

CHAPTER 69

AN ORDINANCE TO AUTHORIZE AND REGULATE THE ESTABLISHMENT OF ADULT USE MARIHUANA BUSINESSES AND FACILITIES.

§ 69-01 Purpose

A. Recognizing that there is a potential conflict between federal and state law with respect to the operation of adult use marihuana businesses, it is the purpose and intent of this Ordinance to give effect to the intent of Initiated Law 1 of 2018, the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951, et seq, (the "Act") as approved by the electors. It is the further intent of this ordinance to protect the public health, safety, and general welfare of persons and property, and to license certain locations as specified below, as allowed by the Act.

This Ordinance is designed to recognize the fundamental intent of the Act to facilitate the statutory authorization for the limited cultivation, distribution, and use of marihuana in lawful amounts by those adults 21 and over as allowed by the Act; and to regulate around this fundamental intent in a manner that does not conflict with the Act. 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 or such other amount as may be authorized by law or regulation on each marihuana facility licensee granted by the City of Lapeer under Michigan law and this Chapter. Authority for the enactment of these provisions is set forth in the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951, et seq.

B. 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 use, cultivation, growth, possession or control of marihuana not in strict accordance with the express authorizations of the Act and this Ordinance; and, nothing in this Ordinance shall be construed to undermine or provide immunity from federal law or state law as it may be enforced by the federal or state government relative to the cultivation, distribution, or use of marihuana. 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, use, and possession of marihuana, and all applicants and grantees of licenses are on notice that they may be subject to prosecution and civil penalty, including forfeiture of property.

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 under federal law 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.

§ 69-02 Definitions

For the purposes of this ordinance:

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All definitions have been drawn from and are intended to have the same meaning as those terms are ascribed in the Act or its Rules as provided in the Act:

(a) "Act" means the Michigan regulation and taxation of marihuana act, 2018 Initiated Law 1, MCL 333.27951 to 333.27967.

(b) "Agency" means the marijuana regulatory agency.

(c) "Applicant" means a person who applies for a license in the City of Lapeer pursuant to this Ordinance to operate a marihuana retailer; marihuana grower; marihuana processor; marihuana secure transporter; marihuana safety compliance facility or marihuana microbusiness under this Ordinance.

(i) For purposes of this definition, an applicant includes a managerial employee of the applicant, a person holding a direct or indirect ownership interest of more than 10% in the applicant, and the following for each type of applicant:

(A) *For an individual or sole proprietorship:* the proprietor and spouse.

(B) *For a partnership and limited liability partnership:* all partners and their spouses.

(C) *For a limited partnership and limited liability limited partnership:* all general and limited partners, not including a limited partner holding a direct or indirect ownership interest of 10% or less and who does not exercise control over or participate in the management of the partnership, and their spouses.

(D) *For a limited liability company:* all members and managers, not including a member holding a direct or indirect ownership interest of 10% or less and who does not exercise control over or participate in the management of the company, and their spouses.

(E) *For a privately held corporation:* all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, and all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

- (F) *For a publicly held corporation:* all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, and all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.
- (G) *For a multilevel ownership enterprise:* any entity or person that receives or has the right to receive more than 10% of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.
- (H) *For a nonprofit corporation:* all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

(ii) For purposes of this definition, an *applicant does not include:*

- (A) A person who provides financing to an applicant or licensee under a bona fide financing agreement at a reasonable interest rate.
- (B) A franchisor who grants a franchise to an applicant, provided that the franchisor does not have the right to receive royalties based upon the sale of marijuana or marijuana-infused products by the applicant who is a franchisee. Nothing in this Ordinance shall be construed to preclude a franchisor from charging an applicant who is a franchisee a fixed fee. As used in this definition, the terms "franchise," "franchisor," and "franchisee" shall have the meanings set forth in section 2 of the Franchise Investment Law, 1974 PA 269, MCL 445.1502.
- (C) A person receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation.
- (D) A person receiving reasonable payment under a licensing agreement or contract approved by the agency concerning the licensing of intellectual property including, but not limited to, brands and recipes.

