

## AGENDA

WORK SESSION OF THE WEST BRANCH CITY COUNCIL TO BE HELD AT THE WEST BRANCH CITY HALL AT 121 N. FOURTH ST ON THURSDAY, MARCH 10, 2022, BEGINNING AT 6:00 P.M.

PLEASE NOTE: All guests and parties in attendance are asked to sign in if they will be making any comments during meetings, so that the City Clerk may properly record your name in the minutes. Public comments are limited to 3 minutes in length while matters from the floor are limited to 10 minutes. All in attendance are asked to silence all cell phones and other electronic devices. Accommodations are available upon request to those who require alternately formatted materials or auxiliary aids to ensure effective communication and access to City meetings or hearings. All request for accommodations should be made with as much advance notice as possible, typically at least 10 business days in advance by contacting City Clerk Lori Ann Clover at (989) 345-0500. [DISCLAIMER: Views or opinions expressed by City Council Members or employees during meetings are those of the individuals speaking and do not represent the views or opinions of the City Council or the City as a whole.] [NOTICE: **Audio and/or video may be recorded at public meetings of the City Council.**]

- I. Call to order
- II. Roll call
- III. Public Comment
- IV. New Business
  - A. Denise Cline presentation on marijuana facilities
- V. Adjournment

## WORK SESSION MEETING NOTICE

To comply with the Michigan Open Meetings Act (MCL 15.265):

The City of West Branch, 121 N. Fourth St. West Branch, MI 48661; phone: (989) 345-0500; email: [cityhall@westbranch.com](mailto:cityhall@westbranch.com)

Internet where meeting notices are posted: [www.westbranch.com](http://www.westbranch.com) (click on "CALENDAR OF EVENTS AND NOTICE OF MEETINGS" or go directly to <http://www.westbranch.com/calendar.php>)

NOTICE IS HEREBY GIVEN, that the City Council of West Branch will hold a work session on the following date, time and place:

DATE: Thursday, March 10, 2022

TIME: 6:00 p.m.

PLACE: Council Chambers of the West Branch City Hall  
121 N. Fourth St.  
West Branch MI 48661

AGENDA: To purpose of the work session is to go over the marijuana facilities ordinance

Accommodations and necessary reasonable auxiliary aids and services are available upon request to persons with disabilities, as well as the hearing impaired, who require alternately formatted materials or auxiliary aids to ensure effective communication and access to meetings or hearings. All requests for accommodation should be made with as much advance notice as possible by contacting City Clerk Lori Ann Clover at (989) 345-0500; 121 N. 4<sup>th</sup> St., West Branch, MI 48661; email: [cityhall@westbranch.com](mailto:cityhall@westbranch.com).

This notice was posted by John Dantzer to comply with Sections 4 and 5 of Michigan Open Meetings Act (MCL 15.265)

**City of West Branch  
Ordinance No. 22-01 of 2022**

**An ordinance to amend the City of West Branch Zoning Ordinance Section 2.2 (Specific Terms), Section 4.7 (Office Service District), Section 4.9 (General Business District), Section 4.10 (Industrial District), Section 4.11 (Full Table of Permitted & Special Land Uses), and Section 7.26 (Marihuana Facilities and Establishments).**

The City of West Branch, Ogemaw County, Michigan ordains:

**Section 1: Additions and deletions to the City of West Branch Zoning Ordinance Section 2.2 (Specific Terms), Section 4.7 (Office Service District), Section 4.9 (General Business District), Section 4.10 (Industrial District), Section 4.11 (Full Table of Permitted & Special Land Uses), and Section 7.26 (Marihuana Facilities and Establishments)**

***That the City of West Branch Zoning Ordinance, Section 2.2 (Specific Terms), is hereby amended to read as follows:***

~~MEDICAL MARIJUANA: The following definitions A through H are related to medical marijuana.~~

**MARIJUANA:** In addition to the following definitions, the City adopts all definitions contained in any of the State rules, regulations, statutes, and administrative code enacted for the purpose of regulating marihuana facilities and establishments.

- A. **DEPARTMENT:** The Department of Licensing and Regulatory Affairs or any successor agency.
- B. **ENCLOSED, LOCKED FACILITY:** That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act, being MCL 333.26423).
- C. **MARIJUANA ESTABLISHMENT:** An enterprise at a specific location at which a licensee is licensed to operate under **Initiated Law 1 of 2018, Medical Regulation and Taxation of Marihuana Act**, MCL 333.27951 et seq.; including a marihuana grower, marihuana microbusiness, marihuana processor, marihuana retailer, marihuana secure transporter, or marihuana safety compliance facility.
  - 1. **MARIJUANA GROWER:** A person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments. For the purposes of this Ordinance, “marihuana grower” and “grower” may be used interchangeably.
  - 2. **MARIJUANA 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.



3. **MARIHUANA PROCESSOR**: A person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments. For the purposes of this Ordinance, “marihuana processor” and “processor” may be used interchangeably.
  4. **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.
  5. **MARIHUANA SECURE TRANSPORTER**: A person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments. For the purposes of this Ordinance, “marihuana secure transporter” and “secure transporter” may be used interchangeably.
  6. **MARIHUANA SAFETY COMPLIANCE FACILITY**: A person licensed to test marihuana, including certification for potency and the presence of contaminants. For the purposes of this Ordinance, “marihuana safety compliance facility” and “safety compliance facility” may be used interchangeably.
- D. **MARIHUANA FACILITY**: An enterprise at a specific location at which a licensee is licensed to operate under **2016 PA 281, Medical Marihuana Facilities Licensing Act**, MCL 333.27101 et seq.; including a grower, processor, provisioning center, secure transporter, or safety compliance facility. The term does not include or apply to a “primary caregiver” or “caregiver” as that term is defined in the **Michigan Medical Marihuana Act**, MCL 333.26421 et seq.
1. **GROWER**: A licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center. For the purposes of this Ordinance, “marihuana grower” and “grower” may be used interchangeably.
  2. **PROCESSOR**: A licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center. For the purposes of this Ordinance, “marihuana processor” and “processor” may be used interchangeably.
  3. **PROVISIONING CENTER**: A licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of this act.
  4. **SAFETY COMPLIANCE FACILITY**: A licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility. For the purposes of this Ordinance, “marihuana safety



compliance facility” and “safety compliance facility” may be used interchangeably.

5. **SECURE TRANSPORTER**: A license that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee. For this Ordinance, “marihuana secure transporter” and “secure transporter” may be used interchangeably.

~~**MEDICAL MARIJUANA**: That term as defined in the Public Health Code, MCL 333.1101 et seq., the Michigan Medical Marijuana Act, MCL 333.26421 et seq.; the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marijuana Tracking Act, MCL 333.27901 et seq.~~

- E. **MARIJUANA**: That term as defined in Section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.
- F. **MEDICAL USE**: 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.
- G. **PERSON**: An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- H. **PHYSICIAN**: An individual licensed as a physician under Part 170 of the Public Health Code, 1978 PA 368, MCL 333.17001—333.17084, or an osteopathic physician under Part 175 of the Public Health Code, 1978 PA 368, MCL 333.17501—333.17556.
- I. **PRIMARY CAREGIVER**: That term defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act, being MCL 333.26423) who is at least 21 years old and who has been registered by State Department of Licensing and Regulatory Affairs or any successor agency to assist with a Qualifying Patients’ use of medical marijuana.
- J. **PRIMARY CAREGIVER FACILITY**: A building in which the activities of a Primary Caregiver are conducted.
- K. **QUALIFYING PATIENT**: That term defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act, being MCL 333.26423) who has been diagnosed by a physician as having a debilitating medical condition as provided by the Michigan Medical Marijuana Act and who has obtained a duly issued registry identification card from the State Department of Licensing and Regulatory Affairs or any successor agency.
- L. **REGISTRY IDENTIFICATION CARD**: A document issued by the department that identifies a person as a registered qualifying patient or registered primary caregiver.

