

**CITY OF MUSKEGON HEIGHTS  
COUNTY OF MUSKEGON  
STATE OF MICHIGAN**

AN ORDINANCE TO AMEND THE REQUIREMENTS FOR THE REGULATION AND LICENSING OF MEDICAL MARIHUANA FACILITIES AND ESTABLISH REQUIREMENTS FOR THE PLACEMENT, INSPECTION, AND LICENSING OF AND ADULT-USE MARIHUANA ESTABLISHMENTS OF MARIHUANA BUSINESSES WITHIN THE CITY OF MUSKEGON HEIGHTS.

Ordinance #20- 645

THE CITY OF MUSKEGON HEIGHTS ORDAINS:

**Section 1:** Introduction

**Section 2 (a):**

This Ordinance amends Chapter 88 of the City of Muskegon Heights Code of Ordinances, adopted May 29, 2019.

**Section 2 (b):**

An Article II "Opt-In Provisions" of Chapter 88, Medical Marihuana Facilities and Adult-Use Marihuana Establishments, is hereby enacted to state as follows:

**Section 88-1 – Purpose and Intent.**

1. The purpose of this Ordinance is to exercise the police regulatory and licensing powers of the City of Muskegon Heights by amending Chapter 88 "Medical Marihuana Facilities" of the City of Muskegon Heights Code of Ordinances and establishing a uniformed licensing and regulatory process for Medical and Adult-Use Marihuana Businesses to the extent permissible under the Michigan Medical Marihuana Facilities Licensing Act (Public Act 281 of 2016) and the Michigan Regulation and Taxation of Marihuana Act (Initiated Law 1 of 2018) to protect the public health, safety, and welfare of the residents of the City of Muskegon Heights. Further, the purpose of this Ordinance is to:
  - a. Protect public health and safety through reasonable limitations on marihuana commercial entity operations as they relate to noise, air and water quality, neighborhood and patient safety, security for the location and its personnel, and other health and safety concerns;
  - b. Protect residential zoned properties and neighborhoods by limiting the location and the concentration of types of Marihuana Businesses to specific areas of the City;
  - c. Impose fees to defray and recover the cost to the City of the administrative and enforcement costs associated with Marihuana Businesses;
  - d. Coordinate with laws and regulations that may be enacted by the State of Michigan addressing Marihuana Businesses; and
  - e. To restrict the issuance of Marihuana Business Licenses only to individuals and entities that

demonstrate an intent and ability to fully comply with this Chapter and the laws of the State of Michigan.

2. 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, Initiated Law 1 of 2018, MCL §333.27951 et seq. ("MRTMA"); and all other applicable rules promulgated by the State of Michigan.
3. 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 federal laws.

#### **Section 88-2 - City Liability and Indemnification.**

1. By accepting a license issued pursuant to this Ordinance, 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 recreational marihuana establishment owners, operators, employees, clients or customers for a violation of local, state or federal laws, rules or regulations.
2. By accepting a license issued pursuant to this Ordinance, all licensees agree to indemnify, defend and hold harmless the City, its officers, elected officials, appointed 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 establishment, arising out of, claimed to have arisen out of, or in any manner connected with the operation of a 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).
3. By accepting a license issued pursuant to the Ordinance, 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.

#### **Section 88-3 - Reservation of Legislative Prerogative.**

1. The City of Muskegon Heights reserves the right to amend or repeal this Chapter 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.
2. Nothing in this Chapter 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.

#### **Section 88-4 - Conflict.**

Nothing in this Ordinance shall be construed to conflict with the existing Muskegon Heights Code of Ordinances except as otherwise stated herein.

1. *Federal Law.* As of the effective date of this Ordinance, marihuana is classified as a Schedule 1 controlled substance under Federal law which makes it unlawful to manufacture, distribute, cultivate, provide, possess, dispense or transport marihuana. Nothing in this Ordinance is intended to grant immunity from any criminal prosecution under Federal law.
2. *State Law.* Nothing in this Ordinance 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 state and local laws, and all applicable rules promulgated by the State of Michigan regarding marihuana. 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 Chapter, and noncompliance at any time with any applicable state or local law or regulation shall be grounds for revocation or nonrenewal of any license issued under the terms of this Chapter.

#### **Section 88-5 - Definitions and Interpretations.**

1. For the purposes of this Ordinance:
  - a. The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. In addition, any term defined by the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL §333.26421 et seq., as amended ("MMMA"), the Medical Marihuana Facilities Licensing Act 2016 PA 281, MCL §333.27101, et seq. ("MMFLA"), and/or the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL §333.27951 et seq. ("MRTMA"), shall have the definition given in the MMMA, as amended, the MMFLA, as amended or the MRTMA as amended. If the definition of a word or phrase set forth in this Chapter conflicts with the definition in the MMMA, the MMFLA, or the MRTMA, or if a term is not defined but is defined in the MMMA, the MMFLA or the MRTMA, then the definition in the MMMA, the MMFLA and/or the MRTMA shall apply. Also, any term defined by 21 USC 860(E) referenced in this Chapter shall have the definition given by 21 USC 860(E).
  - b. All activities related to medical marihuana and the facilities described and regulated shall be in compliance with the rules of the Michigan Department of Licensing and Regulatory Affairs or any successor agency, the rules and regulations of the City of Muskegon Heights and the Medical Marihuana Facilities Licensing Act (MMFLA).
  - c. All activities related to non-medical marihuana shall be in compliance with the rules of the Michigan Department of Licensing and Regulatory Affairs, or any successor agency, the rules and regulations of the City and MRTMA.
2. The following terms shall have the definitions given:

- a. "*Advisory Bulletin*" means an Advisory Bulletin for the Michigan Marihuana Regulatory Agency posted by the Michigan Department of Licensing and Regulatory Affairs.
- b. "*Agency*" means the Michigan Marihuana Regulatory Agency, a division of the Michigan Department of Licensing and Regulatory Affairs.
- c. "*Applicant*" means a person who applies for a License under this Article and who applies for a state medical marihuana facility operating license, or an Adult-Use Marihuana Establishment License. Applicant includes a managerial employee of the applicant who has the authority to make company policy, a person holding an indirect ownership interest of over 10% in the applicant, and the following for each type of applicant:
  - i. For an individual or sole proprietorship: the proprietor and spouse.
  - ii. For a partnership and limited liability partnership: all partners and their spouses. 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 more than 10% and who does not exercise control over or participate in the management of the partnership, and their spouses. For a limited liability company: all members and managers, not including a member holding a direct or indirect ownership interest of more than 10% and who does not exercise control over or participate in the management of the company, and their spouses.
  - iii. 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 more than 10%, and their spouses.
  - iv. 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 over 10%, and their spouses.
  - v. For a multilevel ownership enterprise: any entity or person that receives or has the right to receive over 10% of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.
  - vi. 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.
- d. "*Application*"/"*License Application*" means an application for a license or license transfer pursuant to the terms and conditions set forth in this Ordinance.
- e. "*Application for a License Renewal*" means an application for a license renewal pursuant to the terms and conditions in this Ordinance.
- f. "*Building*" means any independent, enclosed structure having a roof supported by

columns or walls. This definition refers only to permanent structures and does not include tents, sheds, greenhouses and private garages on residential property, stables, or other accessory structures. A building does not include such structures with interior areas not normally accessible for human use, such as smoke stacks, tanks, or similar structures.

- g. “*City*” means City of Muskegon Heights, Michigan.
- h. “*Church*” means an entire building set apart primarily for purposes of public worship, that people regularly attend to participate in or hold religious services, meetings or other religious activities of any denomination and which is tax exempt under the laws of this state, and in which religious services are held, and the entire building structure of which is kept for that use and not put to any other use inconsistent with that use. The term “church” also includes synagogues, temples and mosques.
- i. “*Collocated Business*” means a Marihuana Business that operates at least one of the following Licenses types at the Same Location with a retailer and/or provisioning center (a marihuana grower or a marihuana processor).
- j. “*Council*” means the City Council which also includes the Mayor of Muskegon Heights, Michigan.
- k. “*Cultivation*” or other forms of the word as used in this Ordinance, means all phases of growth of marihuana from seed to harvest for sale to a medical marihuana provisioning center or processor.
- l. “*Designated consumption establishment*” means a commercial space licensed by the state to permit adults 21 years of age and older to consume marihuana products at the location indicated in the license.
- m. “*Disqualifying Criminal History*” means applicant 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 past five (5) years; or has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty, or a fraud in any state within the past five (5) years; or has been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States (federal law) within the past ten (10) years or has been convicted of a controlled substance-related felony within the past ten (10) years.
- n. “*Employee*” means any individual who is employed by an employer in return for the payment of direct or indirect monetary wages or profit, under contract, and any individual who volunteers his or her services to an employer for no monetary compensation, or any individual who performs work or renders services, for any period of time, at the direction of an owner, lessee, of other person in charge of a place.
- o. “*Equivalent Licenses*” means that term as defined in Adult-Use Marihuana Emergency Rule 1(I), or its successor rule. The license types in the following numbered columns are equivalent:

	1	2	3	4	5
<b><u>Medical</u></b>	Grower	Processor	Provisioning Center	Secure Transporter	Safety Compliance Facility
<b><u>Adult-Use</u></b>	Grower	Processor	Retailer	Secure Transporter	Safety Compliance Facility