(d) "Authorized Establishment" means that type of Marijuana Establishment authorized to be licensed in § 69-03 B. of this Chapter within the City of Lapeer.

(e) "Building" means a combination of materials forming a structure affording an establishment or shelter for use or occupancy by individuals or property. Building includes a part or parts of the building and all equipment in the building. A building shall not be construed to mean a building incidental to the use for agricultural purposes of the land on which the building is located.

(f) "Bureau of Fire Services" or "BFS" means the bureau of fire services in the department

of licensing and regulatory affairs.

(g) "City" means the City of Lapeer.

(h) "Co-locate" means to locate or be in jointly or together; share or designate to share the same place.

(i) "Common ownership" means two or more state licenses or two or more equivalent licenses held by one person.

(j) "Complete application" means an application that includes all the information required in Rules 7, 8, and 10.

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

(l) "Department" means the Michigan Department of Licensing and Regulatory Affairs or its successor agency.

(m) "Designated consumption establishment" means a commercial space that is licensed by the agency and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license as permitted by the rules and regulations adopted by the Bureau of Marihuana Regulation (BMR)..

(n) "Employee" means a person performing work or service for compensation. An employee does not mean individuals providing trade services who are not normally engaged in the operation of a marihuana establishment.

(o) "Equivalent licenses" means any of the following held by a single licensee:

(i) A marihuana grower license, of any class, issued under the act and a grower license, of any class, issued under the MMFLA.

(ii) A marihuana processor license issued under the act and a processor license issued under the MMFLA.

(iii) A marihuana retailer license issued under the act and a provisioning center license issued under the MMFLA.

(iv) A marihuana secure transporter license issued under the act and a secure transporter license issued under the MMFLA.

(v) A marihuana safety compliance facility license issued under the act and a safety compliance facility license issued under the MMFLA.

(p) "Excess marihuana grower" means a license issued to a person holding 5 class C marihuana grower licenses and licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

(q) "Licensee" means a person holding a state license under the Act or a person holding a municipal license granted by the City of Lapeer, or both.

(r) "Marihuana" means all parts of the plant of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. For purposes of this act, marihuana does not include:

(i) the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;

(ii) industrial hemp; or

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

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

(t) "Marihuana establishment" means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, marihuana designated consumption establishment, or any other type of marihuana-related business licensed to operate by the agency under the Act.

(u) "Marihuana event organizer" means a person licensed to apply for a temporary marihuana event license under these rules.

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

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

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

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

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

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

(bb) "Medical marihuana facilities licensing act" or "MMFLA" means 2016 PA 281, MCL 333.27101 to 333.27801, which allows for the licensing of medical marihuana facilities.

(cc) "Municipal license" means a license issued by a municipality pursuant to section 16 of the Act that allows a person to operate a marihuana establishment in that municipality where the Department has failed to timely accept or process an application under the Act.

(dd) "Municipality" means the City of Lapeer.

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

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

(gg) "Proposed marihuana establishment" means a location at which an applicant plans to operate a marihuana establishment under the Act and this Chapter if the applicant is issued a license.

(hh) "Temporary marihuana event license" means a state license held by a marihuana event organizer for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the state license during the dates indicated on the state license.

(ii) "Stakeholder" means the officers, directors, and managerial employees of an applicant and any persons who hold any direct or indirect ownership interest in the applicant.

To the extent that any terms defined herein are not consistent with the definitions of those same terms under the Act, or any rules promulgated in furtherance of the Act, then those terms as defined in the Act and rules shall be as defined in the Act and rules.

§ 69-03 Licensing and Appeals

A. License Required.

It shall be unlawful for any person to operate a medical marihuana facility or a marihuana establishment in the City of Lapeer without a valid license for such marihuana

establishment issued by the City Clerk in accordance with the provisions of this ordinance.

