



301 East Main Street  
Lowell, Michigan 49331  
Phone (616) 897-8457  
Fax (616) 897-4085

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

FOR THE REGULAR MEETING OF  
MONDAY, APRIL 8, 2019 AT 7:00 P.M.

AT THE  
LOWELL CITY HALL  
CITY COUNCIL CHAMBERS  
SECOND FLOOR  
301 EAST MAIN STREET

1. CALL TO ORDER: PLEDGE OF ALLEGIANCE, ROLL CALL
2. APPROVAL OF AGENDA
3. APPROVAL OF THE MINUTES OF PREVIOUS MEETINGS
  - a. March 11, 2019 – Regular Meeting
4. PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA.

IF YOU WISH TO ADDRESS AN AGENDA ITEM, PUBLIC COMMENT FOR EACH ITEM WILL OCCUR AFTER THE INITIAL INFORMATION IS SHARED ON THE MATTER AND INITIAL DELIBERATIONS BY THE PUBLIC BODY. PUBLIC COMMENT WILL OCCUR BEFORE A VOTE ON THE AGENDA ITEM OCCURS.

5. OLD BUSINESS
  - a. Recreational Marijuana - Ordinance Discussion
6. NEW 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, MARCH 11, 2019 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 David Cadwallader, Amanda Schrauben, Marty Chambers and Chair Bruce Barker.

Absent: Commissioner Kelly Breimayer, Commissioner Colin Plank and Commissioner Tony Ellis.

Also Present: Andy Moore with William & Works, Deputy Clerk Amy Brown.

2. APPROVAL OF ABSENCES.

IT WAS MOVED BY CHAMBERS and seconded by CADWALLADER to excuse the absence of Commissioner Kelly Breimayer, Commissioner Plank and Commissioner Ellis.

YES: 4. NO: 0. ABSENT: 3. MOTION CARRIED.

3. APPROVAL OF AGENDA.

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

YES: 4. NO: 0. ABSENT: 3. MOTION CARRIED.

4. APPROVAL OF THE MINUTES OF THE PREVIOUS MEETINGS.

IT WAS MOVED BY CHAMBERS and seconded by CADWALLADER to approve the minutes of the February 11, 2019 regular meeting as written.

YES: 4. NO: 0. ABSENT: 3. MOTION CARRIED.

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

There were no comments.

6. OLD BUSINESS.

a. Public Hearing – 2560 Bowes Road.

Chair Barker opened the public hearing.

Andy Moore with Williams & Works went through his review of the request pursuant to the City of Lowell Zoning Ordinance and stated as follows:

The subject property PPN 41-20-03-371-004 has an irregular shape with an area of approximately 0.39 acres. It is located at 2560 Bowes Road and currently zoned I, Industrial. On October 19, 2018, the City

of Lowell opened two bids for the purchase of the subject property, one from Lowell Charter Township and the other from Vergennes Broadband. Previously, Vergennes Broadband discussed their intentions of using the property with the City; however, Lowell Charter Township became interested in the property because of its location adjacent to their new park. While the Township was the highest bidder, the property would become tax exempt through their use. Vergennes Broadband is a for-profit company, so their use would generate revenue for the City. Upon further discussion with both bidders, it was discovered that both bidders do not need to use the entire parcel and a cooperative option was identified for mutual use of the subject property. Therefore, it was recommended that the City sell the subject property to Lowell Charter Township in accordance with Resolution 33-18, which includes two conditions stating that 10 they must enter into a lease agreement with Vergennes Broadband and 20 not detach the property from the City. This Resolution 33-18 was approved by the City Council. In order to accommodate both uses proposed by the bidders, the City of Lowell is requesting to rezone the property from I, Industrial to PF, Public Facilities.

Zoning Review Criteria. Section 22.05 sets forth criteria that must be considered when making a decision on a zoning amendment. These standards are listed below.

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;

The Planning Commission conceded that this standard is met.

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

The Planning Commission conceded that this standard is met.

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, storm water, water, sidewalks, and street lighting.

The Planning Commission conceded that this standard is met.

Chair Barker closed the public hearing.

