



# CITY OF GRAND RAPIDS AGENDA ACTION REQUEST

**DATE:** September 10, 2019

**TO:** Mark Washington, City Manager

**COMMITTEE:** Committee of the Whole  
**LIAISON:** Mark Washington, City Manager

**FROM:** Suzanne Schulz, Managing Director  
Design, Development, and Community Engagement

**SUBJECT:** **Update on the processing of Medical Marijuana applications and discussion of a timeline for consideration of Recreational Marijuana uses in the City of Grand Rapids**

This memo has three purposes:

- 1) To update the City Commission on the current status of marijuana regulation within the State of Michigan;
- 2) To update the City Commission on progress that has been made to allow medical marijuana within the City of Grand Rapids, and;
- 3) To prepare for a discussion regarding regulation of recreational marijuana uses and necessary decision points before November 1, 2019.

## BACKGROUND

Several laws govern the use of marijuana in Michigan:

- 1) The *Michigan Medical Marihuana Act (MMMA)* was passed by voters in 2008 and allowed for the use of marijuana as medicine. It established a patient-caregiver framework and set out a number of conditions which would qualify a patient to be prescribed marijuana by a physician. Recent court decisions restrict a municipality's ability to locally regulate uses associated with the MMMA. As a result, the City changed its home occupation rules for caregivers to conform to case law.
- 2) The *Medical Marihuana Facilities Licensing Act (MMFLA)* was adopted by the Michigan Legislature in 2016 and allows for a commercial supply chain of medical marijuana, including growing, processing, retail sale through provisioning centers, secure transport, and safety compliance testing. Municipalities can choose to opt in to allow land uses associated this Act, but inaction is considered an **opt out** by default.
- 3) The *Michigan Regulation and Taxation of Marijuana Act (MRTMA)* was passed by voters in 2018 and allows for the consumption, possession, and both personal and

commercial production of recreational marijuana. Municipalities can choose to opt out of allowing land uses associated with the Act, but inaction is considered an **opt in** by default. The State of Michigan's Marijuana Regulatory Agency (MRA) published a set of rules on July 3, 2019 that clarified license types and set procedures for regulating recreational marijuana uses. A date of November 1, 2019 has been established to begin accepting license applications.

It is also worth noting that the (Federal) 2018 Farm Bill defined marijuana, which is classified as Schedule I substance in the Controlled Substances Act, as only parts of the plant *Cannabis sativa L.* having a concentration of delta-9 tetrahydrocannabinol (THC, the psychoactive element of the cannabis plant) of 0.3% or greater. Cannabis products with a THC concentration less than 0.3% are therefore no longer considered marijuana. This effectively removed cannabidiol (CBD) from Schedule I, allowing for widespread production, sale, and consumption of CBD products, as well as permitting uses associated with industrial hemp.

## LOCAL ACTION

The City Commission adopted a set of zoning ordinance amendments on July 24, 2018, which opted Grand Rapids in as a participating municipality in the Medical Marijuana Facilities Licensing Act (MMFLA). On December 18, 2018, subsequent amendments were adopted. The MMFLA allows for municipalities to regulate medical marijuana facilities. A combination of zoning limitations and separation distance requirements were utilized in the City's Zoning Ordinance to manage the location and number of medical marijuana facilities.

The MMFLA allows for up to five license types: growers, processors, provisioning centers, safety compliance facilities, and secure transporters. The amendments as adopted allow for all five license types within the City. Of those five license types, growing, processing, and provisioning are considered "core industry" types, which all require Special Land Use approval by the Planning Commission and are subject to a several required separation distances from sensitive uses and other marijuana facilities. The separation distance is 1,000 feet for all core facility types from sensitive uses. In addition, for commercially-zoned provisioning centers a separation distance of 2,000 feet from the boundaries of the subject property is required between facilities. Support industry license types (safety compliance facilities and secure transporters) require staff review and are not subject to required separation distances.

## ADOPTED POLICIES

A framework was needed to establish the consideration of use requests due to extensive industry demand to enter the West Michigan market, the number of potentially available locations to conduct business, and the application of separation distances between facilities. The City Commission adopted an incentive package in December 2018 known as the Marijuana Industry Voluntary Equitable Development Agreement ("MIVEDA"; City Commission Policy 900-58). The MIVEDA is an optional set of

commitments that applicants may select to help improve their position in the Special Land Use application process.

In response to what was expected to be a large volume of applications, staff recommended that a draw be held to set the order for Planning Commission consideration. Many other options were considered for application acceptance but based on conversations with other municipalities approaches such as first-come first-served consideration were found to be problematic. Therefore, Administrative Policy 19-02 was adopted, which set a process for application acceptance; an acceptance window for being entered into the draw; and a process and timeline for the draw itself, including use of the MIVEDA to improve an applicant's position in the draw and therefore a more advantageous placement in the queue to be considered by the Planning Commission.

The Administrative Policy also allows for the Planning Director to limit the number of marijuana applications on a particular Planning Commission agenda in order to facilitate approval processes for other development types and sets a fee and refund schedule for marijuana applications. In addition, City Commission Policy 900-57 was adopted to address public park waiver requests.

