

CITY OF MILAN, MICHIGAN

ORDINANCE NO. 2022-06

AN ORDINANCE TO AMEND 2012-03 OF THE CODE OF ORDINANCES AND PROVIDE FOR THE APPLICATION, LICENSING, AND REGULATION OF MEDICAL-USE MARIHUANA ESTABLISHMENTS AND TO PROVIDE PENALTIES FOR THE SUSPENSION AND REVOCATION THEREOF.

The City of Milan hereby ordains:

ARTICLE I

GENERAL PROVISIONS

Section 1. Title.

This ordinance is to be known and may be cited as the City of Milan Medical-Use Marihuana Establishments Ordinance (the “Ordinance”).

Section 2. Purpose and Intent.

- (A) The purpose of this chapter is to exercise the police, regulatory, and land use powers of the City of Milan (the “City”) by providing for the licensing and regulation of Medical-use, as defined herein, Marihuana Establishments, so as to protect the public health, safety, and welfare of the residents of the City, and in compliance with the Michigan Medical Marihuana Facilities Licensing Act, Act 281 of 2016 (the “Act”). The City finds that these activities are significantly connected to the public health, safety, and welfare of its citizens and it is therefore necessary to regulate and enforce safety, security, fire, police, health, and sanitation practices related to such activities and also to provide a method to defray administrative costs incurred by such regulation and enforcement.
- (B) Further, the purpose of this Ordinance is to:
- (1) Authorize the establishment of Medical-use Marihuana Establishments, as herein defined, within the City and provide standards and procedures for the review, issuance, renewal, and revocation of City-issued permits for such establishments;
 - (2) Protect public health and safety through reasonable limitations on commercial Medical-use Marihuana Establishment operations as they related to noise, air, and water quality, neighborhood and resident safety, security for the Medical-use Marihuana Establishment and its personnel, and other health and safety concerns; and
 - (3) Establish a set of rules and regulations which are fair and equitable for those interested in securing a permit allowing for the operation of a Medical-use Marihuana Establishment (a “Permit”)
- (C) Nothing in this Ordinance is intended to grant, nor shall be construed as granting, immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture,

possession, use, sale, distribution, or transport of Marihuana in any form, that is not in strict compliance with applicable state law or regulation or local law or ordinance. Moreover, nothing in this Ordinance creates, nor shall it be construed to create, an exception, defense, or immunity to or for any person with regard to any potential criminal liability the person may have for the production, distribution, or possession of Marihuana under federal law.

Section 3. Definitions.

Unless the context clearly requires a different meaning, any term used in this Ordinance that is defined by the Act or the Administrative Rules promulgated by the Cannabis Regulatory Agency (the “Rules”) addressing Medical-use Marihuana shall have the definition given that in that Act and those Rules.

“*Applicant*” means a person who applies for a City-issued Permit to operate a Medical-use Marihuana Establishment in accordance with the terms of this Ordinance and the City’s Zoning Code.

“*City*” means the City of Milan.

“*City Council*” means the City Council of the City.

“*Cultivate*” means to propagate, breed, grow, harvest, dry, cure, or separate parts of the Marihuana plant by manual or mechanical means.

“*Department*” means the State of Michigan Cannabis Regulatory Agency.

“*Medical Use*” means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of Marihuana or paraphernalia relating to the administration of Marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

“*Medical-use Marihuana Establishment*” means a Grower, Safety Compliance Facility, Processor, Provisioning Center, Secure Transporter, or any other type of Marihuana-related business licensed by the Department for Medical-use Marihuana.

“*Class*” means, collectively, Class A, Class B and Class C Growers.

“*Patient*” means a Registered Qualifying Patient.

“*Premises*” means the location where the Medical-use Marihuana Establishment will be located.

“*Primary Caregiver*” means a Registered Primary Caregiver.

“*State License*” means a validly issued license issued by the Department that allows a Person to operate a Medical-use Marihuana Establishment.

“*Zoning Ordinance*” means the City of Milan Zoning Ordinance.

ARTICLE II

LICENSING OF RECREATIONAL-USE MARIHUANA ESTABLISHMENTS

Section 4. Permit Required for Operation.

- (A) It shall be unlawful for any Person to operate a Medical-use Marihuana Establishment in the City unless such Person has first obtained a Permit, possesses a State License in good standing from the Department, and has paid all applicable fees. Permit and State License certificates shall be kept current and publicly displayed within the Medical-use Marihuana Establishment. Failure to maintain or display current State License and Permit certificates shall constitute a violation of this Ordinance.
- (B) An annual nonrefundable fee to defray the administrative and enforcement costs associated with Medical-use Marihuana Establishments located in the City of not more than \$5,000 per Medical-use Marihuana Establishment (the "Fee") shall be due and payable with the application for a Permit and upon the application for renewal of any such Permit. That Fee is in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any State regulatory agency, or other City ordinance or local county requirements, including, by way of example, any applicable fees for site plan review, zoning review, inspections, or building permits.

Section 5. Limitation on Permits.

- (A) The maximum number of each of Medical-use Marihuana Establishments permitted within the City is as follows:

| <u>Type of Establishment</u> | <u>Number Authorized</u> |
|------------------------------|------------------------------|
| Grower | Four |
| Processor | One |
| Secure Transporter | One |
| Provisioning Center | Two, subject to Section 5(C) |
| Safety Compliance Facility | One |

- (B) A Person may simultaneously apply for a Permit to operate more than one type of Medical-use Marihuana Establishment, however a Person may only hold one Medical-use Marihuana Establishment Permit.
- (C) The total number of Provisioning Centers, when combined with the total number of Retailers under City ordinance _____, shall not exceed two, unless a Person is operating both a Retailer and Provisioning Center in the same Premises, in which case up to two each of Retailer and Provisioning Centers may operate, so long as both the Retailer and Provisioning Center are operating out of the same Premises.