IT WAS MOVED BY BARKER to recommend approval of the request to the City Council.

ROLL CALL: COMMISSIONER CADWALLADER, COMMISSIONER CHAMBERS,  
COMMISSIONER SCHRAUBEN AND CHAIR BARKER.

YES: 4

NO: 0.

ABSENT: 3.

MOTION CARRIED.

## 7. NEW BUSINESS.

### a. Recreational Marijuana – Ordinance discussion.

Andy Moore with Williams & Works went through the Recreational Marijuana Odor Regulation review and gave some examples of what other Cities have written in their Ordinance regarding this matter. Commissioners conceded they liked the language from the Grand Rapids zoning ordinance and portions of the language from the County of El Dorado California's zoning ordinance to use, slightly modified, when creating our ordinance but most importantly, to have effective results. Moore

stated the next step will be to draft a set of regulations for this including verifying that the zoning districts are feasible and to look at if we need a residential zone buffer.

8. **STAFF REPORT.**

There were no reports.

9. **COMMISSIONERS REMARKS.**

There were no remarks.

10. **ADJOURNMENT.**

IT WAS MOVED BY CADWALLADER and seconded by CHAMBERS to adjourn at 7:42 p.m.

DATE:

APPROVED:

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Bruce Barker, Chair

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Amy Brown, Deputy Clerk

## MEMORANDUM

**To:** City of Lowell Planning Commission  
**Date:** April 4, 2019  
**From:** Andy Moore, AICP  
Whitney Newberry  
**RE:** **Recreational Marihuana Draft Ordinance**

Included on the following pages is the first draft of special land use provisions and related amendments to the zoning ordinance intended to regulate recreational marihuana establishments in the City. The amendment focuses on issues related to zoning and land use, such as required information, building design, odor control, lighting, etc. It does not attempt to provide and guidance with regard to the number of marihuana facilities that would be permitted in the City, the types of facilities desired, or criteria for choosing among several applicants. Those issues should be addressed by the City Council in a licensing ordinance, and therefore are not within the purview of this amendment.

Please carefully review the regulations on the following pages and be prepared to discuss them at the April 8 meeting. There are a few areas in which further Planning Commission input is required, such as:

- Should the City impose an isolation radius for residential districts, parks, churches, or other uses?
- Should the City impose additional restrictions on marihuana signage?
- The attached draft limits marihuana establishments to the C-3, IL, I, and RE districts. Is this still desired?
- Are the proposed odor control and security regulations acceptable?

We look forward to discussing this draft with you on April 8. As always, please feel free to contact us with any questions.

**Definitions.** The following definitions would be included in Chapter 2 of the Zoning Ordinance.

Section 2.10, "Definitions - I"

Industrial hemp. A plant of the genus cannabis and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry-weight basis, or per volume or weight of marihuana-infused product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus cannabis regardless of moisture content.

Section 2.14, "Definitions - M"

Marihuana. 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 purposes of this act, marihuana does not include:

- A. 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;
- B. industrial hemp; or
- C. any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

Marihuana accessories. Any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.

Marihuana concentrate. The resin extracted from any part of the plant of the genus cannabis.

Marihuana establishment. A marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the department.

Marihuana grower. A person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

Marihuana-infused product. A topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.

Marihuana Licensee. A person holding a valid license for a recreational marihuana facility issued by the State of Michigan.

Marihuana microbusiness. 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 facility, but not to other marihuana establishments.

Marihuana processor. A person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

Marihuana retailer. 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.

Marihuana secure transporter. A person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

Marihuana safety compliance facility. A person licensed to test marihuana, including certification for potency and the presence of contaminants.

**Amendments to Zoning Districts.** The following chapters would be amended to allow a recreational marihuana establishment as a special land use: Chapter 12, C-3 – General Business District; Chapter 12A, I-L Light Industrial District; Chapter 13, I – Industrial District; and Chapter 14A, River’s Edge District.