***That the City of West Branch Zoning Ordinance, Section 4.7 (Office Service District), is hereby amended to read as follows:***

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P = Permitted by right S = Permitted with a Special Use Permit *supplemental development regulations	O-S
Commercial, Services & Retail	
Provisioning Center or Marihuana Retailer	S*
Marihuana Safety Compliance Facility	S*

***That the City of West Branch Zoning Ordinance, Section 4.9 (General Business District), is hereby amended to read as follows:***

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P = Permitted by right S = Permitted with a Special Use Permit *supplemental development regulations	G-B
Commercial, Services & Retail	
Provisioning Center or Marihuana Retailer	S*

***That the City of West Branch Zoning Ordinance, Section 4.10 (Industrial District), is hereby amended to read as follows:***

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P = Permitted by right S = Permitted with a Special Use Permit *supplemental development regulations	IND
Commercial, Services & Retail	
Marihuana Grower (Class A, Class B, or Class C)	S*
Provisioning Center or Marihuana Retailer	S*
Marihuana Processor	S*
Marihuana Secure Transporter	S*

***That the City of West Branch Zoning Ordinance, Section 4.11 (Full Table of Permitted & Special Land Uses), is hereby amended to read as follows:***

Table 4.11 - Full Table of Permitted Uses & Special Land Uses							
P = Permitted by right    S = Permitted with a Special Use Permit *supplemental development regulations	R-1	R-M	MU	O-S	CBD	G-B	IND
Commercial, Services & Retail							
Marihuana Grower (Class A, Class B, or Class C)							S*
Provisioning Center or Marihuana Retailer				S*		S*	S*
Marihuana Processor							S*
Marihuana Safety Compliance Facility				S*			
Marihuana Secure Transporter							S*



***That the City of West Branch Zoning Ordinance, Section 7.26 (Marihuana Facilities and Establishments), is hereby added to read as follows:***

**A. General Standards and Submission Requirements.**

1. Marihuana facilities and establishments shall remain in compliance with the State of Michigan licensing requirements.
2. Marihuana facilities and establishments shall receive a license from the City prior to operating and shall continue to comply with the City of West Branch Marihuana Facility and Marihuana Establishment Licensing Ordinance No. \_\_\_\_.
3. The following shall be submitted in conjunction with the licensing application:
  - a. **Site Plan.** Site Plan pursuant to **Article 5** and **Article 6**.
    - (1) Site Plan should show public, private, and secured areas.
    - (2) For growers, the site plan must also show secured areas and any type of outdoor storage.

**B. Standards.**

1. **Compliance with State Regulations.** Each marihuana facility or establishment shall be operated in compliance with the laws and provisions of the State of Michigan.
2. **Location.** Each marihuana facility or establishment shall be operated only from the premises approved on the site plan. No marihuana facility or establishment shall be permitted to operate from a movable, mobile or transitory location, except for a permitted and licensed marihuana secure transporter when engaged in the lawful transport of marihuana.
3. **Co-Location.** A marihuana grower, marihuana processor and a marihuana retailer may operate from within a single facility operating pursuant to the **Medical Regulation and Taxation of Marihuana Act** and may operate from a location shared with a marihuana facility(s) operating pursuant to the **Medical Marihuana Facilities Licensing Act** and the rules of the State. Co-location may only occur if all uses are allowed in the zoning district in which the property is located.
4. **Indoor Operation Required.** All activities of marihuana facilities or establishments, including, without limitation, distribution, growth, cultivation, processing, transfer, or sale of marihuana, and all other related activity permitted under the permit holder's license or permit must occur indoors. The establishment operation and design shall minimize any impact to adjacent uses, including the control of any odor by maintaining and operating an air filtration system so that no abatable nuisance odor is detectable at the property line of the permitted premises. with the exception of secure transporters, the establishments operation and design shall minimize any impact to adjacent uses, including the control of odor by maintaining and operating an air filtration system as follows:



- a. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
  - b. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
  - c. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
  - d. An alternative odor control system is permitted if the special land use permit applicant submits and the municipality accepts a report by a mechanical engineer licensed in the State of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.
5. **Separation Distances.** Marihuana facilities and establishments shall not be located within three hundred (300) feet of any building used for education, child care, park, or addiction treatment purposes (herein referred to as "eligible buildings"). This measurement shall be the distance from any building in which the facility or establishment is operating and an eligible building on another lot or to the lot line of a park. These required separation distances cannot be waived except as allowed below:
- a. The application shall provide evidence that all eligible buildings within the separation distance area have been notified by the applicant of the intent to seek a waiver from the separation distance requirements. Failure to satisfy this requirement may be grounds to deny a proposed separation distance waiver.
  - b. If an objection is not filed by the owners or tenants of an eligible building, the Planning Commission may waive the required separation distance, at the public hearing, in accordance with the standards provided in subsection (d).
  - c. The Planning Commission may grant a reduction in the separation distances upon finding that granting the reduced separation distance:
    - (1) will not cause a substantially adverse effect on neighboring properties and will not produce nuisance conditions to occupants of nearby properties or impair quality of life.
    - (2) will not otherwise impair the public health, safety and general welfare of the residents.
    - (3) Will not damage the neighborhood character.
  - d. Prior to granting the waiver, signed statements shall be required from each impacted property owner (whose property contains an eligible building within three hundred (300) feet of the proposed facility) which indicate that each owner of the property is aware of and in agreement with the waiver. All owners listed in the City tax records shall sign the statement.

## **Section 2: Severability**

If any clause, sentence, paragraph or part of this Ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment is rendered.

## **Section 3: Saving Clause**

The City of West Branch Zoning Ordinance, except as herein or heretofore amended, shall remain in full force and effect. The amendments provided herein shall 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 4: Effective Date**

The ordinance changes shall take effect upon the expiration of seven days after the publication of the notice of adoption.

\_\_\_\_\_  
Mayor, City of West Branch

\_\_\_\_\_  
City of West Branch Clerk

I, \_\_\_\_\_, Clerk for the City of West Branch, hereby certify that the foregoing is a true and correct copy of Ordinance No. \_\_\_\_ of 2022 of the City of West Branch, adopted by at a meeting of the City Council held on \_\_\_\_\_.

A copy of the complete ordinance text may be inspected or purchased at the West Branch City Hall at 121 N. Fourth Street, West Branch, Michigan.

Adopted: \_\_\_\_\_ Published: \_\_\_\_\_ Effective: \_\_\_\_\_ subject to PA 110 of 2006 as amended

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**DRAFT**

**City of West Branch Medical Marihuana Facility and Adult Use Marihuana  
Establishment Licensing Ordinance No. 21-06**

AN ORDINANCE OF THE CITY OF WEST BRANCH, MICHIGAN TO REGULATE MEDICAL  
MARIHUANA FACILITIES AND ADULT USE MARIHUANA ESTABLISHMENTS.

THE CITY OF WEST BRANCH ORDAINS:

***A. Purpose, intent, relationship to other laws and city liability and indemnification***

1. ***Purpose.*** The purpose of this section is to implement and establish a uniformed licensing and regulatory process for Medical and Adult Use Marihuana Businesses to the extent permissible under the provisions of the Michigan Medical Marihuana Act, (MCL 333.26421 et seq.), the Michigan Marihuana Facilities Licensing Act (MCL 333.27101 et seq.) the Marihuana Tracking Act (MCL 333.27901 et seq.), and the Michigan Regulation and Taxation of Marihuana Act (MCL 333.27951 et seq.) referred to herein as the "Acts", so as to protect the public health, safety, and welfare of the residents and patients of the city by setting forth the manner in which medical marihuana facilities and adult use marihuana establishments can be operated in the city. Further, the purpose of this section is to:
  - a. Provide for a means of cultivation, processing, and distribution of marihuana to patients who qualify to obtain, possess, and use marihuana for medical purposes and for eligible adults with proper qualifying identification to obtain, possess, and use marihuana for legally allowable individual purposes under the Acts;
  - b. Protect public health and safety through reasonable limitations on marihuana operations as they relate to noise, air and water quality, neighborhood and patient/customer safety, security for the facility and its personnel, and other health and safety concerns;
  - c. Protect residential neighborhoods by limiting the location and the concentration of types of medical marihuana facilities and adult use marihuana establishments to specific areas of the city;
  - d. Impose fees to defray and recover the cost to the city of the administrative and enforcement costs associated with medical marihuana facilities and adult use marihuana establishments;
  - e. Coordinate with laws and regulations that may be enacted by the state addressing marihuana; and

- f. To restrict the issuance of medical marihuana facility and adult use marihuana establishment licenses only to individuals and entities that have demonstrated an intent and ability to comply with this section.
2. **Legislative intent.** This section authorizes the establishment of marihuana facilities and marihuana establishments within the city consistent with the Acts:
- a. Marihuana cultivation and processing can have an impact on health, safety, and community resources, and this section is intended to permit marihuana cultivation and processing where it will have a minimal impact.
  - b. The regulations for medical marihuana facilities and adult use marihuana establishments are not adequate at the State level to address the impacts on the city of the commercialization of marihuana, making it appropriate for local regulation of the impact of medical marihuana facilities and adult use marihuana establishment on communities as provided for under the acts and expressly retained by municipal charter and any and all powers and immunities, expressed and implied which cities and their officers are, or hereafter may be, permitted to exercise or to provide for under the constitution and laws of the State.
  - c. Nothing in this section is intended to promote or condone the distribution, or possession of marihuana in violation of any applicable State law.
  - d. This section is to be construed to protect the public over medical marihuana facility and adult use marihuana establishment interests. Operation of a medical marihuana facility and adult use marihuana establishment is a revocable privilege and not a right in the city. There is no property right for an individual or facility to engage or obtain a license to engage in marihuana as a commercial business in the city.
3. **Relationship to federal law.** As of the effective date of this section, marihuana is classified as a schedule 1 controlled substance under **the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq.**, which makes it unlawful to manufacture, distribute, cultivate, produce, possess dispense or transport marihuana. Nothing in this section is intended to grant immunity from any criminal prosecution under federal law.
4. **Relationship to state law.** As of the effective date of this section, as amended, and except as otherwise provided by the Acts; and this section, a city licensee and its employees and agents who are operating within the scope of a valid state-issued operating license are not subject to criminal or civil prosecution under city ordinances regulating marihuana.

