

**LAPEER CITY COMMISSION
MINUTES OF A REGULAR MEETING
February 19, 2018**

A regular meeting of the Lapeer City Commission was held February 19, 2018 at Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan. The meeting was called to order at 6:30 p.m.

ROLL CALL

Present: Mayor Sprague.

Commissioners Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Absent: None.

City Manager: Dale Kerbyson, present.

City Attorney Representative: Denis McCarthy, present.

AGENDA APPROVAL

23 2018 02-19

Moved by Marquardt. Seconded by Bostick-Tullius.

Approve the Agenda for February 19, 2018 as presented.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

MINUTES

24 2018 02-19

Moved by Bostick-Tullius. Seconded by Osentoski.

Approve the minutes from the Regular meeting held February 5, 2018 as presented.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

Minutes from various Boards and Commissions were received into record.

PUBLIC COMMENTS

Jenny Burkhart, Wilder Road, gave invocation.

CONSENT AGENDA

25 2018 02-19

Moved by Marquardt. Seconded by Osentoski.

Approve the Consent Agenda for February 19, 2018 resulting in the following.

1. Special Event Request from Lapeer Area Home School Athletes, Lapeer Lakers 5K, June 9, 2018 from 7:00 a.m. to 1:00 p.m. at Rowden Park and travel through Audubon Park.
2. Special Event Request from Center for the Arts of Greater Lapeer, Oktoberfest, September 22, 2018 from 2:00 p.m. to 11:00 p.m., Center for the Arts building, Court Street between Nepessing and alley way, contingent upon receipt of current insurance.
3. Special Event Request from DDA and the Center for the Arts of Greater Lapeer, Art on Nepessing Street, June 1st from 4:00 p.m. to 10:00 p.m., June 2nd from 10:00 a.m. to 6:00 p.m. and June 3rd from 10:00 a.m. to 4:00 p.m., Nepessing Street between Court and Pine Streets and Court Street north from Nepessing Street to the alley.
4. Special Event Request from First Baptist Church, Evening Service in the Park, September 9, 2018 from 4:00 p.m. – 9:00 p.m., Annrook Park pavilion.
5. Special Event Request from Michigan Lupus Foundation, Timberly Ranshaw Lupus Memorial Walk, May 20, 2018 from 8:00 a.m. – 5:00 p.m., Rowden Park.
6. Special Event Request from Bishop Kelley School, annual Walk-A-Thon, April 27, 2018 from 9:00 a.m. – 3:30 p.m., rain date of April 30, 2018, beginning at Bishop Kelley School throughout sidewalks in the City ending at Annrook Park

7. Special Event Request from Lapeer HOG Chapter, a series of events at the Ray C's Harley Davidson store located at 1491 South Lapeer Road in the City of Lapeer on 4/28, 5/19, 6/22, 6/23, 7/28, 8/25, 9/29, 2018 from 12:00 p.m. to 10:00 p.m., contingent upon receipt of current insurance.
8. Special Event Request from Historic Farmers Market of Lapeer, LLC., Farmers Market every Wednesday and Saturday, starting May 5, 2018 ending October 27, 2018, Farmers Market pavilion and Nepessing Street, between Cedar and Court on Saturdays only, contingent upon receipt of current insurance.
9. Special Event Request from Lapeer Downtown Development Authority, Lapeer Car Cruise, Monday nights starting May 7, 2018 ending September 10, 2018 from 5:00 p.m. – 9:00 p.m., excluding Memorial Day and Labor Day, Nepessing Street between Mason and Pine Streets.
10. Special Event Request from Lapeer Area Chamber of Commerce, Food Truck Festival, 5/14, 6/11, 7/9, 9/10, 2018 from 4:00 p.m. – 8:00 p.m. in conjunction with the Lapeer Car Cruise, City parking lot #5.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

BILL LISTING FOR FEBRUARY 19, 2018

26 2018 02-19

Moved by Marquardt. Seconded by Atwood.

