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PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE
CITY OF LOWELL, MICHIGAN
AGENDA

FOR THE REGULAR MEETING OF
MONDAY, FEBRUARY 14, 2022 AT 7:00 P.M.

1. CALL TO ORDER: PLEDGE OF ALLEGIANCE, ROLL CALL
2. APPROVAL OF AGENDA
3. APPROVAL OF THE MINUTES OF PREVIOUS MEETINGS
 - a. January 10, 2022 – Regular Meeting
4. PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA
5. OLD BUSINESS
 - a. Proposed Adult Use Marihuana Zoning Amendment
6. NEW BUSINESS
 - a. Public Hearing – Proposed Rezoning of 115 Riverside Drive from PF Public Facilities to C-2 Central Business.
7. STAFF REPORT
8. COMMISSIONERS REMARKS
9. ADJOURNMENT

**OFFICIAL PROCEEDINGS
OF THE
PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE
CITY OF LOWELL, MICHIGAN
FOR THE REGULAR MEETING OF
MONDAY, JANUARY 10, 2022 AT 7:00 P.M.**

1. **CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL.**

The Meeting was called to order at 7:00 p.m. by Chair Bruce Barker.

Present: Commissioners Tony Ellis, Amanda Schrauben, Dave Cadwallader, Collin Plank, Marty Chambers, Michael Gadula and Chair Bruce Barker.

Absent: None.

Also Present: Andy Moore with William & Works, Lowell City Clerk Sue Ullery.

2. **ELECTION OF OFFICERS.**

a. Chair.

IT WAS MOVED BY CHAMBERS and seconded by CADWALLADER to nominate Bruce Barker as Chair of the Planning Commission.

YES: Commissioner Cadwallader, Commissioner Chambers, Commissioner Ellis, Commissioner Gadula, Commissioner Plank, Commissioner Schrauben, and Chair Barker.

NO: None. ABSENT: None. MOTION CARRIED.

b. Vice Chair.

IT WAS MOVED BY BARKER and seconded by CHAMBERS to nominate Dave Cadwallader as Vice Chair of the Planning Commission.

YES: Commissioner Cadwallader, Commissioner Chambers, Commissioner Ellis, Commissioner Gadula, Commissioner Plank, Commissioner Schrauben, and Chair Barker.

NO: None. ABSENT: None. MOTION CARRIED.

c. Review and Adopt Rules of Procedure.

IT WAS MOVED BY BARKER and seconded by ELLIS to accept the Rules of Procedures as written.

YES: Commissioner Cadwallader, Commissioner Chambers, Commissioner Ellis, Commissioner Gadula, Commissioner Plank, Commissioner Schrauben, and Chair Barker.

NO: None. ABSENT: None. MOTION CARRIED.

d. Meeting dates.

IT WAS MOVED BY BARKER and seconded by CHAMBERS to accept the meeting dates for the Planning Commission to be the 2nd Monday of the month @ 7:00 p.m.

YES: Commissioner Cadwallader, Commissioner Chambers, Commissioner Ellis, Commissioner Gadula, Commissioner Plank, Commissioner Schrauben, and Chair Barker.

NO: None. ABSENT: None. MOTION CARRIED.

3. **APPROVAL OF AGENDA.**

IT WAS MOVED BY CHAMBERS and seconded by CADWALLADER to approve the agenda as written.

YES: Commissioner Cadwallader, Commissioner Chambers, Commissioner Ellis, Commissioner Gadula, Commissioner Plank, Commissioner Schrauben, and Chair Barker.

NO: None. ABSENT: None. MOTION CARRIED.

4. **APPROVAL OF THE MINUTES OF THE PREVIOUS MEETINGS.**

IT WAS MOVED BY ELLIS and seconded by CHAMBERS to approve minutes of the November 08, 2021 Regular Meeting as written.

YES: Commissioner Cadwallader, Commissioner Chambers, Commissioner Ellis, Commissioner Gadula, Commissioner Plank, Commissioner Schrauben, and Chair Barker.

NO: None. ABSENT: None. MOTION CARRIED.

5. **PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA.**

There were no comments.

6. **OLD BUSINESS.**

There was none.

7. **NEW BUSINESS**

a.) **Pubic Hearing –Betten Baker Auto Group – Rezoning Request for 211 N. Pleasant Ave.**

Chair Barker opened the Public Hearing.

Kyle Visker with Land's Resource Engineer spoke on behalf of Betten Baker along with Charlie Jeffrey from the dealership explaining their reason for requesting 211 N Pleasant Ave rezone to C3 General Commercial.

Andy Moore with Williams & Works spoke and gave the background explaining the subject property has an area of approximately 1.15 acres and is located at 211 N. Pleasant Avenue at the end of a cul-de-sac. The applicant is seeking to rezone the property from the R3 Multiple Family Residential district to the C3 General Commercial district. The applicant (Betten Baker) owns the property directly to the southeast (749 W Main) and across the street at 746/728 West Main. The applicant previously applied for a rezoning, site plan review, and special land use approval to redevelop and expand the car dealership properties located at 746 and 728 W. Main Street. The applicant states that, as part of that project, the bank is requiring the parcel at 211 N. Pleasant Avenue to be rezoned due to nonconforming issues at 211 Pleasant. Presumably, the applicant is also seeking to redevelop 749 W Main and utilize 211 Pleasant for related purposes, though this has not been confirmed.

Moore then went through the Review Standards of 22.05 A (6).

Moore and the Commissioners all found that the review standards are met.

There were no public comments.

Chair Barker closed the Public Hearing.

IT WAS MOVED BY BARKER and seconded by CHAMBERS to recommend to City Council approval of the request to rezone the property from Residential 3 to C3 General Commercial.

YES: Commissioners Gadula, Cadwallader, Ellis, Chambers Schrauben, Plank and Chair Barker.

NO: None.

ABSENT: None.

MOTION CARRIED.

b.) Public Hearing –Trinity Cannabis – Special Land Use- 2125 Bowes Road.

Chair Barker reopened the Public Hearing.

Broc Crider representing Trinity Cannabis spoke and explained their intent for a grow facility only.

Andy Moore with Williams & Works spoke and gave the background explaining the subject property has an area of approximately 1.7 acres and is within the I General Industrial district. The property contains an existing 3,232 square foot greenhouse building. The General Industrial district is adjacent to the east, west, and south of the subject property, and the C3 General Business district is adjacent to the north. The applicant has proposed to use the site for a Class C Cultivation facility for recreational marihuana. A Class C marihuana grower license permits up to 2,000 plants. By definition of the Zoning Ordinance, “marihuana grower” is a type of adult use marihuana establishment. All adult use marihuana establishments are permitted as a special land use in the General Industrial District.

Andy Moore with Williams and Works then reviewed the Site Plan Review Standards A-F.

Commissioner Chambers questioned whether they were going to use water and sewer there.

Broc Crider stated it was well and septic.

Commissioners agreed they should have to hook up to City water and sewer. Chair Barker asked about fence.

Chair Barker asked if there were any public comments.

Craig Fonger who resides at 827 asked about a road going through the property and if it was an easement and Crider stated that it was.

IT WAS MOVED BY BARKER and seconded by CHAMBERS to accept that all the Site Plan Review Standard A-F are met.

YES: Commissioners Gadula, Cadwallader, Ellis, Chambers Schrauben, Plank and Chair Barker.

NO: None.

ABSENT: None.

MOTION CARRIED.

Andy Moore then reviewed the Special Land Use Standards A-F with the Commissioners.

Chair Barker stated he would like to see more landscaping with the approval.

Chambers suggested eight trees, and 24 shrubs (half of them being evergreens).

Moore will send out their odor control plan.

IT WAS MOVED BY BARKER and seconded by CHAMBERS to find that all the Special Land Use Standards A-F are met.

YES: Commissioners Cadwallader, Ellis, Chambers Schrauben, Plank, Gadula and Chair Barker.

NO: None.

ABSENT: None.

MOTION CARRIED.

Moore then reviewed the Adult Use Marihuana Establishment Special Land Use Standards B-N with the Commissioners.

IT WAS MOVED BY BARKER and seconded by CADWALLADER to accept that all the Adult Use Marihuana Establishment Special Land Use Standards B-N are met.

Chair Barker closed the Public Hearing.

Based on the foregoing review and finding of facts, the proposed special land use and site plan is subject to the following conditions.

1. Prior to issuance of any City permits, the applicant shall have paid all application, permit, reimbursable escrow, and other fees related to the request.
2. The applicant shall comply with any requirements from the City's Department of Public Works, City Engineer, Lowell Area Fire Department, City Police Department, Lowell Light and Power, or other City officials.
3. The proposed special land use shall comply with all applicable federal, state, and local requirements, and copies of all applicable permits shall be submitted to the City.
4. The applicant shall continually comply with applicable ordinances, codes, and requirements of the City of Lowell.
5. The applicant shall submit all missing site plan items of Sections 18.04 B, 17.04 FF(3), and 17.04 FF(4), as listed above, unless specifically waived by the Zoning Enforcement Officer.
6. The applicant shall receive licensing as a Class C Marihuana Grower through the State of Michigan and submit a copy of this license to the City.
7. Landscaping shall comply with Section 4.26 of the Zoning Ordinance, unless specifically modified by the Planning Commission.
8. Exterior lighting shall comply with the lighting standards of Section 4.24 and 19.03 C of the Zoning Ordinance.
9. Parking spaces shall meet the minimum regulations of 19.03 H and 19.06 B of the Zoning Ordinance. One ADA van accessible space shall be included that meets the 2010 ADA Standards.
10. An off-street loading space shall be included in the site plan, which meets the requirements of Section 19.08 of the Zoning Ordinance.
11. Signage shall comply with Chapter 20 of the Zoning Ordinance.
12. The applicant shall submit a copy of a provisional license issued by the City of Lowell pursuant to Chapter 28 of the city of Lowell code of ordinances. The facility shall not open until appropriate operating licenses have been obtained from the City of Lowell and the State of Michigan.
13. The applicant shall update the site plan to depict the location of the 12-foot-wide swing gate. Emergency vehicle accessibility shall be approved by the Lowell Area Fire Department.
14. All landscaping, buffers and/or greenbelts shall be continuously maintained to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.

15. The applicant shall receive approval from and comply with any stipulations of Lowell Light and Power regarding electricity demand at the marihuana grower establishment.
16. The applicant shall receive approval from and comply with any stipulations of the City Engineer regarding water usage.
17. The applicant shall meet EGLE standards for discharge limits of plant leachate comply with Part 212. A copy of any necessary EGLE permits shall be submitted to the City.
18. The applicant shall maintain odors so any odor generated inside the establishment is not detected outside the building. Doors and windows shall remain closed, except for the minimum time necessary for ingress/egress from the building.
19. The applicant shall maintain all air scrubbing and filtration systems in working order and they must be in use at all times. Filters must be changed per manufacturers' recommendation to ensure optimal performance.
20. All waste receptacles containing marihuana products shall be secure and locked at all times. The applicant shall indicate the locations of waste receptacles on the site plan and building floor plan.
21. All rooms associated with the growing and processing of marihuana products shall be subject to inspection and approval by the Fire Department to ensure compliance with applicable fire codes.
22. Any fuel, fertilizer, pesticide, fungicide, rodenticide, herbicide, or other substance toxic to wildlife, children, or pets shall be stored in a secured and locked area, be in compliance with State pesticide laws and regulations, and be subject to inspection and approval by the Fire Department to ensure compliance with applicable fire codes.
23. The marihuana establishment shall comply at all times and in all circumstances with the MRTMA and applicable Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.
24. The city shall have the right to examine, monitor, and audit records and documentation demonstrating that all cannabis or cannabis products have been obtained from and are provided to other permitted and licensed cannabis operations. These records and documentation shall be made available to the city upon request.
25. All necessary building, electrical, plumbing, and mechanical permits shall be obtained for any portion of the structure which contains electrical wiring, lighting, and/or watering devices that support the cultivation, growing, and/or harvesting of marihuana.
26. The security plan shall address the items outlined in our confidential memo dated December 27, 2021, and any other items identified by the City's law enforcement personnel.
27. In the event of any conflict, the terms of this ordinance are preempted and the controlling authority shall be the statutory regulations set forth by the MRTMA or the adopted Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.
28. Property must be connected to public water and public sewer if required by City Ordinances.
29. Applicant to provide 8 trees (at least 4 of which must be evergreens) and 24 shrubs along Bowes Road and shall submit a landscaping plan to that effect for review and approval by the Zoning Enforcement Officer.
30. If a dumpster is added to the property, an updated site plan shall be submitted to the Zoning Enforcement Officer for review and approval. Such dumpster must be enclosed by a 6' fence with a lockable gate.
31. Fence height shall be consistent with previous growing operations approved by the City.

IT WAS MOVED BY BARKER and seconded by PLANK to approve Trinity Cannabis Special Land Use at 2125 Bowes St with the above 31 conditions met as listed.

YES: Commissioner Schrauben, Commissioner Chambers, Commissioner Ellis, Commissioner Cadwallader, Commissioner Plank, Commissioner Gadula and Chair Barker.

NO: None.

ABSENT: None.

MOTION CARRIED.

8. **STAFF REPORT.**

There was no report.

9. **COMMISSIONERS REMARKS.**

Commissioner Schrauben asked about the building at 805 E Main and since it is for sale again...whether or not we should revisit allowing Adult Use Marihuana establishments at that location.

Andy Moore stated it is already written what you approved last year and it won't change, but he will provide a handout to explain the details and if you want to change that, we can go through the process.

Chair Barker asked about the joint meeting with the City of Lowell, Lowell Township and Vergennes and asked City Clerk Sue Ullery to add the date to the City Planning meeting dates calendar. Barker also asked Moore when was the last time the Master Plan was reviewed.

Moore will check into it.

10. **ADJOURNMENT.**

IT WAS MOVED BY CHAMBERS and seconded by PLANK to adjourn at 8:32 p.m.

