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Meeting Date: May 24, 2018

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**Applicant:** City of Grand Rapids  
(Planning Department)

**Requesting:** **Consideration of text amendments to the Zoning Ordinance to amend Article 6 Mixed-Use Commercial Zone Districts, Section 5.6.06. Uses of Land, Table 5.6.06.B. Uses; Article 7 Special Districts, Section 5.7.04 Special District – Industrial Transportation (SD-IT), Table 5.7.04.B. Uses; and Article 9 Use Regulations to allow for provisioning centers, secure transporters, and safety compliance facilities related to marijuana as a Special Land Use in certain zone districts.**

**A separation distance from residential zone districts, schools, daycare centers, drug and alcohol treatment facilities, parks, and religious institutions shall be required. A separation distance between provisioning centers shall be required. Not more than one marijuana facility shall be allowed per parcel. Marijuana facilities shall not be located in the same building or on the same parcel where alcohol is sold. Marijuana facilities shall be subject to the submittal of a Good Neighbor Plan, Crime Prevention Through Environmental Design (CPTED) analysis, Management and Security Plan to be reviewed by GRPD Vice Unit, and other standard business requirements related to signage, lighting, and façade transparency.**

**Requirements:** 5.12.10. Zoning Ordinance Text and Map Amendments  
**Case Number:** PC-TXT-2018-0056  
**Staff Assigned:** Kristin Turkelson [kturkelson@grcity.us](mailto:kturkelson@grcity.us)  
**Type of Case:** Zoning Ordinance Text Amendment  
**Effective Date:** City Commission approval

The text amendments under consideration are proposed in response to a petition campaign to advance an unlimited number of marijuana facilities in the city. The regulations provide a framework that allows the City the ability to amend and change the ordinance as needed to suit the desires of the community, rather than be bound by a voter initiated measure that cannot be changed by the City Commission if significant problems arise.

Please note in the proposed ordinance a caveat statement has been provided where this is acknowledged and “optional” text is shown in gray.

One other question that will likely arise is regarding the omission of a set number of facilities. In evaluating different approaches, a quota system versus separation distance requirements were evaluated. It was found that the quota system creates a heavy administrative burden and

oftentimes lawsuits arise when a community “picks” 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. Planning staff is updating a working document that maps all of the possible locations for facilities. The Commission will be provided with this information for discussion, including the total possible number of facilities that could locate in the city. Separation numbers can be calibrated based on the Commission’s preferences.

It is anticipated that after the Planning Commission has made their recommendation to the City Commission, the City Commission will take the item up on June 12, 2018 to set a public hearing. The public hearing would be scheduled for July 10, 2018.

## EXISTING REGULATIONS

### Article 9 Use Regulations, Section 5.9.14.Home Occupations.

#### A. Purpose and Conformance.

1. The regulations of this Section are intended to ensure that home occupations remain subordinate to the residential use, the residential viability of the dwelling is maintained, and that the use not be a detriment to the character and livability of the surrounding neighborhood.
2. The dwelling shall conform to all requirements of the Zone District.

#### B. Business License and Approvals.

1. All home occupations shall obtain a business license from the City Clerk. Home occupations shall be licensed pursuant to Chapter 116 Home Occupation of the City Code. Chapter 116 describes three occupational classes: Class A, which shall have minimal to no impact on the surrounding neighborhood; Class B and Class C, which have the potential for adverse effects to the neighborhood or community.
2. All license applications shall include an interior floor plan provided clearly indicated the planned location for the conduct of the home occupation, total living area square footage by the floor, and living area square footage by floor devoted to the home occupation.
3. Table 5.9.14.B summarizes the Classes and requirements for home occupations and the required approval processes.

<b>Table 5.9.14.B Home Occupation Classes</b>			
<b>Characteristic</b>	<b>Requirement</b>		
	<b>Class A</b>	<b>Class B</b>	<b>Class C</b>
Approval Process	Director Review	Director Review	Special Land Use
Examples (non-inclusive)	Internet-sales, home office, bookkeeping	Medical marihuana primary caregiver; music, fine arts instructor; one- room rental	Bed and breakfast See 5.9.08.
			Rooming house See 5.9.30.
Residential Type	Single-family, two- family, multiple- family	Single-family, two-family	Bed and breakfast See 5.9.08.
			Rooming house See 5.9.30.
Property Ownership	Owner or renter	Owner or renter with owner consent	Owner
Walk-in Retail Trade	Not permitted	Not permitted	Not permitted