Nothing in this section is intended to grant 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 the Acts, all applicable rules promulgated by the state regarding marihuana and all local laws, ordinances, rules and policies. Strict compliance with any applicable state law or regulation shall be deemed a requirement for the issuance or renewal of any license issued under this

section, and noncompliance with any applicable state law or local law or regulation shall be grounds for revocation or nonrenewal of any license issued under the terms of this section.

**5. *Reservation of legislative prerogative.***

- a. The City of West Branch reserves the right to amend or repeal this Ordinance in any manner, including, but not limited to, the complete elimination of any type or number of medical marihuana facilities or adult-use marihuana establishments authorized to operate in the City.
- b. Nothing in this Ordinance may be held or construed to grant or "grandfather" any medical marihuana facility a vested right, license, permit or privilege to continued operations within the City, except as granted by approval through the application and/or application renewal process and as consistent with all other applicable laws, rules, regulations, and guidelines of the state of Michigan.

**6. *City liability and indemnification.***

- a. By accepting a license issued pursuant to this section, the licensee waives and releases the city, its officers, elected officials, and employees from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of medical marihuana facility and adult use marihuana establishment owners, operators, employees, clients or customers for a violation of local, state or federal laws, rules or regulations.
  - b. By accepting a license issued pursuant to this section, all licensees, agree to indemnify, defend and hold harmless the city, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising on account of bodily injury, sickness, disease, death, property loss or damage or any other loss of any kind, including, but not limited to, any claim of diminution of property value by a property owner whose property is located in proximity to a licensed operating facility or establishment, arising out of, claimed to have arisen out of, or in any manner connected with the operation of a medical marihuana facility and adult use marihuana establishment or use of a product cultivated, processed, distributed or sold that is subject to the license, or any claim based on an alleged injury to business or property by reason of a claimed violation of the Federal Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1964(c).
  - c. By accepting a license issued pursuant to this section, a licensee agrees to indemnify, defend and hold harmless, the city, its officers, elected officials, employees, and insurers, against all liability, claims, penalties, or demands arising on account any alleged violation of the Federal Controlled Substances Act, 21 U.S.C. § 801 et seq. or article 7 of the Michigan Public Health Code, MCL 33.7101 et seq.
- B. *Definitions.*** Through this section, the city adopts all definitions contained in any of the state rules, regulations, statutes, administrative code, enacted for the purpose of regulating



marihuana facilities and establishments.

**C. *Licensing of medical marihuana facilities and adult use marihuana establishments.***

**1. *Local licensing authority.***

- a. The West Branch City Council is designated as the local licensing authority. The city council may by resolution delegate its authority or a portion of such authority to a new committee or other designee to act as the local licensing authority. The local licensing authority shall have the duty and authority pursuant to the Medical Marihuana Facilities Licensing Act ("MMFLA") and Michigan Regulation and Taxation of Marihuana Act ("MRTMA") in this Ordinance to grant or deny an application described in this Ordinance and to levy penalties against the licensee in the manner provided by law.
  - b. The local license authority shall consider applications for new business premises, transfer of ownership, change of location, license premises modification, changes in trade name, and any other appropriate application.
  - c. The local license authority shall have the power to promulgate rules and regulations concerning the procedure for hearings before the local licensing authority.
  - d. The local license authority shall have the power to require any application or licensee to furnish such information to the authority as may be reasonably necessary in order for the authority to perform its duties and functions authorized by this Ordinance.
  - e. The local license authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the productions of papers, books and records at any hearing in which the authority is authorized to conduct. Any subpoena shall be served in the same manner as a subpoena issued by a District Court of the State. The District Court Judge shall have the power and authority to enforce such subpoena.
- 2. *Number of permitted facilities.*** The maximum number of each type of medical marihuana facility and adult use marihuana establishment permitted in the city is as follows:

Type	Number Permitted in City
Grower Licenses of Class A (maximum of 100 marihuana plants) as defined in the MRTMA or Class A (maximum of 500 marihuana plants) as defined in the MMFLA	Unlimited
Grower Licenses of Class B (maximum of 250 marihuana plants) as defined in the MRTMA or Class B (maximum of 1,000 marihuana plants) as defined in the MMFLA	Unlimited
Grower Licenses of Class C (maximum of 2,000 marihuana plants) as defined in the MRTMA or Class C (maximum of 1,500 marihuana plants) as defined in the MMFLA	Unlimited
Marihuana Microbusiness	Prohibited
Medical Marihuana Provisioning Centers/Marihuana Retailers	2 locations
Marihuana Processor or Medical Marihuana Processor Facility	1 location
Marihuana Safety Compliance Establishment or Medical Marihuana Safety Compliance Facility	1 location
Secure Transporter or Medical Marihuana Secure Transporter	1 location
Excess Grower	Unlimited
Designated Consumption Center	Prohibited
Marihuana Event Organizer	Prohibited
Temporary Event License	Prohibited

**Commented [DC1]:** An excess grower allows growers that have reached their cap on recreational licenses to use the medical grower license to add plants to the recreational side. Since the city isn't regulating the actual class of grower licenses, there's probably no reason to limit this, so I added that this is unlimited.

3. **Location.** No medical marihuana facility or adult use marihuana establishment shall be eligible to be issued a license unless at the time of application for such license, the location of the proposed facility complies with the zoning and separation distances from other uses as set forth in the city zoning ordinance as required for the specific type of medical marihuana facility or adult use marihuana establishment for which licensure is being sought.
4. **Operation at location provided on application only.** A licensee shall not operate a medical marihuana facility or adult use marihuana establishment at any place in the city other than

the address provided in the application on file with the city clerk.

5. **Combined facilities.** Multiple types of medical marihuana facilities and adult use marihuana establishments may operate from a single location pursuant to the Acts, State of Michigan rules, and the city Zoning Ordinance. A combined facility shall pay one licensing fee upon application if the combined facility is applied for concurrently. If a medical marihuana facility or adult use establishment is added to an existing facility or establishment, a new application and licensing fee shall be required. Annual renewal of the combined facility shall require one fee. *I recommend asking your attorney if a separate licensing fee could be charged to each type of use in a combined facility. It's still probably safer to just require one fee if they are applied for concurrently since you really have to justify that a combined facility is causing the city more administrative work to justify the double fee. Let me know what you think.*
6. **Stacking of licenses.** Any grower issued a license by the city may stack up to three class C licenses at a single location without requiring any additional city licensing or approval, provided that the exterior of the existing structure where the facility is located will not require expansion. If expansion is required, the licensee must obtain all necessary permits and approval required for such expansion.
7. **Expansion of license classification.** Any licensed grower in the city that holds anything less than a state issued class C license may, at any time, expand the license classification without requiring city approval. By way of example: licensee holding a state issued class A license may expand at any time to a state issued class B or C and may further stack up to three class C licenses as provided above without city approval. *However, licensed growers shall submit license expansions to the city for city records.*
8. **License and annual fees required.**
  - a. No person shall establish or operate a medical marihuana facility or adult use marihuana establishment in the city without first having obtained from the city and the State of Michigan a license for each such facility or establishment to be operated. License certificates shall be kept current and publicly displayed within the facility or establishment. Failure to maintain or display a current license certificate shall be a violation of this section.
  - b. An annual, nonrefundable licensing fee to defray the administrative and enforcement costs associated with medical marihuana facilities and adult use marihuana establishments located in the city of not more than \$5,000.00 per license or in an amount established by resolution adopted by the city council or in an amount established by state law.
  - c. The annual, nonrefundable application/reapplication fee as stated in subsection 9.b.4 or as determined by city council resolution from time to time, per license required under this section shall be due and payable with the application for a license and upon the application for renewal of any such license under this section. This

**Commented [DC2]:** We talked about this in the meeting, but I think it's something you should ask your attorney. The way this language reads right now is that, if they are combined in one location, it's one license unless they are adding a new use to an existing facility. I can't find any info on this online, but attorneys can find out from other attorneys if it's legal to charge two license fees for a combined facility. (By "combined" I mean two different facility types – like retail and processor, for example).



application/reapplication fee shall be considered part of the licensing fee in subsection 8.b.