Section 6. Zoning Requirements.

- (A) Specific types of Medical-Use Marihuana Establishments may only be located in the following applicable zoning districts, as each are defined in the Zoning Ordinance. In all such

instances, such operations shall be considered a “Conditional Use”, subject to the requirements of Article 9 of the Zoning Ordinance:

| Type of Establishment | Light Industrial (LI) | General Industrial (GI) | Industrial Research (IR) | General Business (GB) | Highway Services (HS) |
|----------------------------|-----------------------|-------------------------|--------------------------|-----------------------|-----------------------|
| Grower | X | X | X | | |
| Processor | X | X | X | | |
| Secure Transporter | X | X | X | | |
| Provisioning Center | | | | X | X |
| Safety Compliance Facility | X | X | X | | |

- (B) Provisioning Centers are also permitted as Conditional Uses within the Downtown Core District (D-1) and Downtown Edge District (D-2) when the Marihuana Establishment is part of a Mixed-Use Development, as each such term is defined in the Zoning Ordinance.
- (C) Medical-use Marihuana Establishments must also satisfy the following minimum distance requirements from the described uses below. Prior to issuing a Permit, the City shall confirm that the Premises meet the following requirements:
 - (1) Distance from Schools. Medical-use Marihuana Establishments shall be located a minimum of five hundred (500) feet from public or private nursery, elementary, secondary, or vocational schools; active child care establishments or organizations (non-home occupation) required to be licensed by the State of Michigan; and public parks that contain playground equipment in existence at the time the Permit is issued.

All minimum distances are measured from the property lines of the property on which the Premises is located to the property lines of the potential properties at issue, as the same exist as of the day a Permit is issued. In the event a Medical-use Marihuana Establishment desires to move its Premises after a Permit is issued, the Medical-use Marihuana Establishment must meet these minimum distance requirements before it will be permitted to operate in the new location, despite a Permit having already been issued for the previous Premises.

Section 7. Requirements and Procedure for Municipal Permit.

- (A) A Person seeking to operate a Medical-use Marihuana Establishment pursuant to the Act and the provisions of this Ordinance must submit an application in writing to the City on forms provided by the City (an “Application”) An Application must be approved by the City Council and approved by the prior to commencing operation.

- (B) An Application for a Permit under this Ordinance shall be made under oath and shall contain the following information:
- (1) If the Applicant is an individual, the Applicant's name, date of birth, physical address, email address, one or more phone numbers, including emergency contact information, and copy of a government-issued photo identification;
 - (2) If the Applicant is not an individual, the name and address of the registered agent, proof of registration or a certificate of good standing from the State, copies of the articles of incorporation or articles of organization as applicable, and a copy of the operating agreement, partnership agreement, or bylaws or shareholder agreement as applicable; and the names, dates of birth, physical addresses, email addresses, one or more phone numbers, including emergency contact information, and copy of a government-issued photo identification for each of the shareholder, member, partner, or owner of the Applicant (a "Stakeholder"). For any Stakeholder who is an entity, and any Stakeholders of such Stakeholders the above information shall be provided until all individual Stakeholders are identified. In the event one or more Stakeholders are an entity which is subject to public reporting requirements by the United States Securities and Exchange Commission, no such Stakeholders are required to be disclosed;
 - (3) For the Applicant and for each Stakeholder of the Applicant, an affirmation under oath that each individual is at least 21 years of age and is not currently under indictment nor has ever been convicted of, pled guilty or nolo contendere, or forfeited bail concerning any criminal felony or controlled substance-related misdemeanor, not including traffic violations, under the laws of any jurisdiction.
 - (4) The name and address of the proposed Medical-use Marihuana Establishment and any additional contact information deemed necessary by the City;
 - (5) A copy of any deed reflecting the Applicant's ownership of, or lease reflecting the right of the Applicant to possess the, Premises;
 - (6) If the Applicant is not the owner of the entire proposed Premises for the Medical-use Marihuana Establishment, a notarized statement from the property owner authorizing the use of the Premises for a Medical-use Marihuana Establishment;
 - (7) A signed release authorizing the City to perform a criminal background check to ascertain whether the Applicant, each Stakeholder of the Applicant, and each managerial employee of the applicant meet the criteria set forth in this Ordinance;
 - (8) An affirmation under oath as to whether the Applicant or any Stakeholder has ever had a business or commercial license denied, restricted, suspended, revoked, or not renewed, and a statement describing the facts and circumstances concerning such application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority and the date each action was taken;