<b>Table 5.9.14.B Home Occupation Classes</b>			
<b>Characteristic</b>	<b>Requirement</b>		
	<b>Class A</b>	<b>Class B</b>	<b>Class C</b>
Business-Related Visitors by Appointment	Not permitted	No more than 2 at any one time; hours of operation 7:00 a.m. to 8:00 p.m.	Bed and breakfast guests; not applicable to rooming houses

C. Signs shall comply with the requirements of Article 15.

D. Space Limitations.

1. No part of an accessory structure, either attached or detached, shall be used in connection with the home occupation.
2. Class A and Class B.
  - a. Not more than one-fourth ( $\frac{1}{4}$ ) of the residential floor area of the dwelling unit and less than one-half ( $\frac{1}{2}$ ) of the residential floor area of the main floor shall be devoted to the home occupation.
  - b. In no instance shall all home occupations in any single dwelling unit permanently occupy more than three hundred (300) square feet of the dwelling unit.

E. Alterations.

1. Exterior Alterations. Home occupations shall not require exterior alterations or involve construction features not customary for dwellings.
2. No new external entrance to the space devoted to the occupation shall be created.
3. Interior Alterations. Any permanent structural alterations to the interior of the dwelling unit for purposes of conducting the home occupation which would render it unsuitable for residential use shall be prohibited.

F. There shall be no outdoor storage of items related to the home occupation.

G. The activity shall not require the creation of any additional parking spaces to service the home occupation.

H. Residency. Residency within the dwelling unit in which the home occupation is conducted shall comply with licensing provisions of Chapter 116 Home Occupation of the City Code.

I. Hazards or Nuisances. No home occupation shall be permitted which would increase traffic, fire and safety hazards, noise, dirt, odor, dust, gas, glare, fumes, vibration or other nuisance elements, or require the use of mechanical or electrical equipment which create a nuisance to the adjacent neighborhood.

J. Other Codes. All Building, Housing, Fire and other local or State Codes and ordinances, including Chapter 116 Home Occupation of the City Code, shall be met.

- K. Prohibited Occupations. The following shall not be considered as home occupations, including, but are not limited to:
1. Animal processing.
  2. Any repair of motorized vehicles, including the painting or repair of automobiles, trucks, trailers, boats, and lawn equipment.
  3. Animal hospitals or kennels.
  4. Barber shops or beauty parlors.
  5. Restaurants or catering/food preparation businesses, except catering/food preparation businesses operating in compliance with the Cottage Food Law, PA 113 of 2010.
  6. Medical or dental offices.
  7. Construction businesses or landscaping businesses that provide the storage of goods, equipment and materials to be utilized in the operation of the business or use.
  8. Furniture finishing and refinishing.
  9. Warehousing.
  10. Welding or machine shops.
  11. Any other occupation or service which, in the opinion of the Director, creates unnecessary noise, vibration, glare fumes, odors, or electrical interference detectable to the normal senses, off the premises, or has the potential to adversely affect the character of the neighborhood.
- L. Fine Art/Craft/Music Instruction. Instruction in a fine art, craft or music is a permitted home occupation.
- M. Medical Marihuana. A registered primary caregiver, in compliance with the General Rules of the Michigan Department of Community Health, the Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d) and the requirements of this Chapter, shall be allowed as a home occupation upon receipt of a valid Home Occupation - Class B license from the City Clerk. ~~Nothing in this Chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act and the General Rules. Also, since Federal law is not affected by that Act or the General Rules, nothing in this Chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under Federal law. The Michigan Medical Marihuana Act does not protect users, caregivers or the owners of properties on which the medical use of marihuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act.~~ The following requirements for a registered primary caregiver shall apply:
1. The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;

2. A registered primary caregiver must be outside of a one-thousand (1,000)-foot radius from any school, including child a care or day care facility, or to ensure community compliance with Federal "Drug-Free School Zone" requirements.
3. Not more than one (1) primary caregiver shall be permitted to service qualifying patients on a parcel.
4. Not more than five (5) qualifying patients shall be assisted with the medical use of marihuana within any given calendar week;
5. All medical marihuana shall be contained within the main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient, as reviewed and approved by the Building Official and the Police Department.
6. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marihuana are located.
7. If a room with windows is used as a growing location, any lighting methods that exceed usual residential periods between the hours of 11:00 p.m. to 7:00 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties.
8. That portion of the residential structure where energy usage and heat exceeds typical residential use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Fire Department to ensure compliance with the Michigan Fire Protection Code.
9. Nothing in this Section is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under Federal law.

