

89279 Result: Adopted.
Mover: Jones. Supporter: O'Connor.
Yeas: Bliss, Kelly, Lenear, O'Connor, Jones, Reppart, Moody

**AN ORDINANCE TO ADD CHAPTER 105
OF TITLE VII TO THE CODE OF THE CITY
OF GRAND RAPIDS ENTITLED
“MARIHUANA RELATED MUNICIPAL LICENSING”
ORDINANCE NO. 2019 - 66**

THE PEOPLE OF THE CITY OF GRAND RAPIDS DO ORDAIN:

Section 1. That Chapter 105, entitled “MARIHUANA RELATED MUNICIPAL LICENSING” be added to Title VII of the Code of the City of Grand Rapids, to read as follows:

“Sec. 7.361. – Purpose and Intent.

The City of Grand Rapids intends to license and regulate marihuana facilities and establishments as authorized under the Michigan Medical Marihuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, MCL 333.27101 *et seq.*, and the Michigan Regulation & Taxation of Marijuana Act (MRTMA), Public Act 1 of 2018, MCL 333.27951 *et seq.*, and to exercise authority as a home rule city to enforce ordinances under its police power in order to preserve the public health, safety, and welfare. By requiring a license and compliance with the requirements of this Chapter, the City intends to protect the public health, safety, and welfare by:

- (1) Promoting the safe, regulated manufacturing, production, and sale by state-licensed marihuana establishments and facilities;
- (2) Discouraging the sale of unsafe and unlicensed marihuana products;
- (3) Preserving and protecting the health, safety, and welfare of the residents of the City and the general public by minimizing unsafe and unregulated marihuana production and sale;
- (4) Minimizing the impact of the cannabis industry’s intensive use of water and energy, particularly the growing process of cannabis plants. It is the City of Grand Rapids’ intention to minimize the impact marihuana establishments have on public infrastructure and the environment by maximizing efficiency and reducing the need for the use of nonrenewable resources wherever possible.

Sec. 7.362. – Definitions

The following terms shall have the definitions indicated for the purposes of this Chapter:

- (1) Terms contained in the Michigan Medical Marihuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, MCL 333.27101 *et seq.*, and the Michigan Regulation and Taxation of Marijuana Act, Public Act 1 of 2018, MCL 333.27954 *et seq.*, as amended (MRTMA), apply to the terms found herein. This Chapter contains some words and phrases that are defined in the MMFLA & the MRTMA. As used in this Chapter, they have the same meaning as provided in the MMFLA & MRTMA, unless the term is otherwise defined in this Chapter or the context requires a different meaning.
- (2) “Applicant” means a person who applies for a Marihuana Related Municipal License under this Chapter.
- (3) The words “Establishments” and “Facilities” are used interchangeably and refer to any marihuana related locations at which a licensee is licensed to operate under either MMFLA, MRTMA, or both.
- (4) “Licensee” means a person or entity issued a marihuana establishment or facility license under this Chapter or by the State, including safety compliance facilities, Marijuana Event Organizers, temporary events, and secure transporters.
- (5) “Municipal Marihuana license” or “license” means a required Marihuana Related Municipal License issued pursuant to this Chapter that allows the licensee to operate within the City as one of the following, as specified in the license:
 - (a) Grower, including Class A Grower, Class B Grower, Class C Grower, and Excess Grower;
 - (b) Processor;
 - (c) Provisioning Center;
 - (d) Retailer;
 - (e) Designated Consumption Establishment;
 - (f) Microbusiness;
 - (g) Safety Compliance Facility;
 - (h) Secure Transporter;
 - (i) Marihuana Related Event Coordinator;
 - (j) Marihuana Related Temporary Event.

Sec. 7.363 - Marihuana Establishments & Licensees Authorized to Operate within the City.