B. Authorization of Marihuana Establishment Licenses; Licensing and Administrative Fees.

(1) Type of Authorized License.

Pursuant to section 6 of the MRTMA, MCL 333.27956, the following adult use business licenses may be authorized to operate in the City of Lapeer by the holder of a state operating license, subject to compliance the Act, as may be amended, the Rules promulgated thereunder and this ordinance:

<u>License Type</u>	<u>Number</u>
Marihuana Retailer (see below)	6
Marihuana Grower (Class A, B, and C, only)	Unlimited
Marihuana Processor	Unlimited
Marihuana Safety Compliance Facility	Unlimited
Marihuana Secure Transporter	Unlimited

A marihuana retailer is an authorized establishment under this Chapter and section 6 of the MRTMA, MCL 333,27956, but only at a location where a medical marihuana provisioning center license has been approved (co-located), with or without the continued medical marihuana provisioning center use following the enactment of this Chapter. Any operation of the medical marijuana provisioning center, a marijuana retailer, or combination of the two, shall comply with all zoning and regulatory conditions of the original licensure of the medical marihuana provisioning center for the licensed location.

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.

(2) No Other Licenses Authorized.

Pursuant to section 6 of the MRTMA, MCL 333.27956, The City shall not authorize any licenses to operate an excess marihuana grower, a marihuana microbusiness, designated consumption establishment, and further shall not authorize the issuance of a marihuana event organizer license or temporary marihuana event license in the City.

(3) Application, Licensing and Administrative Fees.

Pursuant to section 6 of the MRTMA, an application for a license shall be accompanied by a non-refundable application fee to help defray administrative and

enforcement costs associated with the operation of the proposed authorized establishment shall be in the amount as listed in the City of Lapeer Fee Schedule as approved by the City Commission per license requested.

Additionally, for each year in which an applicant has submitted an application for license renewal, a nonrefundable fee shall be paid by each applicant for such renewal, including upon an application for renewal of any license issued pursuant to this Chapter in the amount as listed in the City of Lapeer Fee Schedule as approved by the City Commission per license requested to defray application, administrative, and enforcement costs associated with the renewal application review and operation of those types of marihuana establishments authorized within the City of Lapeer.

§ 69-04 License Applications.

A. Applications Required.

(1) Application from Applicant that has Applied and Received Preliminary Approval from State of Michigan.

Any person seeking to operate an authorized marihuana establishment as provided in § 69-03 B. and who has submitted and received either: (1) a license issued by the City Clerk under Chapter 68 to operate a Medical Marihuana Provisioning Center, or (b) prequalification status from the Marihuana Regulatory Agency, or its successor agency, as designated from time to time by the State of Michigan, shall file a license application with the City Clerk upon a form provided by the city. The application shall include the following information:

- (a) The full name, date of birth, physical address, email address, and telephone number of the applicant in the case of an individual; or, in the case of an entity, all stakeholders thereof.
- (b) If the applicant is an entity, the entity's articles of incorporation or organizational documents.
- (c) If the applicant is an entity, the entity's employer identification number.
- (d) If the applicant is an entity, the entity's operating agreement or bylaws.
- (e) A proposed marketing, advertising, and business promotion plan for the proposed authorized establishment.
- (f) A description of planned tangible capital investment in the City of Lapeer.
- (g) An explanation of the economic benefits to the City of Lapeer and job creation to be achieved, including the number and type of jobs the authorized establishment is expected to create, the amount and type of compensation expected to be paid for such jobs, and the projected annual budget and revenue of the authorized establishment.

(h) A description of the financial structure and financing for the proposed authorized establishment.

(i) Short-term and long-term business goals and objectives for the proposed authorized establishment.