- (9) An affidavit that neither the Applicant nor any Stakeholder is in default to the City, specifically, that the Applicant or Stakeholder has not failed to pay any property taxes, special assessments, fines, fees, or other financial obligations to the City;
- (10) For the Applicant and each Stakeholder of the Applicant, a resume that includes whether the individual has any relevant experience with recreational-use Marihuana or a related industry;
- (11) Proof of adequate premises liability and casualty insurance that complies with the requirements set forth in the Act and any rule or regulations issued by the department, covering the Medical-use Marihuana Establishment and naming the City as an additional insured, available for the payment of any damages arising out of an act or omission of the applicant or its stakeholders, agents, employees, or subcontractors;
- (12) A copy of the proposed business plan for the Medical-use Marihuana Establishment, including but not limited to the following:
 - a. The proposed ownership structure of the Medical-use Marihuana Establishment, including percentage ownership of each Person;
 - b. A current organization chart that includes position descriptions and the name of each Person holding each position;
 - c. A proposed marketing, advertising, and business promotion plan, including plans to minimize the exposure of marketing or promoting Marihuana products to underage individuals;
 - d. A description of the planned tangible capital investment in the City, including detail related to the number and nature of the Applicant's proposed Medical-use Marihuana Establishments in the City and whether the locations of such Medical-use Marihuana Establishments will be owned or leased;
 - e. An explanation of the economic benefits to the City and anticipated job creation from the proposed Medical-use Marihuana Establishment;
 - f. A description of the planned training and education programs for employees;
 - g. A description of the financial structure and financing of the proposed Medical-use Marihuana Establishment;
 - h. An explanation of the short-term and long-term goals and objectives of the proposed Medical-use Marihuana Establishment;
 - i. A description of the Applicant's planned community outreach and education plans and strategies, including whether key Stakeholders will be involved in outreach and education initiatives; and
 - j. An explanation of the Applicant's proposed charitable plans and strategies, including whether through financial contributions or volunteer work;

- (13) A security plan for the Medical-use Marihuana Establishment, including but not limited to any lighting, alarms, barriers, recording/monitoring devices, and/or security guard arrangements proposed for the Medical-use Marihuana Establishment and Premises, including the specification details of each piece of security equipment;
- (14) A floor plan of the Medical-use Marihuana Establishment, as well as a scale diagram illustrating the property upon which the Medical-use Marihuana Establishment is to be operated, including all available parking spaces, and specifying which parking spaces, if any, are handicapped-accessible;
- (15) A facility sanitation plan to protect against any Marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any Marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction into the sewerage system is prohibited;
- (16) Any proposed text or graphical materials to be shown on the exterior of the proposed Medical-use Marihuana Establishment;
- (17) A location area map of the Medical-use Marihuana Establishment and surrounding area that identifies the buffer zones set forth in this Ordinance and any applicable rules promulgated by the Department.
- (18) An estimate of the number and type of jobs that the proposed Medical-use Marihuana Establishment is expected to create, the amount and type of compensation to be paid for such jobs, and the projected annual budget and revenue of the Medical-use Marihuana Establishment;
- (19) A proposed inventory and recordkeeping plan that will track quantities sold to individual patrons and monitor inventory;
- (20) A signed acknowledgment that the Applicant is aware of and understands that all matters related to Marihuana, growing, cultivation, possession, dispensing, testing, safety compliance, transporting, distribution, and use are currently subject to state and federal laws, rules, and regulations, and that the approval or granting of a permit hereunder does not exonerate or exculpate the Applicant from abiding by the provisions, requirements, and penalties associated with those laws, rules, and regulations or exposure to any penalties associated therewith;
- (21) As it relates to a Provisioning Center, the Applicant shall also provide a description of a proposed education plan for Patients and Primary Caregivers and the information that will be made available regarding substance abuse awareness and treatment programs;
- (22) As it relates to a Grower's Medical-use Marihuana Establishment, the following additional items shall be required:
 - a. A grower plan that includes at a minimum a description of the grower methods to be used, including plans for the growing mediums, treatments, and/or additives;

- b. A production testing plan that includes at a minimum a description of how and when samples for laboratory testing by a state approved Safety Compliance Facility will be selected, what type of testing will be requested, and how the test results will be used
 - c. An affidavit that all operations will be conducted in conformance with the Act or other applicable State laws and such operations shall not be cultivated on the premises at any one time more than the permitted number of Marihuana plants per the Act;
 - d. A chemical and pesticide storage plan that states the names of pesticides to be used in grower and where and how pesticides and chemicals will be stored in the facility, along with a plan for the disposal of unused pesticides; and
 - e. All growing must be performed within an enclosed locked facility which may include indoors or in an enclosed greenhouse or outdoor grow; and
- (23) Any other information which may be required by City rule or ordinance from time to time.
- (C) Upon receipt of an Application, the City Clerk, or its designee, shall review such Application to confirm all requirements have been met. Should Applicant fail to meet any requirements of this Ordinance, the City Clerk, or its designee, shall notify Applicant of such deficiency, and begin reviewing the next Application submitted. Upon confirmation of receipt of a completed Application meeting the requirements of this Ordinance and the appropriate Fee, and confirmation that the number of existing Permits already granted does not exceed the maximum number established by this Ordinance, the Clerk shall refer a copy of the Application to each of the following for their review and approval: the City attorney, the City treasurer, the Police Department, the Fire Department, the Building Department, and the Zoning Administrator.
- (D) No Application shall be approved unless:
- (1) The Fire Department or designee and the Building Department have inspected the plans of the proposed Premises for compliance with all laws for which they are charged with enforcement;
 - (2) The Police Department has confirmed that the Applicant, each Stakeholder of the Applicant, and each managerial employee has passed a criminal background check and have met the requirements of this Ordinance with respect to the Medical-Use Marihuana Establishment's security plan;
 - (3) The Zoning Administrator has confirmed that the proposed Premises complies with the Zoning Code; and
 - (4) The Treasurer has confirmed that the Applicant and each Stakeholder of the Applicant are not in default to the City.

Section 8. Permit Application Evaluation.