Approve the Bill Listing for February 19, 2018 in the amount of \$1,704,962.14.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

PROCLAMATIONS, RECOGNITIONS AND RESOLUTIONS

None.

PUBLIC HEARINGS

None.

ADMINISTRATIVE REPORTS

Ordinance: New and Amendment.

New – Chapter 68 (An Ordinance To Authorize and Regulate The Establishment Of Medical Marihuana.

Amendment – Chapter 7 (Zoning Ordinance).

27 2018 02-19

Moved by Bostick-Tullius. Seconded by Osentoski.

To adopt Ordinance Chapter 68 (An Ordinance To Authorize And Regulate The Establishment Of Medical Marihuana) with amendments to section 68.03 and 68.04 as presented, and further, adopt amendments to Chapter 7 (Zoning Ordinance) with the exclusion of Table 7.07.1.: Central Business Districts Schedule of Uses in Section 7.07.02.

THE CITY OF LAPEER ORDAINS:

CHAPTER 68

AN ORDINANCE TO AUTHORIZE AND REGULATE THE ESTABLISHMENT OF MEDICAL MARIHUANA FACILITIES

§ 68-01 Purpose

- A. It is the intent of this Ordinance to authorize the establishment of certain types of medical marihuana facilities in the City of Lapeer and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this Ordinance to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the City of Lapeer through imposition

of an annual, nonrefundable fee of not more than \$5,000.00 on each medical marihuana facility licensee. Authority for the enactment of these provisions is set forth in the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

- B. Nothing in this Ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the State of Michigan. This ordinance permits authorizations for activity based on the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. Nothing in this Ordinance shall be construed as allowing persons to engage in conduct that endangers others or causes a public nuisance, or to allow marihuana uses and activities not in strict accordance with the express authorizations of the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- C. As of the effective date of this Ordinance, marihuana remains 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, or dispense marihuana, or possess marihuana with intent to manufacture, distribute, or dispense marihuana. Nothing in this Ordinance is intended to grant immunity from any criminal prosecution under state or federal laws as they may be enforced by either the federal or state governments relative to such uses and activities. Thus, the authorization of activity and the approval of a license under this Ordinance shall not have the effect of superseding or nullifying federal or state law applicable to the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, and all applicants and grantees of licenses are on notice that they may be subject to prosecution and civil penalty, including forfeiture of property.

§ 68-02 Definitions

For the purposes of this ordinance:

- A. Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., shall have the definition given in the Michigan Medical Marihuana Act.
- B. Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in the Medical Marihuana Facilities Licensing Act.
- C. Any term defined by the Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marihuana Tracking Act.
- D. "Grower" means 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.
- E. "Licensee" means a person holding a State operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- F. "Marijuana" or "marihuana" means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.
- G. "Marihuana facility" means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marihuana grower, marihuana processor, marihuana provisioning center, marihuana secure transporter, or marihuana 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.

- H. "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- I. "Processor" means a licensee that is a commercial entity located in Michigan 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.
- J. "Provisioning center" means a licensee that is a commercial entity located in Michigan 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 in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.
- K. "Safety compliance facility" means 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.
- L. "Secure transporter" means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

§ 68-03 Authorization of Facilities and Fee

- A. The following Medical Marihuana Facilities may be authorized to operate in the City of Lapeer by the holder of a state operating license, subject to compliance with PA 281 of 2016, as may be amended, the Rules promulgated there under and this ordinance:

<u>Facility</u>	<u>Number</u>
Provisioning Center	6
Grower	Unlimited
Processor	Unlimited
Safety Compliance Facility	Unlimited
Secure Transporter	Unlimited

Although the maximum number of each type of marihuana facility permitted in the City of Lapeer is established above, no Marihuana Facility of any type may be located within the Central Business District.