**Amendment to Special Land Uses.** Section 17.04, “Site Design Standards” of Chapter 17, “Special Land Uses” would be amended to include a new subsection FF. This may read as follows:

**FF. Recreational Marihuana Establishment**

1. Purpose and Intent. The purpose of this section is to protect the public health, safety, and welfare, protect neighborhood character, minimize negative community impacts, and enact effective regulatory and enforcement controls through minimum land use requirements for marihuana establishments in the City of Lowell. Marihuana establishments, as defined pursuant to Section 3 (h) of the Michigan Regulation and Taxation of Marihuana Act, include a marihuana grower, safety compliance facility, processor, microbusiness, retailer, or a secure transporter.
2. License Required.
  - a. In addition to the special land use permit required by this section, a license issued by the City of Lowell pursuant to Chapter \_\_\_\_ of the City of Lowell Code of Ordinances shall be required prior to the approval of a marihuana establishment in the City of Lowell, along with any other licenses or permits required by any other federal, state, or local agency having jurisdiction.
  - b. The issuance of a special land use permit pursuant to this section does not create an exception, defense, or immunity to any person in regard to any potential civil or criminal liability.

- c. It shall be unlawful for any person to operate a marijuana establishment in the city without obtaining a license to operate pursuant to the requirements of Chapter \_\_\_\_\_ of the City of Lowell Code of Ordinances, and a special land use permit pursuant to the requirements of this section.
    - d. A separate special land use permit shall be required for each specific business and for each geographic location.
3. Application Requirements. An application for a marijuana establishment special land use shall be accompanied by a detailed site plan pursuant to Section 18.05, along with any additional information necessary to describe the proposed establishment. At a minimum, the following materials shall be submitted as part of an application, in addition to the Site Plan Review application requirements of Section 18.05.
  - a. Verification. A signed statement by the applicant indicating the proposed facility type.
  - b. Consent. A notarized statement by the property owner that acknowledges use of the property for a marijuana establishment and agreement to indemnify, defend and hold harmless the City, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising out of, or in connection to, the operation of a marijuana establishment. Written consent shall also include approval of the owner and operator for the City to inspect the facility at any time during normal business hours to ensure compliance with applicable laws and regulations.
  - c. State License. A copy of official paperwork issued by the State of Michigan Department of Licensing and Regulatory Affairs (LARA) indicating that the applicant has successfully completed the application for a state operating license. Copies of all documents submitted to LARA in connection with the initial license application, subsequent renewal applications, or investigations conducted by LARA shall be provided to the City.
4. Additional Site Plan Requirements. In addition to the site plan requirements in Section 18.04, the following information shall also be submitted:
  - a. A map, drawn to scale, containing all preschools and K-12 public or private schools near the proposed marijuana establishment location and a 1,000-foot isolation radius drawn around the proposed location to show an appropriate setback distance.
  - b. A narrative describing how the enclosed areas with marijuana have been secured and how permitted individuals will be given access.
  - c. A detailed security plan that addresses several measures of security at the marijuana establishment, such as surveillance methods, access control strategies, maintenance, the licensee's closing procedures after the cessation of business each day, and safety for customers, employees, and neighbors.



- d. A lighting plan showing the lighting outside of the marihuana establishment for security purposes and compliance with section 4.24 and any other applicable city requirements.
  - e. Existing and proposed building elevations, including building materials, window calculations, descriptions of glass to be used, and other pertinent information that describes building construction or structural alterations.
  - f. A floor plan of the marihuana establishment detailing the locations of the following:
    - i. All entrances and exits to the establishment;
    - ii. The location of any windows, skylights, and roof hatches;
    - iii. The location of all cameras, and their field of view;
    - iv. The location of all alarm inputs (door contacts, motion detectors, duress/hold up devices) and alarm sirens;
    - v. The location of the digital video recorder and alarm control panel, including the location of the off-site storage or network service provider for storage of the required copies of surveillance recordings; and
    - vi. Restricted and public areas.
  - g. The applicant's procedures for accepting delivery of marihuana at the establishment, including procedures for how and where it is received, where it is stored, and how the transaction is recorded.
5. General Provisions. Recreational marihuana establishments shall be subject to the following requirements:
- a. Security. All marihuana and marihuana accessories shall be located within an enclosed, locked area, inaccessible on all sides and equipped with locks that permit access only by the licensed operator or their employees, agents of LARA, law enforcement officers, emergency personnel, and other authorized individuals, as reviewed and approved by the City.
  - b. Separation distances. The distances described in this subsection shall be computed by measuring a straight line from the nearest property line of the land used for the purposes stated in this subsection to the nearest property line of the parcel used as a marihuana establishment. The following minimum-distancing regulations shall apply to all marihuana establishments. A marihuana establishment shall not be located within:
    - i. 1,000 feet of a preschool or child care center;
    - ii. 1,000 feet of a public or private K-12 school;
  - c. Odors. The marihuana establishment shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the