- (A) If, at the end of a window, the number of Applications for a Permit for a type of Marihuana Establishment exceeds the number of available licenses, the City shall decide among Applications by a competitive process intended to select the Applicant(s) who are best suited to operate in compliance with MRTMA within the City.
- (B) The City Administrator, or its designee, shall assess, evaluate, score and rank all Applications submitted and considered complete at the closing of the window for submitting such Applications, as according to the provisions of this Ordinance. No Application shall be accepted for assessment, evaluation, scoring, and ranking unless such Application contains the approvals required by Section 7 of this Ordinance and MCL 333.27959.4, as may be amended.
- (C) The Applicants and their Applications will be ranked in the order of which is best suited to operate in compliance with MRTMA within the City as determined by the City Council or its designee. This ranking will be used to fill available Permit slots, starting with the best-suited Applicant and Application, until all available City license slots are filled. A scoring evaluation shall be used to assist the City in determining the best suited and qualified Applicant for Permit. Applicants who score the highest on such evaluations will be considered the best suited applicant.
- (D) In its Application assessment, evaluation, scoring, and ranking, deliberations, the City Administrator, or its designee, shall assess, evaluate, score, and rank each Application based upon a scoring and ranking procedure developed by the City Administrator, or its designee, consistent with the requirements, conditions, and provisions of this in each ordinance of the following categories:
 - (1) The Applicant's experience in operating other similarly licensed businesses. For purposes of this subsection (b) only, similarly licensed businesses shall include only Marihuana Establishments and Medical Marihuana Establishments, as defined within City ordinance _____, operated by the Applicant and licensed by the Department.
 - a. 0 years' experience shall be assigned 0 points.
 - b. Between 0 to 3 year of experience shall be assigned 10 points.
 - c. Between 3 to 5 years of experience shall be assigned 40 points.
 - d. More than 5 years of experience shall be assigned 50 points
 - (2) The financial ability of the Applicant to operate the Marihuana Establishment.
 - a. An Applicant providing proof of less than \$250,000 of estimated operating capital shall be assigned 0 points.
 - b. An Applicant providing proof of between \$250,000 and \$500,000 of estimated operating capital shall be assigned 5 points.

- c. An Applicant providing proof of more than \$500,000 of demonstrated operating capital shall be assigned 10 points.
- (3) Whether the Applicant or any Stakeholder is currently under indictment for or has been arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning any criminal felony or controlled substance-related misdemeanor, not including traffic violations, under the laws of any jurisdiction.
- a. Any Applicant with a demonstrated and/or verifiable criminal activity as described in this subsection shall be assigned 0 points.
- b. Any Applicant with no demonstrated and/or verifiable criminal activity as described in this subsection shall be assigned 10 points.
- (4) Whether the Applicant has a history of non-compliance with State of Michigan statutes, rules or regulations related to the operations of a business.
- a. Any Applicant with a demonstrated and/or verifiable non-compliance as described in this subsection shall be assigned 0 points.
- b. Any Applicant with no record of non-compliance as described in this subsection shall be assigned 10 points.
- (5) Whether the Applicant or Stakeholder has filed, or had filed against it, a proceeding for bankruptcy within the past ten (10) years.
- a. Any Applicant with a bankruptcy proceeding as described in this subsection shall be assigned 0 points.
- b. Any Applicant with no record of bankruptcy proceedings as described in this subsection shall be assigned 10 points.
- (6) Whether the Applicant is free of any property tax delinquencies within the City and income tax delinquencies with any state or federal government.
- a. Any Applicant with a delinquency as described in this subsection shall be assigned 0 points.
- b. Any Applicant with no record of any delinquency as described in this subsection shall be assigned 10 points.
- (7) Whether the Premises will be located on a parcel which is currently vacant, undeveloped, or otherwise considered a blighted property
- a. The Premises being in a property which is already existing and is not deemed vacant shall be assigned -30 points
- b. The Premises being a property which is deemed blighted and is renovated so as to meet applicable regulatory requirements shall be assigned 10 points.
- c. The Premises being a property at which an existing building is removed, and a new building built in its place shall be assigned 40 points.

- d. The Premises being a property which is vacant as of the time of the Application and shall have a new building constructed upon it shall be assigned fifty (50) points.
- (7.1) If points are awarded under subsections 7(b)-(d), above, then a further points may be awarded if the Premises is housed in a stand-alone building or as part of a larger development, and whether such development also contains residential dwellings.
- a. The Premises being in a stand-alone building which is not either (a) connected to or has exterior walls within ten (10) feet of the next closest commercial or residential building or (b) part of a building in which multiple businesses and/or residences are located shall be assigned 5 points.
- b. The Premises being in a building which is either (a) connected to or on the same parcel of land as 1 other commercial or residential building, including any shared or “party” walls, (b) part of a building in which multiple businesses and/or residences are located, shall be assigned twenty (20) points.
- c. The Premises being in a building which is either (a) connected to or on the same parcel of land as 2 other commercial or residential building, including any shared or “party” walls, or (b) part of a building in which multiple businesses and/or residences are located shall be assigned thirty (30) points.
- d. The Premises being in a building which houses both commercial and residential uses shall be assigned forty (40) points.
- (8) Whether the Premises exceeds aesthetic requirements related to the building and landscaping
- a. The Premises exceeding the total square footage of landscaping required by one or more zoning ordinances by at least 25% shall be assigned twenty (20) points.
- b. The Premises exceeding the total amount of the building façade which is required to be brick, stone or stucco shall be assigned twenty (20) points.
- (9) Whether the Premises has demonstrated building efficiencies in excess of the minimums set forth by one or more state, local or federal minimums.
- a. The Applicant demonstrating that the Premises shall utilize methods to exceed the minimum standards for reducing the spread of any odors outside of the Premises shall be assigned (10) points.
- b. The Applicant demonstrating that the Premises shall meet or exceed the standards of the current adopted version of the Michigan Energy Code for Commercial buildings shall be assigned five (5) points.
- c. The Applicant demonstrating that the Premises shall be Energy Star certified shall be assigned five (5) points.
- (10) Whether the Applicant has met the following criteria related to the operations of the Marihuana Establishment.