(j) A criminal background report on the applicant's criminal history. Such reports shall be obtained by the applicant and, if applicable, each stakeholder through the Internet Criminal History Access Tool (ICHAT) for applicants or stakeholders residing in Michigan and/or through another state sponsored or authorized criminal history access source for applicants or stakeholders who reside in other states or have resided in other states within five (5) years prior to the date of the application. The applicant or stakeholder is responsible for all charges incurred in requesting and receiving the criminal history report and the report must be dated within thirty (30) days of the date of the application.

(k) A description of the security plan for the proposed authorized establishment that is consistent with the requirements of the department.

(l) A floor plan of the proposed authorized establishment.

(m) A scale diagram illustrating the property upon which the proposed authorized establishment is to be operated, including all available parking spaces, and specifying which parking spaces are handicapped-accessible.

(n) A depiction of any proposed text or graphic materials to be shown on the exterior of the proposed authorized establishment.

(o) An affidavit that neither the applicant nor any stakeholder of the applicant is in default to the City of Lapeer.

(p) A statement by the applicant that the applicant has submitted a valid application for an authorized establishment license under this Chapter, that the proposed authorized establishment is located in a proper zoning district, that the proposed authorized establishment is not located in a required buffer zone and the applicant understands, acknowledges and agrees that the applicant cannot and shall not locate or operate a proposed authorized establishment without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the City of Lapeer.

(2) Application from Applicant for a Municipal License upon Department's Failure to Timely Accept or Process Applicant's State Application, pursuant to section 16 of the MRTMA, MCL 333.27966.

Any person seeking to operate an authorized marijuana establishment as provided in § 69-03 B. and who has submitted an application for licensure to the Department, but the Department has failed to timely accept or process the applicant's application as required by section 16 of the MRTMA, MCL 333.27966, then the applicant shall provide to the City the applicant's entire application and provide all such information and submissions so as to provide the City with a complete application for review as required by section 9 of the MRTMA, MCL 333.27959. In such case, all provisions of the Act and the Rules

promulgated by the Department shall be applicable to the applicant's application, the application's review and the operations of the applicant under any resulting municipal license issued by the City. The City shall have available to it all powers and authority reserved to the State of Michigan and the Department not otherwise applicable to the City had the Department issued the applicant a state license under the Act.

B. Applications Exempt from Disclosure.

Except as provided by law, all materials submitted to the City of Lapeer as part of an application shall be exempt from disclosure under the Freedom of Information Act and exempt from disclosure pursuant to section 9 of the MRTMA, MCL 333.27959(7).

C. Application Review.

(1) The City Clerk shall review each application to ensure that it is complete, that the information required by this Chapter has been submitted, and that the application fee has been paid. The City Clerk may reject any application that is not complete and may deny an application for failure to pay the full application fee.

(2) Upon receipt of a completed application meeting the requirements of this Chapter and the appropriate license application fee, the City Clerk shall refer a copy of the application to each of the following for their approval: the Police Chief, the Fire Chief, the Building Inspector, the City Planner, and the City Treasurer.

(3) No application shall be approved, and no license shall issue unless:

(a) The Police Chief has reviewed the completeness and accuracy of the background information provided by the applicant in the application.

(b) The Fire Chief and the Building Inspector have inspected the proposed location for compliance with all applicable laws for which they are charged with enforcement and for compliance with the requirements of this Chapter.

(c) The City Planner has confirmed that the proposed location complies with the relevant provisions of the City of Lapeer Zoning Ordinance and this Chapter.

(d) The City Treasurer has confirmed that the applicant and each stakeholder of the applicant are not in default to the City of Lapeer.

(4) After the effective date of this Chapter, the City shall begin accepting applications for authorized establishments for a period of twenty-one (21) days.

(5) The City, with the assistance of its consultants and advisors, legal and otherwise, shall assess, evaluate, score and rank all applications for licenses to

operate a marihuana retailer within ninety (90) days after expiration of the submission period.