- d. The annual, nonrefundable inspection fee, as determined by city council resolution from time to time, per licensed facility required under this section shall be due and payable with the application for annual inspection and upon the application for renewal of any such license under this section; This inspection fee shall be considered part of the licensing fee and application/reapplication fee in subsection 8.b and 8.c.
- e. The fees set forth herein shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or city ordinance, including, by way of example any applicable zoning or building permits.
- f. The issuance of any license pursuant to this section does not create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marihuana under federal law.
- g. A separate license shall be required for each facility or establishment type or premise from which a medical marihuana facility or adult use marihuana establishment is operated. *This states a separate license is required, but we still need to double check whether or not separate fees can be required.*
- h. The term of each license shall be one year beginning when the licensee is granted a certificate of occupancy and permit from the Ogemaw County Building Department.
- i. The annual license established pursuant to the above paragraph begins and commences at the time of the receipt of the applicant's certificate of occupancy by the city.

9. *Application requirements.*

- a. A person seeking a license pursuant to the Acts and the provisions of this section shall submit an application to the city on forms provided by the city. All documents submitted to the city shall be submitted in both hardcopy and digital formats. At the time of application, each applicant shall pay a nonrefundable application fee to defray the costs incurred by the city for background investigations and inspection of the proposed premises, as well as any other costs associated with the processing of the application. In addition, the applicant shall present a suitable form of identification.
- b. The applicant shall also provide a complete copy of their application for State approval, including, but not limited to:
  - (1) Proof of ownership or authorization to use the property for a medical marihuana facility or adult use marihuana establishment.

- (2) A notarized statement from the owner of such property authorizing the use of the property for a medical marihuana facility or adult use marihuana establishment, if the applicant is not the owner of the proposed licensed premises.
  - (3) A copy of any deed reflecting the applicant's ownership of, or lease reflecting the right of the applicant to possess, or an option reflecting the applicant's right to purchase or lease, the proposed licensed premises.
  - (4) The non-refundable application fee for a medical marihuana facility or adult use marihuana establishment license is \$1,500.00 per license or as established by resolution adopted by city council or in an amount established by state law. This application fee shall be considered part of the licensing fee in subsection 8.b and 8.c.
- c. For medical marihuana provisioning centers and marihuana retailers, the following shall apply:
- (1) At least one applicant shall demonstrate experience with owning (51% or more), operating, and/or managing a business with inventory tracking and control (min. of 1 year) pursuant to MCL 125.3501, MCL 125.3502, MCL 125.3504, Article VII, § 34 Construction of constitution and law concerning counties, townships, cities, villages and Article VII, § 22 Charters, resolutions, ordinances; enumeration of powers of the Michigan Constitution.
  - (2) At least one applicant shall demonstrate experience with owning (51% or more), operating, and/or managing a business in a highly regulated industry (min. of 1 year). Highly regulated means subject to regulation by LARA or a similarly regulated agency (state or federal) pursuant to MCL 125.3501, MCL 125.3502, MCL 125.3504, Article VII, § 34 Construction of constitution and law concerning counties, townships, cities, villages and Article VII, § 22 Charters, resolutions, ordinances; enumeration of powers of the Michigan Constitution.
  - (3) Applicant shall present a detailed description of estimated capital investment. Capital investment is defined as a fixed asset, which is an asset purchased for a long-term use and not likely to be converted quickly into cash such as land, buildings, and equipment pursuant to MCL 125.3501, MCL 125.3502, MCL 125.3504, Article VII, § 34 Construction of constitution and law concerning counties, townships, cities, villages and Article VII, § 22 Charters, resolutions, ordinances; enumeration of powers of the Michigan Constitution.
  - (4) Applicant shall include a business plan which includes a daily operations schedule.
  - (5) Applicant shall present a proposed staffing plan, complete with descriptions of job duties, proposed wages, and employee qualifications/hiring criteria pursuant to MCL 125.3501, MCL 125.3502, MCL 125.3504, Article VII, § 34 Construction of constitution and law concerning counties, townships, cities, villages and Article VII,



§ 22 Charters, resolutions, ordinances; enumeration of powers of the Michigan Constitution.

- (6) Applicant shall present a documented employee policy book and code of ethics to ensure honesty and integrity of employees.
- (7) Applicant shall present a sworn attestation that the Applicant and/or parties with 25% or more interest in the company have not been subject to any civil monetary judgements entered against it in the last 7 years, excluding family law matters or estate disputes.
- (8) Applicant shall present a sworn attestation that the Applicant and/or parties with 25% or more interest in the company have not filed bankruptcy within the last 7 years.
- (9) Applicant shall present a plan to deter and prevent unauthorized entrance into the facility.
- (10) Applicant shall present a plan to prevent theft and diversion.
- (11) Applicant shall present a plan for 24/7 video surveillance inside and outside of facility.
- (12) Applicant shall present a plan for secure storage of marihuana and proceeds.
- (13) Applicant shall present a detailed plan for record keeping and inventory management.
- (14) Applicant shall provide copies of material safety data sheets for hazardous materials and their plan for storage and disposal (or a sworn attestation that no hazardous materials will be on the premises at any time).
- (15) Applicant shall present a plan that included a security system in place to alert owner of possible tampering with the facility or its contents.
- (16) Applicant shall propose a living wage (at least 200% of the Federal Poverty Level for a family of two, at its hourly basis) to all employees pursuant to MCL 125.3501, MCL 125.3502, MCL 125.3504, Article VII, § 34 Construction of constitution and law concerning counties, townships, cities, villages and Article VII, § 22 Charters, resolutions, ordinances; enumeration of powers of the Michigan Constitution.
- (17) Applicant shall offer a benefits package in addition to wages or salary pursuant to MCL 125.3501, MCL 125.3502, MCL 125.3504, Article VII, § 34 Construction of constitution and law concerning counties, townships, cities, villages and Article VII, § 22 Charters, resolutions, ordinances; enumeration of powers of the Michigan



Constitution.

10. **Review process.**

a. ***Merit based review period.***

- (1) ***License quotas.*** License quotas are permitted to the extent regulated by the State of Michigan rules and regulations and are subject to change based on any potential rulings made by the State.
- (2) ***Merit review process.*** In order to seek the best candidates for medical marihuana facility and adult use marihuana establishment licensure for the city, the city shall review and score and rank the applicants based upon their objective merits if the number of license applicants exceeds the number of licenses available.
- (3) ***Application window.*** Following the effective date of this ordinance, there shall be an open application period of thirty (30) days during which the city shall collect applications for all marihuana facility licenses that are subject to a cap. In the event that more applications for licenses are submitted during this window than the number of licenses available, those applications would then be reviewed by the staff.
  - i. ***Factors for scoring.*** The assigned city staff shall create a scoring rubric outlining the factors and weight of criteria considered for the scoring of such applications and shall provide the final rubric for modification and final approval by the majority of the city council.
  - ii. ***Determination of order.*** Once the applications are scored, individual applicants shall be notified of the order of their placement, and those within the cap may proceed through the license application process accordingly. Failure to complete the license application process within six (6) months shall result in the denial of the application, and the next best applicant shall be afforded the opportunity to apply. The resulting list of scores shall be used as the order for any waiting list, in the event that, (a) currently existing grandfathered facilities do not pass the state's licensure process, (b) other facilities close on their own accord, or close by court order, administrative order, and/or have their license revoked, or (c) the city chooses to raise the license limit for that kind of facility at a future date.

b. ***Review process for license types that do not have a cap and for capped licenses after the initial merit based review period has ended.***

- (1) Within fourteen (14) days of application submittal, city staff will determine if the application is complete and will notify the applicant if there are deficiencies.
- (2) After receiving notification from city staff pursuant to subsection 10.b.1 above,

the applicant shall have fourteen (14) days from the date of said notification to submit additional information.

- (3) Within thirty (30) days of the application being determined to be complete, city staff will review the application to determine compliance with this section and shall notify the applicant that the applicant is approved to proceed with the inspection phase pursuant to [subsection 12](#).

**11. *Denial of application and due process.***

- a. The city shall reject any application that does not meet the requirements of the Acts or this section, or any pertinent provision of any State of Michigan or City of West Branch laws, rules or regulations.
- b. In accordance with the Acts, an applicant may be ineligible to receive a license under this section if any of the following circumstances:
  - (1) The applicant has knowingly submitted an application for license that contains false, misleading or fraudulent information, or who has intentionally omitted pertinent information for the application for license.
  - (2) The applicant fails to meet other criteria established by the Acts or other pertinent law and/or obtain a state license.
  - (3) The applicant does not submit proof of "approved for prequalification" with the state.