## Article 16 Definitions.

### M. Definitions—M.

MARIHUANA, also known as MARIJUANA, also known as CANNABIS

1. That term shall have the meaning given to it in section 7601 of the Michigan public health code, 1978 PAS 368, MCL 333.7106, as is referred to in section 3(d) of The Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d). Any other term pertaining to marihuana used in this Chapter and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act and/or in the General Rules of the Michigan Department of Community Health issued in connection with that Act.
2. MARIHUANA DISPENSARY OR DISPENSARY. Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two (2) or more of the following: a registered primary caregiver, a registered qualifying patient, or a person with an identification card or in possession of an application for an identification card. The term "dispensary" shall not apply to a registered primary

~~caregiver that provides necessary care and marihuana for medical use exclusively to his/her five (5) or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, Initiated Law, MCL 333.26423(d); Administrative Rules of the Michigan Department of Community Health; and the Home Occupation rules of Article 9, Section 5.9.14.M. of this Ordinance. A "marihuana dispensary" shall not include the following uses that are in compliance with this Ordinance and all laws and rules of the State of Michigan, and intended for on-site patient use only: a State-licensed health care facility, a State-licensed residential care facility for the elderly or infirmed, or a residential hospice care facility. It is unlawful to establish or operate a profit or nonprofit medical marihuana dispensary, collective or cooperative within the City of Grand Rapids.~~

3. ~~MARIHUANA COLLECTIVE OR COOPERATIVE. Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two (2) or more of the following: a registered primary care giver, a registered qualifying patient, or a person with an identification card or in possession of an application for an identification card. The term "collective" or "cooperative" shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five (5) or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, Initiated Law, MCL 333.26423(d); Administrative Rules of the Michigan Department of Community Health; and the Home Occupation rules of Article 9, Section 5.9.14.M. of this Ordinance. A "marihuana collective or cooperative" shall not include the following uses that are in compliance with this Ordinance and all laws and rules of the State of Michigan, and intended for on-site patient use only: a State-licensed health care facility, a State-licensed residential care facility for the elderly or infirmed, or a residential hospice care facility. It is unlawful to establish or operate a profit or nonprofit medical marihuana dispensary, collective or cooperative within the City of Grand Rapids.~~
4. ~~MEDICAL USE OF MARIHUANA. The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined **under the MMMA**. The Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d).~~

# PROPOSED REGULATIONS

## Article 16 Definitions

M. Definitions—M.

MARIHUANA, also known as MARIJUANA, also known as CANNABIS

The following words and phrases have the meanings ascribed to them when used in this chapter:

- (a) CO-LOCATION means the siting and operation of a combination of multiple facilities or facility types at a single location.
- (b) FACILITY means a location at which a license holder is licensed to operate under the MMMFLA.
- (c) FACILITY PLAN means the plans required to be submitted to LARA in accordance with the MMMFLA rules that includes among other things diagrams, floor plans, construction details, etc.
- (d) GROWER means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.
  - 1. Class A: A licensed grower who is authorized to grow not more than 500 marihuana plants.
  - 2. Class B: A licensed grower who is authorized to grow not more than 1,000 marihuana plants.
  - 3. Class C: A licensed grower who is authorized to grow not more than 1,500 marihuana plants.
- (e) LARA means the Department of Licensing and Regulatory Affairs, and any successor agency to the department.
- (f) LICENSEE means a person holding a state operating license.
- (g) LICENSING BOARD means the Medical Marihuana Licensing Board created by the MMMFLA.
- (h) MARIHUANA means all parts of the plant *Cannabis sativa* L., growing or not; the seeds of that plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. Marihuana does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination. Marihuana does not include industrial hemp grown or cultivated, or both, for research purposes under the industrial hemp research act.
- (i) MMMA means the Michigan Medical Marihuana Act, 2008 IL 1, as amended MCL 333.26424 *et seq.*
- (j) MMMFLA means the Michigan Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended, MCL 333.27102 *et seq.*
- (k) MMMFLA RULES means rules, including emergency rules, promulgated by LARA to implement the MMMFLA.