## STATUS OF APPLICATIONS

The window for core industry applications to be included in the draw opened at 8:00 AM EST on Monday, March 4, 2019 and closed at 4:00 PM EDT on Friday, March 15, 2019. Only those applications received during the draw window were entered into the draw. However, it is important to note that applications continue to be received by the Planning Department; those applications are scheduled to be heard after all complete applications that submitted for the draw are considered.

During the draw application window, staff received 89 core industry type applications from a total of 30 entities.

<b>Core Industry Type:</b>	<b># of applications</b>
<b>Standalone provisioning center</b>	81
<b>Grower with provisioning center and/or processing lab</b>	8
<b>Grower only</b>	0
<b>Processing lab only</b>	0

*Note: No applications have yet been received for support industry license types (safety compliance facilities and secure transporters).*

A small number of applications were withdrawn or rejected from the draw. Of 89 applications received, 80 applications were ultimately entered into the draw (six were withdrawn prior, and three were rejected for various reasons). Even so, all figures discussed in this report refer to the total of all 89 applications received during the draw window. Twelve (12) additional applications have been received since the window closed; these have been reviewed for completeness and placed into the queue for consideration.

Since the close of the draw window, a systematic workflow path has been used to review applications for property eligibility and completeness. Applicants are notified of any deficiencies that would make an application incomplete or ineligible and are given 2 business days (48 hours) from the notice to provide the necessary information.

## APPLICANT CHARACTERISTICS AND MIVEDA COMMITMENTS

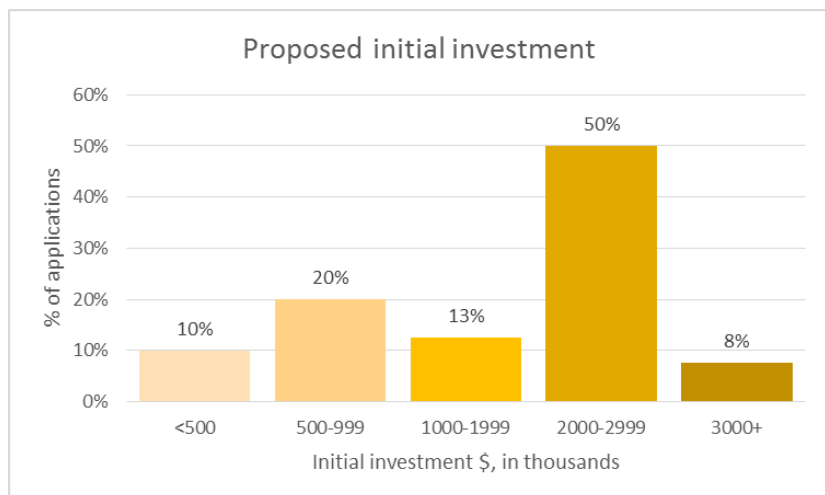
### Primary Applicant Residency

The residency of the **primary applicant** for all medical marijuana use applications (not counting residents used for MIVEDA commitments, which may have only a fractional share of ownership) was as follows:

Primary applicant residency in MIVEDA submittals	# of applications
<b>City of Grand Rapids</b>	3
<b>Kent County (outside of Grand Rapids)</b>	3
<b>Michigan (outside of Kent County)</b>	76
<b>Areas outside of Michigan</b>	7
<b>Total</b>	<b>89</b>

### Initial Investment Amount

An optional application question was the investment amount expected for the proposed facility. This was requested to help inform tracking by staff in the Economic Development division, as well as to help with MicroLBE claims in the MIVEDA that will be monitored in the future by staff in the City's Office of Diversity and Inclusion.



The majority of applications (50%) for which this question was answered propose between \$2M and \$3M of initial investment. Ten percent (10%) of applications for which this question was answered propose anywhere from \$300,000 to \$499,999 of initial investment at the proposed location. Twenty percent (20%) of applications expect an initial investment of \$500,000 to \$999,999, and 13% propose \$1M to less than \$2M. A small proportion (8%) propose over \$3M.

As with the number of employees proposed, the total amount of proposed initial investment was not calculated, since the total number of locations that will actually be established will be significantly fewer than those proposed.

## MIVEDA Items

Commitments in the MIVEDA included residency, local hiring, contracting with Micro Local Business Enterprises (MicroLBEs), employment of 30 or more employees per location, and application for properties not requiring a waiver of any separation distances. Each MIVEDA commitment claimed by an applicant was required to be verified by staff, often through communication with outside agencies such as the State of Michigan’s Bureau of Marijuana Regulation.

Staff reviewed all MIVEDA commitments claimed by applicants and found that many applicants claimed the maximum of 8 commitments, known by many applicants as “points”. Staff verified residency commitments through a number of ways. At this point in time, it is too early to verify local economy commitments pertaining to hiring, contracting, and number of employees; these will be monitored on the first, second, and third anniversaries of the date of State licensing.