- p. “*Excess Marihuana Grower*” shall mean that License type as provided in Adult-Use Emergency Rule 60 (Applicant must apply for this special license under recreational to allow for obtaining multiple class C – see “*Stacked Licenses*”).
- q. “*Facility*” means a “marihuana facility” as defined in the MMFLA and a “marihuana establishment” as defined in the MRTMA.
- r. “*Grower*” means a license issued for the operation of a medical marihuana facility or marihuana establishment pursuant to the terms and conditions of this Chapter and includes a license which has been renewed pursuant to this Ordinance.
- s. “*License*” means a current and valid License for a Medical Marihuana Facility or Adult-Use Marihuana Establishment issued by the State of Michigan.
- t. “*Licensee*” means a person who holds a current and valid Michigan state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- u. “*Marihuana*” means that term as defined in 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.; the Marihuana Tracking Act, MCL 333.27901 et seq and/or the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL §333.27951 et seq.
- v. “*Marihuana Establishment*” means any marihuana operation that is required to be licensed under this Chapter and possesses a license or approval to operate under the MRTMA, including a Marihuana Microbusiness, a Marihuana Retailer, a Marihuana Grower, a Marihuana Processor, a Marihuana Secure Transporter, a Marihuana Safety Compliance Facility, and a Designated Consumption Establishment.
- w. “*Medical Marihuana Facility*” means any facility or center that is required to be licensed under this Chapter and possesses a license or approval to operate from the State under the MMFLA, including: A Medical Marihuana Provisioning Center, a Medical Marihuana Processor, a Medical Marihuana Grower Facility, a Marihuana Secure Transporter, and a Medical Marihuana Safety Compliance Facility.
- x. “*Marihuana-infused product*” means a topical formulation, tincture, beverage, edible substance, or similar product containing any useable marihuana that is intended for human consumption in a manner other than smoke inhalation.
- y. “*Marihuana Grower*” means a licensee that is a commercial or business entity located in the

City that is licensed or approved to operate by the State pursuant to the MMFLA or MRTMA and is licensed by the City pursuant to terms and conditions of this Chapter that cultivates, dries, trims or cures and packages marihuana in accordance with State law.

- z. *"Marihuana Microbusiness"* means a person or entity 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 located in the City that is licensed or approved to operate by the State pursuant to the MRTMA and is licensed by the City pursuant to the terms and conditions of this Ordinance.
- aa. *"Marihuana Operation/Operator"* means all types of medical and non-medical marihuana establishments and facilities operating in the City of Muskegon Heights that are required to be licensed under this Chapter and possess a license or approval to operate under State law.
- bb. *"Marihuana Processor or Medical Marihuana Processor" Facility* means a commercial entity located in the City that is licensed or approved to operate by the State pursuant to the MMFLA or MRTMA and is licensed by the City pursuant to the terms and conditions of this Chapter, that extracts resin from the marihuana or creates a marihuana-infused product, processes and packages marihuana, and sells or otherwise transfers marihuana to marihuana operations, to the extent permitted by State law and rules.
- cc. *"Medical Marihuana 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 Ordinance.
- dd. *"Marihuana Retailer"* means a licensee located in the City that is licensed or approved to operate by the State pursuant to the MRTMA and is licensed by the City pursuant to the terms and conditions of this Chapter to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to a marihuana establishment and to individuals who are 21 years of age or older.
- ee. *"Marihuana Safety Compliance Facility or Medical Marihuana Safety Compliance Facility"* means a commercial or business entity located in the City that is licensed or approved to operate by the State pursuant to the MMFLA or MRTMA and is licensed by the City pursuant to the terms and conditions of this Chapter, that tests marihuana, including certification for potency, the presence of contaminants, and tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.
- ff. (- Reserved.) *"Medical Marihuana 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.

- gg. (- Reserved.)
- hh. “*Same Location*” means that term as used in the Adult-Use and Medical Marihuana Facilities administrative rules. As used in this Ordinance, a Business Location includes the “Same Location,” where applicable.
- ii. “*School*” means and includes buildings used for school purposes to provide instruction to children and youth in grades pre-kindergarten through 12 and headstart when that instruction is provided by a public, a public charter, private, denominational, or parochial school.
- jj. “*Secure Transporter or Medical Marihuana Secure Transporter*” means a commercial or business entity that is licensed or approved to operate by the State pursuant to the MMFLA and is licensed to operate by the City pursuant to the terms and conditions of this Chapter, that stores marihuana and transports marihuana between medical marihuana facilities or marihuana establishments for a fee and in accordance with State law.
- kk. “*State License*” means a license to operate a Marihuana Business issued by the State of Michigan.
- ll. “*State Marihuana Law*” includes both the Michigan Adult-Use Marihuana Laws and Medical Marihuana Facilities Laws.
- mm. “*Stacked Licenses*” means more than one **class C grower** license issued to a Business Location, (under medical not required to apply for special license to get multiple class c’s - unlimited) as provided in the Adult-Use Emergency Rules and the Medical Marihuana Facilities Administrative Rules (see “*Excess Marijuana Grower*”).
- nn. “Temporary marihuana event” means a 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.
- oo. “*Vetting Process*” means the process by which the City Clerk, along with other City employees, reviews an application, processes background checks, reviews business licenses for the facility in which the applicant or entity is applying, verifies current zoning licenses, ensures that Applicant has no outstanding debts to the City, and makes sure that the Applicant has complied with every requirement of this Ordinance during the application process.

#### **Section 88-6 - General Opt-In Provisions.**

Pursuant to Section 205(1) of the MMFLA and Section 956(1) & 959(4) of the MRTMA, the City will authorize the operation in the city of the following facilities, provided they possess a state license or licenses and they comply with the additional requirements of this Chapter, Chapter 88, and all other applicable laws and Ordinances.

1. *Allowed Uses.* Subject to the terms of this Ordinance, the City may only issue Licenses for the operation of any of the following uses, or some combination thereof:



- a. Medical and adult-use marihuana growers, processors, secure transporters, and safety compliance facilities,
  - b. Medical marihuana provisioning centers,
  - c. Adult-use marihuana retailers and microbusinesses,
  - d. Designated consumption establishment, and
  - e. Event Licenses and Temporary Event Licenses.
2. *Non-Transferrable.* Any License issued under this Ordinance is only valid for the named Licensee and only for the Business Location contained in the License. No License is transferrable to any other individual, organization, entity, association, or other business or from its designated Business Location to any other location unless a licensee has requested from the City permission for transfer to any other person or entity that has completed a License Application and such person or entity has received the City's approval for the license to be transferred, sold, or purchased. Only the named Licensee as approved and recorded by the City may operate the Marihuana Business.
  3. *Multiple Grower Licenses.* A Business Location may be granted Stacked Licenses and/or an Excess Marihuana Grower License.
  4. *Collocated Businesses.* The City may issue Licenses to a Collocated Business, limited to six (6) total Licenses at the Business Location, provided that Stacked Licenses and an Excess Marihuana Grower License shall not be counted for purposes of the six-License limitation.
  5. *Equivalent Licenses.* The City shall issue Equivalent Licenses consistent with MRTMA.

**Section 2 (c): Secs. 88-7 - 88-10. - Reserved.**

An Article IV "Permit Types; Eligibility; General Provisions" of Chapter 88, Medical Marihuana Facilities and Adult-Use Marihuana Establishments, is hereby enacted to state as follows:

**Section 2 (d):**

**Section 88-11 - Number of Licenses Available; Eligibility; General Provisions.**

1. The number of Medical Marihuana Facility and Adult-Use Marihuana Establishment Licenses in effect at any time shall not exceed the following maximums within the City of Muskegon Heights and no person shall operate a facility for which an annual permit, as provided for in this Chapter, has not been issued. The maximum number of permits available for each type of facility is as follows:

Type of Facility or Establishment	Medical Number	Adult-Use Number
Grower Licenses of Class A (maximum of 100 marihuana plants) as defined in the MRTMA or Class A (maximum of 500 marihuana	0	0

plants) as defined in the MMFLA		
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	0	0
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	Five (5 ) (includes 5 under City's Medical Marihuana Ordinance)	Five (5)
Excess Grower	No Limit, as approved	No Limit, as approved
<i>Marihuana Processor or Medical Marihuana Processor Facility</i>	Five (5) (includes 5 under City's Medical Marihuana Ordinance)	Five (5)
Medical Marihuana Provisioning Centers/Marihuana Retailers	Six (6) (includes those Provisioning Centers issued through the City's Medical Marihuana Ordinance)	Consistent with Section 6 of MRTMA
Microbusiness		Five (5)
<i>Marihuana Safety Compliance Establishment or Medical Marihuana Safety Compliance Facility</i>	No Limit	No Limit, as approved
<i>Secure Transporter or Medical Marihuana Secure Transporter</i>	No Limit	No Limit, as approved
Designated Consumption Center		Three (3)
Marihuana Event Organizer		No Limit, as approved
Temporary Event License		No limit, as approved

**Section 88-12 - General Requirements for all Medical Marihuana Facilities and Adult-Use Marihuana Establishments.**

1. All activities related to marihuana, including those related to a Provisioning Center, a Retailer, a Grower Facility, a Microbusiness, a Secure Transporter, a Safety Compliance Facility, a Designated Consumption Facility, an Event License and a Temporary Event License shall be in compliance with the MMMA, the MMFLA, the MRTMA, the Rules, Advisory Bulletins, and the Code of Ordinances, resolutions, rules and regulations of the City of Muskegon Heights.