- (1) Pursuant to the MMFLA & MRTMA, the City of Grand Rapids authorizes the operation in the City of the following marihuana licensees, provided they possess a state operating license issued under the MMFLA, MRTMA, or both and they comply with the additional requirements of this Chapter, Chapter 61 (Zoning), and all other applicable laws and ordinances:

- (a) Class A Grower, Class B Grower, Class C Grower, and Excess Marijuana Grower;
- (b) Processor;
- (c) Provisioning Center;
- (d) Retailer;
- (e) Designated Consumption Establishment;
- (f) Microbusiness;
- (g) Secure Transporter;
- (h) Safety Compliance Facility;
- (i) Marijuana Related Event Coordinator;
- (j) Marijuana Related Temporary Event.

Sec. 7.364 - Marijuana Related Municipal License Required.

- (1) No person shall operate a marijuana establishment or hold a marijuana event in the City of Grand Rapids without first obtaining a municipal license and/or permit to do so as required by this Chapter.
- (2) For co-located marijuana establishments, as authorized by this Code and state law, a separate Marijuana Related Municipal License is required for each type of establishment operated.
- (3) For marijuana establishments with stacked and/or excess grow operations as authorized by this Code and state law, a license is required for each stacked and excess marijuana grower license.
- (4) For Marijuana Events organized by state licensed Marijuana Event Organizers, a Temporary Event License and/or temporary use permit shall first be issued by the City to the licensee through the City prior to events being held.
- (5) The license requirement in this Chapter shall be in addition to any other requirements imposed by any other state or local law, including but not limited to state or local laws applicable to commercial entities performing functions similar to the functions performed by marijuana establishments.
- (6) A license issued under this Chapter shall be valid for one (1) year after the date of issuance. The expiration date of the state operating license that corresponds to a marijuana facility license issued under this Chapter constitutes the expiration date of the Marijuana Related Municipal License. Expiration of the Marijuana Related Municipal License does not affect a person's licensure under MMFLA or MMRTA but does affect the person's ability to operate a marijuana establishment in the City.
- (7) This Chapter does not apply to, or regulate, any patient or caregiver conduct protected by the Michigan Medical Marijuana Act, 2008 IL 1, MCL 333.26421 *et seq.* (MMA).

Sec. 7.365 - General Provisions.

- (a) A Marihuana Related Municipal License is a revocable privilege and not a right. Nothing in this Chapter may be held or construed to grant a vested right, license, permit or privilege to continued operations within the City.
- (b) A license issued under this Chapter is valid only for the applicant named on the license, the location of the establishment, and type of establishment identified on the license. Each license is personal and exclusive to the licensee.
- (c) The revocation, suspension, and placement of restrictions by the state on a state operating license apply equally to a license issued by the City.
- (d) An applicant or licensee has a continuing duty to provide information requested by the City and to cooperate in any investigation, inquiry, or hearing conducted by the City.
- (e) Acceptance of a license from the City under this Chapter constitutes consent by the licensee for the City to conduct inspections of the licensed premises to ensure compliance with this Chapter.
- (f) The issuance of any license pursuant to this Chapter does not create an exception, defense, or immunity to any person with regard to any potential criminal or civil liability the person may have under any federal or state law or city ordinance.
- (g) No Marihuana Related Municipal License may be sold, assigned, mortgaged or otherwise transferred.

Sec. 7.366 - Application Requirements.

- (1) An application for a marihuana facility license shall be submitted to the City Clerk in a form provided by the City. Any application that does not include all information requested by the application form or is not supported by the materials required by this Chapter or the license application shall be denied and/or rejected.
- (2) The application may require information that will enable the City Clerk to make a fair determination as to the applicant's fitness and ability to comply with the provisions of this Code and all other applicable laws, ordinances and regulations, including but not limited to:
 - (a) The name and address of the facility and any other contact information requested on the application form.
 - (b) The name and address of all owners (entities and individuals) of the real property where the facility is located.