- (l) PREQUALIFICATION STEP means the portion of the application for a state operating license pertaining the applicant’s financial background and the criminal history of the applicant and other associated persons.
- (m) PROCESSOR means a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.
- (n) PROVISIONING CENTER means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes a property where marihuana is sold to registered qualifying patients or registered primary caregivers within an office setting. A location used by a primary caregiver to assist a qualifying patient connected to the caregiver through LARA's marihuana registration process in accordance with the MMMA is not a provisioning center for purposes of this chapter. Caregivers are allowed as a Home Occupation, per Section 5.9.14.
- (o) SAFETY COMPLIANCE FACILITY means a licensee that is a commercial entity that receives marihuana from a facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the facility.
- (p) SECURE TRANSPORTER means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.
- (q) STACKED GROWER LICENSE means more than 1 state operating license issued to a single licensee to operate as a grower of class C-1,500 marihuana plants as specified in each license at a facility.
- (r) STATE OPERATING LICENSE or, unless the context requires a different meaning, "license" means a license that is issued under the MMMFLA that allows the licensee to operate as a grower, processor, secure transporter, provisioning center, or a safety compliance facility.

**Article 6 Mixed-Use Commercial Zone Districts, Section 5.6.06 Uses of Land, Table 5.6.06.B Uses**

Table 5.6.06.B. Uses: Mixed-Use Commercial Zone Districts									
Use Category	Specific Use		TN			TN MCN MON	MCN MON	NOS	Use or Other Regulations
			CC*	TCC	TBA	TOD**	C		
COMMERCIAL, OFFICE, RETAIL									
Office	Entertainment/news media	Ground floor	P	P	S	X	P	X	Exception
		Upper floors	P	P	P	P	P	X	-
	General or professional uses	Ground floor	P	P	S	S	P	P	Exception
		Upper floors	P	P	P	P	P	P	-

**Table 5.6.06.B. Uses: Mixed-Use Commercial Zone Districts**

Use Category	Specific Use		TN			TN MCN MON	MCN MON	NOS	Use or Other Regulations
			CC*	TCC	TBA	TOD**	C		
	Medical or dental	Ground floor	P	P	S	S	P	P	Exception
		Upper floors	P	P	P	P	P	P	-
	Medical laboratory	Collection	P	P	P	S	P	P	-
		Processing	P	P	S	X	P	P	
	<b>Marihuana provisioning center</b>		<b>X</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>5.9.19.</b>
	<b>Marihuana safety compliance facility</b>		<b>X</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>5.9.19.</b>
	Copying, mailing, courier services, parcel receiving, shipping station		P	P	P	P	P	X	-
	Research uses		P	P	S	X	P	P	-
<b>INDUSTRIAL, TRANSPORTATION, UTILITIES</b>									
Industrial	Assembly, manufacturing, or production of food, textile products, technology, wood products, furniture and fixtures, paper, clay, glass or fabricated metal		S	S	E	X	X	X	5.3.05.F
	Artisanal and creative industry	5,000 sq. ft. or less GFA	P	P	P	P	P	-	
		5,000 sq. ft. or more GFA	S	S	S	P	S	-	
	Commercial laundry, dry cleaning		X	S	X	X	X	X	-
	Flex-office		X	X	X	P	P	P	
	Commercial production of alcohol, baked goods or similar consumable products	15,000 sq. ft. or less GFA	P	P	S	S	S	X	5.9.05.
		15,000 sq. ft. or more GFA	S	S	S	S	S	X	5.9.05.
	<b>Marihuana processor, food production only</b>		<b>X</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>X</b>	<b>5.9.19.</b>
	Materials recovery and recycling		X	S	X	X	X	X	5.9.18.
	Printing, publishing and allied industries		X	S	E	X	X	X	-
Self-storage facility		X	S	X	X	S	X	5.9.31.	
Stone monument works		X	S	S	X	S	X	-	
Warehousing, storage		X	S	E	X	X	X	-	