2. All facilities shall withhold City of Muskegon Heights income taxes of 1% on residents and 0.5% on nonresidents from the pay of employees and timely submit all withholdings and documentation, as is pursuant to MCL 141.611 Excise tax on incomes; rates. and 141.612 Excise tax on incomes; application to resident individuals. and 141.613 Types of nonresident income to which tax applicable; extent and basis of tax.
3. All facilities shall remit to the City of Muskegon Heights Municipal Corporate Income Tax 2% tax on the net profits of businesses within the municipal taxing authority and timely submit all payments and documentation as is pursuant to MCL 141.614 - "Excise tax on incomes; taxable net profits of a corporation, definition. Sec. 14".
4. Before hiring a prospective employee of the applicant, the holder of a license shall conduct a background check of the prospective employee, as is required under MCL 333.27405 and shall otherwise comply with all State requirements under the MMLFA and MRTMA.
5. There shall be no Medical Marihuana Facility or Adult-Use Marihuana Establishment location within five hundred (500) feet of a school or church, or in the case of a church, without expressed written permission of the church.
6. No advertisements or packaging shall be targeted to appeal to minors. No packaging shall substantially resemble any form of candy, snack food, drink or other edible item not containing marihuana currently for sale to the general public. All edible marihuana product must be in child resistant packages or containers. All packaging of edible marihuana product shall conform to the MMFLA, the MRTMA, the Rules and all Advisory Bulletins.
7. No doctor shall be permitted to offer certifications or examinations at the facility.
8. No alcohol, cigarettes, or over the counter pharmaceuticals may be sold on the premises.
9. Consumption of Marihuana shall be prohibited on the premises of a medical marihuana facility, except for Designated Consumption Establishments and Temporary Marihuana Events, and a sign shall be posted on the premises of each facility or establishment indicating that consumption is prohibited on the premises. This exclusion does not apply to Adult-Use marihuana consumption establishments.
10. Upon application submission, all applicants must place Five Thousand (\$5,000) Dollars in an escrow account to be held by the City to ensure payment of unpaid fines, costs and other fees owed to the City. If the City finds that a licensee has unpaid fines, fees or other costs, the City shall send the licensee a notice stating the unpaid amounts and giving the licensee ten (10) days to pay the unpaid amount. If the unpaid amount is not paid within the ten (10) day period, then the City may retain the funds from the escrow account necessary to pay the unpaid amounts. All unused escrow funds shall be returned to the licensee at the end of the license term. After each year of operation without any action where the escrow was drawn upon by the City for unpaid fines, costs, and other fees owed to the City, the subsequent year escrow shall be reduced by One Thousand (\$1,000) Dollars. Any subsequent action where the escrow was drawn upon by the City shall reset the required escrow amount for the following year back at Five Thousand (\$5,000) Dollars. No licenses will be granted or renewed to businesses with outstanding debt, unpaid fines, fees or other costs owed to the City.
11. All capitalization requirements of the MMFLA must be shown to be met.

12. All Notification and Reporting requirements required by the Rules, as amended, must be followed concerning reporting of theft or diversion of marihuana product.
13. The State of Michigan and City licenses must be prominently displayed at all times.
14. No noise, dust, odors or other nuisance conditions in violation of the Code are permitted on the premises.
15. No person is permitted to reside in a medical marihuana facility or adult-use marihuana establishment.
16. The premises shall be open, at all times, for inspection by the City of Muskegon Heights, state and/or local law enforcement and/or regulatory agencies as required by the MRTMA and the MMFLA consistent with the powers of the Board as described in the appropriate governing Code, without a warrant and without notice to the licensee, to enter the premises, offices, facilities, or other places of business of a licensee, if there is probable cause of noncompliance with the MMMA, MMFLA, the MRTMA, the Code or applicable state laws as found and consistent with constitutional limitations, for the purposes defined in the Code.
17. All marihuana shall be contained within an enclosed, locked facility in accordance with the MMMA, MMFLA, or MRTMA as amended.
18. There shall be no other accessory uses permitted within the facility.
19. Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Marihuana is exposed.
20. Facilities shall be free from infestation by insects, rodents, birds, or vermin of any kind. There shall be adequate screening or other protection against the entry of pests.
21. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for waste becoming an attractant, harborage or breeding places for pests.
22. Disposal of Marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it or otherwise in non-conformance with state laws.
23. Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
24. Signage shall comply with the Code and with all state laws and rules and Advisory Bulletins of LARA.
25. In addition to all security measures required by the State of Michigan, all Medical Marihuana Facilities or Adult-Use Marihuana Establishments shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras capable of recording with reasonable clarity at night. The video recordings shall be maintained in a secure, off-site location for a period of thirty (30) days.

26. The dispensing of medical marihuana for consumption at the premises shall be prohibited.
27. No person working in or employed by a Medical Marihuana Facility or Adult-Use Marihuana Establishment shall produce his or her own marihuana or marihuana product for personal use at the Facility.
28. All employees of Medical Marihuana Facilities or Adult-Use Marihuana Establishments are prohibited from smoking, consuming alcohol, using/consuming medical marihuana or other controlled substances, or illegal drugs on the premises of the facility.
29. Any person who holds an interest in excess of 10% in a Medical Marihuana Facility or Adult-Use Marihuana Establishment shall notify the Clerk in writing within five (5) business days of any new misdemeanor, or felony charges and convictions received at any time, including after the grant of the License. Failure to notify the Clerk may result in immediate forfeiture of the License.
30. Facilities shall not be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the property on which the facility is operated.
31. The public or common areas must be separated from restricted or non-public areas.
32. It shall be prohibited to use the symbol or image of a marihuana leaf in any exterior building signage.
33. Medical Marihuana Facility or Adult-Use Marihuana Establishment shall operate only as allowed under this Ordinance.
34. Every Medical Marihuana Facility or Adult-Use Marihuana Establishment in the City of Muskegon Heights shall be licensed pursuant to the terms and provisions set forth in this Ordinance and in the Muskegon Heights Zoning Ordinance for Medical Marihuana Facility and Adult-Use Marihuana Establishment.

#### **Section 88-13 - Prohibited Licenses and Acts.**

1. *General Prohibition.* Any medical marihuana facility or adult-use marihuana establishment not specifically allowed by this Ordinance is prohibited within the City. In the event that any state law or rule is enacted or amended to provide for additional Marihuana Businesses, or similar businesses, they will be prohibited in the City unless the City amends this Ordinance to specifically allow them.
2. *No On-Premises Consumption.* It is prohibited for any Marihuana Business to allow the consumption, use, or inhalation of marihuana or of any marihuana product at any Business Location unless the location has applied for and received both city and state approval for either a Designated Consumption Establishment License or Temporary Marihuana Event License.
3. *Marihuana Violations.* It is prohibited to produce, distribute, or possess marihuana in violation of any applicable State Marihuana Law or local ordinance.
4. *Alcohol.* It is prohibited to allow the sale or consumption of alcoholic beverages at any Business Location.
5. *Food.* It is prohibited to allow the sale or consumption of food at any Business Location, except

food may be consumed in a cafeteria or break room that is separated from any marihuana product by floor-to-ceiling walls and a door. For purposes of this subsection, marihuana products, including edible marihuana products, are not food.

6. *Operators.* Only a Licensee may operate as a Marihuana Business within the City of Muskegon Heights. The Licensee must conspicuously display its State License and City License in the Marihuana Business where it is easily open to public view.
7. *State Law Violations.* Any violation of any State Marihuana Law shall be deemed a violation of this Ordinance.
8. *Tax Incentives.* A Marihuana Business may be eligible for a tax incentive program offered by the City at the City's discretion, including, but not limited to, any incentive created pursuant to the Brownfield Redevelopment Financing Act, PA 381 of 1996, or the Recodified Tax Increment Financing Act, PA 57 of 2018.

#### **Section 88-14 - Sale of Marihuana to the Public.**

1. A Licensee who operates an adult-use marihuana retailer License or microbusiness License shall only sell or transfer marihuana to a person who is 21 years old or older, in compliance with Adult-Use Emergency Rules 26 and 27.
2. A Licensee who operates a medical marihuana provisioning center License shall only sell marihuana to a qualifying patient, primary caregiver, or a visiting qualifying patient, in compliance with Medical Marihuana Facilities Rule 74.
3. A Licensee who operates marihuana retailer and marihuana provisioning center Licenses at a Business Location must comply with subsection (1) when selling or transferring retail marihuana products and must comply with subsection (2) when selling or transferring medical marihuana products.
4. It shall be unlawful for any licensee holding a provisioning center license, or for any agent, manager, or employee thereof to:
  - a. Sell, give, dispense or otherwise distribute marihuana or marihuana paraphernalia from any outdoor location without a permit from the City Council;
  - b. Sell, give, dispense or otherwise distribute marihuana to anyone, other than in strict compliance with State law.
5. It shall be unlawful for recreational marihuana establishments or other regulated activity authorized by the Rules to transfer marihuana other than as specifically allowed by State law.
6. The unlawful sale of marihuana shall be cause for nonrenewal, immediate suspension, or revocation of a License, in addition to all other remedies or penalties under any applicable state or local law.

An Article V "Application Procedures and Appeals" of Chapter 88, Medical Marihuana Facilities and Adult-Use Marihuana Establishments, is hereby enacted to state as follows:

#### **Section 88-15 - Application Procedure.**

The Medical Marihuana Facility and Adult-Use Marihuana Establishment licensing process shall consist of **three phases**.

1. The **first phase** shall be completed application submission process.
2. The **second phase** shall be review of the entity that is applying.
3. The **third phase** will be approval of final licenses by the City Manager.