### Residency Conditions

Up to four residency-related points were available. To receive credit for one or more of these, an applicant needed to show that at least 25% of the applying entity was owned by residents that have lived in a given area for at least one of the five years preceding the application date<sup>1</sup>. The conditions for which residency could be claimed were cumulative, since areas exist within each other. A point was awarded for each of the following given areas: City General Target Area, City of Grand Rapids, Kent County, and State of Michigan. The points were cumulative, meaning that a person qualified for all the points listed after meeting the first one. For example, a person who lives in the City General Target Area received four points. The following proportion of applicants claimed residency points:

Residency Conditions	% of MIVEDAs
<b>City General Target Area</b>	38%
<b>City of Grand Rapids</b>	42%
<b>Kent County</b>	45%
<b>State of Michigan</b>	81%

### Local Economy Commitments

Up to three local economy commitments could be offered by applicants. These commitments will be monitored on the first, second, and third anniversaries of the date

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<sup>1</sup> It is important to note that during the 2018 lame duck session, after the City Commission adopted the December ordinance amendments, the State Legislature changed the % ownership requirements for full background checks. Prior to that, all owners were required to have background approval. After changes to State law, any person having ten percent (10%) ownership or more was required on the application. As a result of this change, a number of applications allocated 7-8 percent ownership of local participants to avoid a full review process. This example points to the difficulty of creating local ordinances when the legal landscape – be it from the State legislature or the courts – is constantly shifting.

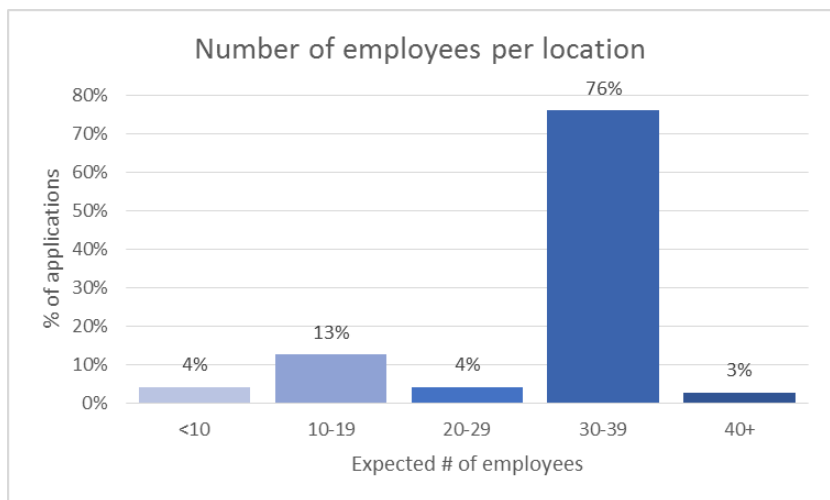
of licensing by the State. Should applicants be found to have not met one or more commitments, enforcement action may be taken by the City.

Local Economy Commitments	% of MIVEDAs
<b>Hiring <math>\geq</math>15% workforce from Grand Rapids residents</b>	82%
<b><math>&gt;</math>24% participation from designated MicroLBEs</b>	80%
<b><math>\geq</math>30 employees per location at <math>&gt;</math>30 hours/week</b>	65%

### Number of Employees

A majority of participating MIVEDA applications entered into the draw, 61 of 80 (76%), indicated a commitment to have 30+ employees at the applying location.

A general question was also provided on the application to get a sense of other hiring numbers: thirteen percent (13%) of applicants expected 10-19 employees; four percent (4%) expected 20-29 employees; three percent (3%) of applications proposed an expected 40 or more employees; and four percent (4%) of applications expected less than 10 employees at the location.



### Other Conditions

Finally, one MIVEDA condition was available to properties that could prove that no waivers were required for any separation distances. Separation distance waivers may be requested from religious institutions, State-licensed substance use disorder programs, and publicly owned parks and playgrounds.

Separation Distance Condition	% of MIVEDAs
<b>No waivers required</b>	48%

### THE DRAW

The draw took place at 2:00 PM EDT on Friday, April 26, 2019 in the Public Hearing Room (Room 201) of the City’s Development Center, 1120 Monroe Avenue NW. The event was livestreamed to the City’s social media, and local media was also in attendance. Since the open of the draw window on March 4, 2019 a list of applications that have been submitted, including the address, proposed facility type, influence area, and status, have been published on the City’s marijuana webpage. In accordance with Administrative Policy 19-02, prior to the draw that information was updated to include

the number of verified MIVEDA commitments. Applicants were able to dispute the accuracy of the list, but such disputes were limited to correcting information concerning each applicant's own application. No disputes were received.