- B. The Lapeer City Commission, at any time, but no less frequently than once per year, shall review the maximum number of each type of Marihuana Facility allowed pursuant to this Ordinance and determine whether the number should be limited or changed, and if so, determine a maximum number for each type of Marihuana Facility. However, following each annual review, the Lapeer City Commission shall not limit the number of licenses for each classification of license to a number less than those currently approved, absent good cause shown, giving due consideration to public health and welfare. The review and its findings shall be recorded in the minutes of the relevant meeting of the Lapeer City Commission.
- C. An annual nonrefundable fee shall be paid by each marihuana facility licensed under this Ordinance in an annual amount of not more than \$5,000.00 as set forth in the City of Lapeer Fee Schedule as approved by the City Commission.
 - (1) Should any person, for whatever reason, not receive a license under 68.04 C. (1) Application or (2) Provisional License, one half of the

application fee may be returned provided that no appeal process has occurred.

§ 68-04 Requirements and Procedure for Issuing License

- A. No person shall operate a marihuana facility in the City of Lapeer without a valid marihuana facility license issued by the City of Lapeer pursuant to the provisions of this Ordinance as authorized by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- B. A marihuana facility license issued under this Ordinance is valid for one year and is not transferable.
- C. The procedure in processing a request for a marihuana facility license will involve three steps as follows:
 - (1) Application.
 - (a) File an application with the City Clerk's office upon a form provided by the City of Lapeer and submittal of the annual nonrefundable fee.
 - (b) Upon the applicant's completion of the application form and furnishing all required information and documentation, the City Clerk's office shall accept the application. The City Clerk is authorized to develop a Policy that outlines the procedure to be used in determining the issuance of the provisional licenses for Provisioning Centers. Said Policy to be approved by the City Commission.
 - (c) The City Clerk's office shall refer the application to the Assessing Department to verify that the proposed site is outside the buffer zones stipulated in Section 7.13.12(i) of the Zoning Ordinance and to the Planning Department to verify that the property is located in a zoning district that allows the permitted use. The Assessing Department and the Planning Department shall respond to the City Clerk's office within 10 business days.
 - (d) The City Clerk's office shall act to approve or deny an application not later than fifteen (15) business days from the date the fully completed application was accepted.
 - (e) If approved, the City Clerk's office shall issue the applicant a provisional license.

(2) Standards for Issuance of Provisional License.

The Clerk shall issue a Provisional License under this Ordinance when, from a consideration of the application and from such other information as may otherwise be obtained, the Clerk determines that:

- (a) The application (including any required attachments and submissions) is complete and signed by the applicant;
- (b) The Applicant has paid the nonrefundable application fee and any other fees required;
- (c) The application does not contain a material falsehood or misrepresentation;
- (d) The proposed location of the Facility is permitted in the location sought to be approved as outlined in Section 68.04.C(3)(a).

(3) Provisional License.

- (a) A provisional license means only that the applicant has submitted a valid application for a marihuana facility license, that the proposed facility is located in a proper zoning district, that the proposed

facility is not located in a required buffer zone and the applicant shall not locate or operate a marihuana facility without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the City of Lapeer.

- (b) A provisional license will lapse and be void if such permits and approvals are not diligently pursued as follows:
 - (i) Existing structure with no site changes. 90 days
 - (ii) Existing structure with minimal site changes. 1 year requiring an Administrative zoning review.
 - (iii) Proposed construction of a structure requiring 1 year Site Plan Review by the Planning Commission.
- (c) After submission of all other permits and approvals required under the provisional license, and payment of the annual nonrefundable fee the City Clerk's office shall approve or deny the marihuana facility license with fifteen (15) business days.

(4) Marihuana Facility License.

A permit issued pursuant to this Ordinance does not eliminate the need for the Applicant to obtain other required licenses and permits related to the operation of the facility(ies) sought to be approved hereunder, including, without limitation, any and all necessary business registration and licenses, building permits, mechanical permits, plumbing permits, or electrical permits. Before a Marihuana Facility License can be issued under this Ordinance, all requirements as listed below, including all other applicable provisions within the City of Lapeer's Ordinances must be met.