**Article 7 Special Districts, Section 5.7.04 Industrial-Transportation (IT), Table 5.7.04.B Uses**

<b>Table 5.7.04.B. Uses: Industrial-Transportation District</b>			
<b>Use Category</b>	<b>Specific Use</b>	<b>Approval</b>	<b>Use or Other Regulations</b>
<b>EDUCATIONAL, AUTO-ORIENTED, OFFICE, RETAIL</b>			
Office and Retail	Accessory and professional office, retail, and commercial uses that serve a principal industrial use and do not exceed 25% of the GFA	P	—
	Flex-office	P	—
<b>INDUSTRIAL, TRANSPORTATION AND UTILITIES</b>			
Industrial	Artisan and creative industry	P	—
	Assembly, manufacturing, or production of food, textile products, technology, wood products, furniture and fixtures, paper, clay, glass or fabricated metal	P	—
	Commercial laundry, dry cleaning processing	P	—
	Commercial production of alcohol, baked goods or similar products	P	—
	Crematory	S	—
	Fuel storage	S	—
	Greenhouse	P	—
	Heavy construction contractors, contractor's yards, equipment and materials storage	S	5.9.18.
	Iron, steel or aluminum foundry or fabricating plant and heavyweight casting	S	—
	Landscaping, nursery services	P	—
	Manufacturing of alcohol; ammonia; bleaching powder or chlorine; asphalt, including refining; brick, tile or terra cotta; chemicals; concrete or cement products; lampblack; oil cloth or linoleum; paint, oil, shellac, turpentine, lacquer or varnish; petroleum products; plastics; soap; sodium compounds; tar distillation or tar products	S	—
	Manufacturing, compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food products, except the rendering or refining of fats and oils	P	—
	Commercial growing, processing, and testing (safety compliance) of marijuana; a provisioning center may be considered as an office accessory use (not to exceed 25% of GFA) with stacking  Note: Grower and Processor are not recommended use categories for this ordinance. However, these have been included for the purposes of policy discussion for the Planning Commission and City Commission should either Commission wish to add these use groups. Inclusion of the use categories allows the Commissions to see what type of regulations might be suggested.	S	5.9.19.

**Table 5.7.04.B. Uses: Industrial-Transportation District**

Use Category	Specific Use	Approval	Use or Other Regulations
	Marihuana processor, food production only	S	5.9.19
	Materials recovery or recycling	S	5.9.18.
	Mineral extraction	S	5.9.21.
	Printing, publishing, allied industries	P	—
	Processing junk, waste, discarded or salvaged materials, machinery or equipment	S	5.9.18.
	Self-storage facility	P	5.9.31.
	Special trade contractors (including plumbing, heating and cooling, electrical, masonry, concrete work, etc., but excluding water well drilling, structural steel erection, excavation work, and wrecking and demolition)	P	—
	Stone monument works	P	—
	Truck transportation and distribution facilities	S	5.11.10.
	Marihuana secure transporter	S	5.9.19
	Truck wash	S	—
	Warehousing, storage	P	—
	Wholesaling activities	P	—
Transportation	Heliport, helistop	S	5.9.13.
	Off-street surface parking (principal use)	P	5.11.10.
	Parking structure or deck	P	5.9.26.
	Transit center, station or transit stop	P	—

**Article 9 Use Regulations, Section 5.9.19 Marihuana Facilities**

- A. Purpose. Marihuana-related uses which, because of their very nature, have serious objectionable characteristics, particularly when several uses are concentrated under certain circumstances or when one (1) or more are located near sensitive uses (e.g. schools, churches, day cares, parks, rehabilitation facilities, residential areas). Special regulation of these uses as itemized in this Section are necessary to ensure that these adverse effects do not contribute to disinvestment, deterioration, or other detrimental effects on areas surrounding such uses or which might impact neighborhood character, commercial retail viability or the stability of industrial areas.
- B. Applicability. Any land use that requires a license from the Department of Licensing and Regulatory Affairs (LARA) in the administration of the Michigan Medical Marihuana Act (MMMA) and Michigan Medical Marihuana Facilities Licensing Act (MMMFLA) for the sale, transport, testing, growing, distribution, processing and any other activity involving a marihuana-related use shall require review and approval as specified in Table 5.9.19.C. The Planning Commission is prohibited from waiving any portion of this Section. The Director may submit any Director Review application to the Planning Commission for SLU approval.

C. Approval Procedures for Marihuana Facilities

<b>Table 5.9.19.C. Approval Procedures for Marihuana Facilities</b>			
<b>License</b>	<b>Description</b>	<b>Criteria</b>	<b>Review Procedure</b>
Grower	New or Major Expansion	20% increase or more in square footage	Special Land Use
	Class change and/or license stacking for same use	Less than 20% increase in square footage of the use	Director Review, after initial SLU granted and GNP updated
Provisioning Center	New or major expansion	20% increase or more in square footage	Special Land Use
	Expansion - minor	Less than 20% increase in square footage of the use	Director Review, after initial SLU approval and GNP updated
Processor	New	-	Special Land Use
	Expansion of a food processor - minor	Less than 20% increase in square footage of the use	Director Review, after initial SLU approval and GNP updated
	Expansion - major	Expansion of a non-food related processor and/or 20% increase or more in square footage	Special Land Use
Secure Transporter	New or major expansion	20% increase or more in square footage	Special Land Use
	Expansion - minor	Less than 20% increase in square footage of the use	Director Review, after initial SLU granted and GNP updated
Safety Compliance Facility	New or major expansion	20% increase or more in square footage	Special Land Use
	Expansion – minor	Less than 20% increase in square footage of the use	Director Review, after initial SLU granted and GNP updated

\*Note: Grower and Processor are not recommended use categories for this ordinance. However, these have been included for the purposes of policy discussion for the Planning Commission and City Commission should either Commission wish to add these use groups. Inclusion of the use categories allows the Commissions to see what type of regulations might be suggested.

