

Sec. 5.9.19. Medical 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

Table 5.9.19.C. Approval Procedures for Marihuana Facilities			
License	Description	Criteria	Review Procedure
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

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 grower, processor, secure transporter or safety compliance 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.b.~~ 600 feet of another facility, or facilities located on the same parcel (see below).

A provisioning center 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 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.D. 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 marihuana-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.G. 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.

H.H. 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.

H.I. 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.J.~~ 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.