DATE:

APPROVED:

Bruce Barker, Chair

Susan Ullery, Lowell City Clerk

williams&works

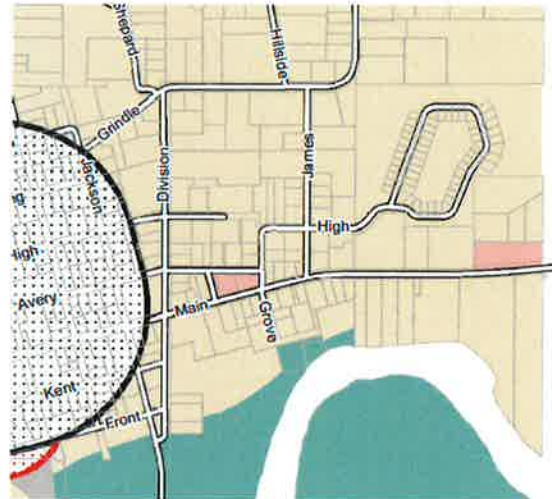
engineers | surveyors | planners

MEMORANDUM

To: City of Lowell Planning Commission
Date: June 11, 2021
From: Andy Moore, AICP
RE: **Proposed adult use marihuana zoning amendment**

Included with this memorandum is a proposed zoning ordinance amendment that would amend Section 17.03(FF) of the City's Zoning Ordinance related to adult use marihuana establishments. If adopted, the proposed amendment would prohibit the establishment of any adult use marihuana establishment on property located east of the Flat River.

The impetus behind this change is the closure of a child care facility at the Lowell United Methodist Church. When this facility was in operation, the 1,000' isolation radius required for day care facilities served to prohibit adult use marihuana establishments on two of the three commercial properties located on East Main Street, east of downtown. The closure of the day care means that these parcels would be eligible for adult use marihuana establishments.



Given that these commercially zoned parcels are completely surrounded by single-family residential homes, it is the opinion of staff that these areas would not be suitable locations for adult use marihuana facilities and their associated traffic, parking, and similar concerns. Thus, an amendment is proposed that would prohibit the establishment of any adult use marihuana establishment on any property east of the Flat River.

A public hearing has been scheduled for the June 14 Planning Commission meeting, and after the public hearing, the Planning Commission may recommend approval of the proposed amendment to the City Council.

As always, feel free to contact me if there are any questions.

c: Jessica Wood, City Attorney

**CITY OF LOWELL
KENT COUNTY, MICHIGAN**

ORDINANCE NO.

**AN ORDINANCE TO AMEND SECTION 17.04(FF), "ADULT USE MARIHUANA
ESTABLISHMENTS" OF APPENDIX A, "ZONING," OF THE CODE OF
ORDINANCES OF THE CITY OF LOWELL**

Councilmember _____, supported by Councilmember _____,
moved the adoption of the following ordinance:

THE CITY OF LOWELL ORDAINS:

Section 1. Amendment of Section 17.04(FF)(5)(b). Section 17.04(FF)(5)(b) of Appendix A, "Zoning," of the Code of Ordinances of the City of Lowell is amended to include a new subsection iv, which reads as follows:

- iv. any property located east of the Flat River

Section 2. Publication. After its adoption, the City Clerk shall publish this ordinance or a summary thereof, as permitted by law, along with its date of adoption in the *Lowell Ledger*, a newspaper of general circulation in the City, at least ten (10) days before its effective date.

Section 3. Effective Date. This ordinance shall take effect ten (10) days after it, or a summary thereof, as permitted by law, along with the date of its adoption, is published in the *Lowell Ledger*, a newspaper of general circulation in the City.

YEAS: Councilmembers _____

NAYS: Councilmembers _____

ABSTAIN: Councilmembers _____

ABSENT: Councilmembers _____

ORDINANCE DECLARED ADOPTED.

Dated: _____

Susan Ullery
City Clerk

CERTIFICATION

I, the undersigned City Clerk of the City of Lowell, Michigan (the "City"), certify that the above ordinance is a true and complete copy of an ordinance adopted at a regular meeting of the Lowell City Council held on _____, 2022, pursuant to notice given in compliance with Act 267 of the Public Acts of Michigan of 1976, as amended, and notice of its adoption, including a summary of its contents and its effective date, was published in the *Lowell Ledger*, on _____, 2022. I further certify that the above ordinance was entered into the Ordinance Book of the City on _____, 2022, and was effective _____, 2019, ten (10) days after publication.

Dated: _____

Susan Ullery
City Clerk

**CITY OF NILES BERRIEN
COUNTY, MICHIGAN
ORDINANCE NO. _____**

AN ORDINANCE TO AMEND THE CITY OF NILES ZONING ORDINANCE; TO AMEND SECTION 213 TO ADD NEW DEFINITIONS PERTAINING TO RECREATIONAL MARIHUANA ESTABLISHMENTS; TO AMEND SECTION 325 PERTAINING TO NONCONFORMING PROVISIONS FOR RECREATIONAL MARIHUANA ESTABLISHMENTS; TO AMEND SECTION 405, TABLE 4-2 TO INCLUDE NEW LAND USES PERTAINING TO RECREATIONAL MARIHUANA ESTABLISHMENTS; TO AMEND SECTIONS 504, 506, 507 AND 508 TO PERMIT RECREATIONAL MARIHUANA ESTABLISHMENTS AS A SPECIAL LAND USE, AND TO AMEND ARTICLE 8 TO PROVIDE REGULATIONS FOR RECREATIONAL MARIHUANA ESTABLISHMENTS.

THE CITY OF NILES, BERRIEN COUNTY MICHIGAN, ORDAINS:

Amendment of Section 213 Section 213 of the City of Niles Zoning Ordinance is amended to include the following subsection, which reads as follows:

Marihuana Establishment – Grower	<p style="text-align:center">As Defined By: <u>MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT (MRTMA)</u> <u>Initiated Law 1 of 2018</u></p>
Marihuana Establishment – Excess Grower	
Marihuana Establishment – Processor	
Marihuana Establishment – Retailer	
Marihuana Establishment – Safety Compliance	
Marihuana Establishment – Secure Transporter	
Marihuana Establishment – Microbusiness	
Marihuana Establishment – Designated Consumption Center	

Amendment of Section 325. Section 325 of the City of Niles Zoning Ordinance is amended to include the following subsection, which reads as follows:

Marihuana Establishments. The following provisions relate to marihuana establishments or other regulated activity authorized by the Rules promulgated by the State within the City of Niles. In instances where there is a conflict between this section and other applicable provisions of this Ordinance, the more restrictive regulations shall control.

- a. A property owner or operator of a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this ordinance or any applicable amendment thereto.
- b. Discontinuation of a State marihuana establishment or other regulated activity authorized by the Rules promulgated by the State license shall be also considered a discontinuance of a marihuana establishment, at which time any special land use granted

by the City pursuant to this Ordinance would be considered ineffective.

- c. In the event there is a lessee of the marihuana establishment premises or other regulated activity authorized by the Rules promulgated by the State, the owner and the lessee shall be jointly and severally liable for such conditions.

Amendment of Section 405, Table 4-2. Section 405, Table 4-2 “Uses Permitted by Right and as Special Land Uses” of the City of Niles Zoning Ordinance is amended to include the following land uses in alphabetical order:

USES	LDR	MDR	CB	NC	RC	OC	IND	OS
Marihuana Establishment – Grower							SLU	
Marihuana Establishment – Excess Grower							SLU	
Marihuana Establishment – Processor							SLU	
Marihuana Establishment – Retailer					SLU		SLU	
Marihuana Establishment – Safety Compliance					SLU		SLU	
Marihuana Establishment – Secure Transporter					SLU		SLU	
Marihuana Establishment – Microbusiness					SLU		SLU	
Marihuana Establishment- Designated Consumption Center			SLU		SLU	SLU	SLU	

Amendment of Section 504, b. Section 504,b of the City of Niles Zoning Ordinance is amended to include the following land use, in alphabetical order:

- ◆ Marihuana Establishment – Designated Consumption Center- subject to **Section 845.**

Amendment of Section 506, b. Section 506,b of the City of Niles Zoning Ordinance is amended to include the following land use, in alphabetical order:

- ◆ Marihuana Establishment – Retailer subject to **Section 845.**
- ◆ Marihuana Establishment – Designated Consumption Center- subject to **Section 845.**

Amendment of Section 507, b. Section 507,b of the City of Niles Zoning Ordinance is amended to include the following land use, in alphabetical order:

- ◆ Marihuana Establishment – Designated Consumption Center- subject to **Section 845.**

Amendment of Section 508, b. Section 508,b of the City of Niles Zoning Ordinance is amended to include the following land use, in alphabetical order:

- ◆ Marihuana Establishment – Grower subject to **Section 845.**
- ◆ Marihuana Establishment – Excess Grower subject to **Section 845.**
- ◆ Marihuana Establishment – Processor subject to **Section 845.**
- ◆ Marihuana Establishment – Retailer subject to **Section 845.**
- ◆ Marihuana Establishment – Safety Compliance subject to **Section 845**

- ◆ Marihuana Establishment – Secure Transporter subject to **Section 845**.
- ◆ Marihuana Establishment – Microbusiness subject to **Section 845**.
- ◆ Marihuana Establishment – Designated Consumption Center- subject to **Section 845**.

Amendment of Article Eight. Article Eight of the City of Niles Zoning Ordinance is amended to include a new Section 846, which reads as follows:

SECTION 846 RECREATIONAL MARIHUANA ESTABLISHMENTS

General Regulations for all Recreational Marihuana Establishments

It is the intent of this Section to authorize certain types of recreational marijuana establishments or other regulated activity authorized by the Rules promulgated by the State in the City of Niles and to provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods and business districts; and mitigate potential impacts on surrounding properties and persons.

It is further the intent of this Section to implement the provisions of the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 *et. seq.*) with respect to local zoning and land use, and to permit the growing, processing, sale, and distribution of marihuana consistent with applicable State statutes.

Nothing in this Chapter purports to permit activities that are otherwise illegal under State or local law, and nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacturing, possession, use, sale, or distribution of marijuana, in any form, that is not in compliance with the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 *et. seq.*); and all other applicable rules promulgated by the State of Michigan.

1. Marihuana establishments and other regulated activity authorized by the Rules promulgated by the State as defined by this Ordinance shall be subject to the following regulations:
 - a. Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by State law may not be permitted by the City of Niles. In the event that a court with jurisdiction declares some or all of this Section invalid, the City of Niles may suspend the acceptance of applications for special land use permits for marihuana establishments or other regulated activity authorized by the Rules promulgated by the State pending the resolutions of the legal issue in question.
 - b. An operator of a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State shall at all times have a valid Marihuana Establishment or other regulated activity authorized by the Rules promulgated by the State license issued by the City of Niles pursuant to Ordinance No. _____, as amended, and a State operating license as issued by LARA pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 *et.*

seq.) or other regulated activity authorized by the Rules promulgated by the State.

- c. All marihuana establishments or other regulated activity authorized by the Rules promulgated by the State formed pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 *et. seq.*) shall only be permitted upon receiving special land use approval in accordance with this Article.
2. **Separation of Licensed Premises.** One building may be used for one or more types of marihuana establishments or other regulated activity authorized by the Rules promulgated by the State, provided that the locational requirements and all other standards for each type of marihuana establishment are satisfied. *As allowed by law, a grower establishment and processor establishment are separate marihuana commercial entities requiring separate licenses and separate premises.* In addition to all other application requirements for separate premises, each business shall:
 - a. Have separate operations, ventilation, security, and fire suppression systems, and separate access from a public area.
 - b. Be divided within a building from floor to roof. Unless a more restrictive standard is required by applicable State law and/or the rules promulgated thereunder, there must be a minimum of a one-hour fire separation between a marihuana business and any adjacent business.
3. **Operation and Safety/Security Plans.** In addition to the materials required for Site Plan Review in Article 10, an application for a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State shall also include a comprehensive establishment operation and safety plan meeting the following minimum standards:
 - a. A written safety/security plan indicating how the applicant will comply with the requirements of this Ordinance and any other applicable law, rule or regulation.
 - b. The safety/security plan shall include details of security arrangements and will be protected from disclosure as provided under Michigan Freedom of Information Act, MCL 15.231 *et seq.* If the City finds that such documents are subject to disclosure, it will attempt to provide at least two (2) business days' notice to the applicant prior to such disclosure.
 - c. To the extent that the law and rules promulgated allow, the security plan must include, at a minimum, the following security measures:

Cameras. The marihuana establishment or other regulated activity authorized by the Rules promulgated by the State shall install and use security cameras to monitor and record all areas of the premises (except in restrooms) where persons may gain or attempt to gain access to marihuana establishment or cash maintained by the marihuana establishment. Cameras shall record operations of the business to an off-site location, as well as all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of forty-five (45) days in a secure offsite location in the City or through a service over a network that provides on- demand access, commonly referred to as a "cloud." The offsite location shall be included in the security plan submitted to the City and provided to the City of Niles Police Department

upon request, and updated within seventy-two (72) hours of any change of such location.

Use of Safe for Storage. The marihuana establishment or other regulated activity authorized by the Rules promulgated by the State shall install and use a safe for storage of any processed marihuana and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building and/or securely attached thereto. For marihuana-infused products that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the City in place of use of a safe so long as the container is affixed to the building structure.

- 1) Alarm system. The marihuana establishment or other regulated activity authorized by the Rules promulgated by the State business shall install and use an alarm system that is monitored by a company that is staffed twenty-four (24) hours a day, seven (7) days a week. The security plan submitted to the City shall identify the company monitoring the alarm, including contact information, and updated within seventy-two (72) hours of any change of monitoring company.
- 2) For microbusinesses, growers, excess growers and processing establishments, a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the City;
- 3) A lighting plan showing the lighting outside of the marihuana establishment or other regulated activity authorized by the Rules promulgated by the State for security purposes and compliance with applicable City requirements;
- 4) A plan for disposal of any marihuana or marihuana-infused product, including any/all byproducts and/or waste products that is not sold in a manner that protects any portion thereof from being possessed or ingested by any person or animal.
- 5) A plan for ventilation of the marihuana establishment or other regulated activity authorized by the Rules promulgated by the State that describes the ventilation systems that will be used to prevent any odor of marihuana establishment or other regulated activity authorized by the Rules promulgated by the State off the premises of the business. For any marihuana establishments or other regulated activity authorized by the Rules promulgated by the State that grow marihuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises. For marihuana establishment or other regulated activity authorized by the Rules promulgated by the State that produce marihuana-infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process
- 6) A description of all toxic, flammable, or other materials regulated by a federal, State, or local authority that would have jurisdiction over the business if it was

not a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State business, that will be used or kept at the marihuana establishment or other regulated activity authorized by the Rules promulgated by the State business, the location of such materials, and how such materials will be stored.