**c. *Denial of application; due process.***

- (1) Those applicants denied a license based on qualifications may appeal the decision within thirty (30) days of notification of denial. The city council shall hear and decide questions or requests for due process that arise after city staff have reviewed and provided a decision that the applicant wishes to further appeal.
- (2) The applicant must submit a narrative request for due process that includes detailed information and all supporting documentation for any/all points they wish to have city council consider.
  - i. Within thirty (30) days of notification of appeal by the applicant, a due process review shall be conducted at a public meeting of the council and a concurring vote of a majority of the members of the full city council is necessary to reverse an order, requirement, decision or determination of an administrative official in the interpretation of this section.
  - ii. The applicant must be present at the designated council meeting or forfeits their right to due process.



iii. The decision of the city council is final.

**12. Issuance of city medical marihuana facility or adult use marihuana establishment operating license.**

- a. **Special land use permit.** The proposed medical marihuana facility or adult use marihuana establishment shall obtain a Special Land Use permit from the Planning Commission.
- b. **Inspection.** An occupancy inspection of the proposed medical marihuana facility or adult use marihuana establishment by the city shall be required prior to the issuance of the city operating license in accordance with the currently adopted Michigan Building Code. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any marihuana and prior to the opening of the business to any patients or the public. The inspection is to verify that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of the code and any other applicable law, rule or regulation.
- c. In the event that the medical marihuana facility or adult use marihuana establishment is granted a license but fails to substantially comply with its original site plan or operates inconsistent with the manner in which it was represented on the licensing application, the city may revoke the license or may allow the licensee to present its case for modification of its original facility and license to the Planning Commission. If the Planning Commission approves the changes, then the city will take no further action regarding the licensee's license. If the licensee fails to address its substantial non-compliance with the Planning Commission, then the city may revoke the license and may prohibit the licensee from applying for a medical marihuana facility or adult use marihuana establishment license in the future.
- d. After verification that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of the code and any other applicable law, rule or regulation, the city clerk shall issue a city medical marihuana facility or adult use marihuana establishment license whose term shall run concurrent with the State of Michigan license for the facility or establishment.
- e. Maintaining a valid medical marihuana facility or adult use marihuana establishment license issued by the State of Michigan is a condition for the issuance and maintenance of the city medical marihuana facility or adult use marihuana establishment operating license issued under this section and the continued operation of a medical marihuana facility or adult use marihuana establishment.
- f. The city will authorize approved medical marihuana facility or adult use marihuana establishment license(s) to entities on the condition that the following have been submitted, completed and approved:

- (1) Application on a form provided by the city; and

- (2) Paid all licensing fees due to the city; and
  - (3) The entity(ies) holds an approved and fully authorized State of Michigan approved medical marihuana facility or adult use marihuana establishment license to the city clerk; and
  - (4) An approved Special Land Use permit from the Planning Commission; and
  - (5) An approved certificate of occupancy from the applicable building official; and
  - (6) All medical marihuana facilities or adult use marihuana establishments shall obtain a State of Michigan license and all other required permits or licenses related to the operation of the medical marihuana facility or adult use marihuana establishment, including, without limitation, any development approvals or building permits required by any applicable code or ordinance prior to opening to the public; including but not limited to any approved building permits (as required for any construction/deconstruction) by the city official as appropriate. Any such license and required permits shall be acquired within one (1) year from the date of approval by city council unless that period is extended by mutual agreement of the city council and licensee.
  - (7) *Proof of insurance.* A licensee shall at all times maintain full force and effect for duration of the license, workers compensation as required by state law, and general liability insurance with minimum limits of \$1,000,000.00 per occurrence and a \$2,000,000.00 aggregate limit issued from a company licensed to do business in the state having an AM Best rating of at least A-.
  - (8) The policy shall name the city and its officials and employees as additional insureds to the limits required by this section. A licensee or its insurance broker shall notify the city of any cancellation or reduction in coverage within seven (7) days of receipt of insurer's notification to that effect. The licensee, permittee, or lessee shall forthwith obtain and submit proof of substitute insurance to the city clerk within five business days in the event of expiration or cancellation of coverage.
  - (9) Applicant will provide any additional information that the city clerk, law enforcement, fire chief, public works supervisor, zoning administrator, building official, city manager and/or city attorney or their designees reasonably determines to be necessary in connection with the investigation and review of the application.
13. **License forfeiture.** In the event that a medical marihuana facility or adult use marihuana establishment does not commence operations within one (1) year of issuance of a city operating license, the license shall be deemed forfeited; the business may not commence operations, unless extended by a majority vote of the full city council. **The city shall notify the licensee of pending license forfeiture at least forty (45) days prior to forfeiture by**



certified mail at the address provided on the application. At least thirty (30) days prior to forfeiture, the licensee may request an extension of up to one (1) year from city council.

14. **License renewal.** A valid medical marihuana facility or adult use marihuana establishment license may be renewed on an annual basis by a renewal application upon a form provided by the city and payment of annual fees.

- a. **Timeline of renewal application.** An application to renew a medical marihuana facility or adult use marihuana establishment license shall be filed at least ninety (90) days prior to the date of its expiration.
- b. **Late fee.** In the event that the renewed application is not submitted in accordance with this section at least 90 days prior to the date of expiration, the city will assess a late fee as fixed by city council for each day that the renewal application is submitted late up to the date of expiration.
- c. **Expiration.** In the event that an application is not received by the date of expiration, the license will be considered null and void and all operations must immediately cease by order of law enforcement. Renewal of the license after the date of expiration will require the same license fee as the original application.
- d. **Notice of revocation.** A notice of local revocation will be issued to the State of Michigan and the licensee will have to resubmit all documentation, fees, and receive all approvals as a new entity should they wish to reopen their business.
- e. **Annual inspection.** Prior to the issuance of a renewed medical marihuana facility or adult use marihuana establishment license by the city, the premises shall be inspected to assure that it and its systems are in compliance with the requirements of this section. The annual, nonrefundable inspection fee, as assigned by the city council, per licensed facility or establishment required under this section, shall be due and payable with the application for annual inspection and upon the application for renewal of any such license under this section.

15. **Transfer, sale, or purchase of license.**

- a. A medical marihuana facility or adult use marihuana establishment license is valid only for the owner named thereon, the type of business disclosed on the application for the license, and the location for which the license is issued. The licensees of a medical marihuana facility or adult use marihuana establishment license are only those persons disclosed in the application or subsequently disclosed to the city in accordance with this section.
- b. Each operating license is exclusive to the licensee and location. A licensee or any other person must submit an application for licensure with the city clerk before a license is transferred, sold, or purchased.

- c. In compliance with any/all rules issued by the city regarding the sale, transfer or purchase of existing licenses; any entity that holds a city-issued license may transfer or sell their license to a qualifying applicant.
  - (1) Any entity purchasing or receiving a transferred license must submit an application and all associated documentation and all fees.
  - (2) The applicant who is receiving the transfer or purchasing the license must have submitted all new application, license and inspection fees and received all local and State of Michigan approvals, including "approved for prequalification" with the State of Michigan on all applications and associated documentation as well as all inspections as outlined in this section and the Acts prior to beginning or taking over operations.
- d. The attempted transfer, sale, or other conveyance of an interest in a license without city approval is grounds for suspension or revocation of the license or for other sanction considered appropriate by the city.
- e. The following actions constitute transfer of ownership and require a new application, application fee and city council approval:
  - (1) **Persons.** Any transfer of more than 1% of an ownership interest in an applicant or permit holder between persons constitutes a transfer of ownership.
  - (2) **Corporations.** Any transfer of more than 1% of stock or any change in principal officers or directors of any corporation holding a permit constitutes a transfer of ownership.
  - (3) **Limited Liability Companies.** Any transfer of more than 1% of membership interest or any change in members or change in the interest held by member(s) of any limited liability company holding a permit constitutes a transfer of ownership.
  - (4) **Partnerships.** Any change of more than 1% of a partnership interest or any change in general or managing partners of any partnership holding a permit constitutes a transfer of ownership.
  - (5) **Assets.** Any transfer of more than 1% of the assets held by an applicant or permit holder constitutes a transfer of ownership
- f. **Effect of transfer.**
  - (1) Immediately following the approval of a transfer of ownership by the city, the transferee(s) will obtain all the interests, rights, obligations and responsibilities of the previous license holder. Once a license holder has transferred his or her



ownership interest, any privileges enjoyed by that license holder under this ordinance are terminated.