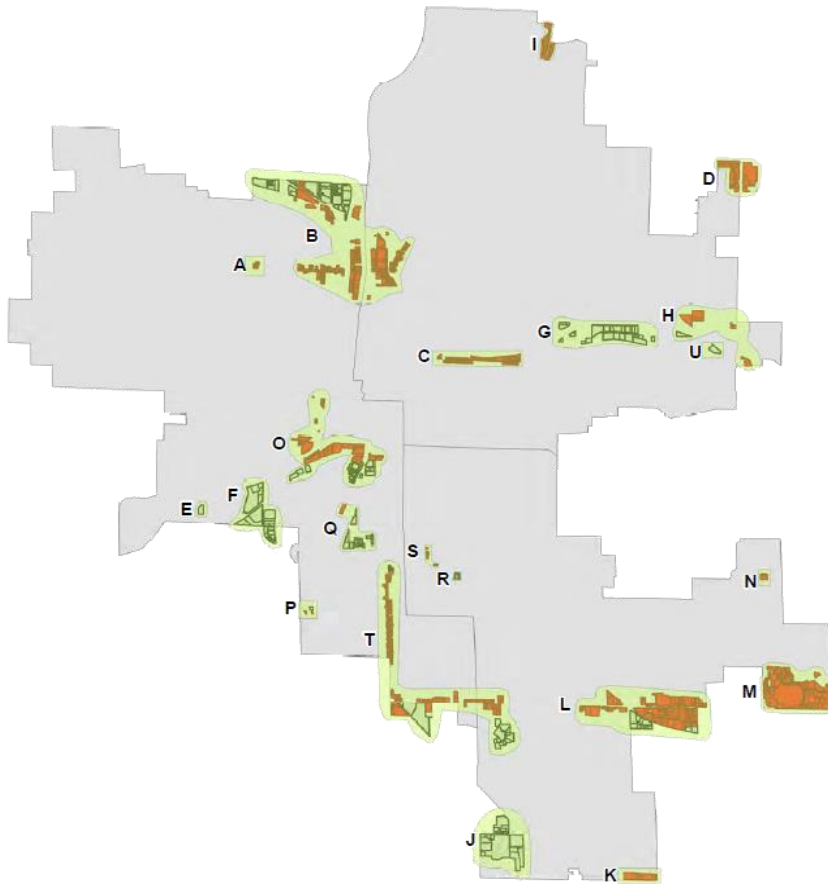
The draw was overseen by Clerk Joel Hondorp and the City Attorney's office. As tokens were drawn, the address was announced by staff, the token shown to a camera to publicly verify the address drawn, and the address was then recorded on a spreadsheet in a manner that was viewable by the public. The draw order was then entered into each application's permit record, which was then added to the table published online. Additionally, staff emailed an update to a large number of recipients on Tuesday, April 30, which included a spreadsheet of draw results, and posted the spreadsheet online for public download.

## SCHEDULING AND INFLUENCE AREAS

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 separate 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. These geographic areas are known as "influence areas" because the approval of one application within a given area may influence another application. Such influence may be direct by buffering out that application, or indirect by buffering out a competing application.

This process does not re-order the applications; but requires that one application in an influence area must be considered completely (i.e. approved or denied) before another application in the same influence area will be considered. All applications within a given influence area are being considered by the Planning Commission in the sequence determined by the draw.

All sites that were potentially suitable for marijuana facilities (with or without waivers by the Planning Commission of select separation distances as allowable by the ordinance) were reviewed. Twenty-one (21) separate and independent influence areas were identified across the City. Of those, applications were submitted for properties in a total of 13 of those areas. There were no applications submitted within eight of the influence areas during the draw window.



INF	# applications
B	25
T	19
L	13
M	10
C	9
I	5
P	3
O	2
A	1
D	1
G	1
J	1
Q	1
E	0
F	0
H	0
K	0
N	0
R	0
S	0
U	0

Influence area “B”, covering portions of West Leonard, Creston, and the area near the intersection of Alpine Ave. and Ann St., has the largest number of applications, with 25 submitted there. Other areas with a significant number of applications include:

- Area “T”, covering South Division Avenue from Cottage Grove south to 28th Street and east on 28th Street to just past Eastern Avenue, with 19 applications;
- Area “L”, which includes properties on and near 28th Street from Kalamazoo Ave. west to points close to Woodland Mall, with 13 applications;
- Area “M”, near Centerpointe Mall on the north side of 28th Street between East Beltline Ave. and East Paris Ave., with 10 applications, and;
- Area “C”, along Michigan Street between College Avenue and Fuller Avenue, with nine applications.



## PLANNING COMMISSION DECISIONS TO DATE

Beginning on May 23, 2019, the Planning Commission began reviewing and deciding on medical marijuana requests. To date, the Planning Commission has reviewed 14 applications, approving 11, as follows:

Address	Type	Review Date	Decision
3425 Plainfield Ave NE	PC	5/23/2019	Denied
3510 E Mall Dr SE	PC	5/23/2019	Approved
1336 Scribner Ave NW	PC	6/13/2019	Approved
3423 Plainfield Ave NE	PC	6/27/2019	Approved
2900 S Division Ave	PC	6/27/2019	Approved
1815 Alpine Ave NW	PC	7/11/2019	Approved
709 Michigan St NE	PC	7/11/2019	Denied <sup>A</sup>
2741 28th St SE	PC	7/25/2019	Approved
2055 Oak Industrial Dr NE	GR, PR	7/25/2019	Approved
701 Ann St NW	GR, PC	8/8/2019	Approved
3950 Stahl Dr SE	PC	8/8/2019	Denied
1350 Steele Ave SW	GR, PR, PC	8/8/2019	Approved
3075 Peregrine Dr NE	PC	8/8/2019	Approved
829 & 831 Wealthy St SW	PC	8/8/2019	Approved

<sup>A</sup> Decision being appealed to BZA. Hearing scheduled for September 19, 2019

PC = Provisioning Center

GR = Grower

PR = Processing Lab

It is anticipated that if the Planning Commission's consideration of medical marijuana requests will be completed in the first quarter of 2020 if at least two (2) and not more than four (4) hearings are held per meeting, and no additional medical marijuana applications are received. However, other development-related applications may limit the number of marijuana applications on the Planning Commission agenda and affect the completion date. The Planning Commission has also just begun to consider waivers. Waiver determinations require consideration of the request two times and is more burdensome; necessitating a reduction in the number of items that can be heard on each agenda.