- (a) Submit a photocopy of the applicant's valid and current license issued by the State of Michigan in accordance with the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- (b) Maintaining a valid marihuana facility license by the State of Michigan is a condition for the issuance and maintenance of a marihuana facility license under this Ordinance and continued operation of any marihuana facility.
- (c) Site plan approval and/or other necessary approved permits per Chapter 7 (Zoning Ordinance) are required before the City Clerk is permitted to issue a license.
- (d) All City of Lapeer departments are required to sign-off on their review of the provisional license once approval has been determined. The City of Lapeer Departments and licensed professionals that are part of the review and approval process are as follows:
 - (i) Planning Department, Planner/Planning Consultant.
 - (ii) Department of Public Works, Director of Public Works.
 - (iii) Building Department, Building Official.
 - (iv) Assessing Department, Assessor.
 - (v) Fire Department, Fire Chief.
 - (vi) Police Department, Police Chief.
 - (vii) City Engineering Consultant (site plan reviews only).
- (e) Execute a statement to be initialed by the Applicant that the Applicant and the employees of the Facility(ies) may be subject to prosecution under federal marijuana laws.
- (f) Execute a statement to be initialed by the Applicant that the City of Lapeer accepts no legal liability in connection with the approval and subsequent operation of the Facility.

§ 68-05 Denial or Revocation of License and Appeal Process

- A. Denial. An application may be denied by the City Clerk in writing setting forth the grounds for such denial for one or more of the following criteria:
- (1) A failure to meet the conditions or maintain compliance with the standards and requirements established by this ordinance in reference to the operation of a licensed facility; or
 - (2) One or more violations of the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., or any city ordinance on the premises; or
 - (3) Maintenance of a nuisance on the premises; or
 - (4) Nonpayment of real and/or personal property taxes, fines, liens, income tax, hydrant and sprinkler fees or any fees owed to the City; or
 - (5) A demonstrated history of excessive calls for public safety (police, fire and ambulance); or
 - (6) Applicant has made or provided false information in the application or has otherwise become disqualified for the issuance of a marihuana facility license within any part of the requirement and procedure for issuing a license.
- B. Revocation. A Marihuana Facility License may be revoked by the City Clerk based on the following:
- (1) Violation of the standards for approval in Section 68-05.A. of this ordinance.
 - (2) Denial, suspension, revocation or restriction of license by the State of Michigan.
 - (3) A violation of the Act, any state or local regulations, the provisions of this ordinance or the provisions of a license.
 - (4) (a) Conviction of or release from incarceration for a felony under the laws of this state, or any other state, or the United States of the Applicant or the Applicant's managerial employees within the past 10 years or has been convicted of a controlled substance-related felony within the past 10 years.

(b) Conviction of an Applicant or an Applicant's managerial employees of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or has been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state within the last 5 years.
 - (5) Operations have ceased at the Facility for more than 90 days, including during a change of ownership of the Facility.
 - (6) Ownership of the Facility has been transferred without the new owner obtaining a Marihuana Facility License pursuant this Ordinance.
- C. Notice of Decision.
- The Clerk shall notify the Applicant of the decision to deny an application for or the revocation of a Marihuana Facility License under the terms and provisions of this Ordinance within three business days of rendering the decision. Notice shall be given by mailing a copy of the Clerk's decision to the Applicant or License holder by certified mail and/or personal service postage prepaid, at the address shown in the application. Notice is deemed to have been properly given upon mailing by certified mail and/or personal service.
- D. Appeal Process.

An Applicant or Licensee has the right to appeal the Clerk's denial of an application for or the revocation of a Marihuana Facility License to the Lapeer City Commission.