(2) For transfers, the renewal and termination dates of the license shall not change.

**16. *License as revocable privilege.***

- a. An operating license granted by this section is a revocable privilege granted by the city and is not a property right. Granting a license does not create or vest any right, title, franchise, or other property interest.
- b. Each license is exclusive to the licensee, and a licensee or any other person must apply for and receive the city's approval before a license is transferred, sold, or purchased.
- c. A licensee or any other person shall not lease, pledge, or borrow or loan money against a license.
- d. Any effort to circumvent the protocol listed in this section and/or the city zoning ordinance will result in the immediate denial of application or complete revocation of the city-issued medical marihuana facility or adult use marihuana establishment license.

**17. *Nonrenewal, suspension, or revocation of license.***

- a. The city may, after notice, suspend, revoke or refuse to renew a license for any of the following reasons:
  - (1) The applicant or licensee, or his or her agent, manager or employee, has violated, does not meet, or has failed to comply with, any of the terms, requirements, conditions or provisions of this section or with any applicable state or local law or regulation; or
  - (2) The applicant or licensee, or his or her agent, manager or employee, has failed to comply with any special terms or conditions of its license pursuant to an order of the State of Michigan or local licensing authority, including those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the license; or
  - (3) The medical marihuana facility or adult use marihuana establishment has been operated in a manner that adversely affects the public health, safety or welfare; or
  - (4) The licensee has not submitted all necessary documentation and/or fees to renew their license.
- b. Evidence to support a finding under this section may include, without limitation, a

continuing pattern of conduct, a continuing pattern of drug-related criminal conduct within the premises or property occupied by the medical marihuana facility or adult use marihuana establishment, a continuing pattern of criminal conduct directly related to or arising from the operation of the medical marihuana facility or adult use marihuana establishment, or an ongoing nuisance condition emanating from or caused by the medical marihuana facility or adult use marihuana establishment or any other concerns raised by city staff and/or other local, state or federal officials. Criminal conduct shall be limited to the violation of a state law or regulation or city ordinance.

- c. Any decision of nonrenewal, suspension or revocation has the right to due process and may be eligible for appeal to the city council.

D. **General requirements and restrictions.** All medical marihuana facilities or adult use marihuana establishments operating within the city shall be subject to the following general requirements and restrictions. To the extent there is a conflict between these requirements and restrictions and the Act, the Act shall prevail.

1. **General requirements.**

- a. **Exterior signage.** Facilities and establishments may only use exterior signage that is in compliance with the city's zoning ordinance regarding signs and Michigan law. Facilities may not use exterior signage or displays with neon, flashing lights, or similarly noxious or obtrusive lighting or effects.
- b. **Hours of operation.** Provisioning centers and retailers may only operate between the hours of 8:00 a.m. and 9:00 p.m.
- c. **Indoor operations/no drive-thru service.** All business operations of a facility or establishment must occur indoors. Facilities and establishments may not provide drive-thru service.
- d. **Odors.** Facilities and establishments may not emit noxious odors or fumes, in accordance with the city's zoning ordinance regarding visibility of activities; control of emissions.
- e. **Artificial lighting.** Any artificial grow lighting must not be visible from neighboring properties, streets, or rights-of-way.
- f. **Security.** Facilities and establishments shall have:
  - (1) A monitored alarm system (24 hours per day and seven days a week);
  - (2) A safe for all cash, cash equivalents, and marihuana stored in the facility or establishment overnight shall be in a room secured by commercial grade security doors;



(3) Monitored security cameras covering, at a minimum, all parking areas, entrances and exits, points of sale, and all areas where marihuana is stored or handled. All security recordings must be maintained for a minimum of forty-five (45) days and provided to law enforcement upon request;

g. **Display of permit.** The permit issued by the city and the license issued by the state shall be prominently displayed within the facility in a location where it can be easily viewed by the public.

h. **Systems.** All facilities and establishments shall have electrical, fire safety, plumbing, filtration and waste disposal systems, which are appropriate and consistent with best industry practices for the business being conducted.

2. **Prohibited acts.**

a. No person under the age of eighteen (18) shall be permitted to enter a facility unless the person has a medical marihuana card and is accompanied by a legal guardian over the age of eighteen (18).

b. No marihuana may be smoked, used, or consumed at any facility.

c. It shall be unlawful for any licensee to permit the consumption of alcohol beverages on the licensed premises.

d. No facility or establishment may operate under a temporary certificate of occupancy. Facilities and establishments shall be in full compliance with all applicable legal requirements in order to operate.

e. It shall be unlawful for any licensee holding a provisioning center or retailer license, or for any agent, manager, or employee thereof to:

(1) Sell, give, dispense or otherwise distribute medical marihuana or adult use marihuana paraphernalia from any outdoor location;

(2) Sell, give, dispense or otherwise distribute to any patient or primary caregiver who is not a licensee more usable form of medical marihuana (including the useable medical marihuana equivalent of medical marihuana-infused products) within any seven-day period of time than they are allowed by the MMMA to possess;

(3) It shall be unlawful for a provisioning center or retailer to distribute marihuana or marihuana-infused products to a consumer free of charge.

3. **Inspection of licensed premises.**

a. Application for medical marihuana facility or adult use marihuana establishment license or operation of a medical marihuana facility or adult use marihuana

establishment, or leasing property to a medical marihuana facility or adult use marihuana establishment, constitutes consent by the applicant, and all owners, managers, and employees of the business, and the owner of the property to permit law enforcement, or their designee, to conduct routine examinations and inspections of the medical marihuana facility or adult use marihuana establishment to ensure compliance with this section or any other applicable law, rule or regulation.

- b. During all business hours and other times when the premises are occupied by the licensee or an employee or agent of the licensee, all licensed premises shall be subject to examination and inspection by law enforcement and any other city departments for the purpose of investigating and determining compliance with the provisions of this section and any other applicable state and local laws or regulations.
  - c. For the purposes of this section, examinations and inspections of medical marihuana facilities and adult use marihuana establishments and recordings from security cameras in such businesses are part of the routine policy of enforcement of this section for the purpose of protecting the public safety, individuals operating and using the services of the medical marihuana facilities and adult use marihuana establishments, and the adjoining properties and neighborhoods.
  - d. A licensee, or an employee or agent of the licensee, shall not threaten, hinder or obstruct a law enforcement officer or a city inspector or investigator in the course of making an examination or inspection of the licensed premises and shall not refuse, fail, or neglect to cooperate with a law enforcement officer, inspector, or investigator in the performance of his or her duties to enforce this section, the Acts, or applicable state administrative rules.
- E. ***Other laws remain applicable.*** To the extent the State of Michigan adopts in the future any additional or stricter law or regulation governing the sale or distribution of medical marihuana, the additional or stricter regulation shall control the establishment or operation of any medical marihuana facility or adult use marihuana establishment in the city. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license, and noncompliance with any applicable state law or regulation shall be grounds for the revocation or suspension of any license.
- F. ***Grant of administrative authority.*** The city clerk is granted the power and duty, through its official designation, to fully and effectively implement and administer the license application process and issuance of operating licenses issued by the city under this section. The city clerk, after consultation with other city departments, may promulgate such rules as necessary to implement and administer this section.
- G. ***Violations and penalties.***
- 1. In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this section, any person, including, but not limited to, any licensee, manager or employee of a medical marihuana facility or adult use marihuana establishment, or any customer of such business, who violates any of the provisions of



this section, shall be guilty of a misdemeanor punishable in accordance with this section unless a different penalty is provided herein.

2. If a facility is operated in violation of the Act or any applicable ordinance, or if the Licensee is found to have submitted false or misleading information in its permit application, the city may revoke the permit for such facility to operate within the city. The city retains the right to alter the number and type of facilities and establishments authorized hereunder at any time. Any permit granted hereunder is a revocable privilege granted by the city and is not a property or other legal right.
3. With respect to any facility that is in violation of any requirement or restriction set forth in this section, the Licensee of a facility, all persons identified pursuant to the Acts, and any on-site manager shall be subject to the following penalties:
  - a. Any violation shall be a misdemeanor and may be punished by a fine of not more than \$1,500.00 and/or imprisonment not exceeding ninety (90) days and the violator(s) shall pay all court costs and expenses.
  - b. The penalties set forth herein are non-exclusive and cumulative, and nothing herein shall be deemed to prevent city from enforcing any other applicable ordinance.
  - c. In addition to the remedies provided herein, the city may file for injunctive relief to abate any violation hereof.

#### **EFFECTIVE DATE**

The provisions of this ordinance shall take effect \_\_\_\_\_ days after being adopted by the municipal council and duly published.