(6) In its application assessment, evaluation, scoring, ranking, and deliberations related to licenses to operate a marihuana retailer, the City shall assess, evaluate, score, and rank each application based upon the following factors:

(a) Detailed information concerning the applicant's ownership structure as set forth in the City of Lapeer's Marihuana Retailer Scoring Criteria which shall be provided to an applicant as part of the application. The maximum number of scoring points in this category shall be five (5) points.

(b) Detailed information concerning the applicant's financial stability as set forth in the City of Lapeer's Marihuana Retailer Scoring Criteria which shall be provided to an applicant as part of the application. The maximum number of scoring points in this category shall be seven (7) points.

(c) Detailed information concerning the applicant's business experience as set forth in the City of Lapeer's Marihuana Retailer Scoring Criteria which shall be provided to an applicant as part of the application. The maximum number of scoring points in this category shall be nine (9) points.

(d) Detailed information concerning the applicant's proposed business operations as set forth in the City of Lapeer's Marihuana Retailer Scoring Criteria which shall be provided to an applicant as part of the application. The maximum number of scoring points in this category shall be twelve (12) points.

(e) Detailed information concerning the applicant's proposed facility construction, rehabilitation or improvements, maintenance, use and security as set forth in the City of Lapeer's Marihuana Retailer Scoring Criteria which shall be provided to an applicant as part of the application. The maximum number of scoring points in this category shall be twenty-six (26) points.

(f) Detailed information concerning the applicant's proposed community outreach and relations as set forth in the City of Lapeer's Marihuana Retailer Scoring Criteria which shall be provided to an applicant as part of the application. The maximum number of scoring points in this category shall be six (6) points.

(6) Overall scoring and ranking shall be conducted and applied by the city clerk with the assistance of legal advice from the city attorney on the basis of assigned points from zero (0) points to sixty-five (65) points with the lowest overall total score as zero (0) points and the highest possible total score being sixty-five (65) points.

(7) The City Clerk shall forward all information including scoring and ranking information to the City Commission who, at the next Commission meeting unless

postponed for good cause or otherwise provided herein, shall award licenses as follows:

(a) One (1) license to each of the six (6) highest scoring marihuana retailer applicants if such marihuana retailer is co-located with a medical marihuana provisioning center licensed under Chapter 68 of the City Ordinances.

(b) If the six (6) highest scoring medical marihuana provisioning centers and marihuana retailers are not co-located as provided in this ordinance, then the licenses shall be awarded to the six (6) highest scoring, medical marihuana provisioning center and/or marihuana retailer applicants so as to provide for two separate provisioning and/or retail facilities.

(c) In the event of an evaluation scoring tie, which causes there to be more than one (1) applicant who achieve scores sufficient to qualify for a marihuana retailer license, the applicants whose scores are deemed a tie will be entered into a random draw. Those applicants randomly selected shall be eligible to receive a license to operate a marihuana retailer.

(d) In the event that the number of marihuana retailer licenses initially awarded is less than the maximum number authorized under this Chapter or subsequently falls below the maximum number authorized under this Chapter, the City shall not be required to score applicants. Instead, the City shall evaluate applications in the order that they are submitted and shall award licenses for marihuana retailers to an applicant who submits a complete application, receives the approvals required in this Chapter, and meets the requirements of this Chapter.

(e) In no event shall the number of marihuana retailer licenses exceed the maximum number authorized under this Chapter.

D. Transfer of licenses.

(1) A license issued pursuant to this Chapter is valid only for the applicant 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 marihuana business license are only those persons disclosed in the application or subsequently disclosed to the City in accordance with this Chapter.

(2) Each license is exclusive to the licensee. Licensee shall report material changes to the Department and the City Clerk before making material changes that may require prior authorization by the Department. Material changes include, but are not limited to, the following:

(a) Change in owners, officers, members, or managers;

(b) Change of location. Upon notification of a proposed change in location the Department may determine that a new license and new inspection are required for the change of location;

(c) The addition or removal of persons named in the application or disclosed;

(d) Change in entity name;

(e) Any attempted transfer, sale, or other conveyance of an interest in a license.