## RECREATIONAL MARIJUANA

This section of the memo provides greater detail on the new use types allowed under the Michigan Regulation and Taxation of Marijuana Act (MRTMA), as well as other uses now allowed by the Marijuana Regulatory Agency (formerly identified as LARA).

The MRTMA authorizes adult (21 years or older) consumption, possession, and production of recreational marijuana. In July 2019, the Marijuana Regulatory Agency released administrative rules that are intended to help with local implementation of MRTMA, provide for a statewide regulatory structure, and prescribe fines, sanctions, and remedies. These rules allow for several license types, some of which reflect the medical marijuana license types allowed by the MMFLA, but some of which are new.

The Marijuana Regulatory Agency is granted authority to create new use categories under MRTMA. The following table provides distinctions between the various types of marijuana businesses currently allowed in the State of Michigan.

License Type		MMFLA (Medical)	MRTMA (Recreational)	Michigan Regulatory Agency
Growers	<b>Class A Grower*</b>	500 plants	<b>100 plants</b>	--
	<b>Class B Grower**</b>	1,000 plants	<u>500 plants</u>	--
	<b>Class C Grower**</b>	1,500 plants	<u>2,000 plants</u>	--
	<b>Excess Grower</b>	--	More than 13,000 plants (incl 10,000 under MRTMA & 3,000 under MMFLA)	--
	<b>Microbusiness*</b>	--	<b>150 plants, on-site processing, on-site retailer*</b>	--
	<b>Processor**</b>	<u>Processing of raw marijuana into other products (edibles, candies, oils, tinctures, etc.)</u>		--
Storefronts	<b>Provisioning Center</b>	Retail sale of medical marijuana products	--	--
	<b>Retailer**</b>	--	<u>Retail sale of recreational marijuana products</u>	--
	<b>Designated Consumption Establishment</b>	--	---	Allows on-site consumption of marijuana products by adult customers.
Events	<b>Marijuana Event Organizer</b>	--	--	Person licensed to host Temporary Marijuana Events
	<b>Temporary Marijuana Event</b>	--	--	On-site sales and/or consumption. Only issued to Marijuana Event Organizer licensee and must be approved by City. Event may last up to 7 consecutive days
	<b>Secure Transporter**</b>	<u>Transport of marijuana products between grower, processor, and provisioning center or retailer</u>		
	<b>Safety Compliance Facility</b>	Safety and potency testing of marijuana products		

*\* Per MRTMA, recreational licenses for Class A Growers and Microbusinesses may only be issued to Michigan residents until December 6, 2021. No such restriction applies to other license types.*

\*\* Per MRTMA, recreational licenses for Class B and Class C Growers, Processors, Retailers, and Secure Transporters may only be issued to MMFLA (medical) license holders until December 6, 2021 (although the MRA may remove this restriction in December 2020 under certain circumstances). No such restriction applies to other license types.

## LOCAL IMPLEMENTATION CONSIDERATIONS

The City Commission may choose to opt out of allowing any of the recreational license types within City limits, but whether it decides to opt out or not, must have an ordinance in effect no later than November 1, 2019 in order to avoid a default opt-in status while lacking reasonable regulations on marijuana uses.

Medical marijuana growers, medical marijuana processors, provisioning centers, medical marijuana secure transporters, and medical marijuana safety compliance facilities are all currently allowed within the City of Grand Rapids by the Zoning Ordinance as adopted and amended in 2018.

MRTMA 333.27956 Sec.6.5. states that “A municipality may not adopt an ordinance that restricts the transportation of marihuana through the municipality or prohibits a marihuana grower, a marihuana processor, and a marihuana retailer from operating within a single facility **or from operating at a location shared with a marihuana facility operating pursuant to the medical marihuana facilities licensing act.**” In other words, where a medical marijuana facility has been granted approval, then some recreational facilities may co-locate where a grower or processor is in operation. It is important to note that these are the same use categories that are protected under the MRTMA where license holders can only be those that have already received approval for medical marijuana until December 6, 2021 or unless the Marijuana Regulatory Agency removes the time restriction sooner.

In cases where an increase in the intensity of the use is anticipated, such as a provisioning center that now also desires to include retail operations for recreational marijuana, then it will be necessary for the applicant to amend their Special Land Use application and have the matter considered by the Planning Commission for the additional use.

The recreational marijuana statute (MRTMA) and subsequent administrative rules introduce additional license types in addition to those considered equivalent to those enabled by the medical marijuana statute (MMFLA). Specifically, new license types include microbusiness, excess grower, marijuana event organizer, temporary marijuana event, and designated consumption establishment.

## **Microbusinesses**

The new microbusiness license type authorizes a single vertically-integrated facility that includes cultivation of up to 150 plants, processing and packaging, *and* retail sales at a single location. All three operations must be conducted for a microbusiness operation. While the MMFLA restricted growers to locations only zoned for industrial or agricultural uses, MRTMA does not have similar restrictions; a microbusiness could potentially locate within a mixed-use commercial area. However, it is worth considering that a microbusiness might have the same potential land use impacts as a grower, processor or retailer specifically related to odor, traffic and parking.