I hereby certify that the above ordinance was adopted by the municipal council of the City of West Branch, Michigan, at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_ 2022.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Adopted: \_\_\_\_\_, 2022

Published: \_\_\_\_\_, 2022



## City of West Branch Application for Marihuana Facilities License

(CITY OF WEST BRANCH ORDINANCE \_\_\_\_\_)

- \_\_\_\_\_ New
- \_\_\_\_\_ Renewal (shall be filed at least 90 days prior to the date of license expiration)
- \_\_\_\_\_ Amendment
- \_\_\_\_\_ Transfer of Fully Licensed Existing Establishment

### **Applicant Contact Information**

_____	_____
(First, Middle, Last Name of Contact for this Application)	(Title)
_____	_____
(Email address)	(Phone)
_____	_____
(Mailing address)	(City) (State/Zip)

Description of the individual's role in this application:

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## Type of Permit Requested

*Check only one – a separate permit application must be completed for each permit type.*

- ☐ **Medical Marihuana Provisioning Center**
- ☐ **Adult Use Marihuana Retailer**
- ☐ **Grower**    ☐ **Class A**    ☐ **Class B**    ☐ **Class C**    \_\_\_\_\_ **# of grower licenses**
- ☐ **Processor**
- ☐ **Secure Transporter**
- ☐ **Safety Compliance Facility**

## Facility Location

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(Business Name)

---

(Physical Address)

(City)

(State/Zip)

---

(Phone)

(Fax)

(Email)

## Facility/License Owner

---

(Facility/License Owner)

---

(Federal Tax Identification Number)

---

(Physical Address)

(City)

(State/Zip)

---

(Phone)

(Fax)

(Email)

☐ **Self – Individual Owner**

☐ **Corporation\***

☐ **LLC\***

☐ **Partnership\***

\*For anything other than “Self,” attached a separate sheet listing all information for directors, officers, members, partners, and individuals.

**Facility or Business Manager**

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(Name)

---

(Mailing Address)

(City)

(State/Zip)

---

(Phone)

(Fax)

(Email)

Are there other facility or business managers? ☐ Yes ☐ No

If Yes, how many? \_\_\_\_\_

Attached a separate sheet listing contact information for all other facility or business managers.

**Property Owner**

---

(Name)

---

(Mailing Address)

(City)

(State/Zip)

---

(Phone)

(Fax)

(Email)

**Each person named on the application, including any true party of interest as defined by Michigan law, must fill out the following questions.** Please duplicate this as needed (pages 3-4).

---

(Name)

---

(Mailing Address)

(City)

(State/Zip)

---

(Phone)

(Fax)

(Email)

Please list all residential addresses over the past three years (indicate timeframe you resided at each address).

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Description of individual's role in this application:

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Have you had building/code violations or delinquent taxes/utility bills? ☐ Yes ☐ No

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Have you ever violated, been accused by a municipality of violating, or been convicted of violating an ordinance similar to the city's ordinances regulating medical marihuana facilities? If yes, provide detailed information here: ☐ Yes ☐ No

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Have you ever applied for or been granted any commercial license or certificate issued by any governmental agency concerning medical marihuana or marihuana that has been denied, restricted, suspended, revoked or not renewed? ☐ Yes ☐ No

If yes, please attach a statement describing the facts and circumstances describing the application, denial, restriction, revocation, or nonrenewal, including the licensing authority, the date each action was taken and the reason for each action.

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Do you have any interest in any other application for a permit or approved permit under City's ordinances?

If yes, provide relevant information here: ☐ Yes ☐ No

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Do you have any interest in any other marihuana facility in Michigan?

If yes, provide relevant information here:

☐ Yes

☐ No

Indicate any businesses you have owned, your occupation, and employer for the 5 years including and immediately preceding this application: (attach additional pages if necessary)

### Attachments

Please attach the following and clearly label each required attachment.

- ☐ **Attachment A: Application fee and ID.** Submit \$1,500 for all new and renewal applications. Please make check payable to "City of West Branch." Present a suitable form of identification along with the fee.
- ☐ **Attachment B: Ownership or Authorization to use Property.** Proof of ownership or authorization to use the property for a marihuana facility. If the applicant is not the owner of the proposed licensed premises:

- ☐ 1. A notarized statement from the owner of such property authorizing the use of the property for a marihuana facility, if the applicant is not the owner of the proposed licensed premises
- ☐ 2. A copy of any deed reflecting the applicant's ownership of, or lease reflecting the right of the applicant to possess, or an option reflecting the applicant's right to purchase or lease, the proposed licensed premises.

*Please note that the City of West Branch Zoning Ordinance requires marihuana facilities and establishments to be a distance of at least 300 feet to any building used for education, child care, or addiction treatment purposes or a park. This measurement shall be the distance from any building in which the facility or establishment is operating and an eligible building on another lot or to the lot line of a park.*

- ☐ **Attachment C: Prequalification.** Proof of prequalification by the State of Michigan for a marihuana facility state license including a copy of the application form submitted to LARA for prequalification (attachments are not required).

**Attachments D, E, F, and G are for Provisioning Centers/Retailers only. All other facilities should proceed to attachment H.**

☐ **Attachment D: Qualifications of Applicant.** Please include the following:

- ☐ 1. Detailed description of the applicant's experience with owning (51% or more), operating, and/or managing a business with inventory tracking and control with a minimum of one year of experience.
- ☐ 2. Detailed description of the applicant's experience with owning (51% or more), operating, and/or managing a business in a highly regulated industry (minimum of 1 year). Highly regulated means subject to regulations by LARA or a similarly regulated agency (state or federal).

☐ **Attachment E: Business Plan.** Please include the following:

- ☐ 1. Detailed description of estimated capital investment (defined as a fixed asset which is purchased for long-term use and not likely to be converted quickly into cash – such as land, buildings, and equipment).
- ☐ 2. Business plan with daily operations schedule.
- ☐ 3. Proposed staffing plan, complete with descriptions of job duties, proposed wages, and employee qualifications/hiring criteria
- ☐ 4. Documented employee policy book and code of ethics to ensure honesty and integrity of employees.
- ☐ 5. Sworn attestation that the Applicant and/or parties with 25% or more interest in the company have not been subject to any civil monetary judgements entered against it in the last 7 years, excluding family law matters or estate disputes.
- ☐ 6. Sworn attestation that the Applicant and/or parties with 25% or more interest in the company have not filed bankruptcy within the last 7 years.

☐ **Attachment F: Security Plan.** Please include the following:

- ☐ 1. Detailed description of plan to deter and prevent unauthorized entrance into the facility.
- ☐ 2. Detailed description of plan to deter and prevent theft and diversion.



- ☐ 3. Detailed description of plan for 24/7 video surveillance inside and outside of facility. Plan shall include a security system that alerts owner of possible tampering with facility/contents.
- ☐ 4. Detailed description of plan for secure storage of medical marihuana and proceeds.
- ☐ 5. Detailed description of plan for record keeping and inventory management.
- ☐ 6. Provide copies of material safety data sheets for hazardous materials and the plan for storage and disposal (or a sworn attestation that no hazardous materials will be on the premises at any time).
- ☐ **Attachment G: Economic Impact.** Please include the following:
- ☐ 1. Description of employee hourly wages which shall be at least 200% of the Federal Poverty Level for a family of two, at its hourly basis for all employees.
- ☐ 2. Description of employee benefit package.
- ☐ **Attachment H: Plans for Planning Commission Review.** Please include the following:
- ☐ 1. Site Plan (for Special Land Use approval by the Planning Commission). Site plan shall contain all items listed in Section 5.5 (Site Plan Data Required) and Section 6.2 (Special Use Applications) from City of West Branch Zoning Ordinance in addition to the following:
- Site Plan should show public, private, and secured areas.
  - For growers, the site plan must also show secured areas and any type of outdoor storage.
- ☐ 2. Other Plans:
- a. **Growers** shall provide the following (if applicable):
- (1) Cultivation Plan
  - (2) Wastewater Plan & Disposal Plan
  - (3) Mold/Mildew/Pest Control Plan
  - (4) Air Quality Plan
  - (5) Mechanical Plan
  - (6) Electrical Plan (as prepared by a licensed electrician and a certification that the premises are equipped to safely accept and utilize the required or anticipated electric load for the facility)
- b. **Processors** shall provide the following (if applicable):
- (1) A detailed description of products to be produced including
  - (2) Plant Waste Disposal Plan



- (3) Wastewater Plan
- (4) Mechanical Plan

c. **Provisioning Centers/Marihuana Retailers** shall provide the following (if applicable):

- (1) Description of products and services to be provided
- (2) Plant Waste Disposal Plan.