establishment is not detected outside the building in which it operates, on adjacent public rights-of-way, private road easements, or within other units located within the same building as the establishment if it occupies only a portion of the building. Odors must be controlled and eliminated by the following methods:

- i. The building must be equipped with an activated air scrubbing and carbon filtration system that eliminates all odors prior to leaving the building. Fan(s) must be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
  - ii. Air scrubbing and filtration systems must be maintained in working order and must be in use at all times. Filters must be changed per manufacturers' recommendation to ensure optimal performance.
  - iii. Negative air pressure must be maintained inside the building.
  - iv. Doors and windows must remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
  - v. The Planning Commission may grant an alternative odor control system if a mechanical engineer licensed in the State of Michigan submits a report that sufficiently demonstrates the alternative system will be equal or superior to the air scrubbing and carbon filtration system otherwise required.
- d. The marijuana establishment shall be operated and maintained at all times so that any by-products or waste of any kind shall be properly and lawfully kept and disposed of so as to preclude any risk of harm to the public health, safety, or welfare.
  - e. The marijuana establishment shall not be operated out of a residence or any building used wholly or partially for residential purposes.
  - f. Any portion of the structure where energy usage and heat exceed typical residential use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Fire Department to insure compliance with applicable fire codes. 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 and be in compliance with State pesticide laws and regulations.
  - g. A marijuana establishment shall not be operated from a business which also sells alcoholic beverages or tobacco products.
  - h. No drive-through facilities shall be permitted.
  - i. The marijuana establishment shall comply at all times and in all circumstances with the Michigan Regulation and Taxation of Marijuana Act and the Administrative Rules promulgated by the Michigan Department of Licensing and Regulatory Affairs.

- j. The owner and/or licensee shall maintain clear and adequate records and documentation demonstrating that all cannabis or cannabis products have been obtained from and are provided to other permitted and licensed cannabis operations. The City shall have the right to examine, monitor, and audit such records and documentation, which shall be made available to the City upon request.
  - k. 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 or harvesting of marihuana.
6. Effect of Permit.
- a. A special land use permit for a marihuana establishment is valid only for the location identified on the license and cannot be transferred to another location within the city without a new application.
  - b. A special land use permit does not prohibit prosecution by the federal government of its laws or prosecution by state authorities for violations of the act or other violations not protected by the Michigan Regulation and Taxation of Marihuana Act.
  - c. Compliance with city ordinances and state statutes is a condition of maintenance of a special land use permit, and a license may be suspended or revoked pursuant to section 17.02(L) if such ordinances and statutes are violated.
  - d. Nothing contained herein is intended to limit the city's ability to prosecute code violations that may have been the cause of the suspension or any other code violations not protected by this the Michigan Regulation and Taxation of Marihuana Act.
7. Violations. Failure to comply with the requirements of this Section shall be considered a violation of the zoning ordinance.
- a. Request for revocation of state operating license. If at any time an authorized facility violates this Chapter or any other applicable city ordinance, the City may request that LARA revoke or refrain from renewing the facility's state operating license.
  - b. Revocation of Special Land Use approval. Any approval granted for a facility may be revoked or suspended automatically for either of the following reasons:
    - i. Revocation or suspension of the licensee's authorization to operate by LARA.
    - ii. A finding by LARA that a rule or regulation has been violated by the licensee. After an automatic revocation of a Special Land Use approval, a new Special Land Use application shall be required for a facility to commence operation at the same location.
    - iii. Other violations of the zoning ordinance, special land use permit, or conditions imposed thereon by the Planning Commission.