An individual holding a microbusiness license cannot also hold any ownership interest in a grower, processor, retailer, safety compliance facility, or secure transporter. MRTMA requires that only residents of the State of Michigan (as of the date of filing a State application) may be granted a microbusiness license, until December 6, 2021.

The initial State licensure fee for a microbusiness is \$8,000 with an annual renewal fee of \$6,000-\$10,000 depending on annual gross retail sales volume in comparison to all other licensees of that type. Additionally, there is a \$6,000 initial State application fee, and the City of Grand Rapids, like all municipalities, is authorized to charge an annual fee of up to \$5,000 to defray application, administrative, and enforcement costs associated with the operation of the marijuana establishment.

## **Growers**

Growers can apply to the State for both medical and recreational marijuana licenses, combining the numbers of plants allowed by each license. For example, an already-licensed Class B medical grower could also apply for a Class C recreational license, which would then allow that grower to grow up to 1,000 plants to be used for medical purposes, and additionally grow up to 2,000 plants to be used for recreational purposes, for a total of 3,000 plants. The grower would have already been required to receive Special Land Use approval from the Planning Commission for the original request, and then would undergo review for the expansion of their Special Land Use (by up to 2,000 plants). If an approved Class A medical grower (up to 500 plants) were to apply to the State to change their license to a Class B recreational grower (also up to 500 plants), that would not constitute an expansion of the Special Land Use and therefore no additional Planning Commission review would be required. For the purposes of local land use impacts, there is no difference between a 500-plant grow operation depending of the intended end of use of the plants within.

The administrative rules for recreational marijuana released by the MRA in July 2018 allow for a new grower license type: Excess Grower license. Under the rules, applicants can stack multiple Class C grower licenses of up to 2,000 plants each, with a total of up to five recreational Class C licenses and a total of 10,000 plants intended for recreational use. Similarly, under the MMFLA, medical licensees can stack Class C licenses (of up to 1,500 plants per license), but with no limit. The Excess Grower license

is available to licensees that have already stacked five recreational Class C licenses **and** two medical Class C licenses, for a total of 13,000 plants (10,000 recreational and 3,000 medical). Additional plants beyond this would require an excess grower license, with the limit of plants in excess of 13,000 being set by the number of medical plants already licensed.

The largest grower that has been approved by the Grand Rapids Planning Commission to date (1350 Steele Ave SW; approved 8/8/2019) has a phased plan for a total of 15,000 medical use plants on site (10 stacked MMFLA Class C licenses) when the project is fully operational.

MRTMA requires that licenses for Class B and Class C Growers may only be issued to MMFLA (medical) license holders until December 6, 2021 (although the MRA may remove this restriction in December 2020 under certain circumstances).

State fees for a grower depends on the number of plants (for initial licensure) and the gross weight of products transferred (for renewals). For a Class A grower (100 plants), the initial fee is \$4,000 with an annual renewal fee of \$3,000-\$5,000 depending on annual sales volume in comparison to all other licensees of that type. For Class B (500 plants), the initial fee is \$8,000 and the renewal is \$6,000-\$8,000. For Class C (2,000 plants) or Excess Growers, the initial per-license fee is \$40,000 with a renewal fee of \$30,000-\$50,000. Additionally, there is a \$6,000 initial State application fee, and the City of Grand Rapids, like all municipalities, is authorized to charge an annual fee of up to \$5,000 to defray application, administrative, and enforcement costs associated with the operation of the marijuana establishment.

## **Processors**

An already-approved medical processing lab could reapply to the State for a recreational processor license instead of, or in addition to, the existing medical processor license, and there would be no effect on local land use impact, *unless* the processor were to expand the floor area or intensity of their operation as a result of the license change. In that case the change would be considered an expansion of a Special Land Use and would thus require Planning Commission approval.

The initial State licensure fee for a recreational processor license is \$40,000 with an annual renewal fee of \$30,000-\$50,000 depending on gross weight of product transferred, in comparison to all other licensees of that type. Additionally, there is a \$6,000 initial State application fee, and the City of Grand Rapids, like all municipalities, is authorized to charge an annual fee of up to \$5,000 to defray application, administrative, and enforcement costs associated with the operation of the marijuana establishment.

## **Secure Transporters and Safety Compliance Facilities**

Neither of these uses currently require Special Land Use approval by the Planning Commission (rather, Director Review is required). As with a processor, licensing to transport or test recreational marijuana products would likely not result in a meaningful change to the local land use impact, unless the floor area or intensity of the use were to change. Whether to require additional staff review in such a case may be best left to the discretion of the Planning Director.

The initial State licensure fee for both recreational license types is \$25,000 with an annual renewal fee of \$20,000-\$30,000 depending on gross weight of product transported or number of tests completed, respectively, as compared to all other licensees of that type. Additionally, there is a \$6,000 initial State application fee, and the City of Grand Rapids, like all municipalities, is authorized to charge an annual fee of up to \$5,000 to defray application, administrative, and enforcement costs associated with the operation of the marijuana establishment.