#### **Section 88-16 - Application General Requirements.**

1. Applications for a license shall be made in writing to the City Clerk. All applications submitted to the City Clerk in accordance with the provisions of this Chapter shall be considered for the issuance of a license. The City Clerk shall make applications available and shall publish rules on how applications will be accepted. An applicant may apply for multiple licenses under this Chapter of the same or different natures simultaneously, as permitted by law.
2. An applicant must have received a Step One Pre-Qualification from the State of Michigan to operate a medical marihuana facility or adult-use marihuana establishment before they may begin the process for City approval of the structure and location of the facility. If the applicant does not have a Step One Pre-Qualification from the State of Michigan, the applicant may not begin the City application process for licensure.
3. *Fees.* All Applicants for each License type must file an application with the City Clerk. The Applicant shall pay a fee of Five Thousand (\$5,000) Dollars per License type to defray the administrative and enforcement costs associated with the operation of Marihuana Businesses within the City. Each Stacked License and Excess Marihuana Grower License shall require the payment of a separate fee.
4. *Multiple Licenses at the Business Location.* Except as otherwise provided by state law, this Ordinance, and zoning requirements, an Applicant may apply for Licenses to operate at the Same Location, as provided in Adult-Use Emergency Rule 31, Medical Marihuana Facilities Administrative Rule 32, and/or Adult-Use Emergency Rule 32, or their respective successor rules.
5. The City Clerk shall deny any application that does not meet the requirements of this Chapter or any other applicable law, rule, or regulation or that contains any false or incomplete information.

#### **Section 88-17 - Phase One – Submission of Completed Application.**

1. *Receipt of Applications.* The City Clerk shall accept new applications for any Medical Marihuana Facility and Adult-Use Marihuana Establishment licensing after adoption of this amended Ordinance as follows:
  - a. *Application Window.* Following the effective date of this Ordinance, there shall be an open application period **commencing 5 calendar days** after the effective date of this Ordinance and will last **for 30 calendar days thereafter**, during which the City shall collect applications for all Adult-Use Marihuana Establishment licenses and any new Medical Marihuana Facility licenses that are subject to a numeric limit. 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. Future application

submission periods and annualized renewal periods will be determined by resolution of City Council and in consideration of both the City's fiscal year and the licensee's State License Renewal Date, which may conflict with an annualized renewal period.

2. *Application Requirements of a Completed City Application.* Each complete application for a Medical Marihuana Facility or Adult-Use Marihuana Establishment license shall be accompanied by a detailed site plan and any information necessary to describe the proposed use or change of use. If more than one use is being requested for a parcel at the same time (e.g. co-location), a separate application must be submitted for each license type requested. Only one (1) applicant entity's application shall be processed per parcel; competing applications for the same license type for the same parcel will be rejected. All items must be satisfactorily completed as required by this Chapter and shall contain the following:
  - a. A complete copy of the Step One – Pre-Qualification application package submitted to the State of Michigan for the facility license;
  - b. If the applicant is an individual, the applicant's name, date of birth, physical address, copy of government issued photo identification, email address, and one or more phone numbers, including Department contact information;
  - c. If the applicant is not an individual, the names, physical addresses, email addresses, and one or more phone numbers of each person considered an applicant under the MMFLA or the MRTMA, including designation of the highest ranking member of the applicant entity, or the highest ranking managerial employee as a Department contact person and contact information for the Department contact person, articles of incorporation, articles of organization, or assumed name registration documents, Internal Revenue Service SS-4 EIN confirmation letter, and a copy of the operating agreement of the applicant, if a limited liability company, a copy of the partnership agreement, if a partnership, or a copy of the by-laws or shareholder agreement, if a corporation;
  - d. The name and address of the proposed Medical Marihuana Facility or Adult-Use Marihuana Establishment and any additional contact information deemed necessary by the City Clerk;
  - e. For the applicant and/or for each stakeholder of the applicant, an affirmation under oath that they are at least 18 years of age and have never been convicted of or pled guilty to any criminal offense under the laws of any jurisdiction for a controlled substance related crime. If convicted of such an offense, the applicant must provide information of the conviction, including the date, name and location of the court, arresting agency, and prosecuting agency, the case caption, the docket number, the offense, the disposition, and the location and length of incarceration;
  - f. A signed release authorizing the Department of Police and Fire Services to perform a criminal background check to ascertain whether the applicant, each stakeholder of the applicant, each managerial employee (if known at the time of application) and employee (if known at the time of application) of the applicant meet the criteria set forth in this Ordinance. For any managerial or other employee hired after the date of the license application, this release must be provided within ten (10) days of the commencement of employment;



- g. A signed release consenting to and authorizing the Department of Police and Fire Services to inspect the premises of the facility for compliance with the provisions of this Code;
- h. The name, date of birth, physical address, copy of photo identification, and email address for any managerial employee or employee of the Medical Marihuana Facility or Adult-Use Marihuana Establishment, if other than the applicant. For any managerial or other employee hired after the date of the license application, this information must be provided within ten (10) days of the commencement of employment;
- i. An affirmation under oath as to whether the applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action;
- j. A copy of the proof of financial responsibility submitted to LARA with the state application;
- k. One of the following:
  - 1) Proof of an ownership interest of the entire premises wherein the Medical Marihuana Facility or Adult-Use Marihuana Establishment is to be operated. Co-ownership with a person or persons who are not the owner, member or shareholder of the licensee is not permitted; or
  - 2) Written consent from the property owner for use of the premises in a manner requiring licensure under this Chapter along with a copy of the lease for the premises.
- l. Proof of an adequate premise liability and casualty insurance policy in the amount not less than \$1,000,000 per occurrence, covering the Medical Marihuana Facility or Adult-Use Marihuana Establishment and naming the City, its officials, and its employees as additional named insured, available for the payment of any damages arising out of an act or omission of the applicant or any person or entity considered an applicant under the MMFLA or the MRTMA, or any agents, employees, or subcontractors;
- m. A description of the security plan meeting all requirements of the Rules for the Medical Marihuana Facility or Adult-Use Marihuana Establishment, including, but not limited to, any lighting alarms and recording/monitoring devices. The security plan must contain the specification details of each piece of security equipment and must be approved by the Director of Police and Fire Services;
- n. A copy of the marihuana facility plan or marihuana establishment plan required by LARA as well as a floor plan of the Medical Marihuana Facility or Adult-Use Marihuana Establishment, and a scale diagram illustrating the property upon which the Medical Marihuana Facility is to be operated, including all available parking spaces, and specifying which parking spaces, if any, are handicapped-accessible;

- o. For all retail establishments whether medical or Adult-Use, a statement that the business shall only operate between the hours of 9AM and 9PM.
- p. An affidavit that neither the applicant nor any person or entity considered an applicant under the MMFLA or the MRTMA is in default to the City. Specifically, that neither the applicant nor any person or entity considered an applicant under the MMFLA or the MRTMA has failed to file or pay any income taxes, property taxes, special assessments, fines, fee or other financial obligations to the City;
- q. An affidavit that the transfer of Marihuana to and from Medical Marihuana Facilities or Recreational Marihuana Establishments shall be in compliance with the MMMA, the MMFLA and the MRTMA or other applicable state laws;
- r. A staffing plan listing all employees expected to be hired and the titles of the employees as well as each employee's duties;
- s. Any proposed text or graphical materials to be shown on the exterior of the proposed Medical Marihuana Facility or Adult-Use Marihuana Establishment;
- t. A business plan approximately 15 pages in length and containing the following: an executive summary, a market analysis, a description of the organization management of the applicant, the sales strategies to be used by the applicant, the funding requirements for the facility, and the financial projections of the applicant;
- u. A location area map of the Medical Marihuana Facility or Adult-Use Marihuana Establishment and surrounding area that identifies the relative locations and the distances (closest property line to the subject building) to the subject Medical Marihuana Facility or Adult-Use Marihuana Establishment to the closest property line of the real property types of property identified in Chapter 13.15 and 13.16, Development Standards of the Muskegon Heights Zoning Ordinance;
- v. A facility sanitation plan to protect against any Marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any Marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction in the sewerage system is prohibited;
- w. A Crime Prevention Through Environmental Design (CPTED) Plan. The plan shall address surveillance methods, access control strategies, territorial reinforcement, maintenance, and target hardening; including the experience of customers, employees, and neighbors (residents, offices, businesses, etc.). The Muskegon Heights Police Department shall review and approve the CPTED Plan prior to the Planning Commission public hearing;
- x. A Good Neighbor Plan (GNP). The purpose of the GNP is to identify and propose measures to reduce potential negative impacts on nearby residents and businesses by specific uses. The coordination and collaboration of owners or operators with interested parties both before and after the development or licensing process allows for a proactive approach to create a positive working relationship between the community and the applicant by requiring the formulation of a written implementation program;