(2) A license granted pursuant to this Chapter and the Act is a revocable privilege granted by the City and is not a property right. The issuance of a license does not create or vest any right, title, franchise, or other property interest. 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. A licensee or any other person shall not lease, pledge, or borrow or loan money against a license. The attempted transfer, sale, or other conveyance of an interest in a license without prior Department approval is grounds for suspension or revocation of the license or for other sanction considered appropriate by the City.

Any transfer of ownership of a license issued under this Chapter to a different individual, individuals or entity, if approved by the Department, may be approved by the City only after the City has received written approval from the State of Michigan approving such proposed transfer, and upon prior submission to the City Clerk of all licensing application(s) and supporting documentation filed by the transferee with the Department. Any transfer permitted under this Chapter shall be only for the remainder of the unexpired annual license term and no longer.

E. Term of licenses.

Approval of a license shall be for a period of one calendar year subject to review by the City Clerk upon continued compliance with the regulations of this Chapter.

F. Renewal of licensees.

(1) Application for a license renewal shall be made in writing to the City Clerk at least thirty (30) days prior to the expiration of an existing license.

(2) An application for a license renewal required by this Chapter shall be made under oath on forms provided by the City Clerk and shall contain substantially all the information required in an initial application.

(3) An application for a license renewal shall be accompanied by a renewal fee as set forth in the City of Lapeer Fee Schedule as approved by the City Commission.

(4) Upon receipt of a completed application for a license renewal meeting the requirements of this Chapter and the license renewal fee, the City Clerk shall refer a copy of the renewal application to the Police Chief, Fire Chief, Building Inspector and Treasurer.

(5) No application for a license renewal shall be approved unless:

(a) The Fire Chief and the Building Inspector or another relevant department have, within the past calendar year, inspected the location for compliance with all state and local building, electrical, fire, mechanical and plumbing requirements.

(b) The City Planner or another relevant department has confirmed that the location complied with the relevant provisions of the City of Lapeer Zoning Ordinance at the time the license was granted.

(c) The licensee possesses the necessary state licenses or approvals, including those issued pursuant to the Act.

(d) The licensee has operated the authorized establishment in accordance with the conditions and requirements of this Chapter.

(e) The licensee is operating the authorized establishment in accordance with the Act.

(6) If written approval is given by each department or entity identified in this section, the City Clerk shall issue a license renewal to the licensee. The renewal shall be deemed approved if the city has not issued formal notice of denial within sixty (60) days of the filing date of the application for renewal.

(7) Pursuant to the MRTMA, any license issued by the City of Lapeer shall expire one year from the date of its issuance. ***Failure to submit a completed application for renewal of an existing license along with the required renewal fee to the City Clerk on or before the license expiration date shall be grounds for the revocation or suspension of a license as set forth in paragraph G. next below. Any authorized establishment that has not timely submitted a renewal application as required herein shall suspend all business operations until such time as a renewal license has been obtained in accordance with this Chapter.***

G. Revocation or Suspension of a License.

Each authorized establishment within the City of Lapeer for which a license is granted shall be operated and maintained in accordance with all applicable laws, rules, and regulations. Upon any violation of this section or any section of this Chapter, the City Clerk may, after a notice and hearing, revoke or suspend such license as hereinafter provided.