- (c) A copy of official paperwork issued by LARA indicating that the applicant has successfully completed the prequalification step of the application for a state operating license.
 - (d) Proof of applicant's ownership, legal possession, or otherwise legal interest in the premises.
 - (e) Proof that the appropriate zoning approval has been received.
 - (f) Copy of the security plan required by State Administrative Rule 35, R. 333.235.
 - (g) Evidence of a valid and effective policy for general liability insurance within minimum limits of \$1,000,000 per occurrence and a \$2,000,000 aggregate limit issued from a company licensed to do business in Michigan having an AM Best rating of at least B++ shall be produced that includes the name/s of the insured, effective and expiration dates, and policy number. The City of Grand Rapids and its officials and employees shall be named as additional insureds. The City shall be notified of any cancellation, expiration, reduction in coverage, or other policy changes within five business days of the event.
 - (h) If the application is for a grower's license, the maximum number of plants that the applicant intends to grow.
 - (i) Proof of universal design plan conforming to the requirements of this Chapter.
 - (j) Proof of environmental sustainability plan conforming to the requirements of this Chapter.
 - (k) Other information and materials specific to the type of establishment or activity being licensed as indicated on the license application.
- (3) Payment of a non-refundable application fee per marihuana license sought and/or proof that the applicant has, within the prior 365 days, paid the zoning application fee for zoning approval associated with the marihuana facility type identified in the application as required in Chapter 61, Sec. 5.9.19. Fees shall be offset to ensure the annual fees required by marihuana facility ordinances or zoning regulations promulgated pursuant to the MMFLA & MRTMA do not exceed \$5,000 annually.

Sec. 7.367 - Environmental Sustainability

- (1) All establishments, with the exception of event locations used by event coordinators shall enroll in the Grand Rapids 2030 District prior to operation. Enrollment shall be, at a minimum, as a building owner or

substantially similar enrollment option that enables the reporting of marijuana facility performance data on a confidential basis and at no cost to the licensee. Energy consumption data shall be reported via Energy Star Portfolio Manager on at least an annual basis and no later than 16 months after operations begin.

- (2) A grower of any class and microbusinesses shall be required to meet the following environmental sustainability requirements:
 - (a) Create and submit an environmental sustainability plan to the City's Office of Sustainability as well as all energy utilities serving the applicant, including electricity, natural gas, and steam, within six months after operations commence, that includes the following items:
 - i. Analysis of predictive energy load, including design energy use intensity (EUI);
 - ii. Estimated greenhouse gas (GHG) emissions for the coming year and reporting on the past year's GHG emissions;
 - iii. Identification of water efficiency measures planned or implemented;
 - iv. A list of wastewater pollutant loadings and toxics; and
 - v. A solid waste management plan detailing disposal plans for plants, soils and other wastes generated as well as reporting on the annual tons of each type of waste generated and disposed.
 - (b) At least 50% of plant canopy area that is partially or fully illuminated by electric lighting shall be illuminated by fixtures with photosynthetic photon efficacy of at least 1.9 $\mu\text{mol}/\text{J}$ at the time operations commence.
 - (c) Submit a whole building energy audit meeting ASHRAE Level II guidelines or better to the City's Office of Sustainability within 16 months after operations.
 - (d) All applications for renewal of any license shall include the environmental sustainability plan submission required by this section and proof of compliance with the annual reporting requirements under this section.

Sec. 7.368 - Conduct of Business at Licensed Marijuana Establishment

- (1) The operations at a licensed marijuana facility shall be conducted in compliance with the MMFLA and the MRTMA, and any rules

promulgated pursuant to other laws, rules, and regulations of the state of Michigan and the City of Grand Rapids.