I, the undersigned, have the authority to sign this application on behalf of \_\_\_\_\_ (“the Facility or Company”). I have read all of the above answers, including all sheets and information provided in connection with this application and they are true and correct. The Facility agrees to comply with all terms and conditions of a permit as it may be issued. Finally, I understand that the Facility has a continuing duty to provide the City of West Branch with current information and will notify the City Clerk in writing of any changes to the Facility’s mailing address, phone numbers, electronic mail address or other contact information as well as changes to any other information the applicant has provided to the City as part of the permit application within ten (10) days of any such change occurring. I acknowledge that the City of West Branch may be required from time to time to release records in its possession. The applicant hereby gives permission to the City of West Branch to release any records or materials received by the City from the applicant as it may be requested to do so as permitted by the Freedom of Information Act, MCL 15.231 et seq.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Business: \_\_\_\_\_

Submit application to:

**West Branch City Clerk**  
121 N. Fourth St.  
West Branch, MI 48661  
Phone: (989) 345-0500  
Fax: (989) 345-4390  
clerk@westbranch.com

***False information included on this application shall be a basis for the City of West Branch to deny the application.***

### Checklist for Application

- ☐ 1. **Signed application form**
- ☐ 2. **Attachment A** (Application Fee and Identification)
- ☐ 3. **Attachment B** (Ownership or Authorization to use Property)
- ☐ 4. **Attachment C** (Prequalification)
- ☐ 5. **Attachment D** (Qualifications of Applicant) – RETAILERS/PROVISIONING CENTERS ONLY
- ☐ 6. **Attachment E** (Business Plan) – RETAILERS/PROVISIONING CENTERS ONLY
- ☐ 7. **Attachment F** (Security Plan) – RETAILERS/PROVISIONING CENTERS ONLY
- ☐ 8. **Attachment G** (Economic Impact) – RETAILERS/PROVISIONING CENTERS ONLY
- ☐ 9. **Attachment H** (Plans)

### Checklist for License

After application has been approved, the following shall be submitted to the City Clerk prior to the issuance of a Marihuana Facilities License:

- ☐ 1. **Licensing Fee.** A licensing fee of \$5,000 shall be paid. Applicant will be credited \$1,500 which was paid at the time of application, so final payment is equal to \$3,500.
- ☐ 2. **Proof of Insurance.** A licensee shall at all times maintain full force and effect for duration of the license, workers compensation as required by State law, and general liability insurance with minimum limits of \$1,000,000 per occurrence and a \$2,000,000 aggregate limit issued from a company licensed to do business in Michigan having an AM Best rating of at least A-. The policy shall name the City of West Branch and its officials and employees as additional insureds to the limits required by this Section. A licensee or its insurance broker shall notify the city of any cancellation or reduction in coverage within seven (7) days of receipt of insurer's notification to that effect. The licensee, permittee, or lessee shall forthwith obtain and submit proof of substitute insurance to the City Clerk within five (5) business days in the event of expiration or cancellation of coverage.
- ☐ 3. **Certificate of Occupancy.** A Certificate of Occupancy issued by the Ogemaw County Building Department.
- ☐ 4. **State License.** A copy of Medical Marihuana licensed issue issued by the State of Michigan Department of Licensing and Regulatory Affairs.
- ☐ 5. **Other.** Any other information that the City Clerk, law enforcement, Fire Chief, Public Works Supervisor, Zoning Administrator, City Manager, and/or City Attorney or their designees reasonably determines to be necessary in connection with the investigation and review of the application.



**Summary of Application Steps for Marihuana  
Provisioning Centers/Retailers, Growers, Processors, Secure Transporters, & Safety Compliance  
Facilities/Establishments**

**STEP 1: Submit licensing application** (can be done concurrently with Step 2 below if a merit based review is not occurring). Application includes the following:

1. Contact info
2. Type of permit requested
3. Facility location
4. Facility/license owner
5. Facility or business manager
6. Information about each person named in the application
7. Application fee and copy of ID (ATTACHMENT A)
8. Ownership or Authorization to use Property (ATTACHMENT B)
9. Prequalification from State of Michigan (ATTACHMENT C)
10. Qualifications of Applicant (ATTACHMENT D) – **Provisioning Centers and Retailers Only**
11. Business plan (ATTACHMENT E) – **Provisioning Centers and Retailers Only**
12. Security plan (ATTACHMENT F) – **Provisioning Centers and Retailers Only**
13. Economic Impact (ATTACHMENT G) – **Provisioning Centers and Retailers Only**
14. Plans (Site Plan; Special Use Application; Other Plans) (ATTACHMENT H)

**STEP 2: Submit Site Plan for Special Land Use.** Include all info in Article 6 (Section 6.2) of the City of West Branch Zoning Ordinance. Planning Commission reviews Special Land Use using approval standards in Section 6.5 and approves Special Use/Site Plan contingent upon issuance of Marihuana License. **(Applicants participating in a merit-based review process wait until they are notified that they should proceed with this step).**

**STEP 3: Application Review and Approval.**

1. **Initial Merit Based Review for Licenses which are Capped - Provisioning Centers, Retailers, Processors, Safety Compliance Facilities and Secure Transporters:** (Growers follow #2 below)
  - a. After the Marihuana Licensing Ordinance becomes effective, the city will hold an open application period of 30 days.



- b. If more applications than there are licenses available are submitted, those applications will be review based on merit using a scoring rubric.
  - c. Individuals are notified of their placement and informed to proceed with the submission of a Special Land Use application.
2. **Review of Applications after Initial Merit Based Review (all license types):** Applications will be reviewed on a first come, first serve basis.
- a. Within 14 days of application submittal, city staff will determine if the application is complete and will notify the applicant if there are deficiencies.
  - b. After receiving notification from city staff pursuant indicating application deficiencies, the applicant shall have 14 days from the date of said notification to submit additional information.
  - c. Within 30 days of the application being determined to be complete, city staff will review the application to determine compliance with the Marijuana Facilities Licensing Ordinance (21-06) and shall notify the applicant that the applicant is approved to proceed with the next step.

**STEP 4: Building Permit.** Applicant applies for and obtains a building permit, if applicable. (Contact the Ogemaw County Building Department to determine if a building permit is required.)

**STEP 5: Inspection.** Occupancy inspection by the Ogemaw County Building Official in accordance with the Michigan Building Code. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any marihuana and prior to the opening of the business to any patients or the public.

**STEP 6: Request for Final Information.** City Clerk notifies applicant that the application was approved and asks for the following:

- 1. **Licensing fee.** \$5,000 licensing fee shall be paid. Applicant will be credited \$1,500 which was paid at the time of application, so final payment is equal to \$3,500.
- 2. **Proof of insurance.** A licensee shall at all times maintain full force and effect for duration of the license, workers compensation as required by State law, and general liability insurance with minimum limits of \$1,000,000 per occurrence and a \$2,000,000 aggregate limit issued from a company licensed to do business in Michigan having an AM Best rating of at least A-. The policy shall name the City of West Branch and its officials and employees as additional insureds to the limits required by this Section. A licensee or its insurance broker shall notify the city of any cancellation or reduction in coverage within seven (7) days of receipt of insurer's notification to that effect. The licensee, permittee, or lessee shall forthwith obtain and submit proof of substitute insurance to the City Clerk within five (5) business days in the event of expiration or cancellation of coverage.

3. **Certificate of Occupancy.** Issued by the Ogemaw County Building Department. Upon issuance, a copy of the occupancy permit must be provided to the City Clerk.
4. **State License.** Copy of Marihuana license issued by the State of Michigan Department of Licensing and Regulatory Affairs.
5. **Other.** Any other information that the City Clerk, law enforcement, Fire Chief, Public Works Supervisor, Zoning Administrator, City Manager, and/or City Attorney or their designees reasonably determines to be necessary in connection with the investigation and review of the application.

**STEP 7: License.** City Clerk issues license.

#### **APPEALS PROCESS**

1. **Appeal of Licensing Decision:**
  - a. Appeals of a denial of a City of West Branch Marihuana Facilities License shall be made to the City Council within 30 days of the notification of denial.
  - b. The applicant must submit a narrative request for due process that includes detailed information and all supporting documentation for any/all points they wish to have City Council consider.
  - c. Within 30 days of notification of appeal by the applicant, a due process review shall be conducted at a public meeting of the council and a concurring vote of a majority of the members of the full City Council is necessary to reverse an order, requirement, decision or determination of an administrative official.
  - d. The applicant must be present at the designated council meeting or forfeits their right to due process.
  - e. The decision of the City Council is final.
2. **Appeal of Planning Commission Decision for Special Land Uses:** The City of West Branch Zoning Board of Appeals has no jurisdiction to hear appeals from Planning Commission decisions concerning Special Land Uses. Special Land Use appeals shall be made to the Circuit Court for Ogemaw County.