- 7) A Statement of the amount of the projected daily average and peak electric load anticipated to be used by the business and certification from a licensed electrician that the premises are equipped to safely accept and utilize the required or anticipated electric load for the establishment.
- 8) Prior to making a modification to a structure that would require a building permit or which would alter or change items required by this subsection, the licensee shall submit to the City and have an approved completed application for modification of premises in the form provided by the City.
- 9) Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State and any adjacent business or residence.
- 10) A description of the security plan shall be submitted with the application for a City operating license. The security system, shall be maintained in good working order and provide twenty-four hours per day coverage. A separate security system is required for each establishment.
- 11) Parking shall comply with Article VI of this Ordinance.
- 12) In order to be eligible for a special land use permit, the marihuana establishment or other regulated activity authorized by the Rules promulgated by the State must be in the licensing process with the State of Michigan, and then must be at all times in compliance with the laws of the State of Michigan including but not limited to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 *et. seq.*); and all other applicable rules promulgated thereunder. No marihuana establishment shall be operated, nor shall a certificate of occupancy be issued, until the appropriate State operating license is obtained from LARA and submitted to the City of Niles, and all fees related to the application are paid by the applicant.
- 13) A marihuana establishment or other regulated activity authorized by the Rules promulgated by the State as defined by this ordinance, or activities associated with the licensed growing, processing, testing, transporting, or sales of marihuana, or a designated consumption center, shall not be permitted as a home occupation or accessory use, nor may they include accessory uses, except as otherwise provided in this ordinance and permitted by the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 *et. seq.*).

- 14) Pursuant to Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 *et. seq.*), marihuana establishments or other regulated activity authorized by the Rules promulgated by the State shall not be located within 1,000 feet of a federally recognized K-12 public, private school or publicly funded preschool or library property.
- 15) Unless otherwise provided or exempted by this Section, marihuana establishments and other regulated activity authorized by the Rules promulgated by the State shall comply with all other applicable standards of this Ordinance.
- 16) The license required by Ordinance of the City of Niles and the State of Michigan shall be prominently displayed on the premises of a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State. Disposal of marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in conformance with State law;
- 17) All chemicals or hazardous substances used in the growing, processing, testing, or storage of marihuana shall be stored and used in strict compliance with manufacturer recommendations and all applicable federal, State or local regulations.
- 18) Signage for marihuana establishments or other regulated activity authorized by the Rules promulgated by the State shall comply with the requirements of Article 7, and the requirements of this subsection. All signage and advertising for a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State shall comply with all applicable provisions of this Code and the City Zoning Code.
 - a) Where there is a conflict between the standards of Article 7 and the following standards, the more restrictive standards shall control.
 - b) Establishments or other regulated activity authorized by the Rules promulgated by the State may not use exterior signage or displays with neon, flashing lights, or similarly noxious or obtrusive lighting or effects.
 - c) Establishments or other regulated activity authorized by the Rules promulgated by the State are prohibited exterior signage or displays that contain an image of a marijuana leaf or other commonly recognized symbol for marijuana or which utilize any of the following words: marijuana, marihuana, weed, cannabis, blunt, doobie, joint, hooch, hash, or other similar slang term for marijuana or marijuana-related products; except that each marihuana vendor may display the universal green cross symbol.
 - i. Only two signs shall per permitted on a parcel containing a marihuana establishment or other regulated activity authorized

by the Rules promulgated by the State.

- ii. Signs located on lots containing marihuana establishments or other regulated activity authorized by the Rules promulgated by the State shall not be illuminated. Signs with flashing, oscillating or intermittent lights are prohibited.
- iii. One wall sign affixed to a building containing a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State is permitted and shall not exceed 50 square feet.
- iv. One pole or monument sign located on a lot containing a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State is permitted and shall not exceed 32 square feet.
- v. Warning Signs: There shall be posted in a conspicuous location inside of each establishment or other regulated activity authorized by the Rules promulgated by the State at least one (1) legible sign containing the content of this section warning that:
 - 1. The possession, use or distribution of marihuana is a violation of federal law;
 - 2. It is illegal under State law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by marihuana; and
 - 3. No one under the age of *twenty-one (21)* is permitted on the premises
- vi. In addition, it shall be unacceptable for any licensee to use signage or advertising with the word "marihuana", "marijuana" or "cannabis" or any other word, phrase or symbol commonly understood to refer to marihuana or any advertising material that would appeal to minors;

19) All marihuana establishments or other regulated activity authorized by the Rules promulgated by the State shall provide landscaping as required by Section 316 of this Ordinance.

20) The nonconforming provisions of Section 325(7) shall apply to all marihuana establishments or other regulated activity authorized by the Rules promulgated by the State.

4. Visibility of activities; control of emissions.

- a. Unless otherwise allowed for through State and local ordinance, all activities of marihuana establishments or other regulated activity authorized by the Rules promulgated by the State, including, without limitation, the cultivating, growing,

processing, displaying, manufacturing, selling, and storage of marihuana and marihuana-infused products shall be conducted indoors and out of public view except those entities and/or events with an approved event permit by the State and City Council.

- b. Designated Consumption Centers may apply for a smoking deck or other protected outdoor smoking location that complies with all State requirements through Special Land Use, but local approval is not guaranteed and subject to a case by case approval by the Planning Commission.
- c. No marihuana or paraphernalia shall be displayed or kept so as to be visible from outside the licensed or specially permitted premises (the latter only in cases approved by the Niles City Council and State of Michigan as an event by an approved event vendor).
- d. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State, the owner of the establishment or other regulated activity authorized by the Rules promulgated by the State and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary, and secure manner and in accordance with all applicable federal, State and local laws and regulations.
- e. No person, tenant, occupant, or property owner shall permit the emission of marihuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.
- f. The City of Niles may use a field olfactometer to measure and quantify odor strength in the ambient air.

- 1) Field olfactometry calculates the "Dilution-to-Threshold" (D/T) ratio as:

a. Volume of Carbon-Filtered Air

D/T = -----

Volume of Odorous Air

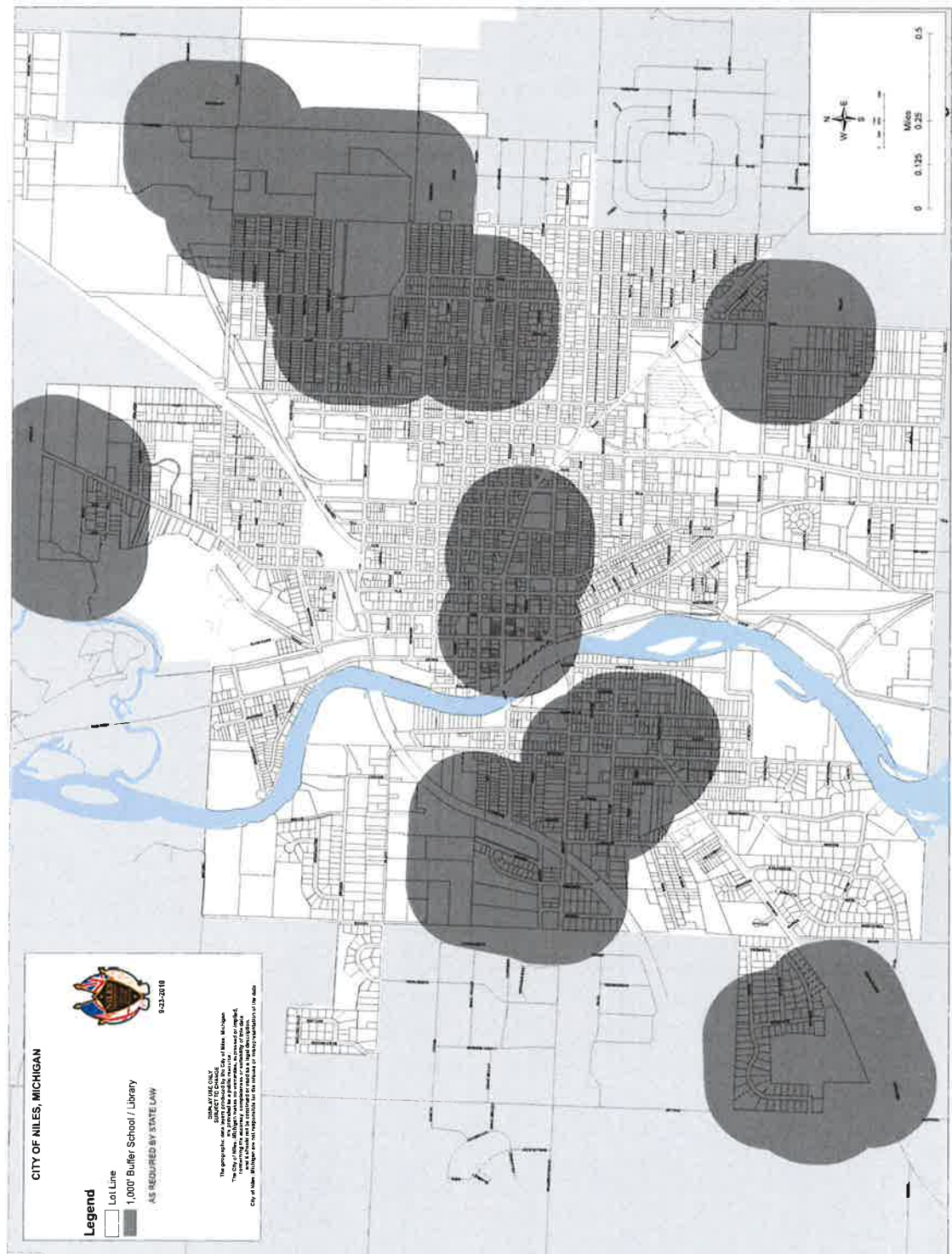
- 2) All establishments or other regulated activity authorized by the Rules promulgated by the State that keep marihuana onsite shall maintain a D/T ratio of seven (7) D/T or less at the property line
- 3) Any property found out of compliance will be required to remediate the odor within 72 hours. If the D/T ratio remains noncompliant, the license will be revoked until the odor level is compliant with this Section.

- g. Whether or not a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.
- h. All marihuana establishments or other regulated activity authorized by the Rules promulgated by the State shall install and maintain in operable condition a system which precludes the emission of marihuana odor from the premises to the satisfaction of the City.
- i. All marihuana establishments or other regulated activity authorized by the Rules promulgated by the State must comply with the Michigan Department of Environment, Great Lakes, and Energy (EGLE) Air Quality guidance for the marijuana industry which can be found online at the web address below.
https://www.michigan.gov/documents/lara/egle-tou-MarijuanaProcessing-EnvironmentalComplianceGuidance_663706_7_663868_7.pdf

5. Additional requirements

- a. No marihuana establishment or other regulated activity authorized by the Rules promulgated by the State may use metals, butane, propane, or other flammable product, or produce flammable vapors, to process marihuana unless the process used and the premises are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist.
- b. The City may require the business to obtain verification from a qualified industrial hygienist that the manner in which the business is producing marihuana complies with all applicable laws and does not produce noxious or dangerous gases or odors or otherwise create a danger to any person or entity in or near the establishment.

Siting Criteria. Marihuana establishments or other regulated activity authorized by the Rules promulgated by the State shall be only permitted by special land use in accordance with the following map.



6. Marihuana Cultivation/Growers & Excess Growers.

- a. Cultivation, generally.
 - 1) No marihuana cultivation shall be conducted openly or publicly.
 - 2) Marihuana cultivation shall comply with all applicable requirements of the laws and regulations of the City and the State.
 - 3) Marihuana cultivation shall not occur in detached accessory buildings or outbuildings.
 - 4) All marihuana cultivation shall take place in a locked and enclosed space.
- b. All marihuana products kept on premises where marihuana plants are grown shall be stored in a locked and enclosed space.
- c. The use of any lighting for indoor marihuana cultivation shall be limited to light-emitting diodes (LEDs), compact fluorescent lamps (CFLs) or other fluorescent lighting. All high-density (HID) lighting, including but not limited to, mercury-vapor lamps, metal-halide (MH) lamps, ceramic MH lamps, sodium-vapor lamps, high- pressure sodium (HPS) lamps and xenon short-arc lamps, may only be allowed with permission of the City of Niles Utilities Director or his/her designee.
- d. No marihuana cultivation activity shall result in the emission of any gas, vapors, odors, smoke, dust, heat or glare that is noticeable at or beyond the property line of the structure (including dwellings) at which the cultivation occurs. Sufficient measures and means of preventing the escape of such substances from a dwelling must be provided at all times. In the event that any gas, vapors, odors, smoke, dust, heat or glare or other substances exit a dwelling, the owner of the subject premises shall be liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The owner shall properly dispose of all such materials, items and other substances in a safe, sanitary, and secure manner and in accordance with all applicable federal, State and local laws and regulations. In the event there is a lessee of the subject premises, the owner and the lessee shall be jointly and severally liable for such conditions.
- e. Growers shall only be permitted on parcels within the IND – Industrial district and within the permissible areas as illustrated on the map above.
- f. Excess Growers are further limited to only the parcel(s) located at 901 East Wayne with the parcel ID of 11-71-0026-0039-00-3 or within any of the parcels located within the City of Niles Industrial Park located north of Lake St. in the City of Niles.
- g. Light cast by fixtures within the building shall not be visible from outside the building.
- h. The building shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The establishment shall not emanate odors at any time that are readily detectible at the property line.
- i. Doors and windows to a growing establishment shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building.
- j. In instances where a grower is within a building containing multiple principal uses, all

other uses requiring a marihuana license within shall be subject to special land use review pursuant to Article Eight of this Ordinance.

7. Marihuana Processing Establishments

- a. Processors shall only be permitted on parcels within the IND – Industrial district and within the permissible areas as illustrated on the map above.
- b. Light cast by fixtures within the building shall not be visible from outside the building.
- c. The building shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The establishment shall not emanate odors at any time that are readily detectible at the property line.
- d. Doors and windows to a growing establishment shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building.
- e. The City may require security cameras which shall record the subject property and may be directed to other areas normally visible to the general public as applicable, unless otherwise required to comply with licensing requirements of the State of Michigan.
- f. In instances where a processing establishment is within a building containing multiple principal uses, all other uses within shall be subject to special land use review pursuant to Article Eight of this Ordinance.

8. Microbusinesses

- a. Microbusiness shall only be permitted in buildings located on parcels within the IND – Industrial, or RC Regional Commercial district and within the permissible areas as illustrated on the map in subsection (2) above.
- b. Microbusinesses must adhere to all provisions located in the Marihuana Cultivation/Growers section
- c. Microbusinesses must adhere to all provisions located in the Marihuana Processing Establishments of this section
- d. Microbusiness must adhere to all provisions for Marihuana Retailers of this section.