- y. A Marihuana Industry Voluntary Economic Development Agreement (MIVEDA). A MIVEDA will be submitted as part of the application. Once submitted, the terms offered in the MIVEDA will be required and implemented into the final approval of the project. The contents of the MIVEDA agreement are defined in City Council policy approved by resolution in conjunction with this Ordinance;
  - z. Copies of the CPA-attested financial statements required by the MMFLA, the MRTMA and the Rules and Advisory Bulletins;
  - aa. An affidavit that the liquid assets identified in the documents submitted in response to subsection “y” above, will still be in liquid form at the time the license is issued by the City;
  - bb. As it relates to a Grower Facility, the following additional items shall be required:
    - 1) A grower plan that includes at a minimum a description of the Grower methods to be used, including plans for the growing mediums, treatments and/or additives;
    - 2) A production testing plan that includes at a minimum a description of how and when samples for laboratory testing by a state-approved Safety Compliance Facility will be selected, what type of testing will be requested, and how the test results will be used;
    - 3) An affidavit that all operations will be conducted in conformance with the MMMA, the MMFLA, the MRTMA or other applicable State laws and such operations shall not be cultivated on the premises at any one time more than the permitted number of Marihuana Plants per the MMMA, as amended, the MMFLA, as amended, and the MRTMA, as amended; and
    - 4) A chemical and pesticide storage plan that states the names of pesticides to be used and where and how pesticides and chemicals will be stored in the facility, along with a plan for the disposal of unused pesticides.
  - cc. Every applicant must sign a statement acknowledging that the granting of a Permit by the City does not guarantee that the applicant will be issued a License by the State of Michigan. Additionally, each applicant must attest, with their signature, that they understand that the granting of a Permit by the City does not absolve them from any federal prosecution based on federal drug laws;
  - dd. Every applicant must sign a statement that the applicant will not violate any of the laws of the State of Michigan or the Ordinances of the City of Muskegon Heights in conducting the business in which the Permit will be used, and that a violation on the premises may be cause for objecting to renewal of the Permit, or for requesting revocation of the Permit.
3. Upon an applicant’s completion of the application and accompanying documentation and furnishing of all required information and documentation, the City Clerk shall accept the application for review and consideration. The Clerk will also provide copies of the received applications to the City Manager and the Director of Finance immediately upon receipt. Each application for a medical marihuana facility and/or adult-use marihuana establishment received by the clerk will have the date and time of receipt recorded on the application by staff. For

applications received in person, this will be the actual time of receipt. For applications received by mail, this will be the time of delivery.

4. An internal review committee of the Clerk, the Director of Finance and the City Manager or his/her designee will review the initial application for administrative completeness as soon as practicable following receipt. The applicant will be notified of administrative completeness or any deficiencies as soon as practicable. Applicants will have five (5) business days from the receipt of electronic notification of an incomplete or deficient application to cure the deficiencies. After five (5) business days, if the deficiencies are not cured, then their application will not receive any further consideration until all deficiencies are cured. The Applicant is the only party responsible for submitting a complete and thorough application. As soon as an application is deemed to be administratively complete, the priority of that application will be established based on the recorded original time of receipt, or the time at which all deficiencies have been corrected, whichever is later and the clerk will assign it an application number by facility type. The application will proceed to the License application evaluation phase.

### **Section 88-18 - Phase Two - License Application Evaluation.**

The City shall review, score and rank the applicants based upon their objective merits if the number of license applicants exceeds the number of licenses available, at all times in compliance with MMLFA and MRTMA.

#### **Application Internal Review**

The Applicant must provide seven (7) paper copies and one (1) thumb drive of its application to the City Clerk to be distributed to the following City staff:

- (a) The City Attorney;
- (b) The City Building Official;
- (c) The City Manager;
- (d) The Director of Planning and Development;
- (e) Public Safety - Police Chief and Fire Chief; and
- (f) The Director of Finance.

Scoring comments from the staff listed shall be given to the Clerk no later than ten (10) business days for a medical marihuana facility and/or adult-use marihuana establishments. Once scoring comments are given by staff, the City Clerk shall then commence the application evaluation and scoring process.

#### **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. The scoring criteria shall include factors that select applicants best suited to operate in the City in compliance with the MRTMA and the MMFLA as applicable, such as the following factors:

- (a) Qualifications of the applicant, including but not limited to business history, experience, and regulatory compliance and/or legal history;
- (b) Percentage (%) of demonstrated proof of Ownership by Geographic regional factors (based on the Applicant's Prequalification Disclosures to MRA). Additional scoring factors are available based upon meeting or exceeding a minimum floor of 40% demonstrated ownership of applicants by:
  - i. Persons who have established residency in a minimum of 3 of the past 5 years in the City of Muskegon Heights in a socio-economically challenged defined area within the City (resides in a ZIP Code or census tract area, in which the total number of marihuana-related convictions exceeded the average marihuana-related conviction rate for the state, where 30% or more of the population live below the federal poverty level, or has an average unemployment rate that is 50% above the State average rate);
  - ii. Persons who have established residency in a minimum of 3 of the past 5 years in the City of Muskegon Heights;
  - iii. Persons who have established residency in a minimum of 3 of the past 5 years in Muskegon County;
  - iv. Persons who have established residency in a minimum of 3 of the past 5 years in the State of Michigan.
- (c) Ability to Operate (Business Plans);
- (d) Marihuana Industry Voluntary Economic Development Agreement (MIVEDA) implementation plan;
- (e) Good Neighbor Plan, including but not limited to Community Engagement, Community Investment, Community Benefits Agreement with Neighborhood Stakeholders, Defined Partnership with Non-Profit organizations in or servicing Muskegon Heights, etc.;
- (f) Employee Development, including quality of employment type, employee training programming offered, quality of compensation package to be offered to employees, share of employee hiring from Muskegon Heights, realistic number of employees hired for applicant location;
- (g) Other necessary activities to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner, pursuant to MCL 125.3504(4);
- (h) Whether the applicant has a history of prior building/code violations;
- (i) Applicant's compliance with application requirements.

### **Scoring Assessment**

- (a) The City Clerk's/Manager's assessment, evaluation, score, and rank of each application that requires scoring shall be based upon the scoring criteria identified in the factors of scoring section of this

Chapter, with weighting points per category developed by assigned City Staff, adopted by City Council and consistent with the requirements and conditions of this Chapter.

- (b) The City Clerk/Manager may engage professional expert assistance in performing the Clerk/Manager's duties and responsibilities under this Chapter.
- (c) The City Clerk will recommend to the City Manager that he/she confer conditional approval for licenses to the top scoring complete applications for the number of licenses available during each enrollment period. Scoring and ranking will be applicable for each enrollment period for new applications.
- (d) Overall scoring and ranking shall be conducted and applied by the Clerk/Manager on the basis of assigned points from zero points to 100 points with the lowest overall total score as zero points and the highest possible total score being 100 points. The Clerk retains the right to recommend fewer licenses than the number available if the remaining license application scores fall below 75/100, however, no license shall be awarded to an applicant whose score falls below 60/100.
- (e) In the event of an evaluation scoring tie during an enrollment period which causes there to be more applicants than licenses or locations available, the following process will be used to break ties between scoring-tied applicants:
  - a. FIRST TIEBREAKER: Points awarded based upon the Percentage of Demonstrated Ownership by Geographical Regional Factors (Muskegon Heights socio-economically challenged defined area, Muskegon Heights City General, Muskegon County & State of Michigan).
  - b. SECOND TIEBREAKER: The date and timestamp of submission of an administratively certified completed application, awarded to the applicant with the first certified completed application.
  - c. THIRD TIEBREAKER: Applicants names will be placed in a drawing and the winner will be picked randomly.
- (f) Conditional approvals will be granted by the City Manager after the recommendations from the City Clerk and any scoring evaluation ties are resolved.

#### **Section 88-19 - Conditional Approval.**

1. Once the applications are scored for Conditional Approval, individual applicants shall be notified of the order of their placement, and those within the cap are deemed as a Conditionally Authorized Applicant and thus may proceed through the license application process accordingly. If and when the applicant has applied for a State license, the applicant must notify the City Clerk of the pending State application within seven (7) days in writing by email and certified mail.
2. Within ninety days from conditional authorization from the City, the conditionally authorized applicant must submit proof to the City Clerk that the applicant has submitted the State Step Two-License Qualification application for the respective license application-type submitted to the City. If the applicant fails to submit such proof or fails to apply for and receive an extension from the City, then that applicant's Conditional Authorized Applicant status shall be suspended and Conditional Authorized Applicant status shall be made available to the next applicant in consecutive time and

date stamped, certified, completed, application order.

3. The applicant will have to complete all steps within the Site Plan Administrative Review process, the Planning Commission review process for land use approvals and secure all relevant building permits. In completion of either the Site Plan Administrative Review or Planning Commission review process, reasonable conditions may be imposed on any site plan approval. The applicant will ensure that any outstanding property taxes for owned or leased parcels in which they will operate from are current and paid in full. The conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.
4. If a Conditionally Authorized Applicant is denied approval for the State Step Two Facility/Establishment License, then such conditional authorization will be canceled by the Clerk and the Conditional Authorized Applicant status shall be made available to the next applicant in consecutive time and date stamped, certified, completed, application order.
5. Failure to complete the State Step Two Facility/Establishment license application process within six (6) months from the conditional approval date shall result in the City's denial of the application unless acceptable, good-faith effort to complete the process is shown and, at the complete discretion of the City, an extension is authorized by the City. If an application is denied by the City, the next best applicant that meets the scoring threshold as provided for in section 88-18 shall be afforded the opportunity to apply. The resulting list of scorers shall be used as the order for any waiting list, in the event that, (a) currently existing grandfathered facilities do not pass the State of Michigan'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 number of available licenses limit for that kind of facility at some future date.
6. All approvals provided for under this Ordinance shall meet all statutes and regulations of the state of Michigan including but not limited to the Public Health Code, MCL 33.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; the Michigan Medical Marihuana Tracking Act, MCL 333.27901 et seq. and the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL §333.27951 et seq. ("MRTMA") and all applicable laws and requirements of businesses that are legally authorized to operate within the city of Muskegon Heights. Revocation or denial of a required Marihuana Facility Operating License shall render any approval of a Marihuana Facility granted under any provision of the policing power Ordinance and zoning Ordinance null and void.