- D. Authorized Facilities. A marihuana facility is not eligible for a state operating license until the Planning Commission grants approval using the Special Land Use process, as described in Article 12, Section 5.12.09. The City Clerk will grant final authorization for the facility upon receipt of the signed Planning Commission resolution. The location and co-location of authorized facilities shall be determined as follows:
1. Separation Distances. The following minimum-distancing regulations shall apply to all marihuana facilities. The distances described in this subsection shall be computed by measuring a straight line from the nearest property line of land used for the purposes stated in this subsection to the nearest property line of the parcel used as a facility. These distances shall also apply to uses and residential zone districts located in adjoining local jurisdictions. A facility shall not be located within:
    - a. 1,000 feet of a child care center, or a public or private K-12 school;
    - b. 1,000 feet of a publicly owned park or playground;
    - c. 1,000 feet of a church or place of worship;
    - d. 1,000 feet of a substance abuse clinic or rehabilitation facility;
    - e. 250 feet of a residential zone district (Article 5); and
    - f. 600 feet of another facility, or facilities located on the same parcel (see below).
  2. Co-Location and Stacked Licenses. There may be only one state operating license per parcel, except co-location and stacked grower licenses are permitted in certain circumstances:
    - a. A facility with a stacked grower license counts as a single grower. No more than three (3) stacked grower licenses are permitted on a lot.
    - b. In Mixed-Use Commercial Zone Districts, as shown in Table 5.6.06.B., a provisioning center and food products processor may be allowed in combination. Each license request for a facility must be considered separately.
    - c. In the Industrial-Transportation District, co-location on the same parcel is allowed if each license is for a separate use (other than stacked grower licenses), subject to LARA requirements for the separation of facilities. Each license request for a facility must be considered separately.
  3. License transfer. Zoning approval for a facility that has not had any zoning or state licensing violations may be allowed to transfer to another entity. If violations have occurred at the facility location, or at another location within Michigan under the control of the applicant, then a license transfer application shall be considered a new application. The applicant shall provide an affidavit regarding the accuracy of all claims of compliance. Should such claims prove to be false, then the approval may be considered a violation and revoked.
- E. Application Requirements. Each application shall be accompanied by a detailed site plan and any information necessary to describe the proposed use or change of use. Each request shall be considered a new application, including those for class change, stacking, expansion, transfers or other modifications that require review. The following shall be submitted as part of an application in addition to the requirements of Section 5.12.09.
1. Verification. A signed statement by the applicant indicating the proposed facility type, including if the proposed facility type involves stacked licenses and the number of licenses.