## **Retailers**

For retail sales of medical marijuana products (via a provisioning center) or recreational marijuana products (via a retailer), there may be resultant effects on local land use impacts. While empirical research and data is limited, it has generally been found that traffic and associated needs (such as vehicle or bicycle parking, sidewalk and transit access, etc.) are found to be greater when associated with recreational marijuana uses than with medical. Some have likened a (medical marijuana) provisioning center use to a pharmacy and a (recreational marijuana) retailer to a party store. As with those uses, with a larger customer pool to draw from, the local land use impacts of a recreational retailer are expected to be greater. Adding a recreational retailer license, or replacing a medical provisioning center license with a retailer license, regardless of any proposed change in floor area, may be considered to be an increase in the intensity of the use, and warrant a return to the Planning Commission for Special Land Use review.

The administrative rules released by the MRA in July 2018 require that a licensee with common ownership of a marijuana retailer and a provisioning center and operating both equivalent licenses at the same location shall physically separate the entire inventories and the items on display for sale so that individuals may clearly identify medical marijuana products from retail marijuana products. Additionally, recreational and medical products cannot be bundled in the same transaction due to tax differences. Otherwise, the State does not restrict such uses from operating at the same location.

The initial State licensure fee for a recreational marijuana retailer is \$25,000 with an annual renewal fee of \$20,000-\$30,000 depending on annual gross retail sales volume in comparison to all other licensees of that type. Additionally, there is a \$6,000 initial State application fee, and the City of Grand Rapids, like all municipalities, is authorized to charge an annual fee of up to \$5,000 to defray application, administrative, and enforcement costs associated with the operation of the marijuana establishment.

Finally, it may be worth noting that MRTMA changed the tax scheme associated with marijuana uses by establishing a 10% excise tax on recreational marijuana products sold by a microbusiness or retailer, with 15% of that amount then divided among all municipalities that have opted in to the act, on the basis of the number of microbusinesses and retailers within a given municipality in proportion to all such businesses across the State.

### **Marijuana Event Organizers and Temporary Marijuana Events**

The MRA administrative rules for recreational marijuana uses authorize two license types associated with events: a Marijuana Event Organizer (MEO) license and a Temporary Marijuana Event (TME) license. MEO licenses are issued to individuals seeking to host a TME and meeting eligibility requirements.

A Temporary Marijuana Event is one where the on-site sale and/or consumption of recreational marijuana is authorized. TME can be issued for a minimum of one day or for up to seven consecutive days, and must be held at “a venue expressly approved by a municipality for the purpose of holding a temporary marijuana event.” The State rules include requirements for security, signage, age restrictions, fees, waste disposal, and other items.

The State fee for both initial licensure and renewal of an MEO license is \$1,000. The State fee for a TME is \$500 per day, plus \$500 per licensee selling products at the event. Neither an MEO nor a TME are considered a marijuana establishment according to the State’s administrative rules, so it is not clear whether there are parameters for if or how the City of Grand Rapids would assess a fee for such uses.

For events accessible to the public but held on private property, the Section 5.9.35. of the Zoning Ordinance currently requires a Temporary Use Permit, which currently carries a \$78 fee. Events on public property such as in a park or plaza require a Special Event Permit, which has a \$100 application fee, permit fees ranging from \$50 - \$3,000+ depending on number of attendees, and park use fees ranging from \$200 to \$2,500+ depending on the park used.

### **Designated Consumption Establishment (for on-site consumption)**

The administrative recreational marijuana rules authorize a license type for commercial space that permits adults to consume marijuana on site, which is a Designated Consumption Establishment (DCE). Except for this license type and temporary marijuana events, no consumption, use, or inhalation of any marijuana product is permitted in any kind of marijuana facility. The State’s rules for DCEs include requirements for plans and application information and specific details regarding smoke-free areas and ventilation, but generally do not regulate operation or location. It is not clear from the rules or the Act (MRTMA) whether a recreational marijuana retailer or other facility type may **also** hold a DCE license.

The State fee for both initial licensure and renewal of an DCE license is \$1,000. Additionally, there is a \$6,000 initial State application fee, and the City of Grand Rapids, like all municipalities, is authorized to charge an annual fee of up to \$5,000 to defray application, administrative, and enforcement costs associated with the operation of the marijuana establishment.

## EQUITY CONSIDERATIONS

MRTMA required that the MRA would promulgate administrative rules that, among other items, would include “a plan to promote and encourage participation in the marijuana industry by people from communities that have been disproportionately impacted by marijuana prohibition and enforcement and to positively impact those communities.”

As a result, the State’s administrative rules require that applicants for one or more recreational licenses shall provide “a social equity plan detailing a plan to promote and encourage participation in the marijuana industry by people from communities that have been disproportionately impacted by marijuana prohibition and enforcement and to positively impact those communities.”

Additionally, the MRA established a Social Equity Program in which eligible participants may receive technical assistance and a reduction of application, licensure, and renewal fees. Eligibility is based on an applicant’s place of residency and background. The municipalities selected for the Social Equity Program based on historical conviction rates and poverty levels ( $\geq 30\%$  of residents at or below federal poverty level).

Those 19 municipalities are:

- Albion\*
- Benton Harbor
- Detroit
- East Lansing
- Ecorse
- Flint
- Highland Park
- Hamtramck
- Inkster
- Kalamazoo
- Mt. Morris
- Mt. Pleasant\*
- Muskegon
- Muskegon Heights
- Niles
- Pontiac
- River Rouge
- River Rouge
- Saginaw
- Ypsilanti

It is worth noting is that (a) two of the municipalities selected for participation in the program (denoted by an asterisk above) have opted out of participation in recreational marijuana, and (b) Grand Rapids is not included in the list of municipalities. Interestingly, the decriminalization of marijuana within Grand Rapids following a 2012 voter referendum may have decreased conviction rates to the point that the City did not meet the threshold to be included in the program. Planning staff has discussed with the MRA the possibility of adding individual wards, census blocks, or zip codes to the State’s program, but it does not appear that doing so is an option at this time.