9. Marihuana Retailers

- a. Marihuana Retailers shall only be permitted in buildings located on parcels within the IND – Industrial, or RC Regional Commercial district and within the permissible areas as illustrated on the map in subsection (2) above.
- b. All activities of a provisioning center, including all sales/transfers of marihuana, shall be conducted within the structure and out of public view. A marihuana retailer shall not have a walk-up window or a drive-thru window service.
- c. Unless otherwise permitted, public or common areas of the marihuana retailer must be separated from restricted or non-public areas of the provisioning center by a permanent barrier. No marihuana is permitted to be stored, displayed, or transferred in an area accessible to the general public.
- d. Marihuana products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the marihuana retailer.

- e. The exterior appearance of a provisioning center shall remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area. The exterior shall be maintained as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area. New buildings shall be constructed in accordance with the adopted plans and policies of the City of Niles.
- f. Marihuana retailers shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The establishment shall not emanate odors at any time that are readily detectible at the property line.
- g. requiring In instances where a provisioning center is within a building containing multiple principal uses, all other uses a marihuana license within shall be subject to special land use review pursuant to Article Eight of this Ordinance.

10. Safety Compliance Establishments

- a. Safety Compliance Establishments shall only be permitted in buildings located on parcels within the IND – Industrial, or RC Regional Commercial district and within the permissible areas as illustrated on the map in subsection (2) above.
- b. Marihuana products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the safety compliance establishment.
- c. Doors and windows to a safety compliance establishment shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building.
- d. In instances where a safety compliance establishment is within a building containing multiple principal uses, all other uses requiring a marihuana license within shall be subject to special land use review pursuant to Article Eight of this Ordinance.

11. Secure Transporters

- a. Secure Transporters shall only be permitted in buildings located on parcels within the IND – Industrial, or RC Regional Commercial district and within the permissible areas as illustrated on the map in subsection (2) above.
- b. Marihuana products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the secure transporter.
- c. Doors and windows to a secure transporter shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building.
- d. In instances where a secure transporter is within a building containing multiple principal uses, all other uses requiring a marihuana license within shall be subject to special land use review pursuant to Article Eight of this Ordinance.

12. Designated Consumption Centers

- a. While there is a limit of three (3) Designated Consumption Center Licenses, the following shall also apply at all times.
 - 1) All Designated Consumption Centers must be at least 1,000 feet away from any school, library or publicly funded preschool.
 - 2) Designated Consumption Centers may only be located in the Central Business

(CB), Office Commercial (OC), Industrial (IND) and/or Regional Commercial (RC) Zones.

- b. Designated consumption centers may not be in a private residence or any other places meant for permanent human habitation.
- c. Designated consumption centers may only operate between the hours of seven o'clock a.m. (0700 hours) and midnight (2400 hours)
- d. All activities of a designated consumption center, shall be conducted within the structure and out of public view. Provided however, that designated consumption centers may apply for a smoking deck or other protected outdoor smoking location that complies with all State requirements, but local approval is not guaranteed and subject to a case by case approval by the City's Zoning Administrator with input from the Police Chief, City Attorney, City Administrator and Fire Chief.
- e. No marihuana is permitted to be bought, sold, stored, displayed, or transferred in an area accessible to the general public.
- f. A designated consumption center shall not have a walk-up window or a drive-thru window service.
- g. Unless otherwise permitted, public or common areas of the designated consumption center must be separated from restricted or non-public areas of by a permanent barrier.
- h. All Designated Consumption Centers must employ or otherwise retain onsite security personnel during all business hours.
- i. The exterior appearance of a designated consumption center shall remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area. The exterior shall be maintained as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area. New buildings shall be constructed in accordance with the adopted plans and policies of the City of Niles.

Designated consumption center shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The establishment shall not emanate odors at any time that are readily detectible at the property line.

- j. In instances where a designated consumption center is within a building containing multiple principal uses, all other uses requiring a marihuana license within shall be subject to special land use review pursuant to Article Eight of this Ordinance.

- k. No activity shall result in the emission of any vapors, odors, smoke, or heat that is noticeable at or beyond the property line of the structure at which the designated consumption center exists. Sufficient measures and means of preventing the escape of such substances from an establishment must be provided at all times. A designated consumption center shall have a ventilation system that directs air from the consumption area to the outside of the building through a filtration system sufficient to remove visible smoke, consistent with all applicable building codes and ordinances and adequate to eliminate odor at the property line, if consumption by inhalation is permitted. In the event that any gas, vapors, odors, smoke, dust, heat or glare or other substances exit an establishment, the owner of the subject establishment and premises shall be liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition.
- l. A designated consumption center shall have a product destruction and waste management plan for the destroying and disposal of any waste left at the consumption center. The owner shall properly dispose of all such materials, items and other substances in a safe, sanitary, and secure manner and in accordance with all applicable federal, State and local laws and regulations.
- m. Designated consumption centers must have a smoke free area for employees to monitor the marihuana consumption area.
- n. A location physically separated from areas where smoking is prohibited and where smoke does not infiltrate into nonsmoking areas or buildings.

13. Severability

- a. If any Section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the remaining portions of this ordinance.

14. Effective Date

This ordinance shall take effect seven (7) days after publication thereof.

**CITY OF CEDAR SPRINGS
KENT COUNTY, MICHIGAN
(Ordinance No. 2020 - __)**

At a regular meeting of the City Council for the City of Cedar Springs held at _____ on _____, 2020 at __:__, the following Ordinance was offered for adoption by Council Member _____ and was seconded by Council Member _____:

AN ORDINANCE TO AMEND CHAPTER 40, ARTICLE I, SECTION 40-5 ENTITLED “DEFINITIONS – K – M;” TO AMEND CHAPTER 40, ARTICLE IV, DIVISION 2, SECTION 40-468 ENTITLED “PROHIBITION OF MARIHUANA DISPENSARIES, COLLECTIVES AND COOPERATIVES;” TO AMEND CHAPTER 40, ARTICLE III, SECTION 40-294 ENTITLED “SPECIAL LAND USES” FOR THE B-2 CENTRAL BUSINESS DISTRICT; TO AMEND CHAPTER 40, ARTICLE III, SECTION 40-342 ENTITLED “SPECIAL LAND USES” FOR THE B-3 HIGHWAY BUSINESS DISTRICT; TO AMEND CHAPTER 40, ARTICLE III, SECTION 40-365 ENTITLED “SPECIAL LAND USES” FOR THE HC HIGHWAY COMMERCIAL DISTRICT; TO AMEND CHAPTER 40, ARTICLE III, SECTION 40-387 ENTITLED “SPECIAL LAND USES” FOR THE I-1 INDUSTRIAL DISTRICT; AND TO AMEND CHAPTER 40, ARTICLE VIII, SECTION 40-575 ENTITLED “USES - F – M” OF THE CODE OF ORDINANCES FOR THE CITY OF CEDAR SPRINGS.

THE CITY OF CEDAR SPRINGS (“City”) ORDAINS:

Section 1. Amendment of Chapter 40, Article I, Section 40-5. Chapter 40, Article I, Section 40-5 of the Code of Ordinances for the City of Cedar Springs entitled “Definitions – K – M” is amended as follows:

- The definition of “*Marihuana*” is amended to read: *Marihuana* means marihuana as defined in Section 7601 of the Michigan Public Health Code, 1978 PA 368 (MCL 333.7106 *et seq.*), as amended.
- The term “*Medical use of marihuana*” is deleted.
- The term “marihuana establishment” is added as follows: *Marihuana Establishment* means marihuana establishment as defined in the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 (MCL 333.27951 *et seq.*), as amended.
- The term “marihuana facility” is added as follows: *Marihuana facility* means marihuana facility as defined in the Medical Marihuana Facilities Licensing Act, 2016 IL 281 (MCL 333.27101 *et seq.*), as amended.

[The remainder of Section 40-5 is unchanged.]

Section 2. Amendment of Chapter 40, Article IV, Division 2, Section 40-468. Chapter 40, Article IV, Division 2, Section 40-468 of the Code of Ordinances for the City of Cedar Springs entitled

“Prohibition of marihuana dispensaries, collectives, and cooperatives” is amended to read in its entirety as follows:

Sec. 40-468. – Marihuana Establishments and Facilities.

- (a) Marihuana facilities are prohibited within the City of Cedar Springs.
- (b) Marihuana establishments are only permitted within the City of Cedar Springs as a special land use in accordance with Article III. Regardless of co-location, special land use approval is required for each marihuana establishment.

Section 3. Amendment of Chapter 40, Article III, Section 40-294. Chapter 40, Article III, Section 40-294 of the Code of Ordinances for the City of Cedar Springs entitled “Special Land Uses” for the B-2 Central Business District is amended as follows:

- Subpart “r” is added and reads as follows: Marihuana retailer as defined in the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 (MCL 333.27951 *et seq.*), as amended.

[The remainder of Section 40-294 is unchanged]

Section 4. Amendment of Chapter 40, Article III, Section 40-342. Chapter 40, Article III, Section 40-342 of the Code of Ordinances for the City of Cedar Springs entitled “Special Land Uses” for the B-3 Highway Business District is amended as follows:

- Subpart “r” is added and reads as follows: Marihuana microbusiness as defined in the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 (MCL 333.27951 *et seq.*), as amended.
- Subpart “s” is added and reads as follows: Marihuana retailer as defined in the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 (MCL 333.27951 *et seq.*), as amended.

[The remainder of Section 40-342 is unchanged]

Section 5. Amendment of Chapter 40, Article III, Section 40-365. Chapter 40, Article III, Section 40-365 of the Code of Ordinances for the City of Cedar Springs entitled “Special Land Uses” for the HC Highway Commercial District is amended as follows:

- Subpart “r” is added and reads as follows: Marihuana excess grower as defined in the Adult-Use Marihuana Establishment Emergency Rules, as amended and promulgated by the Michigan Department of Licensing and Regulatory affairs or its successor agency.
- Subpart “s” is added and reads as follows: Marihuana grower as defined in the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 (MCL 333.27951 *et seq.*), as amended.
- Subpart “t” is added and reads as follows: Marihuana microbusiness as defined in the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 (MCL 333.27951 *et seq.*),

as amended.

- Subpart “u” is added and reads as follows: Marihuana processor as defined in the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 (MCL 333.27951 *et seq.*), as amended.
- Subpart “v” is added and reads as follows: Marihuana retailer as defined in the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 (MCL 333.27951 *et seq.*), as amended.
- Subpart “w” is added and reads as follows: Marihuana safety compliance facility as defined in the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 (MCL 333.27951 *et seq.*), as amended.

[The remainder of Section 40-365 is unchanged]

Section 6. Amendment of Chapter 40, Article III, Section 40-387. Chapter 40, Article III, Section 40-387 of the Code of Ordinances for the City of Cedar Springs entitled “Special Land Uses” for the I-1 Industrial District is amended as follows:

- Subpart “y” is added and reads as follows: Marihuana excess grower as defined in the Adult-Use Marihuana Establishment Emergency Rules, as amended and promulgated by the Michigan Department of Licensing and Regulatory affairs or its successor agency.
- Subpart “z” is added and reads as follows: Marihuana grower as defined in the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 (MCL 333.27951 *et seq.*), as amended.
- Subpart “aa” is added and reads as follows: Marihuana microbusiness as defined in the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 (MCL 333.27951 *et seq.*), as amended.
- Subpart “bb” is added and reads as follows: Marihuana processor as defined in the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 (MCL 333.27951 *et seq.*), as amended.
- Subpart “cc” is added and reads as follows: Marihuana safety compliance facility as defined in the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 (MCL 333.27951 *et seq.*), as amended.

[The remainder of Section 40-387 is unchanged]

Section 7. Amendment of Chapter 40, Article VIII, Section 40-575. Chapter 40, Article VIII, Section 40-575 of the Code of Ordinances for the City of Cedar Springs entitled “Uses – F – M” is amended as follows:

[The amendment reflects that addition of paragraph (g). The remainder of the Section is substantively unchanged]:

(a) *Golf courses and country clubs.*

(1) Minimum lot size shall be 40 acres.

- (2) All buildings shall be set back a minimum distance of 75 feet from all property and right-of-way lines.
 - (3) Lighting shall be shielded to reduce glare and shall be so arranged and maintained as to direct light away from all residential lands which adjoin the site.
- (b) *Hospitals, clinics, or convalescent homes (but not including institutions for the mentally challenged, special needs, drug or alcoholic patients, or correctional institutions of any type):*
- (1) All sites shall abut and have access to an arterial street.
 - (2) Hospitals and convalescent homes shall be set back at least 75 feet from the road right-of-way line and 50 feet from all other property lines.
- (c) *Housing for seasonal labor.*
- (1) All such housing shall be in conjunction with an active agricultural operation.
 - (2) Proper interior and exterior maintenance of all structures shall be provided.
 - (3) All applicable federal, state and county regulations shall be complied with.
- (d) *Junk and salvage yards.*
- (1) Minimum lot size shall be five acres.
 - (2) The setback from the front property line to the area upon which junk materials are stored shall not be less than 150 feet and said area shall be screened from view around the entire periphery of the site by a wall or fence at least eight feet in height. Such wall or fence shall be of sound construction and painted or otherwise attractively finished.
 - (3) The area where junk materials are stored, including all buildings, shall be located no closer than 500 feet to any public building, church, hospital, sanitarium, convalescent home, day nursery, school, or similar use nor closer than 100 feet to any residential district boundary line. A 100-foot greenbelt shall be provided along the property line in all cases.
 - (4) All structures, fencing, and storage yards shall be set back not less than 50 feet from any street and any commercial or industrial district boundary line. Such setback shall be maintained as a greenbelt to minimize the appearance of the installation.
- (e) *Kennels, veterinary hospitals and animal clinics.*

- (1) Minimum required setback for all buildings shall be 75 feet No structure shall be closer than 50 feet to any property line.
 - (2) For kennels, the minimum lot size shall be two acres for the first four dogs and an additional 10,000 square feet for each one additional dog.
 - (3) The planning commission shall consider the effects of noise, odor, and sanitary conditions on surrounding properties and may require additional safeguards to prevent any possible nuisance.
- (f) *Manufacturing, compounding, processing, packaging, treating, assembly, and bulk storage of certain products.*
- (1) Minimum site size shall be five acres.
 - (2) Minimum required front setback for all buildings shall be 100 feet.
 - (3) No use of this type shall be permitted within 1,000 feet of any residential district.
 - (4) The site shall abut and have direct access to an arterial street.
 - (5) Proposed truck routes to and from the site shall be subject to planning commission approval.
 - (6) All applicable federal, state, and county regulations shall be complied with.