#### **Section 88-20 - Phase Three - Approval of City Manager and Issuance of Licenses.**

1. The final, full license to operate the applicant's proposed medical marihuana facility or adult-use marihuana establishment will not be issued by the City Manager to the applicant and applicants will not be permitted to operate the medical marihuana facility or Adult-Use marihuana establishment until the following occur:
  - (a) The City Manager has certified that the structure is complete, that a certificate of occupancy for the structure containing the facility has been issued to the applicant, and

that a zoning compliance certificate for the structure containing the facility has been issued to the applicant;

- (b) The Finance Director certifies to the City Manager that the applicant, nor any person or entity considered an applicant under the MMFLA or the MRTMA, is in default to the City via having no outstanding back taxes, fines, fees, or liens owed to the City;
  - (c) The City Attorney certifies that there are no known criminal or civil actions pending against the applicant or any person or entity considered an applicant under the MMFLA or the MRTMA that were not disclosed by the applicant in the application;
  - (d) The applicant has filed a copy with the Clerk of the final, Step Two State of Michigan license to operate the proposed facility;
  - (e) The applicant shall also provide a complete copy of their application for State approval. Including, but not limited to: a copy of their submitted Marihuana Establishment Plans as required in the State law. This includes but is not limited to: Waste Management Plan, Air Quality, Safety Plan, Security Plan, Establishment Plan, etc.; and
  - (f) 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 A.M.I Best rating of at least A-.
2. Medical Marihuana Facility and Adult-Use Marihuana Establishment: The City Manager will, within three (3) business days from the certification that the items listed in section 88-17 and 88-20 (1) by the City Clerk, be authorized to grant Municipal licenses to medical marihuana facility and/or Adult-Use Marihuana Establishment applicants.
  3. Subsequent Applications: Application deadlines, other licensing deadlines, and any consideration for expedited renewals in subsequent years will be determined by the City Council by Resolution.

#### **Section 88-21 - Indemnity as Condition of License.**

The conditions of this Section are conditions for all Licenses and conditional Licenses, in addition to any other conditions placed on a License by the City. By accepting a License issued under this Ordinance, the Licensee agrees, with respect to the City, including its officers, elected officials, appointed officials, agents, employees, and insurers, to:

1. Waive and release the City from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of Marihuana Business owners, operators, employees, clients, or customers for a violation of any state or federal law, rule, or regulation;
2. Indemnify, defend, and hold harmless the City 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; and



3. Indemnify, defend, and hold harmless the City against all liability, claims, penalties, or demands arising on account of any alleged violation of any federal law, including the federal Controlled Substances Act.

**Section 88-22 - Appeal Process.**

**Denial of Application Appeal.**

1. Those applicants denied a license based on qualifications, may appeal the decision.
2. Applicant must appeal on a written form provided by the City Clerk, within fourteen (14) days of the denial. City Council shall consider the appeal within 30 days of receipt of the appeal.
3. The appellate applicant will pay an appeal processing fee of \$2,000.
4. The applicant must submit a narrative Request for Appeal that includes detailed information and all supporting documentation for any/all points they wish to have City Council consider no later than 10 days prior to the scheduled City Council review meeting.
5. The City Council shall hear and decide questions or requests for appeal that arise after city staff have reviewed and provided a decision that the applicant wishes to further appeal.
6. A 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 Ordinance;
7. The applicant must be present at the designated Council meeting or forfeits their right to appeal; and
8. The decision of the City Council is final.

**Section 2 (e): Secs. 88-23-88-24. - Reserved.**

An Article VI "Denial, Revocation, and Review; Renewals" of Chapter 88, Medical Marihuana Facilities and Adult-Use Marihuana Establishments, is hereby enacted to state as follows:

**Section 88-25 - Denial, Revocation, and Review.**

1. A License granted under this Ordinance may be revoked for any of the following reasons:
  - a. Any fraud or misrepresentations contained in the License application;
  - b. Any knowing violations of this Ordinance;
  - c. One or more violations of any City Ordinance on the premises;
  - d. Loss of the Applicant's State Medical Marihuana Facility or Adult-Use Marihuana Establishment License;
  - e. Failure of the Applicant to obtain a State of Michigan Medical Marihuana Facility or Adult-

Use Marihuana Establishment License;

- f. Maintenance of a nuisance on the premises;
- g. A demonstrated history of excessive calls for public safety (police, fire, and EMS) originating from the premises, being three or more calls in any 30-day period;
- h. Conducting business in an unlawful manner or in such a way as to constitute a menace to the health, safety, or general welfare of the public;
- i. Nonpayment of real and/or personal property taxes, fines, fees, or liens owed to the City, failure to withhold city income tax from employees, failure to remit to the City withheld city income taxes, or failure timely file documentations or returns required for such taxes;
- j. Failure to pay any outstanding amounts owed the City (such as fees, fines, bills, assessments, installments, registration fees, etc.);
- k. Failure or inability to meet the provisions of this Ordinance;
- l. Failure to allow inspections of the business premises or hazardous material storages records at a reasonable time.
- m. Failure to comply with any standard municipal regulations for a legal authorized business within Muskegon Heights.
- n. Municipal License has been transferred to a new person/entity without the new person/entity being approved for a License by the City as provided for in **Sections 88-15 through Section 88-20**.
- o. If the Planning Commission denies a site plan, application for Permit, or both, the applicant shall be entitled to prompt review by the Zoning Board of Appeals.

#### **Section 88-26 - Suspension of a License.**

The following apply to the suspension of a facility license:

- 1. The City Clerk, with concurrence of the City Manager, may temporarily suspend a license without a hearing if the City Clerk finds that public safety or welfare requires emergency action. The City Clerk shall cause the temporary suspension by issuing a Suspension Notice in connection with institution of proceedings for a Hearing.
- 2. If the City Clerk temporarily suspends a license without a hearing, the holder of the license is entitled to an administrative hearing before the Council within thirty (30) days after the Suspension Notice has been issued. The hearing shall be limited to the issues cited in the Suspension Notice. The City Council shall determine if the license should be suspended. Notice of the time and place of the hearing and the grounds for suspension must be given to the licensee at least fourteen (14) days prior to the date of the hearing, by first class mail to the address given on the license application.

#### **Section 88-27 - Penalties and Discipline.**

1. The City may require an applicant or holder of license of a Medical Marihuana Facility or Adult-Use Marihuana Establishment to produce documents, records, or any other material pertinent to the investigation of an application or alleged violation of this Chapter. Failure to provide the required material may be grounds for application denial, license revocation, or discipline.
2. A person who violates any provision of this Article related to a medical marihuana facility may result in a facility license being denied, revoked, suspended, or not renewed. In addition, civil fines of up to five thousand (\$5,000) dollars may be imposed against a licensee or against an employee or Stakeholder of a licensee. Civil fines will be assessed for each day that the violation continues.
3. All fines imposed under this Chapter shall be paid within 45 days after the effective date of the order imposing the fine or as otherwise specified in the order.
4. Any person in violation of any provision of this Article related to adult-use marihuana establishment is responsible for a civil infraction, punishable by a fine of up to \$500.00 plus cost of prosecution. This section is not intended to prevent enforcement of any provision of the State law by the Department of Police and Fire Services.

#### **Section 88-28 - License as Revocable Privilege.**

1. An operating license granted by this Ordinance 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.
2. 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.
3. A licensee or any other person shall not lease, pledge, borrow or loan money exclusively against a license.
4. Any effort to circumvent the protocol listed in this Ordinance and/or the City of Muskegon Heights Zoning Ordinance 9-2019 will result in the immediate denial of application or complete revocation of the City of Muskegon Heights issued Medical Marihuana Facility license, Recreational Marihuana Establishment license or other regulated activity authorized by the Rules promulgated by the State License.

#### **Section 88-29 - Licenses Generally – General Provisions.**

1. To the extent permissible under law, all information submitted in conjunction with an application for a license or license renewal required by this Chapter is confidential and exempt from disclosure under the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231 et seq., including the trade secrets or commercial or financial information exemptions available under Section 13(f) of the Michigan Freedom of Information Act. Furthermore, no personal or medical information concerning the applicant shall be submitted to the City.
2. Licensees may only transfer a license location place of operation issued under this Chapter to a different location upon receiving written approval from the City Clerk. In order to request

approval to transfer a license location, the licensee must make a written request to the City Clerk, indicating the current license location and the proposed license **location**. Upon receiving the written request, the City Clerk shall refer a copy of the written request to each of the following for their approval: the City Attorney's Office, the Building Safety Office, the Police Department, the Zoning Administrator, and the Director of Finance. No license transfer shall be approved by the City Manager unless each department and entity gives written approval that the licensee and the proposed license location meet the standards identified in this Chapter, including but not limited to this Ordinance, and the City Clerk has determined that the proposed location meets the requirements of this Ordinance. Applicants may not change locations during the application review period.

3. A licensee may only transfer a license issued under this Chapter to a different individual or entity upon receiving written approval by the City Clerk. A license is otherwise non-transferable. In order to request approval to transfer a license to a different individual or **entity**, the licensee must make a written request to the City Clerk, indicating the current licensee and the proposed licensee. Upon receiving the written request, the City Clerk shall review the application for conformity with Sections **88-15 through 88-20** including submission of the license application fee. Application fees are non-transferable. A licensee shall report any other change in the information required by this Chapter to the City Clerk within seven (7) business days of the change. Failure to do so may result in suspension or revocation of the license.
4. The provisions of this Chapter apply to all Marihuana Facilities and Establishments, whether operated for profit or not for profit.
5. The License requirements in this Chapter are in addition to any other requirements imposed by any other state or local law, including but not limited to state or local laws applicable to commercial entities performing functions similar to the functions performed by a Medical Marihuana Facility or Adult-Use Marihuana Establishment.
6. This Chapter does not pertain to medical marihuana home occupations under the MMMA.
7. A License issued under this Chapter is valid only for the location of the Medical Marihuana Facility or Adult-Use Marihuana Establishment License, individual(s)/business listed on the License application, and the type of Medical Marihuana Facility or Adult-Use Marihuana Establishment License that is listed on the License application and is valid only for the operation of the permitted Medical Marihuana Facility or Adult-Use Marihuana Establishment License at that location by the License applicant.
8. A License issued under this Chapter is valid only if the License holder also holds a valid current State Operating License and a copy of the valid current License.
9. License and application for License has been provided to the City Clerk by the License holder and is in compliance with all other requirements of this Chapter.
10. The revocation, suspension and placement of restrictions by the state on a State Operating License apply equally to a License issued by the City.