Participants in the State’s Social Equity Program need to have lived in one of the selected municipalities for the last five years, have a marijuana-related conviction, and/or have been a registered primary caregiver for at least two years between 2008-2017. Participants receive assistance with application, education on the laws surrounding marijuana, and a reduction of fees based on eligibility factors: residency in an affected community (25% reduction), marijuana-related conviction (25%) and having been a primary caregiver (10%), which can result in a cumulative fee reduction of up to 60%.

Additionally, the State’s minimum capitalization requirements for medical marijuana licenses have been considered a barrier to entry into the industry. In order to receive a license, applicants are required to demonstrate capitalization amounts to operate and maintain their proposed marijuana facility as follows:

License Type	Capitalization
<b>Class A Grower</b>	\$150,000
<b>Class B Grower</b>	\$300,000
<b>Class C Grower</b>	\$500,000
<b>Processor</b>	\$300,000
<b>Provisioning Center</b>	\$300,000
<b>Secure Transporter</b>	\$200,000
<b>Safety Compliance Facility</b>	\$200,000

At least 25% of the required capital must be in liquid assets, and the remainder may be liquid assets or real property, supplies, equipment, and fixtures.

Notably, the minimum capitalization requirements have been removed for recreational license applications, which may aid smaller entities in entering the industry. However, an applicant wishing to be licensed for both recreational and medical marijuana (such as a grower seeking to sell their products for both recreational and medical end uses) would be required to demonstrate capitalization in the amounts above in order to be licensed under the MMFLA. There is no equivalent requirement in Grand Rapids; applicants are not obligated to demonstrate any capitalization in order to apply for land use approval or for a local license if applicable.

There are applicant restrictions for recreational marijuana licenses until December 6, 2021. During this time period, MRTMA requires that applicants for recreational Class A Grower or Microbusiness licenses must be residents of the State of Michigan at the time of application, although it does not define residency or a process for applicants to demonstrate residency. Additionally, all other recreational license types (except for safety compliance facilities) are restricted only to entities that have already been licensed for one or more medical marijuana facilities under MMFLA. The Marijuana Regulatory Agency may remove one or both restrictions after one year (on or after December 6, 2020), but MRTMA does not specify a process by which this decision can be made, by whom, or under what circumstances.

Because the benefits of the statewide fee-reduction program are not available to applicants within Grand Rapids, it is worth considering if and how the City can develop a Social Equity Program locally, which could reflect the concepts included in State's program or other concepts. Additional work is necessary to consider what kind of actions may be taken to meet the City's goals for social equity and industry participation.

#### NEXT STEPS FOR CONSIDERATION

The Marijuana Regulatory Agency will begin to accept license applications for recreational marijuana businesses on November 1, 2019. As such, the City Commission must adopt an ordinance that addresses recreational marijuana to be effective by that date.

A licensing ordinance will be introduced at the City Commission's Committee of the Whole meeting on September 24, 2019, that will act as a formal opt-in action on recreational marijuana by the City, but includes a proposed recreational license issuance date of April 30, 2020. This later date will allow for time to engage the public; for staff to research potential land use impacts associated with recreational marijuana; to create a license application, fee structure, and application process; and to develop a discussion guide that will help guide the City Commission and Planning Commission in policymaking efforts related to the Zoning Ordinance. The discussion guide will be presented for a work session that will be scheduled in November.

In addition to serving as a formal action by the City to opt in on recreational marijuana, the licensing ordinance will provide an important tool by which the City can follow up on agreements made by the applicant during the application and review process, for enforcement actions if needed, and also to help support the City's sustainability and accessibility goals.

It is recommended at this time that the Commission provide guidance to staff on the new recreational marijuana use types described to be included in the initial licensing ordinance.

A brief timeline of the licensing ordinance and zoning ordinance updates is proposed as follows:

Date	Milestone
Sept. 24	<ul style="list-style-type: none"> <li>• Discuss Licensing Ordinance <i>Adoption of Licensing Ordinance as proposed is considered an opt-in to recreational marijuana but has a delayed date of accepting applications in order to allow adequate preparation time.</i></li> <li>• Consider Recreational Marijuana Discussion Guide</li> <li>• First Reading of Licensing Ordinance</li> </ul>
Oct. 22	Adopt Licensing Ordinance*
Nov. 1	State begins accepting applications. <b>City must have ordinance in effect by this time.</b>
Dec '19 – Jan '20	Preparation of zoning ordinance amendments for recreational.
Apr. 30, 2020	Proposed start date to accepting applications for recreational licenses

\*Licensing ordinance must be adopted with immediate effect in order to be effective by Nov. 1.

Planning Department staff will present a brief update on these items at the September 10, 2019 meeting of the City Commission's Committee of the Whole. At that time, the Commission will be asked to determine which marijuana-related uses should be required to be licensed by the City.

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