- (1) Any person whose application or license has been denied, suspended, revoked or restricted by the State of Michigan has no recourse through the appeal process with the City of Lapeer.
- (2) Any person whose application or license has been denied or revoked under 68-05 A. or 68-05 B. by the City of Lapeer will have thirty (30) days from the date of the notice to provide a written response to the City of Lapeer.
- (3) The Applicant or Licensee shall be provided with not less than ten (10) days' prior written notice of the appeal hearing to be held by the City Commission.
- (4) The burden of proof in an appeal filed under this section shall be on the Applicant or Licensee.
- (5) If the Lapeer City Commission finds by a preponderance of the evidence that the decision of the Clerk was correct, the Lapeer City Commission shall uphold the decision of the Clerk. If the Lapeer City Commission finds by a preponderance of the evidence that the decision of the Clerk was incorrect, the Clerk's decision shall be set aside and the Marihuana Facility License issued (if it was previously denied) or reinstated (if it was previously revoked).
- (6) Any decision made by the Lapeer City Commission pursuant to this section shall be a final decision and may be appealed to a court of competent jurisdiction by any person within thirty (30) days of the date of the City Commission decision. The Applicant's or Licensee's failure to timely appeal the decision is a waiver the Applicant's or Licensee's right to contest the denial of the application or the revocation of the Marihuana Facility License.
- (7) Any person whose license has been denied or revoked shall not be able to reapply for any type of license allowed under this Ordinance for one year from the date a denial or revocation became effective.

§ 68-06 License Renewal

- A. A marihuana facility license shall be valid for one year from the date of issuance, unless revoked as provided by law.
- B. A valid marihuana facility license shall be renewed on an annual basis by submitting a renewal application upon a form provided by the City of Lapeer and payment of the annual license fee. Application to renew a marihuana facility license shall be filed at least thirty (30) days prior to the date of its expiration.

§ 68-07 Applicability

The provisions of this Ordinance shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marihuana facility were established without authorization before the effective date of this Ordinance.

§ 68-08 Penalties and Enforcement

- A. Any person who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and subject to the payment of a civil fine as outlined in the City Ordinance, Chapter 62, Section 62.04. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.
- B. A violation of this Ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, the City of Lapeer may bring an action for an

injunction or other process against a person to restrain, prevent, or abate any violation of this Ordinance.

- C. This Ordinance shall be enforced and administered by the City of Lapeer Police Department or such other City of Lapeer official as may be designated from time to time by resolution of the Lapeer City Commission.

§ 68-09 Severability

In the event that any one or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this Ordinance.

§ 68-10 Effective Date

This Ordinance shall take effect on April 1, 2018.

Date of Publication: _____

CHAPTER 7
Zoning Ordinance

Sec. 7.06.02, Table 7.06.1

OS-1 Office Service District, B-2 General Business District, B-3 Regional Business District-

Use	OS-1	B-1	B-2	B-3	Additional Requirements
Medical Marihuana Facility Uses					
Medical Marihuana Provisioning Center			P	P	Section 7.13.12
Medical Marihuana Safety Compliance Facility	SLU		SLU		Section 7.13.12
Medical Marihuana Secure Transporter Facility			SLU	SLU	Section 7.13.12

Sec. 7.08.02, Table 7.08.1

I-1 Industrial District and I-2 Planned Industrial District –

Use	I-1	I-2	Additional Requirements
Medical Marihuana Facility Uses			
Medical Marihuana Grow Facility	P	P	Section 7.13.12
Medical Marihuana Processor/Processing Facility	P	P	Section 7.13.12
Medical Marihuana Safety Compliance Facility	P	P	Section 7.13.12
Medical Marihuana Secure Transporter Facility	P	P	Section 7.13.12

Article 7.13 USE REQUIREMENTS

Sec. 7.13.12 Medical Marihuana Facility Uses

- (a) Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by state law may not be permitted by City of Lapeer. In the event that a court with jurisdiction declares some or all of this article invalid, then City of Lapeer may suspend the acceptance of applications pending the resolution of the legal issue in question.
- (b) At the time of application for a permit the marihuana facility must be licensed by the State of Michigan and then must be at all times in compliance within the laws of the State of Michigan including but not limited to the Michigan Medical Marihuana Act, MCL 33 3.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the State of Michigan.
- (c) Facilities shall provide a security plan in compliance with the Department of Licensing and Regulatory Affairs rules.
- (d) The use or facility must be at all times in compliance with all other applicable state laws and ordinances of City of Lapeer.