H. Procedure for Nonrenewal, Suspension, or Revocation of License.

The City Clerk shall notify an applicant or licensee of the reasons for denial of an application for a license or license renewal or for revocation of a license or any adverse decision under this Chapter and provide the applicant or licensee with the opportunity to be heard. Any applicant or licensee aggrieved by the denial or revocation of a license or adverse decision under this Chapter may appeal to the Lapeer City Commission. Such appeal shall be taken by filing with the City Clerk, within twenty-one (21) days after notice of the action complained of has been

mailed to the applicant or licensee's last known address on the records of the City Clerk, a written statement setting forth fully the grounds for the appeal. The City Clerk shall transmit all written materials received from the applicant or licensee directly to the Lapeer City Commission. The review on appeal of a denial or revocation or adverse action shall be by the Commission pursuant to this Chapter. Any decision by the City Commission on an appeal shall be final. The City Clerk and the Lapeer City Commission may engage professional experts to assist with the proceedings under this section.

I. Criteria for Nonrenewal, Suspension, or Revocation of License.

In addition to any other reasons set forth in this Chapter, the city may refuse to issue a license or grant renewal of the license or suspend or revoke the license for any of the following reasons:

- (1) A material violation of any provision of this Chapter or other City Ordinances.
- (2) Any conviction of a disqualifying felony by the licensee or any stakeholder of the licensee.
- (3) Denial, suspension, revocation or restriction of an applicable license by the State of Michigan.
- (4) Sufficient evidence that the Applicant(s) lack, or have failed to demonstrate, the requisite professionalism and/or business experience required to assure strict adherence to this Ordinance and the rules and regulations governing the MRTMA and the State of Michigan.
- (5) Nonpayment of real and/or personal property taxes, fines, liens, income tax, hydrant and sprinkler fees or any fees owed to the City.
- (6) Applicant has made or provided false information in the application or has otherwise become disqualified for the issuance of a license.
- (7) Operations have ceased at the licensed location for more than ninety (90) days, including during a change of ownership or transfer of license.
- (8) Transfer of the License for any reason without the new owner or transferee having first notified the Department and the City of any material change in owners, officers, members, or managers and having first received from approval by the Department and the City for any such material change as described in the rules promulgated by the Department in furtherance of the Act.

§ 69-05 REGULATIONS

A. License Requirements.

A license issued to an authorized establishment under this Chapter shall be subject to the following conditions:

- (1) Compliance with the requirements of this Chapter, other applicable City of Lapeer ordinances and codes, including all applicable zoning ordinances and requirements,

building, property maintenance, electrical, plumbing and mechanical codes, fire codes and all other applicable state laws, including, but not limited to the MRTMA and the Rules promulgated in conjunction therewith.

(2) Signs displayed on the exterior and interior of any authorized Establishment shall conform to City of Lapeer ordinance requirements. No signs shall contain the words "marihuana," "marijuana," "cannabis," "weed," "ganja," "dank," "smoke," "mary jane," or "blunt" or similar marihuana related euphemisms nor shall any sign contain marihuana leaves, as well as all other applicable provisions of section 7.17 of Chapter 7 of the City Zoning Ordinance.

(3) No licensee or authorized establishment shall use advertising material that is misleading, deceptive or false or that, as evidenced by the content of the advertising material or by the medium or the manner in which the advertising material is disseminated, is designed to appeal to minors; or, otherwise advertise in a manner that is inconsistent with the provisions of the Act or rules of the Department.

(3) Operation of an authorized establishment shall not, either directly or indirectly, cause or create any noise, dust, vibration, glare, fumes, or odors constituting a nuisance and also detectable to human senses beyond the boundaries of the property on which the facility is operated.

(4) A license that is issued under this Chapter shall be posted at all times inside the authorized establishment in a conspicuous location near the entrance.

(5) Consumption of marihuana shall be prohibited at the facility, and a sign shall be posted on the premises indicating that consumption is prohibited on the premises.

(6) There shall be posted in a conspicuous location in each establishment a legible sign containing the content of this section warning that:

(a) The possession, use or distribution of marihuana is a violation of federal law;

(b) It is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by, marihuana; and

(c) No one under the age of twenty-one (21) years is permitted on the premises

(6) The authorized establishment shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises.

(7) The facility shall be free from infestation by insects, rodents, birds, or vermin of any kind.