2. Consent. A notarized statement by the property owner that acknowledges use of the property for a marihuana facility. Written consent shall also include approval of the owner and operator for the city to inspect the facility at any time during normal business hours to ensure compliance with applicable laws and regulations.
  3. LARA. 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. Copies of all documents submitted to LARA in connection with the initial license application, subsequent renewal applications, or investigations conducted by LARA shall be provided. The required LARA marihuana facility plan and security plan shall be submitted.
  4. Building Elevations. Existing and proposed building elevations shall be provided, including building materials, window calculations, descriptions of glass to be used, and other pertinent information that describes building construction or structural alterations.
  5. Site Plan. Existing and proposed site changes must be submitted that demonstrate compliance with this Chapter.
  6. Sign Plan. A sign plan for the exterior of the building and any interior signs that will be visible to the general public from the public right-of-way shall be submitted. Signage shall convey a message that is consistent with the use of marihuana for medicinal purposes.
  7. Radius. A map, drawn to scale, containing all childcare centers, schools, parks, churches, rehabilitation facilities, and any marijuana facilities within 1,000 feet of the proposed location.
  8. Crime Prevention Through Environmental Design (CPTED) Plan. The plan shall address surveillance methods, access control strategies, territorial reinforcement, maintenance, and target hardening; including the experience of customers, employees, and neighbors (residents, offices, businesses, etc.). The GRPD shall review and approve the CPTED Plan prior to the Planning Commission public hearing.
  9. Operations and Management Plan. An operations and management plan shall be submitted. The O&M plan should describe the life-cycle of marihuana in the facility; this may include the movement of the product, methods of storage, cash handling, etc. See also Section 5.9.19.F.
  10. Good Neighbor Plan (GNP). Refer to Section 5.12.06. for requirements. An updated GNP is required for a major expansion request and applications for Director Review.
  11. Voluntary Equitable Development Agreement (VEDA). A VEDA may be required to assist in mitigating any potential adverse impacts associated with the marihuana facility. The contents of the agreement shall be developed within the framework of the Good Neighbor Plan to provide for enhancement of the surrounding area and to insure the stability of the neighborhood, business, or industrial district, or any area in which the facility is situated. The Agreement shall be approved by the City Commission.
- F. Operations. Medical marihuana facilities must be operated in compliance with the MMMFLA, MMMFLA rules, all conditions of the facility's state operating licenses, and all applicable city ordinances. In addition, such facilities shall comply with the following regulations:
1. Facility Exterior. The exterior appearance of a facility must be compatible with surrounding businesses and any descriptions of desired future character, as described in the Master Plan or an Area-Specific Plan.
    - a. Zoning requirements for façade transparency (glass that is clear, non-reflective or darkly tinted, and unobstructed), signage (number, size and placement), and door entry orientation will be strictly adhered to.
    - 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.

- c. Site and building lighting shall be sufficient for safety and security, but not cause excessive glare or be designed so as to be construed as advertising with the intent to attract attention. Outdoor lighting will comply with Section 5.2.19.
  - d. Drive-through facilities and mobile facilities are prohibited.
2. Interior of Facility. A facility will not be designed to attract attention, limit the life of the structure the facility is located in, or create a nuisance.
- a. Interior construction and design of a facility will not impede the future use of a building for other uses as permitted in the assigned zone district.
  - b. Neither marijuana nor marijuana-infused products may be visible from the exterior of the facility.
  - c. Interior security measures shall not be visible from the public right-of-way (e.g. security shutters, bars, or other methods) during operating business hours.
  - d. Interior lighting shall not be so bright so as to create a nuisance to neighboring property owners or passersby.
  - e. Provisioning centers may not be open to customers between the hours of 9:00 p.m. and 9:00 a.m. The main entry of a provisioning center will be wheel-chair accessible.
  - f. A sign shall be posted in viewable location from the public right-of-way that contains contact information.
  - g. Ventilation, by-product and waste disposal, and water management (supply and disposal) for the facility will not produce contamination of air, water, or soil; or reduce the expected life of the building due to heat and mold; or create other hazards that may negatively impact the structure and/or surrounding properties.
  - 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.
- G. Annual fee. A licensee must pay a fee of \$5,000, for each license used within the city in order to help defray administrative and enforcement costs. The holder of a stacked grower license must pay a separate fee in the amount of \$5,000 for each license. The initial annual fee(s) must be paid when the application for City approval is submitted. In each subsequent year, fees are due on the date on which the licensee submits an application to LARA for renewal of the state operating license. The annual fee is in addition to, not in lieu of, any other licensing and permitting requirements imposed by any state regulatory agency, or by City ordinance, including, by way of example, any applicable fees for site plan review, zoning review, inspections, or building permits.



- H. Consumption. No smoking, inhalation, or other consumption of marihuana shall take place on or within the premises of any facility. It shall be a violation of this Chapter to engage in such behavior, or for a person to knowingly allow such behavior to occur. All of the following will give rise to the rebuttable presumption that a person allowed the consumption of marihuana on or within the premises:
1. The person had control over the premises or the portion of the premises where the marihuana was consumed;
  2. The person knew or reasonably should have known that the marihuana was consumed; and
  3. The person failed to take corrective action.
- I. Violations. Failure to comply with the requirements of this Section shall be considered a violation and may jeopardize the Special Land Use approval and/or license.
1. Request for revocation of state operating license. If at any time an authorized facility violates this Chapter or any other applicable city ordinance, the City Commission may request that LARA revoke or refrain from renewing the facility's state operating license.
  2. Revocation of Special Land Use approval. Any approval granted for a facility will be revoked or suspended automatically for either of the following reasons:
    - a. Revocation or suspension of the licensee's authorization to operate by LARA.
    - b. A finding by LARA that a rule or regulation has been violated by the licensee.