(g) *Marihuana Establishments.*

- (1) Excess Grower
 - i. Cannot be located on the same parcel as any residential use.
 - ii. Cannot share a property line with any single-family residential use.
 - iii. Cannot be within 500 feet of R-1, R-2, R-3, or MU zoned property. Distance is measured from property line to property line.
 - iv. Cannot be within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Distance is measured from property line to property line.
 - v. Only permitted in the HC District if (1) it is co-located with a marihuana retailer and (2) the total floor space of the building(s) where the excess grower and marihuana retailer are co-located does not exceed 20,000 square feet.

- vi. In the HC District - provided the requirements of paragraph (4)(v) are met, may co-locate with any one or a combination of the following: marihuana grower, marihuana processor.
- vii. In the I-1 District - may co-locate with any one or a combination of the following: marihuana grower, marihuana processor.
- viii. Must have security plan that at a minimum complies with the requirements of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 (MCL 333.27951 *et seq.*), as amended and rules promulgated by the State of Michigan Department of Licensing and Regulatory Affairs or its successor agency.
- ix. The exterior appearance must remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area and be maintained so as to prevent blight, deterioration, or substantial diminishment or impairment of property values within the immediate area.
- x. Odor Control: must have a system that prevents smoke, odor, debris, dust, fluids and other substances relating to cultivation, manufacturing, production, storage, testing, transportation, and sale of marihuana from exiting the marihuana establishment.
 - a. Whether smoke, odor, debris, dust, fluids, or other substances relating to cultivation, manufacturing, production, storage, testing, transportation, or sale of marihuana are exiting the marihuana establishment will be measured by the objective standards of a reasonable person with normal sensory sensitivities.
 - b. Negative air pressure will be maintained inside the marihuana establishment at all times.

(2) Growers of any Class

- i. Cannot be located on the same parcel as any residential use.
- ii. Cannot share a property line with any single-family residential use.
- iii. Cannot be within 500 feet of R-1, R-2, R-3, or MU zoned property. Distance is measured from property line to property line.
- iv. Cannot be within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Distance is measured from property line to property line.

- v. Only permitted in the HC District if (1) it is co-located with a marihuana retailer and (2) the total floor space of the building(s) where the marihuana grower and marihuana retailer are co-located does not exceed 20,000 square feet.
- vi. In the HC District - provided the requirements of paragraph (4)(v) are met, may co-locate with any one or a combination of the following: marihuana excess grower, marihuana processor.
- vii. In the I-1 District - may co-locate with any one or a combination of the following: marihuana excess grower, marihuana processor.
- viii. Must have security plan that at a minimum complies with the requirements of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 (MCL 333.27951 *et seq.*), as amended and rules promulgated by the State of Michigan Department of Licensing and Regulatory Affairs or its successor agency.
- ix. The exterior appearance must remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area and be maintained so as to prevent blight, deterioration, or substantial diminishment or impairment of property values within the immediate area.
- x. Odor Control: must have a system that prevents smoke, odor, debris, dust, fluids and other substances relating to cultivation, manufacturing, production, storage, testing, transportation, and sale of marihuana from exiting the marihuana establishment.
 - a. Whether smoke, odor, debris, dust, fluids, or other substances relating to cultivation, manufacturing, production, storage, testing, transportation, or sale of marihuana are exiting the marihuana establishment will be measured by the objective standards of a reasonable person with normal sensory sensitivities.
 - b. Negative air pressure will be maintained inside the marihuana establishment at all times.

(3) Microbusiness

- i. Cannot be located on the same parcel as any residential use.
- ii. Cannot share a property line with any single-family residential use.
- iii. Microbusinesses located in an I-1 District cannot be within 500 feet of R-1, R-2, or MU zoned property. Distance is measured from property line

to property line.

- iv. Cannot be within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Distance is measured from property line to property line.
- v. Cannot co-locate or be on the same parcel as any other marihuana establishment.
- vi. Must have security plan that at a minimum complies with the requirements of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 (MCL 333.27951 *et seq.*), as amended and rules promulgated by the State of Michigan Department of Licensing and Regulatory Affairs or its successor agency.
- vii. The exterior appearance must remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area and be maintained so as to prevent blight, deterioration, or substantial diminishment or impairment of property values within the immediate area.
- viii. Odor Control: must have a system that prevents smoke, odor, debris, dust, fluids and other substances relating to cultivation, manufacturing, production, storage, testing, transportation, and sale of marihuana from exiting the marihuana establishment.
 - a. Whether smoke, odor, debris, dust, fluids, or other substances relating to cultivation, manufacturing, production, storage, testing, transportation, or sale of marihuana are exiting the marihuana establishment will be measured by the objective standards of a reasonable person with normal sensory sensitivities.
 - b. Negative air pressure will be maintained inside the marihuana establishment at all times.

(4) Processors

- i. Cannot be located on the same parcel as any residential use.
- ii. Cannot share a property line with any single-family residential use.
- iii. Cannot be within 500 feet of R-1, R-2, R-3, or MU zoned property. Distance is measured from property line to property line.
- iv. Cannot be within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Distance is measured from property line to property line.

- v. Only permitted in the HC District if (1) it is co-located with a marihuana retailer and (2) the total floor space of the building(s) where the marihuana processor and marihuana retailer are co-located does not exceed 20,000 square feet.
- vi. In the HC District - provided the requirements of paragraph (4)(v) are met, may co-locate with any one or a combination of the following: a marihuana excess grower, marihuana grower.
- vii. In the I-1 District - may co-locate with any one or a combination of the following: marihuana excess grower, marihuana grower.
- viii. Must have security plan that at a minimum complies with the requirements of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 (MCL 333.27951 *et seq.*), as amended and rules promulgated by the State of Michigan Department of Licensing and Regulatory Affairs or its successor agency.
- ix. The exterior appearance must remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area and be maintained so as to prevent blight, deterioration, or substantial diminishment or impairment of property values within the immediate area.
- x. Odor Control: must have a system that prevents smoke, odor, debris, dust, fluids and other substances relating to cultivation, manufacturing, production, storage, testing, transportation, and sale of marihuana from exiting the marihuana establishment.
 - a. Whether smoke, odor, debris, dust, fluids, or other substances relating to cultivation, manufacturing, production, storage, testing, transportation, or sale of marihuana are exiting the marihuana establishment will be measured by the objective standards of a reasonable person with normal sensory sensitivities.
 - b. Negative air pressure will be maintained inside the marihuana establishment at all times.

(5) Retailer

- i. Cannot be located on the same parcel as any residential use.
- ii. Cannot share a property line with any single-family residential use.
- iii. Cannot be within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Distance

is measured from property line to property line.

- iv. Only permitted in the HC District if (1) it is co-located with either a marihuana grower, marihuana excess grower, or marihuana processor and (2) the total floor space of the building(s) where the marihuana grower, marihuana excess grower, or marihuana processor and marihuana retailer are co-located does not exceed 20,000 square feet.
- v. In the HC District - provided the requirements of paragraph (4)(iv) are met, may co-locate with any one or a combination of the following: marihuana grower, marihuana excess grower, marihuana processor.
- vi. May not co-locate with any other marihuana establishment in the B2 or B3 District.
- vii. Must have security plan that at a minimum complies with the requirements of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 (MCL 333.27951 *et seq.*), as amended and rules promulgated by the State of Michigan Department of Licensing and Regulatory Affairs or its successor agency.
- viii. The exterior appearance must remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area and be maintained so as to prevent blight, deterioration, or substantial diminishment or impairment of property values within the immediate area.
- ix. Odor Control: must have a system that prevents smoke, odor, debris, dust, fluids and other substances relating to cultivation, manufacturing, production, storage, testing, transportation, and sale of marihuana from exiting the marihuana establishment.
 - a. Whether smoke, odor, debris, dust, fluids, or other substances relating to cultivation, manufacturing, production, storage, testing, transportation, or sale of marihuana are exiting the marihuana establishment will be measured by the objective standards of a reasonable person with normal sensory sensitivities.
 - b. Negative air pressure will be maintained inside the marihuana establishment at all times.

(6) Safety Compliance Facility

- i. Cannot be located on the same parcel as any residential use.
- ii. Cannot share a property line with any single-family residential use.

- iii. Cannot be within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Distance is measured from property line to property line.
- iv. Cannot co-locate or be on the same parcel as any other marihuana establishment.
- v. Must have security plan that at a minimum complies with the requirements of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 (MCL 333.27951 *et seq.*), as amended and rules promulgated by the State of Michigan Department of Licensing and Regulatory Affairs or its successor agency.
- vi. The exterior appearance must remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area and be maintained so as to prevent blight, deterioration, or substantial diminishment or impairment of property values within the immediate area.
- vii. Odor Control: must have a system that prevents smoke, odor, debris, dust, fluids and other substances relating to cultivation, manufacturing, production, storage, testing, transportation, and sale of marihuana from exiting the marihuana establishment.
 - a. Whether smoke, odor, debris, dust, fluids, or other substances relating to cultivation, manufacturing, production, storage, testing, transportation, or sale of marihuana are exiting the marihuana establishment will be measured by the objective standards of a reasonable person with normal sensory sensitivities.
 - b. Negative air pressure will be maintained inside the marihuana establishment at all times.

(h) *Mortuaries and funeral homes.*

- (1) Minimum lot area shall be one acre and the minimum width shall be 150 feet.
- (2) A well designed and landscaped off-street vehicle assembly area shall be provided for funeral processing activity. This area shall be in addition to the required off-street parking area.
- (3) A caretaker's residence may be provided within the principal building. The site shall abut and have access to an arterial street.

(i) *Municipal buildings and utility buildings.*

- (1) All such buildings shall be located at least 50 feet from any dwelling.
- (2) No outdoor storage shall be permitted.
- (3) Refuse containers shall be located in the rear yard and be screened from view by a six-foot high fence or wall or sound construction and painted or otherwise attractively finished.
- (4) All off-street parking areas shall be landscaped and screened from view of adjoining dwellings.

Section 8. Conflict.

- (a) Nothing in this Ordinance is to be construed to conflict with existing City ordinances except as otherwise stated herein.
- (b) Nothing in this Ordinance is to be construed to conflict with the law of the State of Michigan.

Section 9. Repealer. All ordinances or parts of ordinances in conflict with this Ordinance are repealed.

Section 10. Savings Clause. The provisions of this Ordinance are severable. If any part of this Ordinance is declared void or inoperable for any reason, such declaration does not void any or render inoperable other part or portion of this Ordinance.

Section 11. Effective Date. This Ordinance is effective upon its publication in the manner required by law.

YEAS: _____

NAYS: _____

ABSENT/ABSTAIN: _____

ORDINANCE DECLARED ADOPTED.

Gerald Hall
Mayor, City of Cedar Springs

CERTIFICATION

It is hereby certified that the foregoing Ordinance was adopted by the City Council for the City of Cedar Springs, Kent County, Michigan, at a meeting of the City Council duly called and held on _____, 2020.

By:

Rebecca Johnson
Clerk, City of Cedar Springs

CHAPTER 1290

Adult Use Marihuana Establishments

1290.01 Applicability.

1290.02 Purpose.

1290.03 Definitions.

1290.04 Authorization of marihuana establishments and fee.

1290.05 Prohibition and permitting of special licenses.

1290.06 Development requirements.

1290.07 Operational requirements.

1290.08 Operational regulations that apply to all marihuana establishments.

1290.09 Application and processing procedures.

1290.10 Standards for approval.

1290.11 Variances.

1290.12 Change of ownership, licensee, or location.

CROSS REFERENCES

Controlled substances - see GEN. OFF. Ch. 612

Medical marihuana facilities - see P. & Z. Ch. 1289

Parks; City Council approved list - see P. & Z. 1289.03(m)

1290.01 APPLICABILITY.

This chapter applies to all persons, firms, partnerships, associations, and corporations owning, occupying, or having control or management of any premises located within the City.

(Ord. 549. Passed 1-5-21.)

1290.02 PURPOSE.

This chapter is intended to provide for the regulation of commercial adult use marihuana establishments and licenses; to establish procedures for application for adult use marihuana establishments and licenses; to establish procedures for review of adult use marihuana establishments and licenses; to establish operational, land use, and zoning requirements for adult use marihuana establishments and licenses; to protect the public health, safety, and welfare of the City, its residents, its neighborhoods, and property owners; to set fees for the purpose of defraying costs associated with the implementation and enforcement of the provisions of this chapter; to declare this chapter to be for a public purpose; and to provide penalties for violations of this chapter.

(Ord. 549. Passed 1-5-21.)

1290.03 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply except where the context clearly indicates or requires a different meaning:

(a) Any term defined by the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA), shall have the definition given in the Michigan Regulation and Taxation of Marihuana Act.

(b) Any term defined by the Medical Marihuana Facilities Licensing Act, PA 281 of 2016, M.C.L.A. §§ 333.27101 et seq., as amended (MMFLA), shall have the definition given in the Medical Marihuana Facilities Licensing Act.

(c) Any term defined by the Marihuana Tracking Act, PA 282 of 2016, M.C.L.A. §§ 333.27901 et seq., as amended (MTA) shall have the definition given in the Marihuana Tracking Act.

(d) "Agency" means the Michigan Marijuana Regulatory Agency.

(e) "Acts" refers to the Medical Marihuana Facilities Licensing Act, 2016 PA 281, M.C.L.A. §§ 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, M.C.L.A. §§ 333.27951 to 333.27967, when applicable.

(f) "Common ownership" means two or more state licenses or two or more equivalent licenses held by one person under the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA).

(g) "Cultivate" means to propagate, breed, grow, harvest, dry cure, or separate parts of the marihuana plant by manual or mechanical means.

(h) "Department" means the Department of Licensing and Regulatory Affairs (LARA).

(i) "Equivalent licenses" means any of the following held by a person:

(1) A marihuana Grower license of any class issued under the Michigan Regulation and Taxation of Marihuana Act and a Grower license, of any class, issued under the Medical Marihuana Facilities Licensing Act.

(2) A marihuana Processor license issued under the Michigan Regulation and Taxation of Marihuana Act and a Processor license issued under the Medical Marihuana Facilities Licensing Act.

(3) A marihuana Retailer license issued under the Michigan Regulation and Taxation of Marihuana Act and a Provisioning Center license issued under the Medical Marihuana Facilities Licensing Act.