- (e) Marihuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the provisioning center.
- (f) All medical marihuana facilities activity shall be conducted in a fully enclosed building and outdoor display, sales, or storage shall not be allowed.
- (g) A marihuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales of marihuana, may not be permitted as a home business or accessory use nor may they include accessory uses except as otherwise provided in this ordinance.
- (h) Hours of Operation.
 - a. Hours of operation of provisioning center facilities shall be restricted to be between the hours 7 am to 11 pm.
 - b. Hours of operation of safety compliance facilities shall be restricted to be between the hours of 7 am to 7 pm.
- (i) Buffer Requirements are considered a setback or separation area in which a Medical Marihuana use permitted under this ordinance must maintain a defined spacing from an existing use as stated below. Buffers are measured from the property line as determined by the City of Lapeer Assessing Department. A proposed Medical Marihuana use must be outside of designated buffer areas.
 - a. A 1,000 foot buffer is required from all public, parochial and other private schools offering courses in general education, and consisting of grade levels kindergarten through 12th grade. This buffer requirement is in correlation with the State of Michigan Drug Free School Zone (MCL 333.7410) not including measuring procedures along a public right-of-way.
 - b. A 500 foot buffer is required from all licensed child care centers, child day care centers, nursery schools and child care institutions. All facilities listed here pertain to child care facilities that cater to children under the age of 18 but excluding those operating out of a private home such as child care group home and child care family home licenses. Such facilities, centers and institutions are further defined in 7.24(f)(1) and 7.24(f)(2) of this Zoning Ordinance.
 - c. A 500 foot buffer is required from all Federal owned, used, or operated property. Such Federal uses currently include the United States National Guard Armory of Michigan, Telecommunication Exchange Federal Facility, and the United States Postal Office, excluding transportation facilities such as the railroad and interstate I-69.
 - d. A 200 foot buffer is required from all designated public parks within the City of Lapeer, excluding trail ways and cemeteries such as Linear Park and Oakdale Cemetery.
- (j) Buildings used for grow facilities, processor facility, safety compliance facility, provisioning center, and secure transport 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. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter (s) shall be rated for the applicable CFM. 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 or as determined by the manufacture's recommendations. Negative air pressure shall be maintained inside the building. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
 - a. An alternative odor control system is permitted if the applicant submits and the City of Lapeer Planning Commission 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 City of Lapeer 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.

Article 7.16 PARKING, LOADING, ACCESS, AND CIRCULATION REQUIREMENTS, TABLE 7.16.1

Medical Marihuana Facility	
Medical Marihuana Grow Facility	One (1) space per employee in the largest working shift, plus two (2) additional spaces.
Medical Marihuana Processor/Processing Facility	Five (5) plus one (1) space for every one and one-half (1 ½) employees in the largest working shift. Space on site shall also be provided for all construction workers during periods of plant construction.
Medical Marihuana Provisioning Center	1 space per 275 square feet of gross floor area, including outdoor sales space.
Medical Marihuana Safety Compliance Facility	Five (5) plus one (1) space for every one and one-half (1 ½) employees in the largest working shift. Space on site shall also be provided for all construction workers during periods of plant construction.
Medical Marihuana Secure Transporter Facility	Five (5) plus one (1) space for every one (1) employee, in the largest working shift, or five (5) spaces plus one (1) space for each 1,700 sq.ft. of UFA, whichever is the greater.