After an automatic revocation of a Special Land Use approval, a new Special Land Use application shall be required for a facility to commence operation at the same location.
  3. Civil infraction. It is unlawful to disobey, neglect, or refuse to comply with any provision of this Chapter. A violation is a municipal civil infraction. Each day the violation continues shall be a separate offense. Notwithstanding any other provision of this ordinance to the contrary, violators shall be subject to fines as determined by the City Commission.
- J. Rights. The operation of a licensed medical marihuana facility is a revocable privilege and not a right, in conformance with the MMMFLA. Nothing in this Chapter is to be construed to grant a property right for an individual or business entity to engage in the use, distribution, cultivation, production, possession, transportation or sale of marihuana as a commercial enterprise. Any individual or business entity which purports to have engaged in such activities either prior to or after the enactment of this amendment without obtaining the required authorization is deemed to be an illegally established use and is not entitled to legal nonconforming status. Nothing in this Chapter may be held or construed to grant a vested right, license, permit or privilege to continued operations within the City.
- K. Federal Law. Nothing in this Chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act and the General Rules. Also, since Federal law is not affected by that Act or the General Rules, nothing in this Chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under Federal law. The Michigan Acts do not protect users, caregivers or the owners of properties on which the medical use of marihuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act.

## **Article 12, Section 5.12.06 Good Neighbor Plan**

- A. Applicability. Any establishment requiring a Special Land Use permit, as determined by Article 9, Section 5.9.05, will be required to submit a Good Neighbor Plan (GNP).
- B. Purpose. The purpose of the GNP is to reduce potential negative impacts on nearby residents and businesses by specific uses. The coordination and collaboration of owners or operators with interested parties both before and after the development or licensing process allows for a proactive approach to create a positive working relationship between the community and the applicant by requiring the formulation of a written implementation program. This section provides a consistent method of addressing issues and likely areas of concern.
- C. Additional Special Land Use information. In addition to the Use Regulations of Article 9, the application must include all of the following:
  - 1. Good neighbor plan. A written implementation program containing all of the items listed below.
    - a. Crime prevention and awareness training.
    - b. Training in the handling of State-regulated substances, where applicable.
    - c. Litter control.
    - d. Loitering control.
    - e. Trespass enforcement.
    - f. Landscape maintenance.
    - g. Neighborhood communication.
    - h. Documentation of the City's anti-discrimination policies and ordinances related to hiring, housing, and public accommodation practices, as applicable.
    - i. Voluntary Equitable Development Agreement (VEDA), only required by Article 9 Use Regulations, Section 5.9.19 Marihuana Facilities.
  - 2. Mitigation. Some uses by the nature of the activities occurring within, on, or around the property on which they are located may have a deleterious impact on the neighborhood, business, or industrial district, or any area in which the facility is situated. Potential impacts associated with operations, and opportunities to mitigate those impacts, shall be taken into consideration in the development of a Good Neighbor Plan and Special Land Use request. The creation of a Voluntary Equitable Development Agreement (VEDA) may be useful to assure the community that the use will contribute to the vibrancy, safety, and quality of life of the general vicinity of the facility. Considerations shall include:
    - a. The adverse effects, if any, that the hours of operation of the proposed establishment will have upon neighboring properties, with particular attention to the effects of noise, odors, litter, loitering, parking, and glare from exterior lighting or headlights on nearby residential properties.
    - b. The amount and degree of law enforcement activities which could reasonably be anticipated to be generated by the proposed establishment, both outside and inside, with particular emphasis upon noise, calls for service, trespass enforcement, vehicular use by patrons, and vandalism.

- c. Whether the proposed use makes adequate provisions to eliminate the potential for adverse impacts upon the stability of adjacent areas by depreciating the desirability of the property or nearby properties by the placement of the use; and how the requested use might reasonably enhance the surrounding area so as not to have an adverse impact.
3. Record of good faith. The Special Land Use application must be accompanied by written verification that the owner, operator, manager, or a representative of the parent company met with or attempted in good faith to meet with the local recognized organization(s), adjacent property owners, and the Planning Department. The written verification must include all of the following:
  - a. A copy of the notice and the names and addresses of those notified of the applicant's desire to meet;
  - b. A copy of the time, date, and location of the meeting(s), and the names, addresses, and phone numbers of those who participated in the meeting(s);
  - c. A copy of the draft good neighbor plan and, if applicable, site plan sent to the neighborhood association and as presented at the meeting(s), if different; and
  - d. Identification of those components of the GNP which were agreed upon and those which were unresolved, plus any additional items discussed during the meeting(s).