B. Sales Prohibited During Certain Hours.

No licensee, employee, or agent of a licensee shall sell or purchase by sale, barter, exchange, or otherwise, any item under a license issued pursuant to this Chapter from or to any person or entity between the hours of 11:00 p.m. and 7:00 a.m. of the following day.

The hours of operation for any marihuana retailer licensed hereunder shall be no more than from 7 a.m. to 11 p.m., only. All other authorized establishments licensed under this Chapter shall be no more than from 7:00 a.m. to 7:00 p.m.

C. Prohibited Acts.

It shall be unlawful:

(1) for any licensee or authorized establishment to permit the consumption of alcohol beverages on the licensed premises.

(2) for any licensee or authorized establishment holding a marihuana retailer license, or for any agent, manager or employee thereof, to:

(a) sell, give, dispense or otherwise distribute marihuana or marihuana accessories from any outdoor location;

(b) provide or give away marihuana accessories upon the purchase of marihuana;

(c) provide or give away marihuana upon the purchase of marihuana accessories;

(d) display marihuana or marihuana accessories so as to be visible from a public place outside of the marihuana establishment, sell or market marihuana accessories;

(e) sell or display any marihuana accessory targeted to younger persons or minors such as those fashioned as Super Hero comic book characters, Sesame Street characters, and the like;

(f) sell or display any glass marihuana accessories made of non-Pyrex rated glass materials;

(g) manufacture, sell or display any marihuana accessory fashioned to look like guns or other weapons;

(h) manufacture, sell or display any accessory that contains any name, emblem, badge, mark, seal or logo of the City of Lapeer or its departments or a reasonable facsimile thereof.

(3) for retail marihuana establishments to distribute marihuana or marihuana-infused products to a consumer free of charge.

(4) for any licensee or authorized establishment to permit the consumption of retail marihuana or retail marihuana products on the licensed premises.

(5) in conformance with the Michigan Regulation and Taxation of Marihuana Act, the sale or consumption of marihuana in any form and the sale or display of marihuana

accessories, as defined by that Act, is prohibited in any public places owned, occupied, or managed by the City of Lapeer.

(6) This section does not supersede rights and obligations with respect to the transfer and consumption of marihuana on private property to the extent authorized by the person who owns, occupies or operates such property, as provided and authorized by the Act, and does not supersede rights and obligations with respect to the use of marihuana for medicinal purposes as provided by any law of the State of Michigan allowing for or regulating marihuana for medical use.

C. Compliance with State Laws.

Each licensee and employee must comply with the terms of state laws, including but not limited to, the MMFLA and the MRTMA, any amendments thereto, as well as any rules promulgated pursuant to the MMFLA or the MRTMA. 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.; the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951, et seq and all other applicable rules promulgated by the State of Michigan. This Chapter permits authorizations for activity based on the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951, 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 Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951, et seq or the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

D. Compliance with Zoning and Other Ordinances.

Every licensee and employee shall comply with all requirements for the business location at which work, pursuant to any license issued under this Chapter, occurs as provided in any applicable zoning and other ordinances of the City of Lapeer.

E. Minors Prohibited.

No person shall permit any person under the age of 21 years to come upon or remain on the premises of any business licensed herein, except as provided by the MMFLA.

§ 69-06 PENALTIES AND ENFORCEMENT

Any person who violates this Chapter shall be responsible for a municipal civil infraction and punished by a fine of not more than five hundred dollars (\$500.00) pursuant to section 6 of the MRTMA, 333.27956. This Chapter 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.

§ 69-07 REPEAL

All ordinances and resolutions heretofore adopted inconsistent herewith are hereby repealed to the extent that the provisions thereof are inconsistent with the provisions hereof.

§ 69-08 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.

§ 68-09 Effective Date

This Ordinance shall take effect thirty (90) days from the date of publication.

Date of Publication: July 26, 2020.