### **Section 88-30 - License Renewal.**

1. License Renewal: An application to renew either a Medical Marihuana Facility or Adult-Use Marihuana Establishment license or other regulated activity authorized by the Rules promulgated by the State License and as required by the City of Muskegon Heights in this Chapter shall be made in writing to the City Clerk at least ninety (90) days prior to the expiration of an existing license.
  - a. In the event that the renewal application is not submitted in accordance with this Section, the City will assess a late fee as fixed by City Council for each day that the renewal application is submitted late.
  - b. In the event that an application is not received by the date of expiration, an additional late fee shall be assigned by the City Council not to exceed \$2,000, in addition to the daily late fees outlined herein and annual renewal fee.
  - c. 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 the Police Chief.
  - d. 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.
2. An application for a license renewal shall be accompanied by a renewal fee in an amount of \$5,000.00. The renewal fee is established to defray the costs of the administration and enforcement of this Chapter expended by the City Clerk's Office, Police Department, City Attorney's Office, Treasury, Building Safety office, Zoning Administrator, and other relevant city departments.
3. Prior to the issuance of a renewed recreational 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 Ordinance. The annual, **nonrefundable inspection fee**, as assigned by City Council, per licensed 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 Ordinance.
4. A license will be renewed for up to one (1) year contingent upon payment for and receipt of final renewal of state license, if the following additional conditions have been met:
  - a. There are no uncured administrative violations in the prior year;
  - b. The applicant has paid the annual licensing fee for the renewal period;
  - c. The applicant has met the requirements of Section 88-19 with respect to receiving a State Step 2 Facility License approval;
  - d. Any changes of any person or entity considered an applicant under the MMFLA or the MRTMA have been fully disclosed to the City of Muskegon Heights;
  - e. Neither the applicant nor any person or entity considered an applicant under the MMFLA or the MRTMA are in violation of any provision of the Code;

- f. The property where the facility is located has been re-certified by the Building Department to be in compliance with the City of Muskegon Heights's building design standards and the approved site plan for the property;
  - g. The applicant has complied with the MIVEDA, Good Neighbor Plan, Employment Development and other activities that may be identified as pursuant to MCL 125.3504(4);
  - h. If the applicant was approved prior to the effective date of this amended Chapter, they must have submitted plans for compliance with the MIVEDA, Good Neighbor Plan, Employee Development and other activities that may be identified as pursuant to MCL 125.3504(4) as a part of their renewal;
  - i. The applicant has no unpaid delinquent taxes, special assessments, fees or charges of any type owed to the City;
  - j. The City Attorney's Office has reviewed and approved as to form the insurance and either the surety bond or escrow account documentation for compliance with State and local laws;
  - k. The applicant has paid and received the renewal of its State license;
  - l. The applicant has operated the marihuana operation in accordance with the conditions and requirements of this Chapter as well as Federal and State laws and regulations; and
  - m. The marihuana operation has not been declared a public nuisance.
5. If your renewal application is denied, you will have the right to appeal as prescribed in Section 88-22.

**Section 2 (f): Secs. 88-31-88-33. Reserved.**

An Article VII "Medical Marihuana or Adult-Use Marihuana Grower License" of Chapter 88, Medical Marihuana Facilities and Adult-Use Marihuana Establishments, is hereby enacted to state as follows:

**Section 88-34 - Minimum Operational Standards of a Medical Marihuana or Adult-Use Marihuana Grower License.**

- 1. The following minimum standards for a Medical Marihuana Grower facility and Adult-Use Marihuana Grower Establishment shall apply:
  - a. Applicable standards for marihuana grower establishments shall be as set forth in the:
    - i. MMFLA: MCL 333.27201, 333.27205, 333.27206, 333.27207, 333.27208, 333.27501 and MMFLA Administrative Rules;
    - ii. MRTMA: MCL 333.27956, 333.27959, 333.27960 and MRTMA Administrative Rules; and

- iii. All applicable building code, local laws and the provisions of this Chapter and the Commercial Marihuana Zoning Ordinance.
- b. All Grower facilities and establishments can only be located in I-1 Light Industrial District and I-2 Heavy Industrial District.

**Section 2 (g): Secs. 88-35-88-36. - Reserved.**

An Article VIII “Medical Marihuana or Adult-Use Marihuana Processor License” of Chapter 88, Medical Marihuana Facilities and Adult-Use Marihuana Establishments, is hereby enacted to state as follows:

**Section 88-37 - Minimum Operational Standards of a Medical Marihuana or Adult-Use Marihuana Processor License.**

- 1. The following minimum standards for a Medical Marihuana Processor Facility and Adult-Use Marihuana Processor Establishment shall apply:
  - a. Applicable standards for marihuana processor establishments shall be as set forth in the:
    - i. MMFLA: MCL 333.27201, 333.27205, 333.27206, 333.27207, 333.27208, 333.27502 and MMFLA Administrative Rules;
    - ii. MRTMA: MCL 333.27956, 333.27959, 333.27960 and MRTMA Administrative Rules; and
    - iii. All applicable building code, local laws and the provisions of this Chapter and the Commercial Marihuana Zoning Ordinance.

**Section 2 (h) - Secs. 88-38-88-39. - Reserved.**

An Article IX “Medical Marihuana Provisioning Center Facility or Adult-Use Marihuana Retailer Establishment” of Chapter 88, Medical Marihuana Facilities and Adult-Use Marihuana Establishments, is hereby enacted to state as follows:

**Section 88-40 - Minimum Operational Standards of a Medical Marihuana Provisioning Center Facility or Adult-Use Marihuana Retailer Establishment.**

- 1. The following minimum standards for a Medical Marihuana Provisioning Center Facility and Adult-Use Marihuana Retailer Establishment shall apply:
  - a. Applicable standards for marihuana provisioning centers or retail establishments shall be as set forth in the:
    - i. MMFLA: MCL 333.27201, 333.27205, 333.27206, 333.27207, 333.27208, 333.27502 and MMFLA Administrative Rules;
    - ii. MRTMA: MCL 333.27956, 333.27959, 333.27960 and MRTMA Administrative Rules; and
    - iii. All applicable building code, local laws and the provisions of this Chapter and the

Commercial Marihuana Zoning Ordinance.

- b. Provisioning Centers are to be operated in the appropriate Zones according to the Marihuana Zoning Ordinance;
- c. Every Provisioning Center must be in a building;
- d. No Provisioning Center may be open between the hours of 9 p.m. and 9 a.m. Monday through Saturday;
- e. Consumption of alcohol, cigarettes, or medical marihuana of any kind shall be prohibited on the premises of a Medical Marihuana Provisioning Center;
- f. Any useable marihuana remaining on the premises while the facility is not in operation shall be secured in a safe permanently affixed to the premises;
- g. The Facility must require all patients to present both their Michigan Medical Marihuana Patient/Caregiver ID Card and State Identification or customers to present their Drivers License/State Identification promptly upon entering the facility.

**Section 2 (i) - Secs. 88-41-88-42. - Reserved.**

An Article X “Medical Marihuana or Adult-Use Marihuana Additional Licenses: **Transportation License, Safety Compliance Facility, Microbusiness Establishment, Designated Consumption Establishment, and an Adult-Use Marihuana Event Organizer and an Adult-Use Temporary Marihuana Event**” of Chapter 88, Medical Marihuana Facilities and Adult-Use Marihuana Establishments, is hereby enacted to state as follows:

**Section 88-43 - Minimum Operational Standards of a Medical Marihuana or Adult-Use Marihuana Transportation License.**

1. The following minimum standards for a Medical Marihuana Transportation License and Adult-Use Marihuana Transportation Establishment shall apply:
  - a. Applicable standards for transportation facility establishments shall be as set forth in the:
    - i. MMFLA: MCL 333.27201, 333.27205, 333.27206, 333.27207, 333.27208, 333.27502 and MMFLA Administrative Rules;
    - ii. MRTMA: MCL 333.27956, 333.27959, 333.27960 and MRTMA Administrative Rules; and
    - iii. All applicable building code, local laws and the provisions of this Chapter and the Commercial Marihuana Zoning Ordinance.

**Section 2 (j) Secs. 88-44 - 88-47. - Reserved.**



**Section 88-48 - Minimum Operational Standards of a Medical Marihuana or Adult-Use Marihuana Safety Compliance Facility.**

1. The following minimum standards for a Medical Marihuana Safety Compliance facility and Adult-Use Marihuana Safety Compliance Establishment shall apply:
  - a. Applicable standards for safety compliance facility and safety compliance establishments shall be as set forth in the:
    - i. MMFLA: MCL 333.27201, 333.27205, 333.27206, 333.27207, 333.27208, 333.27502 and MMFLA Administrative Rules;
    - ii. MRTMA: MCL 333.27956, 333.27959, 333.27960 and MRTMA Administrative Rules; and
    - iii. All applicable building code, local laws and the provisions of this Chapter and the Commercial Marihuana Zoning Ordinance.