- a. An Applicant providing a staffing plan that includes the hiring of five (5) or more employees in full time positions (defined as 40+ hours per week) shall be assigned eight (8) points.
 - b. An Applicant providing a staffing plan that includes the hiring of fewer than five (5) or more employees in full time positions (defined as 40+ hours per week) shall be assigned four (4) points.
 - c. An Applicant that provides an employee training manual as part of the Application shall be assigned one (1) point.
 - d. An Applicant that provides an employee educational plan focused on providing continuing education to employees related to the operations of Marihuana Establishments and general business practices shall be assigned one (1) point.
 - e. An Applicant that provides a marketing plan which is reasonably acceptable to the City demonstrating how the Marihuana Establishment will market any products and/or services to both City residents and those outside the City shall be assigned ten (10) points.
 - f. An Applicant that provides a plan which is reasonably acceptable to the City demonstrating how the Marihuana Establishment will engage in volunteer activities to benefit the City and surrounding areas and other means of community involvement shall be assigned twenty (20) points.
 - g. An Applicant that provides a policy and procedure for addressing complaints expressed by residents and businesses surrounding the Premises which is reasonably acceptable to the City shall be assigned ten (10) points.
 - h. An Applicant that provides an inventory and record keeping plan that is complaint with all State of Michigan statutes, rules and regulations shall be assigned ten (10) points.
- (11) Whether the Applicant has met the following criteria related to the creation and providing of a security plan for the Marihuana Establishment.
- a. An Applicant that provides a theft prevention plan in compliance with the laws of the State of Michigan and is reasonably acceptable to the City shall be assigned ten (10) points.
 - b. An Applicant that provides a plan demonstrating the installation and ongoing operation of both interior and exterior video surveillance equipment on a twenty four hour per day basis shall be assigned ten (10) points.
 - c. An Applicant that enters into an agreement with the City of Milan Police Department to share security camera footage related to an ongoing investigation into criminal conduct shall be assigned ten (10) points.
 - d. An Applicant that presents a plan to deter and prevent unauthorized entrance into the Marihuana Establishment shall be assigned ten (10) points.

- (E) Only Applications which receive at least Three Hundred Twenty (320) points from the above assessment may be considered for a Permit.

Section 9. Permits Generally.

- (A) To the extent permissible under law, all information submitted in conjunction with an Application for a Permit or Permit renewal required by this Ordinance is confidential and exempt from disclosure under the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231 et seq., including the trade secrets or commercial or financial information exemptions available under Section 13(f) of the Michigan Freedom of Information Act.
- (B) Permit holders may transfer a Permit to a different location upon receiving written approval from the Clerk. In order to request approval to transfer a Permit to a new Premises, the Permit holder must make a written request to the Clerk, indicating the current Premises and the proposed Premises. Upon receiving the written request, the Clerk shall refer a copy of the written request to each of the following for their approval: the City of Milan attorney, the City of Milan treasurer, the Police Department, the Fire Department, the Building Department, and the Zoning Administrator. No Permit transfer shall be approved unless each such individual department or Person gives written approval that the Permit holder and the proposed Premises meet the standards identified in this Ordinance.
- (C) Permit holders may transfer a Permit issued under this Ordinance to a different Person upon receiving written approval by the Clerk. In order to request approval to transfer a Permit to a different Person, the Permit holder must make a written request to the Clerk, indicating the current Permit holder and the proposed Permit holder. Upon receiving the written request, the Clerk shall consider the request as a new Application. Application fees are non-transferable. The City may set a Permit transfer fee by resolution; otherwise, the proposed Permit transferee must submit a Fee as if submitting a new Application.
- (D) Permit holders shall report any other change in the information required by this ordinance to the Clerk within ten business days of the change. Failure to do so may result in suspension or revocation of the Permit.
- (E) A “transfer” includes any change in more than ten percent (10%) of the Permit holder, whether directly or through the change of any Stakeholder, or the ownership of a Stakeholder.

Section 10. Permit Renewal.

- (G) A Permit shall run concurrently with the State License issued for the Premises, unless revoked as provided by law.
- (H) Application for a Permit renewal required by this Ordinance shall be made in writing at least 45 days prior to the expiration of an existing Permit, on forms provided by the City.
- (I) The same procedures that govern the application, review, and issuance of a new Permit shall apply to the renewal of an existing Permit.
- (J) Prior to the issuance of a renewed Permit, the Premises shall be inspected to assure that it and its systems are in compliance with the requirements of this Ordinance.

Section 11. Permit as Revocable Privilege.

A Permit issued under this Ordinance is a revocable privilege granted by the City and is not a property right. The issuance of a Permit does not create or vest any right, title, franchise, or other property interest.

Section 12. Permit Denial and Revocation.