(4) A marihuana Secure Transporter license issued under the Michigan Regulation and Taxation of Marihuana Act and a Secure Transporter license issued under the Medical Marihuana Facilities Licensing Act.

(5) A marihuana Safety Compliance Facility license issued under the Michigan Regulation and Taxation of Marihuana Act and a Safety Compliance Facility license issued under the Medical Marihuana Facilities Licensing Act.

(j) "Industrial hemp" means a plant of the genus cannabis and any part of that plant, whether growing or not, and as defined by the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq.

(k) "Licensee" means a person holding a state operating license issued under the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., or the Medical Marihuana Establishments Licensing Act, M.C.L.A. §§ 333.27101 et seq.

(l) "Marihuana" means all parts of the plant of the genus cannabis, growing or not; the seeds of the 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,

including marihuana concentrate and marihuana-infused products. For the purposes of the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., marihuana does not include:

(1) 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;

(2) Industrial hemp; or

(3) Any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

(m) "Marihuana business" means a marihuana facility under the Medical Marihuana Facilities Licensing Act, or a marihuana establishment under the Michigan Regulation and Taxation of Marihuana Act, or both.

(n) "Marihuana concentrate" means the resin extracted from any part of the plant of the genus cannabis.

(o) "Marihuana customer" means a registered qualifying patient under the Medical Marihuana Facilities Licensing Act, a registered primary caregiver under the Medical Marihuana Facilities Licensing Act, or an individual 21 years of age or older under the Michigan Regulation and Taxation of Marihuana Act, or all three.

(p) "Marihuana establishment" means a marihuana grower, marihuana safety compliance establishment, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the department.

(q) "Marihuana facility" means a location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act.

(r) "Marihuana grower" means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

(s) "Marihuana infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.

(t) "Marihuana microbusiness" means a person, licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance establishment, but not to other marihuana establishments.

(u) "Marihuana processor" means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

(v) "Marihuana retailer" means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

(w) "Marihuana secure transporter" means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

(x) "Marihuana safety compliance facility" means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

(y) "Marihuana Tracking Act" means the Marihuana Tracking Act, PA 282 of 2016, M.C.L.A. §§ 333.27901 to 333.27904.

(z) "Medical Marihuana Establishments Licensing Act" means the Medical Marihuana Establishments Licensing Act, PA 281 of 2016, M.C.L.A. §§ 333.27101 et seq.

(aa) "Park" means an area of land designated by the City as a park on its Master Land Use Plan, Five-Year Community Parks and Recreation Plan, or on a City Council approved list of City Parks.

(bb) "Person" means an individual, corporation, limited liability company, partnership of any type, trust, or other legal entity.

(cc) "Public playground" means an outdoor establishment, open to the public and on public property and containing playground equipment including but not limited to slides, climbers, seesaws, swings, or swimming pool designed for the recreational use by children and owned and operated by a local unit of government, school district, or other unit or agency of government.

(dd) "Rules" means rules promulgated under the Administrative Procedures Act of 1969, 1969 PA 306, M.C.L.A. §§ 24.201 to 24.328 by the Department of Licensing and Regulatory Affairs to establish rules for the purpose of implementing the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended.

(ee) "Same location" means separate marihuana licenses that are issued to multiple marihuana businesses that are authorized to operate at a single property but with separate business suites, partitions, or addresses.

(ff) "School" means and includes buildings and establishments used for school purposes for children and youth in grades pre-kindergarten through 12, or where students of any age attend an educational facility for non-traditional or special needs learners, and Head Start when that instruction or purpose is provided by a public, private, denominational, or parochial school.

(gg) "State license" means a license issued by the department that allows a person to operate a marihuana establishment.

(Ord. 549. Passed 1-5-21.)

1290.04 AUTHORIZATION OF MARIHUANA ESTABLISHMENTS AND FEE.

(a) A marihuana establishment as defined herein may be authorized within the City only upon approval as a special land use, according to the requirements and procedures of Chapter 1274.

(b) No marihuana establishment may operate within the City without first having been approved for a license from the State of Michigan pursuant to the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA).

(c) The number of each type of marihuana establishment that may be approved for operation within the City shall not be limited.

(d) Each marihuana license at each proposed marihuana establishment shall require separate special land use approval by the City.

(e) A nonrefundable fee shall be paid annually by each marihuana establishment authorized within the City in the amount not to exceed \$5,000.00 as set by resolution of the

City Council. The fee shall be required for each license proposed for each establishment approved by the City.

(f) A Marihuana Microbusiness Establishment as defined in the rules promulgated by the Michigan Department of Licensing and Regulatory Affairs (LARA) shall be prohibited in the City.

(Ord. 549. Passed 1-5-21.)

1290.05 PROHIBITION AND PERMITTING OF SPECIAL LICENSES.

(a) A Designated Consumption Establishment as defined in the rules promulgated by the Michigan Department of Licensing and Regulatory Affairs (LARA) shall be prohibited within the City.

(b) A person or any entity holding a Marihuana Event Organizer license as defined in the rules promulgated by the Michigan Department of Licensing and Regulatory Affairs (LARA) shall not be permitted to operate a Temporary Marihuana Event within the City.

(c) A Temporary Marihuana Event as defined in the rules promulgated by the Michigan Department of Licensing and Regulatory Affairs (LARA) shall be prohibited within the City.

(d) An Excess Marihuana Grower license as defined in the rules promulgated by the Michigan Department of Licensing and Regulatory Affairs (LARA) shall be permitted only in the I-1 Light Industrial District when approved as a special land use according to all rules as promulgated by the Michigan Department of Licensing and Regulatory Affairs (LARA).

(Ord. 549. Passed 1-5-21.)

1290.06 DEVELOPMENT REQUIREMENTS.

(a) Marihuana establishments as defined herein are permitted with special land use approval in the following zoning districts:

(1) Marihuana grower establishments are permitted only in the I-1 Light Industrial District.

(2) Marihuana processor establishments are permitted only in I-1 Light Industrial District.

(3) Marihuana retailer establishments are permitted only in the B-1 Neighborhood Business District, the B-3 General Business District, the Office District, and the I-1 Light Industrial District.

(4) Marihuana retailer establishments shall not be permitted on land recommended for Central Business District land use or East Main Preservation land use on the currently adopted Future Land Use Map of the City.

(5) Secure transporter establishments are permitted only in the B-1 Neighborhood Business District, the B-3 General Business District, the Office District, and the I-1 Light Industrial District. Secure transporter establishments shall not be permitted on lands recommended for Central Business District land use or East Main Preservation land use on the currently adopted Future Land Use Map of the City.

(6) Safety compliance facility establishments are permitted only in the B-1 Neighborhood Business District, the B-3 General Business District, the Office District, and the I-1 Light Industrial District. Safety compliance facility establishments shall not be

permitted on lands recommended for Central Business District land use or East Main Preservation land use on the currently adopted Future Land Use Map of the City.

(7) A marihuana establishment permitted as a special land use in the B-1 Neighborhood Business District or the B-2 Community Business District shall not be permitted as a principal use by right in the B-3 General Business Zoning District, but shall be subject to special land use approval in the B-3 zoning district.

(b) Parking shall be as required by Chapter 1282 of the City Code, with the exception that all parking for a marihuana establishment shall be subject to Section 1290.06(h) herein.

(c) Landscaping shall be as required by Section 1286.03 of the City Code.

(d) Exterior lighting shall be as required by Section 1286.04 of the City Code with the exception that any additional or alternate lighting as recommended by the City's Public Safety Director shall be provided.

(e) Signs shall be as required by Chapter 1234 of the City Code; and by any requirements of the City Code; with the exception that where the regulations of this Chapter 1290 shall conflict with any other regulations for signs of the City, or shall be more restrictive than the requirements of any other regulations for signs of the City, the regulations of this Chapter 1290 shall apply.

(f) The following development regulations shall apply to all marihuana establishments:

(1) Any marihuana establishment approved as a special land use in any zoning district shall be subject to all requirements for uses in that zoning district, and shall be subject to all other applicable regulations including but not limited to requirements for accessory buildings and uses; landscaping; screening; lighting; access; and signs. Where the regulations of this Chapter 1290 shall conflict with any other regulations of the City Code, or shall be more restrictive than the requirements of any other regulations for the City, the regulations of this Chapter 1290 shall apply.

(2) Any marihuana establishment approved as a special land use shall be subject to all requirements for review and the standards for approval according to Chapter 1274 Special Land Uses.

(3) Marihuana establishments may be permitted in a structure that contains multiple tenants, provided the marihuana use is approved as a special land use; meets all applicable occupancy restrictions; and that the marihuana establishment meets all requirements of the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA), and all rules promulgated by the Michigan Department Licensing and Regulatory Affairs, including but not limited to security. Marihuana establishments shall be partitioned from any other marihuana establishment, activity, business, or dwelling.

(4) Operation at the same location and equivalent licenses shall be regulated as follows:

A. Any combination of marihuana establishments may operate as separate marihuana establishments at the same location, provided the marihuana establishment meets all requirements of the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA); and all rules promulgated by the Michigan Department of Licensing and Regulatory Affairs, including but not limited to requirements

for partitioned establishments, separate entrances and exits, separation of inventory, record keeping, transfer of marihuana, and point of sale operations.

B. Each marihuana establishment operating at the same location shall have distinct and identifiable areas with designated structures that are contiguous. Each marihuana establishment specific to the marihuana license shall have distinct and identifiable areas with designated structures that are on the same parcel or contiguous parcels. A licensed retailer operating at the same location with any other licensed marihuana establishment shall have retail entrances and exits clearly identified.

C. A licensee that has any combination of marihuana licenses may operate separate marihuana businesses at the same location, provided each business is permitted in the zoning district in which the marihuana business is proposed. A stacked license is considered a single marihuana business for the purposes of operation at the same location; however, a stacked license shall not be considered a single marihuana establishment for the purposes of the annual fee required to be paid to the City.

D. A laboratory licensed as a marihuana safety compliance facility establishment may be co-located with an existing accredited laboratory that is not a licensed safety compliance facility establishment with approval by the Agency according to criteria required by the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA) and Rules.

E. A marihuana grower establishment, marihuana processor establishment, and a marihuana retailer establishment shall not be prohibited 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, PA 281 of 2016, M.C.L.A. §§ 333.27101 et seq., as amended (MMFLA).

F. A person who holds equivalent licenses with common ownership as defined herein, may operate those equivalent licenses at the same location, according to the requirements of the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA) and Rules, and in accordance with this Chapter 1290.

G. A licensee with common ownership of a marihuana retailer and a medical marihuana provisioning center and operating 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 marihuana products from adult-use marihuana products.

H. A person who holds equivalent licenses with common ownership under the Acts, and operates at the same location, is not required to have any of the following:

1. Separate business suites, partitions, or addresses.
2. Separate entrances and exits.
3. Distinct and identifiable areas with designated structures that are contiguous and specific to the state license and the state operating license.
4. Separate point of sale area and operations.

I. One or more owners may own marihuana establishments at the same location; one or more licensees may be licensed to operate marihuana establishments at the same location.

(5) No marihuana retailer shall be located within another business.

(6) No marihuana establishment shall be located in an un-zoned area.

(g) Location and Buffering Requirements:

(1) With the exception of a marihuana retailer as permitted under the Michigan Regulation and Taxation of Marihuana Act, no marihuana establishment as permitted by the Michigan Regulation and Taxation of Marihuana Act shall be required to be located 1,000 feet from a pre-existing public or private school providing education in kindergarten or any grades 1 through 12.

(2) No marihuana retailer shall be located within the following:

A. One thousand (1,000) feet of an operational school as defined herein, and within one thousand (1,000) feet of school property or a library as defined by the Michigan Public Health Code § 333.7410.

B. Five hundred (500) feet of the following buffered uses:

1. Public playground as defined herein;

2. Park as defined herein;

3. Commercial child care establishment that is required to be licensed or registered with the State of Michigan Department of Health and Human Services or its successor agency;

4. Church as defined by Section 1240.11 of the City Code.

C. For the purpose of calculating the buffering distance requirements of this section, the distance shall be measured as the distance along a horizontal straight line beginning at the nearest point to the buffered use on the parcel line of the parcel upon which a marihuana retailer is proposed, to the nearest point on the parcel line of the parcel upon which the buffered use is located.

D. For marihuana retailers located within a multi-tenant commercial retail structure or center, the distance to a buffered use shall be measured from the closest boundary line of the occupied property or unit of the marihuana retailer to the closest parcel or boundary line of the occupied property of the buffered use. Property for a multi-tenant retail structure shall not include the parking area of the structure.

(h) Parking associated with any marihuana establishment shall be on the same lot or parcel as the establishment, or on a contiguous lot under the same ownership or control as the owner of the lot or parcel on which the marihuana establishment is located, and shall not be permitted to be on a non-contiguous lot.

(Ord. 549. Passed 1-5-21.)

1290.07 OPERATIONAL REQUIREMENTS.

(a) Operational requirements for a marihuana retailer establishment shall be as follows:

(1) Every marihuana retailer shall be located in an enclosed building as defined by Section 1240.11(11).

(2) No marihuana retailer shall be open between the hours of 10:00 P.M. and 9:00 A.M.

(3) The licensee of a marihuana retailer is authorized by the State of Michigan to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana products to marihuana establishments and to individuals who are 21 years of age or older.

All transfers of marihuana to or from a separate marihuana establishment shall be by means of a marihuana secure transporter.

(4) A transfer of marihuana to a marihuana retailer from a marihuana establishment that occupies the same location as the marihuana retailer does not require a marihuana secure transporter if the marihuana is transferred to the marihuana retailer using only private real property without accessing public roadways.

(5) A licensee who holds two or more marihuana retailer licenses with common ownership at different establishments may transfer marihuana product inventory between the licensed marihuana retailer establishments. The transferred marihuana product must be entered and tracked in the statewide monitoring system.

(6) A marihuana retailer shall have a separate room that is dedicated as the point of sale area for the transfer or sale of marihuana product to customers. The marihuana retailer shall keep marihuana products behind a counter or other barrier to ensure that customers do not have direct access to the marihuana products.

(7) Access to point of sale areas in a marihuana establishment is restricted to persons age 21 or over. Where equivalent licenses are held in common ownership for a marihuana retailer establishment and a medical marihuana provisioning center facility, and which operate in the same location within a business space that is not partitioned, access is limited to customers age 18 or older.