- (2) All security measures required by the State shall be maintained.
 - (a) Security devices and all components of those devices required by the State, including but not limited to, video surveillance systems, alarm systems, and locks, shall be in good working order.
 - (b) Licensees shall register their video surveillance systems with the Grand Rapids Police Department.
- (3) All marihuana in any form on the premises of a licensed marihuana facility shall be cultivated, manufactured, tested, sold, and packaged in the State of Michigan.
- (4) Access to the licensed marihuana establishment is restricted to the licensee, employees of the licensee, and adult patrons age 21 or older in establishments licensed for recreational marihuana, and the department, through its investigators, agents, auditors, or the State Police or authorized City employees acting within the scope of their employment. A separate waiting area may be created for visitors not authorized to enter the marihuana establishment.
- (5) Recreational marihuana products must be separated from medical marihuana products.
- (6) A licensee shall display all marihuana facility licenses issued under this Chapter and state operating licenses in plain view clearly visible to patrons, clients, city officials, and state authorized agents.
- (7) A licensee shall not permit or allow the sale, consumption, or use of alcohol or tobacco products on licensed premises unless it is licensed to do so by the state and the city, and/or as otherwise permitted by law.
- (8) A licensee shall not permit or otherwise allow the use, smoke, inhalation, or consumption of marihuana, in any form, anywhere within a licensed marihuana establishment or on the property of a licensed establishment unless it is licensed to do so by the state and the city.
- (9) A licensee shall comply with the Michigan Construction Code and Americans with Disabilities Act Amendment Act of 2008 (ADAA) meeting ANSI A117.1.

Sec. 7.369 – Reserved.

Sec. 7.370 - License Denial, Suspension, or Revocation.

- (1) A license issued under this Chapter may be denied, suspended, revoked, or nonrenewed for any of the following reasons:

- (a) The applicant or licensee is ineligible or does not hold the appropriate state operating license under the MMFLA or MRTMA.
- (b) The applicant or licensee, or his or her agent, manager or employee, has violated, does not meet, or has failed to comply with any of the terms, requirements, conditions or provisions of this Chapter, City Code, or with any applicable state law.
- (c) A license application contains any misrepresentation or omission of any material fact, or false or misleading information, or the applicant has provided the city with any other false or misleading information related to the establishment.
- (d) Marihuana is grown, dispensed, possessed, distributed, or sold on the premises in violation of this Chapter or any other applicable state or local law, rule or regulation.
- (e) The establishment is operated or is operating in violation of the specifications of the license application, license, any conditions of approval by the City or any other applicable state or local law, rule or regulation.
- (f) The City, the county, or any other governmental entity with jurisdiction, has closed the establishment temporarily or permanently or has issued any sanction for failure to comply with health and safety provisions of this Chapter or other applicable state or local laws related to public health and safety.
- (g) The establishment's state operating license has been suspended, revoked, denied, or not renewed.
- (h) The marihuana establishment has been operated in a manner that adversely affects the public health, safety or welfare. Evidence to support a finding under this Section may include, without limitation, a recurring pattern of conduct that violates City Code directly related to or arising from the operation of the marihuana establishment ; a recurring pattern or drugrelated criminal conduct within the premises of the marihuana establishment or in the immediate area surrounding the establishment; a recurring pattern of criminal conduct directly related to or arising from the operation of the marihuana establishment; or an ongoing nuisance condition emanating from or caused by the marihuana establishment. Criminal drug-related conduct considered under this Section shall be

limited to the violation of a State law, state regulation, or city ordinance.

- (2) These grounds for denial, suspension or revocation of a license provided for in this Chapter shall be in addition to other grounds for denial, suspension or revocation of licenses or permits provided for in Chapter 91 and elsewhere in this Code.
- (3) Prior to suspension, revocation, or nonrenewal of any license issued under this Chapter, the licensee shall be entitled to a hearing as provided in Section 7.16 of Chapter 91 of this Code.
- (4) An applicant has the right to appeal the denial of a license as provided in Section 7.16 of Chapter 91 of this Code.

Sec. 7.371 - Revocation Not Exclusive Penalty or Remedy.

Nothing in this Chapter shall be deemed to prohibit the City from imposing other penalties or seeking other remedies authorized by the Grand Rapids City Code or other ordinance of the City, including filing a public nuisance action or any other legal action in a court of competent jurisdiction.

Sec. 7.372 – Fees

The annual license fee shall be as specified in Chapter 92 of this Code.

Sec. 7.373 - Renewal of Existing Licenses.