- (A) A Permit issued under this Ordinance may be revoked after an administrative hearing at which the City Council (a “Revocation Hearing”) by majority vote of the members present determines that any grounds for revocation under this Ordinance exist. Notice of the time and place of the Revocation Hearing and the grounds for revocation must be given to the Permit holder at least five days prior to the date of the Revocation Hearing, by first class mail to the address given on the Application; a Permit holder whose Permit is subject of such Administrative Hearing may present evidence and/or call witnesses at the Administrative Hearing.
- (B) A Permit applied for or issued under this Ordinance may be denied or revoked on any of the following bases:
- (1) A violation of this Ordinance;
 - (2) Any conviction of a felony under the laws of any jurisdiction within the past five (5) years by the Applicant or any Stakeholder of the Applicant or while licensed under this Ordinance, or any conviction of a controlled substance-related felony by the Applicant or any Stakeholder ever or while licensed under this Ordinance;
 - (3) Commission of fraud or misrepresentation or the making of a false statement by the Applicant, Permit holder, or any Stakeholder of the Applicant or Permit holder while engaging in any activity for which this Ordinance requires a Permit;
 - (4) The Medical-Use Marihuana Establishment is determined by the City to have become a public nuisance or is otherwise operating in a manner detrimental to the public health, safety, or welfare; or
 - (5) The State of Michigan has denied, revoked, or suspended the Applicant’s or Permit holder’s State License, or the Applicant or Permit holder has otherwise failed to obtain or maintain a State License pursuant to the Act and applicable rules and regulations.

Section 13. Penalties and Discipline.

- (A) The City may require an Applicant or Permit holder of a Medical-Use Marihuana Establishment to produce documents, records, or any other material pertinent to the investigation of an Application or alleged violation of this Ordinance. Failure to provide the required material may be grounds for Application denial or Permit revocation.
- (B) Any Person violating this Ordinance, including by the operation of a Medical-Use Marihuana Establishment without a Permit issued pursuant to this Ordinance, shall be responsible for a

civil infraction and shall be subject to a fine of not more than \$500.00 for each day such person violates this ordinance.

- (C) All fines imposed under this Ordinance shall be paid within 45 days after the effective date of the order imposing the fine or as otherwise specified in the order.
- (D) The City may temporarily suspend a Permit without a prior hearing if the Chief of Police for the City finds that public safety or welfare requires emergency action affecting the public health, safety, or welfare. The City shall cause the temporary suspension by issuing a suspension notice in connection with institution of proceedings for notice and a hearing.
- (E) If the City temporarily suspends a Permit without a prior hearing, the permit holder is entitled to a hearing within thirty (30) days after the suspension notice was issued.
- (F) If the City does not hold a hearing within thirty (30) days after the date the suspension notice was issued, then the permit shall be automatically reinstated and the suspension vacated.
- (G) Nothing in this ordinance shall be deemed to prohibit the city manager or their designee from imposing other penalties authorized by Milan City Code of Ordinances or other ordinance of the City, including filing a public nuisance action or any other legal action in a court of competent jurisdiction.

ARTICLE III

MINIMUM OPERATING STANDARDS FOR MEDICAL-USE MARIHUANA ESTABLISHMENTS

Section 14. Minimum Operational Standards Applicable to All Medical-Use Marihuana Establishments.

The following minimum standards shall apply to all Medical-Use Marihuana Establishments within the City:

- (A) The Marihuana Establishment shall comply at all times and in all circumstances with the Act, applicable Michigan law, and the general rules of the Department, as they may be amended from time to time. It is the responsibility of the Permit holder to be aware of changes in the Act, and the City bears no responsibility for failure of the Permit holder to be unaware of changes in the Act.
- (B) Consumption and/or use of Marihuana shall be prohibited at, inside, and on the Premises of the Medical-Use Marihuana Establishment.
- (C) All activity related to the Medical-Use Marihuana Establishment shall be performed indoors inside a fully enclosed building.
- (D) The Medical-Use Marihuana Establishment shall be continuously monitored with a surveillance system that includes security cameras. The video recordings shall be maintained

- in a secure, off- site location for a period of fourteen (14) days and be available upon request of the Police Department.
- (E) The Medical-Use Marihuana Establishment shall be maintained and operated so as to comply with all State and local rules, regulations and ordinances.
 - (F) All Marihuana shall be contained within an enclosed, secure area.
 - (G) All persons working in direct contact with Marihuana shall conform to acceptable hygienic practices while on duty, including but not limited to:
 - (1) Maintaining adequate personal cleanliness;
 - (2) Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when their hands may have become soiled or contaminated; and;
 - (3) Refraining from having direct contact with Marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.
 - (H) Litter and waste shall be properly removed and the operating systems for waste disposal shall be maintained in an adequate manner so that they do not constitute a source of contamination.
 - (I) Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
 - (J) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste development of odor and minimize the potential for waste becoming an attractant, harborage or breeding place for pests.
 - (K) All building fixtures and other establishments shall be maintained in a sanitary condition.
 - (L) Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
 - (M) A Medical-Use Marihuana Establishment shall be free from infestation by insects, rodents, birds, or vermin of any kind.
 - (N) The Premises shall be open, at all times, to any department investigators, agents, auditors, or police, without a warrant and without notice to the holder of the Permit, enter the Premises, offices, facilities, or other places of business of a Permit holder, if evidence of compliance or non-compliance with the Act or applicable State laws is likely to be found and consistent with constitutional limitations, for the following purposes:
 - (1) To inspect and examine all Premises of the Medical-Use Marihuana Establishment;
 - (2) To inspect, examine, and audit relevant records of the Permit holder and, if the Permit holder or any of the managerial employees or employees fails to cooperate with an

investigation, the investigator may impound, seize, assume physical control of, or summarily remove from the Premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored as well as any other property.

