meeting after the hearing of the first application (as determined by the draw) within a particular geographic area where two or more applications might affect the other. This method will provide certainty and inform applicants scheduled for a later meeting that are outcome-dependent on other applications. This process will not re-order the applications but each application in a dependent chain ("influence area") will be heard at a later Planning Commission meeting in the same sequence.
- C. The City Manager also recognizes that an initially large number of marijuana applications could have an impact on regular and orderly development of other land uses in the City. Many of these other projects are time-sensitive and dependent on outside funding sources, both public and private. Purchase agreements and other real estate documents may be affected by delay. Therefore, the Planning Director shall have the ability to reserve 3 cases to non-marijuana applications per meeting. If a marijuana application is delayed for 90 days or more, then the Planning Director may waive this limitation and place the marijuana application on the Planning Commission docket.
- D. Changes in application eligibility. As SLU approvals are granted and marijuana facility separation distance buffers are created, complete applications will become ineligible for consideration. Staff will monitor all pending complete applications and "on file" applications for changes in eligibility. Where an application is no longer eligible for consideration, staff will notify the applicant of the ineligibility, refund the application fee as provided below, and close the file. Special Land Use applications for a marijuana facility that is located within the separation distance of another marijuana facility shall not be placed on the Planning Commission agenda. The Planning Department shall not hold any SLU applications for speculative placement on a Planning Commission agenda or in any other circumstance which might be viewed as "placeholder" (e.g. if a proximate marijuana facility might fail to obtain State licensure). Should the Board of Zoning Appeals grant a variance from the required separation distance, then evaluation of the SLU application shall be considered in the context of BZA approval.

#### IV. FEES

Due to the unique circumstances of the application and administration of marijuana applications submitted to the initial random draw, including the number of applications that may become moot once marijuana facility separation distance buffers are put into place, the Zoning Fee Refunds Policy 93-01 shall not apply and this policy shall apply instead. This refund policy is put in place in order for the City to recoup costs for the review and processing of marijuana applications while providing refunds in those cases where a full review was not required due to reasons beyond the control of the applicant.

- A. For applications submitted in the first round of applications, as outlined above, the following refund policy shall apply to zoning fee(s) paid:
  1. If an application is withdrawn before staff conducts the initial review, as outlined above, an 80% refund will be given.
  2. If an application is withdrawn before 12:00pm (noon) April 26, 2019, a 60% refund will be given.
  3. If an application is withdrawn after April 26, 2019 but before the City incurs expenses publishing or mailing notices for that case, a 20% refund will be given.
  4. After the notice is published or mailed, no refund will be given.
- B. For Grower, Processor, and Provisioning Center applications that are submitted after the initial random draw, and Secure Transport and Safety Compliance Facility applications submitted at any time, the Zoning Refunds Policy 93-01 shall apply.