(8) All marihuana storage areas within marihuana retailers shall be separated from any customer areas by a permanent barrier. No marihuana is permitted to be stored in an area accessible by customers or the general public.

(9) Any marihuana remaining on the premises of a marihuana retailer while the retailer is not in operation shall be secured in a locked area in the interior of the premises.

(10) The premises of a marihuana retailer shall be open for inspection by authorized persons during the stated hours of operation and at such other times as anyone is present on the premises.

(11) No licensed marihuana retailer shall place or maintain, or cause to be placed or maintained, any advertisement of marihuana in any form or through any medium within the distance to buffered uses as set forth in Section 1290.06(g)(1), with the exception that a retailer may establish signs in compliance with the requirements of Chapter 1234 which regulates signs in the City, and in compliance with Section 1290.08(x) herein.

(12) A marihuana retailer may employ an individual to engage in the delivery of a marihuana product for sale or transfer to an individual 21 years of age or older at a residential address or at the address of a designated consumption establishment provided at the time the order is placed.

(13) A marihuana retailer may accept an online order request of a marihuana product and payment for the order that will be delivered only to the physical residence of an individual 21 years of age or older or at the address of a designated consumption establishment provided by an individual 21 years of age or older.

(14) The applicant and each investor with any interest in the marihuana retailer establishment shall not have an interest in a marihuana secure transporter establishment or a marihuana safety compliance facility establishment.

(b) Operational requirements for a marihuana grower establishment shall be as follows:

(1) A grower license authorizes the grower to perform the following:

A. To cultivate not more than the numbers of marihuana plants as authorized under Class A (100 plants), Class B (500 plants), or Class C (2,000 plants) licenses;

B. To sell or otherwise transfer marihuana to marihuana establishments;

C. To sell or otherwise transfer marihuana plants to a marihuana grower by means of a marihuana secure transporter;

D. To sell or otherwise transfer marihuana without using a secure transporter to a marihuana processor or marihuana retailer if the following are both met:

1. The marihuana processor or marihuana retailer occupies the same location as the marihuana grower and the marihuana is transferred using only private real property without accessing public roadways;

2. The marihuana grower enters each transfer into the statewide monitoring system.

E. A marihuana grower is permitted to sell or otherwise transfer marihuana seeds, seedlings, tissue cultures, or immature plants to a marihuana grower from another marihuana grower without using a marihuana secure transporter.

F. To transfer marihuana only by means of a secure transporter unless otherwise permitted by the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA).

(2) The applicant and each investor with any interest in the marihuana grower establishment shall not have an interest in a marihuana secure transporter establishment or a marihuana safety compliance facility establishment.

(3) Consumption and/or use of marihuana shall be prohibited at the grower establishment; the dispensing of marihuana at the grower establishment shall be prohibited.

(4) All grower activity related to the grower establishment shall be performed in an enclosed building as defined by Section 1240.11(11), with the exception that cultivation may occur in an outdoor area if the outdoor area is contiguous with the building, and the outdoor area is fully enclosed by fences or barriers that block outside visibility of the marihuana plants from public view, with no marihuana plants growing above the fence or barrier that is visible to the public eye. Outdoor growing areas shall include locked entries only accessible to authorized persons or emergency personnel.

(5) Cultivation, processing, sale, or display of marihuana or marihuana accessories shall not be visible from a public place outside of the marihuana establishment without the use binoculars, aircraft, or other optical aid, as required by the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA) and Rules.

(6) That portion of the establishment where any chemicals such as herbicides, pesticides, and fertilizers are stored shall be subject to inspection and approval by the City's Public Safety Department to ensure compliance with the State of Michigan fire codes.

(7) Marihuana grower establishments shall produce no products other than useable marihuana intended for human consumption.

(8) In furtherance of the public health, safety, and welfare, exterior signage or advertising identifying the establishment as a marihuana grower establishment shall be prohibited.

(c) Operational requirements for a marihuana safety compliance facility establishment shall be as follows:

(1) A safety compliance license authorizes the licensee to perform the following activities without the means of a secure transporter:

A. Take marihuana from, test marihuana for, and return marihuana to only a licensed marihuana establishment.

B. Perform tests to certify that the marihuana is reasonably free of known contaminants in compliance with the standards established by the agency.

C. A safety compliance facility establishment license authorizes the licensee to collect a random sample of marihuana at the marihuana establishment of a marihuana grower, marihuana processor, marihuana retailer, or marihuana microbusiness for testing.

(2) A safety compliance facility establishment shall become fully accredited by an entity approved by the Marijuana Regulatory Agency of the State of Michigan within one year after the date the license is issued, or have previously provided drug testing services to the State of Michigan or the State of Michigan court services and is a vendor in good standing.

(3) The applicant and each investor with any interest in the marihuana safety compliance facility establishment shall not have an interest in the marihuana establishment of a marihuana grower, marihuana secure transporter, marihuana processor, or marihuana retailer establishment.

(4) A safety compliance facility establishment shall have a secured laboratory space that cannot be accessed by the general public, and shall retain at least one laboratory manager with a relevant advanced degree in a medical or laboratory science.

(5) All safety compliance activity related to the safety compliance facility establishment shall be performed in an enclosed building as defined by Section 1240.11(11).

(6) All marihuana shall be contained within the building in an enclosed, locked establishment.

(7) In furtherance of the public health, safety, and welfare, exterior signage or advertising identifying the establishment as a marihuana safety compliance facility establishment shall be prohibited.

(d) Operational requirements for a marihuana processor establishment shall be as follows:

(1) A processor license authorizes the licensee to purchase or transfer marihuana or marihuana-infused products from only a licensed marihuana establishment; process and package marihuana; and authorizes the sale or otherwise transfer of marihuana or marihuana-infused products to only a licensed marihuana establishment.

(2) A processor license authorizes the processor to transfer marihuana only by means of a secure transporter.

(3) A processor license authorizes the licensee to sell or otherwise transfer marihuana without using a secure transporter to a marihuana processor or marihuana retailer if the following are both met:

A. The marihuana grower, marihuana processor, or marihuana retailer occupies the same location as the marihuana processor and the marihuana is transferred using only private real property without accessing public roadways;

B. The marihuana processor enters each transfer into the statewide monitoring system.

(4) A licensee who holds two or more marihuana processor licenses with common ownership at different establishments may transfer marihuana product inventory between the licensed marihuana processor establishments. The transferred marihuana product must be entered and tracked in the statewide monitoring system.

(5) All processor activity related to the marihuana processor establishment shall be performed in an enclosed building as defined by Section 1240.11(11).

(6) All marihuana shall be contained within the building in an enclosed, locked facility.

(7) In furtherance of the public health, safety, and welfare, exterior signage or advertising identifying the establishment as a marihuana processor establishment shall be prohibited.

(8) All marihuana processors shall have an employee who is certified as a Food Protection Manager.

(9) All marihuana processors shall be certified by one of the following, as required by the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA) and Rules:

A. The International Organization for Standardization (ISO), ISO 22000/ISO/TS 22002-1; or

B. The FDA Food Safety Modernization Act, 21 USC 2201 to 2252.

(10) All marihuana processors shall comply with all requirements of the Ionia County Health Department Sanitary Code regarding food service establishments, and the Michigan Food Law, Act 92 of 2000 as amended, as applicable.

(e) Operational requirements for a marihuana secure transporter establishment shall be as follows:

(1) A secure transporter license authorizes the licensee to store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana establishments for a fee upon request of a person with legal custody of that marihuana or money. The secure transporter license does not authorize the transport of marihuana to a registered qualifying patient or registered primary caregiver as defined by the Michigan Medical Marihuana Act, M.C.L.A. §§ 333.26421 et seq., as amended.

(2) If a marihuana secure transporter establishment has its primary place of business in a municipality that has not adopted an ordinance prohibiting marihuana establishments, the marihuana secure transporter may travel through any municipality.

(3) The applicant and each investor with any interest in the marihuana secure transporter establishment shall not have an interest in a marihuana grower, processor, retailer, or safety compliance establishment, and shall not hold title to marihuana.

(4) Each driver transporting marihuana shall have a chauffeur's license as issued by the State of Michigan. Each vehicle transporting marihuana shall be operated by a two-person crew with at least one individual remaining with the vehicle at all times during the transportation of marihuana. A route plan and a manifest shall be entered into the statewide monitoring system, and a copy shall be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(5) The marihuana and any money associated with the purchase or sale of marihuana product shall be transported in one or more sealed, locked containers and not be accessible while in transit.

(6) A secure transporter vehicle shall not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

(7) A marihuana secure transporter establishment shall have a primary place of business, and shall store its vehicles at its primary place of business. However, a marihuana secure transporter vehicle may be stored in a location that is not the primary place of business of the secure transporter if the vehicle does not contain marihuana products and the address of storage is reported to the agency in the licensee's staffing plan and business plan.

(8) A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with this chapter, and with the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA) and Rules.

(9) All secure transporter activity shall be performed in an enclosed building with the exception that loading and unloading of marihuana may take place on a private portion of the secure transporter establishment outside the secure transporter establishment building.

(10) Loading and unloading of secure transporter vehicles with marihuana may take place on a private, unenclosed portion of any marihuana establishment, provided any area of loading and unloading is under video surveillance as required by the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA) and Rules. In no case shall loading and unloading take place in a public place or street, or private place or street which is not under the ownership and control of the licensed marihuana establishment.

(11) All marihuana stored at the secure transporter establishment shall be contained within the building in an enclosed, locked facility. The timeframe for the secure transporter to maintain custody of the marihuana product shall not be more than 96 hours or by permission of the Department of Licensing and Regulatory Affairs of the State of Michigan on a case-by-case basis.

(12) In furtherance of the public health, safety, and welfare, exterior signage or advertising identifying the establishment as a marihuana secure transporter establishment shall be prohibited.

(f) Operational requirements for an excess marihuana grower license shall be as follows:

(1) An excess marihuana grower license authorizes the sale of marihuana, other than seeds, seedlings, tissue cultures, immature plants, and cuttings, to a marihuana processor or marihuana retailer.

(2) An excess marihuana grower license shall only be issued to a person who holds five stacked Class C grower licenses issued by the Michigan Marihuana Regulatory Agency under the Michigan Regulation and Taxation of Marihuana Act, and at least two Class C grower licenses issued by the Agency under the Michigan Medical Marihuana Facilities Licensing Act.

(3) The Agency shall set the total marihuana plant count for an excess marihuana grower license in increments of 2,000 marihuana plants not in excess of the total marihuana plants permitted under Grower Class C licenses held under the Michigan Medical Marihuana Facilities Licensing Act.

(4) An excess marihuana grower licensee is subject to all requirements for a marihuana grower as provided for the Michigan Regulation and Taxation of Marihuana Act; all rules promulgated by the Michigan Department of Licensing and Regulatory Affairs (LARA); and to all requirements for a marihuana grower establishment herein.

(Ord. 549. Passed 1-5-21.)

1290.08 OPERATIONAL REGULATIONS THAT APPLY TO ALL MARIHUANA ESTABLISHMENTS.

(a) Marihuana establishments shall comply at all times and in all circumstances with the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA) and Rules; and the Marihuana Tracking Act, PA 282 of 2016, M.C.L.A. §§ 333.27901 to 333.27904.

(b) A marihuana establishment may not allow cultivation, processing, sale, or display of marihuana or marihuana accessories to be visible from a public place outside of the marihuana establishment without the use of binoculars, aircraft, or other optical aids.

(c) A marihuana establishment may not cultivate, process, test, or store marihuana other than a physical location approved by the Department and within an enclosed area that is secured in a manner that prevents access by persons not permitted by the marihuana establishment to access the area.

(d) A marihuana grower, marihuana retailer, marihuana processor, or marihuana safety compliance facility or agents acting on their behalf may not transport more than 15 ounces of marihuana or more than 60 grams of marihuana concentrate at one time.

(e) A marihuana establishment shall be partitioned from any other marihuana business or activity, any other business, or any dwelling, except as provided by the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA) and Rules, for marihuana operations at the same location.

(f) A marihuana establishment shall have distinct and identifiable areas with designated structures that are contiguous and specific to the marihuana license.

(g) A marihuana establishment shall have separate entrances and exits, inventory, record keeping, and point of sale operations, if applicable.

(h) Marihuana establishments shall not allow onsite or as part of the marihuana establishment any of the following:

(1) Sale, consumption or serving of food except for as provided by Rules as promulgated by the Department of Licensing and Regulatory Affairs;

(2) Sale, consumption, or use of alcohol or tobacco products on the premises; or

(3) Consumption, use, or inhalation of a marihuana product.

(i) Access to areas of the marihuana establishment that are not point of sale areas is restricted to the licensee; employees of the licensee; crew members of a marihuana secure transporter establishment; the Department of Licensing and Regulatory Affairs, through its investigators, agents, and auditors; the state police; and law enforcement officials.

(j) No marihuana establishment may allow a person under 21 years of age to volunteer or be employed by the marihuana establishment.

(k) Access to areas of the marihuana establishment shall be provided to any person required to complete an inspection of any portion of the building, structure, or use to ensure compliance with any applicable City, Ionia County, State of Michigan, and federal laws or regulations.

(l) The licensee shall maintain a log tracking all visitors to a marihuana establishment in compliance with the Marihuana Tracking Act, PA 282 of 2016, M.C.L.A. §§ 333.27901 to 333.27904. The visitor log must be available at all times for inspection by the Michigan Department of Licensing and Regulatory Affairs, and its investigators, agents, and auditors, or the state police to determine compliance with the Act and Rules.

(m) With the exception of staff meetings, employee training, and similar events associated with the operation of the marihuana establishment, no activities such as tours, corporate events, weddings, parties, receptions, or other similar events may occur on the premises of a marihuana establishment at any time.

(n) The marihuana establishment must be at a fixed location. Mobile marihuana establishments and drive-through, drive-up, or walk-up operations are prohibited. Any sales or transfers of marihuana product by mail order or on consignment are prohibited.

(o) A state operating license issued under the Act must be framed under a transparent material and prominently displayed in the marihuana establishment.

(p) Processors, growers, and safety compliance establishments shall implement appropriate exhaust ventilation systems to mitigate noxious gasses or other fumes used or created as part of any production process or operations. Exhaust ventilation equipment must be appropriate for the hazard involved and must comply with any applicable fire codes and Michigan mechanical codes. No marihuana shall be cultivated, grown, manufactured, processed, tested, or provided in any manner that would emit odors reasonably discernable to another person beyond the interior of the building or occupied portion of the building where the marihuana establishment is located.