- (3) To inspect the person, and inspect or examine personal effects present in a Medical-Use Marihuana Establishment, of any holder of State License while that person is present in a Medical-Use Marihuana Establishment; and
- (4) To investigate alleged violations of the Act or applicable State laws.

Section 15. Minimum Operating Standards for Provisioning Centers.

The following minimum standards shall apply to all Provisioning Centers within the City:

- (A) No Provisioning Center shall be open to the public between the hours of 9:00 P.M. and 9:00 A.M.
- (B) A sign shall be posted on the Premises of each Provisioning Center indicating that consumption is prohibited on the premises.
- (C) The public or common areas of the Provisioning Center must be separated from restricted or non-public areas of the Medical-Use Marihuana Establishment.
- (D) All Marihuana storage areas within the Provisioning Center must be separated from any customer areas by a permanent barrier. Marihuana may be displayed in a sales area.
- (E) Any usable Marihuana remaining on the Premises of a Provisioning Center while the Provisioning Center is not in operation shall be secured from the public.
- (F) Drive-through windows on the Premises of a Provisioning Center shall not be permitted.
- (G) No Provisioning Center shall allow the sale, consumption, or use of alcohol or tobacco products on the Premises.
- (H) No Provisioning Center shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the property on which the Marihuana Retailer is operated, or any other nuisance that hinders the public health, safety and welfare of the residents of the City.
- (I) The permit required by this Ordinance shall be prominently displayed on the Premises of a Medical-Use Marihuana Establishment.
- (J) 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 non-conformance with State laws.
- (K) All Marihuana shall be packaged and labeled as provided by State laws.

- (L) A Provisioning Center and its agents and employees shall require each purchase of Marihuana and Marihuana-related products to display a government-issued photo identification and verify that the prospective purchaser is over twenty-one (21) years of age.
- (M) It shall be prohibited to display any signs that are inconsistent with local laws or regulations or state law.
- (N) It shall be prohibited to use advertising material that is misleading, deceptive, or false, or that is designed to appeal to individuals under the age of 21.
- (O) No Provisioning Center shall place or maintain, or cause to be placed or maintained, an advertisement of Marihuana in any form or through any medium within one thousand (1,000) feet of the real property comprising a public or private nursery, elementary, secondary, or vocational school or child care facility.
- (P) No Provisioning Center shall sell edible Marihuana-infused candy in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain Marihuana.
- (Q) Provisioning Centers shall not sell or otherwise transfer Marihuana that is not contained in an opaque, re-sealable, child-resistant package designed to be significantly difficult for children under 5 years of age to open.

Section 16. Minimum Operating Standards for Grower Facilities.

The following minimum standards shall apply to all Grower Premises within the City:

- (A) The Grower's Premises shall comply at all times and in all circumstances with the Act, other applicable State laws, and the general rules of the Department, as they may be amended from time to time.
- (B) The Grower shall maintain a log book and/or database indicating the number of Marihuana plants located on the Premises.
- (C) Each Marihuana plant shall be tagged as required by the Act and other applicable State laws and regulations.
- (D) Any Premises which contains Marihuana shall be enclosed and locked.
- (E) All necessary building, electrical, plumbing, and mechanical permits shall be obtained for any portion of the structure in which electrical wiring, lighting, and/or watering devices that support the Grower, growing, or harvesting of Marihuana are located.
- (F) That portion of the Grower Premises storing any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Fire Department to insure compliance with all applicable statutes, codes, and ordinances.
- (G) The dispensing of Marihuana at the Grower Premises shall be prohibited.

- (H) All Grower Premises shall produce no products other than useable Marihuana intended for human consumption.
- (I) In furtherance of the public health, safety, and welfare, exterior signage or advertising identifying the Premises as a Grower shall be prohibited.
- (J) Venting of Marihuana odors into the areas surrounding a Grower's Premises is deemed and declared to be a public nuisance.

Section 17. Minimum Operating Standards for Safety Compliance Facilities.

The following minimum standards shall apply to the Premises of any Safety Compliance facilities within the City:

- (A) The Safety Compliance Facility shall comply at all times and in all circumstances with the Act, other applicable State laws, and the general rules of the Department, as they may be amended from time to time.
- (B) The Safety Compliance Facility shall maintain a log book and/or database which complies with the Act and other applicable State laws.
- (C) All Marihuana shall be contained within an enclosed, locked facility.
- (D) There shall be no other accessory uses permitted within the same facility other than those associated with testing Marihuana.
- (E) In furtherance of the public health, safety, and welfare, exterior signage or advertising identifying the facility as a Safety Compliance Facility shall be prohibited.

Section 18. Minimum Operating Standards for Secure Transporters.