**Section 2 (j) Secs. 88-49-88-52. - Reserved.**

**Section 88-53 - Minimum Operational Standards of an Adult-Use Marihuana Microbusiness Establishment.**

1. The following minimum standards for Marihuana Microbusiness Establishments shall apply: Applicable standards for safety compliance facility and safety compliance establishments shall be as set forth in the MRTMA MCL 333.27956, 333.27959, 333.27960 and MRTMA Administrative Rules.
2. All applicable building code, local laws and the provisions of this Chapter and the Commercial Marihuana Zoning Ordinance.
3. A Stakeholder in a Microbusiness Establishment shall not hold an ownership interest, directly or indirectly, in a Grower, Processor, Retailer, Safety Compliance, or Secure Transporter Establishment.
4. A Stakeholder in a Microbusiness Establishment shall not hold an ownership interest, directly or indirectly, in another Microbusiness Establishment.
5. All Activity related to the Microbusiness shall occur indoors.
6. All marihuana shall be tagged as required by the MRTMA or applicable state laws.
7. Microbusinesses shall produce no products other than useable marihuana intended for human consumption.
8. Microbusinesses shall not sell edible marihuana-infused candy in shapes or packages that are

attractive to children or that are easily confused with commercially sold candy that does not contain marihuana.

9. Microbusinesses shall not sell or otherwise transfer marihuana that is not contained in an opaque, resealable, child-resistant package designed to be significantly difficult for children under 5 years of age to open and not difficult for normal adults to use property as defined by 16 C.F.R. 1700.20 (1995), unless the marihuana is transferred for consumption on the premises where sold.
10. Microbusinesses and their agents shall ensure that all purchasers of marihuana are over 21 years of age.
11. No Microbusiness may be open for sales between the hours of 9 p.m. and 9 a.m. Monday through Saturday.
12. Microbusinesses shall employ and pay for off-duty Muskegon Heights Police Officers as a part of their security plan, pursuant to Muskegon Heights Ordinance.
13. All Microbusiness establishments can only be located in I-1 Light Industrial District and I-2 Heavy Industrial District pursuant to Rule 24 and Rule 27 of the MRTMA Administrative Rules.

**Section 2 (j) Secs. 88-54-88-57. - Reserved.**

**Section 88-58 - Minimum Operational Standards of an Adult-Use Designated Consumption Establishment.**

1. The following minimum standards for Designated Consumption Establishments shall apply:
  - a. Applicable standards for consumption establishments shall be as set forth in the and MRTMA Administrative Rules:
    - i. MMFLA: MCL 333.27201, 333.27205, 333.27206, 333.27207, 333.27208, 333.27502 and MMFLA Administrative Rules;
    - ii. MRTMA: MCL 333.27956, 333.27959, 333.27960 and MRTMA Administrative Rules; and
    - iii. All applicable building code, local laws and the provisions of this Chapter and the Commercial Marihuana Zoning Ordinance.
2. Any commercial space that legally permits the use of marihuana shall designate a consumption area accessible only by persons 21 years of age or older and shall obtain and maintain a license from the State and City. An application for licensure shall be awarded upon submission of a complete application containing the documentation required in Sections 88-15 and 88-16.
3. A Designated Consumption Establishment must comply with all laws and rules pursuant to the MRTMA, including but not limited to, a ventilation system that directs air from the marihuana consumption area to the outside of the building through a filtration system sufficient to remove visible smoke consistent with all applicable building codes and ordinances and adequate to eliminate odor at the property line. Use of marihuana at a private business shall not violate any municipal criminal code ordinances. The sale of marihuana is limited only to establishments

licensed to conduct sales of marihuana.

4. Designated Consumption Establishments shall operate only during hours approved by the City.
5. Smoking and vaping of any sort shall be prohibited.
6. An initial license application fee of \$5,000.00 is required.
7. An application for renewal shall include any updates to the information required in **Sections 88-15 through Section 88-20**, as well as a fee as set by resolution of Council.
8. Marihuana Event Licensees shall employ and pay for off-duty Muskegon Heights Police Officers as a part of their security plan, pursuant to Muskegon Heights Ordinance.

**Section 2 (j) Secs. 88-59-88-62. - Reserved.**

**Section 88-63 - Minimum Operational Standards of an Adult-Use Marihuana Event Organizer and an Adult-Use Temporary Marihuana Event.**

1. The following minimum standards for an Adult-Use Marihuana Event Organizer and an Adult-Use Temporary Marihuana Event Establishment shall apply:
  - a. A Marihuana Event Organizer is not authorized to engage in the operations of a marihuana establishment without first obtaining the appropriate permits from the City and licenses from LARA.
  - b. A temporary marihuana event shall comply at all times and in all circumstances with the MRTMA and the Rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time, and the applicable ordinances of the City.
  - c. A temporary marihuana event permit shall only be issued to a person who holds a marihuana event organizer permit from the City and a license issued by LARA.
  - d. A temporary marihuana event permit shall only be issued for a single day up or to not more than 7 consecutive days.
  - e. A temporary marihuana event shall only be held at a venue approved by the City for the purpose of holding a temporary marihuana event.
  - f. Smoking and vaping of any sort shall be prohibited.
  - g. Marihuana Event Licensees shall employ and pay for off-duty Muskegon Heights Police Officers as a part of their security plan, pursuant to Muskegon Heights Ordinance.

**Section 2 (j) Secs. 88-64-88-67. - Reserved**

An Article XI "Penalties" of Chapter 88, Medical Marihuana Facilities and Adult-Use Marihuana Establishments, is hereby enacted to state as follows:

**Section 88-68 - Penalties.**

1. Any person who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and subject to up to 93 days in jail and/or a \$500 fine, plus costs. Each day a violation of this Ordinance continues to exist constitutes a separate violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.
2. 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 Muskegon Heights may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Ordinance.
3. This Ordinance shall be enforced and administered by the City of Muskegon Heights Police Department or such other City official as may be designated from time to time by resolution of the Council.

**Section 3. Severability.**

Should any section, clause or provision of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

**Section 4. Conflicting Provisions.**

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed upon the effective date of this Ordinance.

**Section 5. Effective Date.**

This Ordinance shall be effective ten (10) days after publication.

Adopted: October 19, 2020

Published: October 25, 2020

Effective: November 5, 2020

  
\_\_\_\_\_  
Sharon Gibbs, City Clerk

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the City Council of the City of Muskegon Heights, Muskegon County, Michigan, at a regular meeting held on October 19, 2020, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267 of the Public Acts of Michigan of 1976, as amended.

Scored Element		Max Points
(a) Qualifications of the applicant, including but not limited to business history, experience, and regulatory compliance and/or legal history;		10
Business History	4	
Industry Experience	3	
No Negative Regulatory or Legal History	3	

<b>(b) Percentage (%) of demonstrated proof of Ownership by Geographic regional factors (based on the Applicant's Prequalification Disclosures to MRA) and all other contractual ownership relationships (with regard to the MH application only) meeting or exceeding a minimum floor of 40% demonstrated ownership of applicants by:</b>		25
i. Persons who have established residency in a minimum of 3 of the past 5 years in the City of Muskegon Heights in a socio-economically challenged defined area within the City (resides in a ZIP Code or census tract area, in which the total number of marihuana-related convictions exceeded the average marihuana-related conviction rate for the state, where 30% or more of the population live below the federal poverty level, or has an average unemployment rate that is 50% above the State average rate);	25	
ii. Persons who have established residency in a minimum of 3 of the past 5 years in the City of Muskegon Heights;	20	
iii. Persons who have established residency in a minimum of 3 of the past 5 years in Muskegon County;	8	
iv. Persons who have established residency in a minimum of 3 of the past 5 years in the State of Michigan.	5	
consideration be given if applicant been awarded a medical license in the City of MH (+ Bonus Points for iii and iv)	5	

<b>(c) Ability to Operate (and evidence, able and willing to open in 6 months ) (Business Plans)</b>		18
3 months	14	
6 months	12	
9 months	9	
12 months	6	
+ Business Plan Quality (bonus points)	4	

Scored Element	Max Points	
(d) <u>Marihuana Industry Voluntary Economic Development Agreement (MIVEDA) implementation plan; and presentation</u>	20	
(e) <u>Good Neighbor Plan, including but not limited to Community Engagement, Community Investment, Community Benefits Agreement with Neighborhood Stakeholders, Defined Partnership with Non-Profit organizations in or servicing Muskegon Heights, etc.; (*refer to GNP for Clarity)</u>	3	
(f) Employee Development, including <b>quality</b> of employment type, employee <b>training</b> programming offered, quality of <b>compensation</b> package to be offered to employees, share of employee hiring from <b>Muskegon Heights</b> , realistic <b>number of employees</b> hired for applicant location;	17	
<b>quality</b>		4
<b>training</b>		4
<b>comp plan</b>		3
<b>local hire</b>		3
<b>creates &gt; 10 Employees</b>		3
(g) Other necessary activities to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner, pursuant to MCL 125.3504(4);	3	
(h) Whether the applicant has a history of prior building/code violations;	3	
(i) Applicant's compliance with application requirements	1	
<b>TOTAL POSSIBLE POINTS</b>	100	

\* The Clerk retains the right to recommend fewer licenses than the number available if the remaining license application scores fall below 75/100, however, no license shall be awarded to an applicant whose score falls below 60/100.