(q) All marihuana establishments shall be securely locked, including all interior rooms, windows, and points of entry and exits with commercial-grade, nonresidential door locks as reviewed and approved by the appropriate building inspection officials and the City's Public Safety Department. Authorized access to a marihuana establishment shall be only by the licensee or employees as approved by the licensee. An alarm system shall be maintained.

(r) One or more emergency contact persons with phone numbers shall be provided to the City's Public Safety Department and the public safety officials of other jurisdictions if requested by the City.

(s) All marihuana establishments shall have a video surveillance system that meets all requirements of the rules promulgated by the Department of Licensing and Regulatory Affairs (LARA) to establish rules for the purpose of implementing the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA) and Rules.

(t) Marihuana product that is to be destroyed or is considered waste shall be rendered into an unusable and unrecognizable form and recorded in the State of Michigan statewide

monitoring system; destroyed marihuana products or waste shall not be sold; all marihuana waste shall be disposed of according to the requirements of the rules promulgated by the Department of Licensing and Regulatory Affairs (LARA) to establish rules for the purpose of implementing the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA) and Rules.

(u) Wastewater generated during the cultivation of marihuana and processing of marihuana products shall be disposed of in compliance with applicable City, Ionia County, State of Michigan, and federal laws and regulations.

(v) All applicable building, electrical, plumbing, mechanical, water, wastewater, and any other applicable permits shall be obtained from the City or other applicable governmental authority for any portion of the building or structure in which electrical wiring, lighting, mechanical, plumbing, watering, cultivating, growing, harvesting, testing, processing, and other devices that support any operation associated with the marihuana establishment are located.

(w) Verification in writing shall be provided by the City's Public Safety Department that the establishment meets all requirements for fire protection.

(x) Marketing and advertising regulations for all marihuana establishments are as follows:

(1) Marihuana establishments shall comply with the City Code, state law, and administrative Rules regulating signs and advertising.

(2) A licensee shall not advertise marihuana product where the advertisement is visible to members of the public from any street, sidewalk, park, or other public place, with the exception that a marihuana retailer establishment may include a sign or signs as regulated by the City Code, subject to the following:

A. No sign shall advertise a specific marihuana product, or pricing, or special sale of any marihuana product;

B. A sign may include the words "cannabis" or "marihuana" and/or graphics such as leaves but excluding graphics of specific products; and

C. A sign may include the name of the establishment.

(3) Marihuana products shall be marketed or advertised as "marihuana" for use only by persons age 21 or older. Marihuana shall not be advertised or marketed to members of the public unless the person advertising the product has reliable evidence that no more than 30 percent of the audience or readership is reasonably expected to be under the age of 21.

(4) Marihuana products shall not be marketed or advertised to persons younger than 21 years of age. Sponsorships targeted to members younger than 21 years of age are prohibited.

(y) Any marihuana establishment shall not be operated in an occupied residence.

(z) No marihuana establishment shall be operated in a manner creating noise, dust, vibration, glare, or fumes beyond the boundaries of the property on which the marihuana establishment is operated; or odors detectable to normal senses beyond the interior of the building or occupied portion of the building where the marihuana establishment is located; or any other nuisance that hinders the public health, safety, and welfare of the residents of the City.

(aa) A marihuana establishment shall be open for inspection by authorized local, state, county, or federal officials at any time during hours of operation and at other times as anyone is present on the premises.

(bb) Licensees and applicants shall notify the Department of Licensing and Regulatory Affairs, state police, and local law enforcement authorities within 24 hours of theft or loss of any marihuana product or criminal activity.

(cc) Licensees shall comply with any other operational measures requested by the Department of Licensing and Regulatory Affairs (LARA) that are not inconsistent with the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA) and Rules.

(Ord. 549. Passed 1-5-21.)

1290.09 APPLICATION AND PROCESSING PROCEDURES.

(a) As required by the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA) and Rules, the Department shall forward a copy of any complete application for a marihuana establishment license to the City. The Department shall determine whether the applicant and the premises qualify for a state license, and shall notify the applicant of approval of a license or send the applicant notice of rejection within 90 days.

(b) An application for special land use approval for a marihuana establishment shall be in accordance with the application procedures for special land uses as required by Chapter 1274 of the City Code, including a site plan prepared according to the requirements of Chapter 1276.

(c) A notice for public hearing as required by Section 1274.03(d), and as required by Section 1276.05(b) shall be additionally sent to all properties within the distance as required for those buffered uses as required by Section 1290.06(g)(1).

(d) In addition to all application materials as required for a special land use, an application for a marihuana establishment, on a form as approved by the City Council, shall be completed and submitted by the applicant.

(e) The application shall include the following information in addition to any additional information as required by the application form for a marihuana establishment:

(1) The City may request from the applicant a copy of the entity/individual prequalification application packet for a marihuana establishment operating license as required to be submitted to the State of Michigan.

(2) A copy of the proposed business plan if requested by the Planning Commission.

(3) Proof of ownership of the entire premises wherein the marihuana establishment is to be operated; or written consent from the property owner of use of the premises for a marihuana establishment, and a copy of any lease agreement.

(4) A description of the security plan for the marihuana establishment, prepared as required by the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA) and Rules, including but not limited to any lighting, alarms, barriers, recording or monitoring devices, and security guard arrangements proposed for the establishment and its premises. Each marihuana establishment shall have a security

guard present during business hours, or alternative security measures approved by the Planning Commission as a condition of special land use approval.

(5) A professionally prepared scaled drawing of the floor plan of the marihuana establishment including uses of all floor areas. Locations of all interior and exterior security recording devices shall be shown on the floor plan.

(6) A diagram of any proposed text or graphic materials to be shown on the exterior of the proposed marihuana establishment.

(7) A location area map showing the distance to all buffered uses as required in Section 1290.06(g)(1). Each buffered use shall be labeled on the location area map.

(8) A waste disposal plan, indicating how all waste products, including marihuana that is to be destroyed or is considered waste, will be disposed of and prevented from being ingested by humans or animals. In no case shall waste be burned on site, or introduced into the sanitary sewer system or stormwater management system.

(9) A signed affidavit that neither the applicant nor any investor with an interest in the marihuana establishment is in default to the City for failure to pay any property taxes, income taxes, special assessments, fines, fees, or other financial obligation to the City.

(10) In the case of an application for a grower establishment, a chemical and pesticide storage plan that states the names of the pesticides, herbicides, and any other chemicals that will be used in cultivation, and a plan for disposal of unused pesticides, herbicides, and chemicals.

(f) All applications for special land use approval for a marihuana establishment shall be accompanied by an application fee of \$5,000, or a fee as set by resolution of the City Council.

(g) All applications for a special land use for a marihuana establishment shall obtain a building permit for any building utilized as a proposed marihuana establishment, or for a change of occupancy for an existing building to be utilized as a proposed marihuana establishment, from the governmental entity having jurisdiction to approve building permits in the City under the Stille-DeRossett-Hale single state construction code act, PA 230 of 1972.

(h) Any other information requested by the Planning Commission, the City Council, or other municipal official in order to complete the review of the application.

(Ord. 549. Passed 1-5-21.)

1290.10 STANDARDS FOR APPROVAL.

An approval of a marihuana establishment in the City shall only be made when in substantial compliance with the following standards:

- (a) The standards for approval for all special land uses in Section 1274.04.
- (b) The standards for approval of all site plans in Section 1276.07.
- (c) Compliance with any requirements for public safety as stated in writing by the City's Public Safety Department, Ionia County, and the State of Michigan.
- (d) Compliance with all requirements and conditions of this Chapter 1290.
- (e) Compliance with all applicable requirements of the City Code.

(f) Compliance with all requirements of the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA) and Rules.

(g) Compliance with all requirements of the Marihuana Tracking Act, PA 282 of 2016, M.C.L.A. §§ 333.27901 et seq., as amended.

(Ord. 549. Passed 1-5-21.)

1290.11 VARIANCES.

(a) A application for a variance from any requirement of this Chapter or any other requirement of the City Code applicable to a marihuana establishment shall be as required by Chapter 1244 of the City Code with the exception that a notice for public hearing as required by Section 1244.07 for a variance for a marihuana retailer establishment shall be additionally sent to all properties within the distance as required for those buffered uses as required by Section 1290.06(g)(1).

(b) In no case shall a decision regarding the approval of a special land use be appealed to the Zoning Board of Appeals.

(Ord. 549. Passed 1-5-21.)

1290.12 CHANGE OF OWNERSHIP, LICENSEE, OR LOCATION.

(a) Upon change of ownership of any approved marihuana establishment, the Community Development Director shall require the owner and licensee to provide information in writing to demonstrate any physical or operational characteristics that are proposed to be altered under the new owner, or a statement in writing that no physical or operational changes are proposed.

(b) If changes to the approved site plan are proposed, a site plan prepared according to the requirements of Chapter 1276 shall be submitted that shows any proposed changes to the site plan.

(c) The proposed new owner shall provide proof of licensing by the State of Michigan for the approved marihuana establishment.

(d) The Community Development Director shall determine whether the change in ownership and any proposed changes in the approved site plan, shall require a public hearing and approval by the Planning Commission as required by Section 1290.09(c) herein.

(e) The Community Development Director may, at his or her discretion, approve the proposed change in ownership, and any changes proposed to the site plan, without a public hearing.

(f) In no case shall an approved marihuana establishment be approved or used for a different type of marihuana establishment except in accordance with all requirements and procedures of this Chapter 1290.

(g) A change of location of a marihuana establishment after licensure requires a new license according to the requirements of the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. §§ 333.27951 et seq., as amended (MRTMA) and Rules. A change of location of a marihuana establishment after licensure, or a change of licensee at a location previously approved as a marihuana establishment, requires application for approval as a special land use by the City according to the requirements of this Chapter 1290.

(Ord. 549. Passed 1-5-21.)

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MEMORANDUM

To: City of Lowell Planning Commission
Date: February 11, 2022
From: Andy Moore, AICP
RE: 115 Riverside Dr Rezoning

The City of Lowell has applied to rezone property located at 115 Riverside Drive (locally known as the "Lineshack Building") from the PF, Public Facilities district to the C-2 Central Business District. The purpose of this memorandum is to review the request pursuant to the City of Lowell Zoning Ordinance.



Background

The subject property (PPN 41-20-02-403-027) has an area of 4,041 square feet (0.09 acres) and is located on the northeast side of Riverside Drive, abutting the Flat River. Until recently, the land and building were owned by Lowell Light and Power. However, it was recently sold to a private party that desires to use the building and property for a mixed use building. Since the PF district only allows for public and quasi-public uses and is generally intended for City-owned properties, the City decided to initiate a rezoning of the property to allow for the development and use of the property by the new owners.

Zoning Review Criteria

Section 22.05 of the Zoning Ordinance sets forth criteria that must be considered when deciding on a zoning amendment. These standards are listed below, along with our remarks on each.

1. If the proposed zoning amendment is consistent with the goals, policies, and future land use map of the city's master plan; or, if conditions have changed significantly since the master plan was adopted, if the zoning amendment is consistent with recent development trends in the area;

Remarks: The Lowell Master Plan serves as a policy document to guide future land use planning decisions. The Master Plan's future land use map shows the subject property as being within the "Downtown" Future Land Use designation. The plan states that this

designation “is intended to permit a mixture of residential, office, and commercial land uses in traditional ‘main street’ style buildings. New development in the Downtown area should be pedestrian-scaled, and should be built to complement the existing downtown buildings. Appropriate land uses in the Downtown area include a wide range of retail, commercial, office, and residential land uses.” The proximity of the subject property to downtown Lowell and the fact that many surrounding properties are already zoned C-2 leads to the conclusion that the rezoning is consistent with the City’s Master Plan. The Planning Commission may find this standard to be met.



2. If the zoning amendment is compatible with existing or future land uses in the vicinity; and

Remarks: The property is located within walking distance of other downtown businesses and public parking areas. The City’s future land use map anticipates that the subject parcel and surrounding properties will remain a part of the city’s central business district. Uses permitted in the C-2 district are compatible with current and future land uses in this area. Therefore, the Planning Commission may find that the proposed rezoning is consistent with the existing and future land uses in the vicinity.



3. If the site is capable of accommodating all uses allowed by the zoning change, considering existing or planned public infrastructure, including streets, sanitary sewers, stormwater, water, sidewalks, and street lighting.

Remarks: Parcels in the C-2 district are associated with downtown development. This type of development takes on a people-oriented form with buildings facing the sidewalks,

pedestrian connectivity, minimal setbacks, and a walkable atmosphere. The building presently located on this property is likely able to be used for all of the uses permitted by the C-2 district and should complement the suite of land uses permitted in downtown Lowell. The Planning Commission may find this standard to be met.

Recommendation

At the February 14, 2022 meeting, the Planning Commission should discuss the site and consider any comments from the applicant and the public. Subject to those comments, we recommend that the Planning Commission recommend approval of the request to the City Council.

As always, please feel free to contact us if there are additional questions or comments.

SECTION I. Zoning Map Amendment

1. Street Address and/or Location of Request: 115 Riverside Drive
2. Parcel Identification Number (Tax I.D. No.): # 41-20-02-403-027
3. Applicant's Name City of Lowell Phone Number 616-897-8457
- Address 301 E. Main Lowell MI 49331
Street City State Zip
- Fax Number 616-897-4085 Email Address mikeburns@ci.lowell.mi.us
4. Are You: Property Owner ☐ Owner's Agent ☐ Contract Purchaser ☐ Option Holder
5. Applicant is being represented by: Andy Moore Phone Number 616-224-1500
- Address _____
6. Present Zoning of Parcel PF Present Use of Parcel Vacant
7. Master Plan Future Land Use Classification _____
8. Please use the lines below to state the request and the reason(s) for the request:
(attach additional pages as necessary)
- The City of Lowell has initiated the process to seek the rezoning of the former "Lineshack" building and property located at 115 Riverside Drive SE from the PF Public Facilities District to the C-2 Central Business District.
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
9. For this application to be complete, the following information must be included:
- ☒ A map clearly illustrating the property to be considered for a zoning change, and the current zoning of all properties within ¼ mile, if applicable
- ☐ A legal description of the property to be considered for a rezoning, if applicable

The facts presented above are true and correct to the best of my knowledge.

Signature:

Date:

1-20-22

2022				
Open Date	Close Date	Address	Name/Business	Subject
01/19/2022	01/19/2022	204 W. Main	Richard Craig	Remodel