The following minimum standards shall apply to all Secure Transporters within the City:

- (G) The Secure Transporters shall comply at all times and in all circumstances with the Act, other applicable State laws, and the general rules of the Department, as they may be amended from time to time.
- (H) Consumption and/or use of Marihuana shall be prohibited at a Secure Transporter's Premises.
- (I) The Secure Transporter's Premises shall not be used for any other commercial purpose.
- (J) The Secure Transporter's Premises shall not be open or accessible to the general public.
- (K) All Marihuana stored within the Secure Transporter's Premises shall be stored within enclosed, locked receptacles in accordance with the Act.
- (L) A Secure Transporter shall comply with all of the following:
 - (1) Each driver transporting Marihuana shall have a chauffeur's license issued by the State;

- (2) Each employee who has custody of Marihuana or money that is related to a Marihuana transaction shall not have been convicted of delivery of a controlled substance;
 - (3) Each vehicle shall be operated with a two-person crew with at least one individual remaining with the vehicle at all times during the transportation of Marihuana;
 - (4) The Marihuana shall be transported by one or more sealed containers and shall not be accessible while in transit;
 - (5) A Secure Transporter's vehicle shall not bear markings or other indication that it is carrying Marihuana or a Marihuana infused product; and
 - (6) A route plan and 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.
- (G) No Applicant, Permit holder, Stakeholder or investor with an interest in a Secure Transporters may have an interest in a Grower, Processor, Provisioning Center, Microbusiness, as defined in the City of Milan Recreational-Use Marihuana Establishments Ordinance, or Safety Compliance Facility.
 - (H) A Secure Transporter shall enter all transactions, current inventory, and other information into the statewide monitoring system as required by the Act and other applicable state law, rules, and regulations.
 - (I) A vehicle used by a Secure Transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of Marihuana or Marihuana-infused products to determine compliance with State or local law, rules, and ordinances.

Section 19. Minimum Operating Standards for Processors.

The following minimum standards shall apply to all Processors within the City:

- (A) The Processor shall comply at all times and in all circumstances with the Act, other applicable State laws, and the general rules of the Department, as they may be amended from time to time.
- (B) All Processors shall maintain a log book and/or database which complies with the Act and other applicable State laws.
- (C) All Marihuana shall be tagged as required by the Act or other applicable State laws and regulations.
- (D) Processors shall produce no products other than useable Marihuana intended for human consumption.
- (E) The Processor's Premises shall be subject to inspection at any time by the Fire Department to insure compliance with all applicable statutes, codes, and ordinances.

(F) The dispensing of Marihuana at a Processor's Premises shall be prohibited.

Section 20. Repealer.

Ordinance No. 2019-03, the City of Milan Prohibition of Marihuana Establishments Ordinance, and any other ordinances of parts thereof which conflict with this ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 21. Severability.

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect. It is hereby declared to be the legislative intent of this body that the Ordinance would have been adopted had such invalid or unconstitutional provisions not have been included in this Ordinance.

Section 22. Savings Clause.

The balance of the Code of Ordinances, City of Milan, Michigan, except as herein or heretofore amended, shall remain in full force and effect. The repeal provided herein will not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation, or prosecution of any right established, occurring prior to the effective date hereof.

Section 23. Copies to be available.

Copies of the Ordinance are available at the office of the City Clerk for inspection by, and distribution to, the public during normal office hours.

Section 24. Effective Date.

As provided by Section 7-3 of the Milan City Charter, the effective date of this ordinance shall be ten (10) days after its adoption and publication of a summary thereof as required by Subsection 7-4(b) of the Milan City Charter, which summary shall read as follows:

The Milan City Council has approved Ordinance No. 2022-06, which ordinance amends the Milan City Code of Ordinances to permit the operation of medical marihuana facilities and to repeal Ordinance No. 2012-03, the City of Milan Prohibition of Marihuana Establishments Ordinance, and any other ordinances of parts thereof which conflict with said ordinance. Printed copies of the full text of Ordinance No. 2022-06 are available for inspection and purchase by the public at the office of the City Clerk during regular business hours, 8:00 a.m. to 4:00 p.m., Monday through Friday. Ordinance No. 2022-06 is effective ten (10) days after adoption and publication of this summary notice.

Adopted and signed this 28 day of November, 2022.

Signed _____
Edward Kolar, Mayor

Signed _____
Lavonna Wenzel, City Clerk

Attest

I do hereby confirm that the above Ordinance No. 2022-06 was published in the Ann Arbor News on the 4^h day of December, 2022.

Lavonna Wenzel, City Clerk

CITY CLERK'S CERTIFICATE

I certify that the foregoing is a true and complete copy of the Ordinance duly adopted by the City Council of the City of Milan, Counties of Monroe and Washtenaw, State of Michigan, at a regular meeting held on the 28th day of November, 2022, the original of which is in my office, and that the meeting was conducted and public notice of the meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267 of PA 1976, and that the minutes of the meeting were kept and will be or have been made available as required by the Open Meetings Act.

I further certify that the following Members were present at the meeting:

Mayor Ed Kolar, Mayor Pro Tem Mary Kerkes, Councilmembers Dave Baldwin, Josh Kofflin, Jesse Nie, Christian Thompson, and Shannon Dare Wayne and the following Members were absent:

None, and that

Member Dave Baldwin moved for adoption of the Ordinance and the motion was supported by Member Christian Thompson.

I further certify that the following Members voted for adoption of the Ordinance:

Mayor Ed Kolar, Mayor Pro Tem Mary Kerkes, Councilmembers Dave Baldwin, Josh Kofflin, Jesse Nie, Christian Thompson, and Shannon Dare Wayne and that the following Members voted against adoption of the Ordinance:

None.

I further certify that the Ordinance has been recorded in the Ordinance Book and that therecording has been authenticated by the signatures of the Mayor and City Clerk.

Lavonna Wenzel, City Clerk

First Reading **November 14, 2022**

Second Reading **November 28, 2022**

Published **December 4, 2022**

Effective Date **December 8, 2022**