Article 7.20 NONCONFORMING USES OF LAND AND STRUCTURES

Sec. 7.20.04 Nonconforming Use of Land

7.20.04. (e) **Medical Marihuana Nonconforming Use**

- A. No marihuana facility operating or purporting to operate prior to [adoption date], shall be deemed to have been a legally existing use nor shall the operation of such marihuana facility be deemed a legal nonconforming use under this Ordinance.
- B. A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this Ordinance or any amendment thereto.
- C. Discontinuation of a State Medical Marihuana Facility License shall constitute prima facie evidence that a nonconformity has been discontinued.

Article 7.24 DEFINITIONS

7.24.09 **Definitions M-N**

Marijuana or marihuana – The term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 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.
- 2. Licensee - A person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- 3. Medical Marihuana Facility - An enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marihuana grower, marihuana processor, marihuana provisioning center, marihuana secure transporter, or marihuana 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.
- 4. Outdoor Production – The growing of marihuana in an expanse of open or cleared ground or in a greenhouse, hoop house, or similar non-rigid structure that does not utilize any artificial lighting, including but not limited to electrical lighting sources.
- 5. Person - An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- 6. Processor - A licensee that is a commercial entity located in Michigan 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.

7. Provisioning Center - A licensee that is a commercial entity located in Michigan 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 in accordance within the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.
8. 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.
9. Secure Transporter – A licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

Commission Discussion.

Commissioner Bennett commented on how City will be impacted, still against Federal and State law, should City be sued in Federal Court is there insurance that covers and protects us? Mr. Kerbyson responded that City does have insurance but believes there is an exclusion for criminal acts which insurance will review, what is a criminal act is for the courts to decide. Mr. Bennett indicated he is not against medical use of marihuana, cannot afford to be sued, oath of office taken.

Mayor Sprague commented on ordinance in compliance with State law, asked about last minute amendments to limit provisioning centers, no previous discussion on limitations and why brought up first time tonight, opens up for lawsuits, how come up with limiting to six as well as excluding from CBD and what process did Commission do this arbitrarily by as it was not done at any meeting he was at.

Commissioner Bostick-Tullius commented on hearing from Dan on setting limits could City be sued, spoke with Jen at MML and told not a property right it is a privilege, have right to limit number of licenses, can control locally, trying not to saturate the market in Lapeer

General discussion on reasons to limit the number of provisioning centers including review of City's that do have limits, looked at population, Commission said no to centers in our downtown, buffer zones and designations that could change such as the Federal building downtown could be sold and buffer zone would no longer apply potentially creating an area in the downtown where a provisioning center could locate, Commission can review yearly to see if the numbers of licenses established makes sense, downtown is a family friendly area that has a Main Street designation with a family friendly model. Discussion continued on medical marihuana is still not legal under State Law per Attorney letter, policy in ordinance to authorize how to issue the provisional licenses, look at first come first served basis, drug stores or liquor stores are not regulated by City so City should not regulate provisioning centers, how did Commission discuss limiting provisioning centers as this was first time brought up at any other meeting.

Commissioner Marquardt commented on the number of provisioning centers to allow up to six, tied to State approval.

Commissioner Atwood read a prepared statement, thanked all that worked on ordinance, sees the good/bad ordinance can bring to City, allowing all license types has potential to affect future economic growth and entrepreneurship in City, believes ordinance comes with a certain level of risk to the City, does not protect anyone from Federal law as it is still illegal, feels he is voting the way those who voted for him would want him to vote.

The question was called to a vote.

ON A ROLL CALL VOTE:

AYES: Bostick-Tullius, Marquardt, Osentoski.

NAYS: Atwood, Bennett.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED. CHAPTER 68 AS AMENDED AND CHAPTER 7 AS AMENDED DECLARED ADOPTED.

Pursuant to Public Act 279 of 1909, MCL 117.3, a summary will be used for publication purposes.

Youth Council By-Laws and Rules of Procedures

Youth Council members Chair Breiana Bostick-Tullius, Vice Chair Taylor Gerrity and Treasurer Sam Howard addressed the Commission, honor and excited to serve, update on recent Youth Council meetings and activities.

28 2018 02-19

Moved by Atwood. Seconded by Bennett.