- (1) The same procedures that apply to applying for a new license shall apply to the renewal of existing licenses.
- (2) An application for renewal of an existing license shall be submitted no sooner than 60 days before the existing license expires and no later than 31 days before the expiration date.
- (3) If a license renewal is not submitted by the license expiration date, the license may be renewed within 60 days after its expiration date upon application, payment of applicable fees and penalties, and satisfaction of any renewal requirements if state licensure is still active.

Sec. 7.374 - Issuance of License and Authorization to Operate Under License.

- (1) If, after investigation, the City Clerk shall be reasonably satisfied that the applicant has successfully demonstrated compliance with all requirements for issuance of a license, the City Clerk shall issue the applicable Marihuana Related Municipal License or grant renewal of an existing license.

- (2) A licensee is authorized to operate under a municipal license issued pursuant to this Chapter only after the following additional requirements are met.
 - (a) The licensee also holds a valid current state operating license for that location and establishment type. A copy of the valid current state operating license shall be provided to the City Clerk.
 - (b) A certificate of occupancy has been issued.
 - (c) The licensee is not operating in violation of any City ordinances or state law.
 - (d) Zoning is deemed appropriate by the City for the location and any and all Special Land Use permits and/or waivers have been approved.
 - (e) Any other license specific requirements as stated in the license application have been met.

Sec. 7.375 - Penalty for Violations.

- (1) Any person who violates a provision of this Chapter shall be responsible for a municipal civil infraction and shall be subject to such civil infraction fines and costs as provided in Chapter 170, but the fee will not exceed the fee limitation set by the state.
- (2) Each day of violation shall be a separate violation.

Sec. 7.376 – Coordination with State Licensing Authorities.

The City Clerk shall coordinate with the Michigan Marijuana Regulatory Agency (MRA) to provide information that LARA or the MRA deems necessary to carry out licensing under the MMFLA and MRTMA, including but not limited to:

- (1) Attestation as to ordinances and zoning regulations adopted by the City relating to marihuana establishments, and amendments thereto.
- (2) Information regarding a licensee or applicant for a state operating license including:
 - (a) Information that the board deems necessary to determine whether a state operating license should be issued or renewed;
 - (b) Description of a violation of an ordinance or a zoning regulation committed by the licensee, but only if the violation relates to activities licensed under this Chapter, zoning regulations relating to marihuana establishments, or applicable marihuana laws;

- (c) Denial, suspension, revocation, or nonrenewal of a marihuana facility license; or
 - (d) Whether there has been a change to an ordinance or zoning regulation relating to marihuana establishments and/or licensing since the state operating license was issued, and a description of the change.
- (3) Recommendation to LARA that a state operating license for a marihuana establishment located in Grand Rapids be restricted or not renewed. The Clerk shall provide specific written input and information necessary for LARA to consider the recommendation.

Sec. 7.377 - Conflicts with Other Laws or Regulations.

Nothing in this Chapter shall be construed in such a manner as to conflict with the MMFLA, MMMA, MMRTA, or other applicable state marihuana law or rules. If any provision of this Chapter differs from a provision of any other applicable law, ordinance, rule or regulation, both the provision of this Chapter and the differing provision shall apply if possible. If the two (2) provisions are in conflict, then the provision establishing the higher or stricter standard shall apply, consistent with state law.

Sec. 7.378 – Severability.

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

Sec. 7.379 – Acceptance of Licensing Applications.

The Clerk shall begin accepting license applications for the uses authorized herein six (6) months after adoption of this ordinance. Medical Marihuana Facilities previously licensed under MMFLA and granted special land use approval by the City Planning Commission prior to April 20, 2020 may continue to operate using their special land use approval as a temporary license until the City begins accepting Marihuana Related Municipal License applications. All marihuana related businesses, including operating medical marihuana facilities, must obtain a Marihuana Related Municipal License once the City begins accepting applications for licensure. Operation of such a facility absent a license to do so once the City begins accepting applications is prohibited.”

I hereby certify that the foregoing is a true transcript of the action of the City Commission of the City of Grand Rapids, Michigan, in public session held October 8, 2019.



Joel H. Hondorp, City Clerk