Adopt the Youth Council By-Laws and Rules of Procedure as presented.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

CITY MANAGER'S REPORT

City Manager Dale Kerbyson stated commentary received from Cheryl Ronk Facilitator of the Commission retreat, results to be reviewed, interest in holding another retreat, general consensus of Commission was yes.

CITY ATTORNEY'S REPORT

None.

UNFINISHED BUSINESS

29 2018 02-19

Appointed by Mayor Sprague. Moved by Marquardt. Seconded by Osentoski.

Appoint William Marquardt, Carol Fischhaber and Art Sieting to the Economic Development Corporation/Tax Increment Finance Authority/Brownfield Redevelopment Authority, term expiration 03-01-24.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

DEPARTMENTAL COMMUNICATIONS

The Monthly Departmental Reports was received into record.

PUBLIC COMMENTS

Chris Aiello, Mound Road, Warren, asked if ordinance adopted was same language recommended by Planning Commission? Mayor Sprague responded no, tweaks made on limiting provisioning centers, not to have any facilities in CBD, annual review by Commission, policy developed to accept applications.

Bernard Jocuns, Pine Street, Lapeer commented on ordinance passed; limiting number of provisioning centers is bizarre, adult cannabis use in about 1 year; discriminating against small business entrepreneurs, have a wonderful evening.

Pat Mansour, S. Lapeer Road, Oxford commented on facility limitation, fairness, what is determining factors, open up City for limitations; Mayor Sprague responded policy is yet to be developed, to be a fair system and approved by Commission, will be completed by April 1st.

Jamie Webb, Dunaskiss Consulting, Clarkston Road, Lake Orion commented that having a cap does open potential for litigation.

Chris Aiello reviewed other municipalities process for applications by first come/first served, lottery and point systems, open up to all industries, limiting number of licenses potentially shuts out people who have purchased land within the City bringing jobs, now at last moment limit provisioning centers and questioned how decision was made to limit after no discussion over the past year, why the last minute change.

Pat Mansour commented on people that have already invested and placed an interest in the City.

Cal (gave no last name give, address unclear) agreed with Mr. Aiello's comments.

MAYOR/COMMISSIONER COMMENTS

Commissioner Bennett: Unsure of how would vote if medical marihuana was legal, not against use for pain and illness, is breaking Federal law, will do right thing by those that apply.

Commissioner Atwood: Recapped FAN event attended; thanked members of the Youth Council for coming to tonight's meeting, Talk With Commish event

Commissioner Bostick-Tullius: Commented on the investment concerns mentioned during Public Comment; first time City Commission voted on the medical marihuana ordinance, not know how everyone would vote; update on recent trip to Washington DC. ordinance; gave an update on her recent trip to Washington D.C.

Commissioner Marquardt: Asked for a moment of silence to remember the victim of the recent fatal accident on Nepessing Street, moment of silence followed; DPW and snow removal, mail boxes knocked down, Mr. Kerbyson responded if City hits any mailbox it is replaced; attended concert at The Pix.

City Manager Dale Kerbyson: Nice to see the Youth Council at meeting, adopting of their By-Laws, ability to recruit more members.

Mayor Sprague: Upcoming events; letter received from Vice President Pence honoring Lapeer area resident Jim Slater who is a member of the Olympic Hockey team; thanked City Police and County Sheriff cooperation in investigating fatal accident in City; Dog Park Fund Raiser; research on decreased opioid use in states that adopted liberal marihuana laws; recent school shootings in Florida; Infrastructure bill in Washington used to be Federal paid 80% and local paid 20% which is now flipping, encouraged all to contact Representatives and Senators.

ADJOURNMENT

30 2018 02-19

Moved by Bennett

Adjourn the regular meeting.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

The regular meeting adjourned at 7:33 p.m.

Mayor William J. Sprague

Donna L. Cronce, MMC, City Clerk

Renee Wilson, Chief Deputy City Clerk