

ORDINANCE NO. 2129

**CITY OF MADISON HEIGHTS,
OAKLAND COUNTY, MICHIGAN**

AMENDMENT TO THE CODE OF ORDINANCES

An Ordinance to amend Ordinance No. 571, being an Ordinance codifying and adopting a new Code of Ordinances for the City of Madison Heights by adding a new Article XVI to Chapter 7 of the Code of Ordinances, City of Madison Heights, Michigan, to authorize, license and regulate Medical Marihuana Facilities in the City of Madison Heights to protect the public health, safety and welfare.

THE CITY OF MADISON HEIGHTS ORDAINS:

SECTION 1. Amendment.

That a new Article XVI is added to Chapter 7 of the Code of Ordinances, City of Madison Heights, Michigan, to read as follows:

ARTICLE XVI. – MEDICAL MARIHUANA FACILITIES

Sec. 7-300. – Purpose and Intent.

The purpose of this Article is to establish local standards for the issuance, renewal and revocation of medical marihuana facilities licenses, in conjunction with the Michigan Medical Marihuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, MCL 333.27101, et. seq., as amended, and the Michigan Medical Marihuana Act (MMMA), Initiated Law 1 of 2008, MCL 333.26421, et. seq., as amended, by the City of Madison Heights, in order to:

- (a) Provide for regulations and local city licensing of medical marihuana facilities pursuant to the City's general police power granted to cities by the Michigan Constitution of 1963, the Home Rule City Act, MCL 117.1 et. seq., and by the Michigan Medical Marihuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, MCL 333.27101, et. seq., as amended;
- (b) Protect the public health, safety and welfare of the residents of the City and the general public by minimizing the unsafe and unregulated production and sale of medical marihuana and to promote the safe, regulated manufacturing, production and sale by properly state-licensed medical marihuana facilities;
- (c) Establish regulations, standards and procedures to locate, operate and maintain medical marihuana facilities within the City.

The Federal Controlled Substances Act, Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. § 801 et seq., regulates marihuana as a Schedule I controlled substance, for which there is “no currently accepted medical use in treatment in the United States.”

First Reading: January 14, 2019

Second Reading: February 11, 2019

Effective: February 21, 2019

21 U.S.C. § 812(b)(1)(B). Although the state of Michigan has recognized and authorized the use of medical marihuana pursuant to the Michigan Medical Marihuana Act, and has authorized the licensing of medical marihuana facilities pursuant to the Medical Marihuana Facilities Licensing Act, these state authorized activities remain prohibited by federal law. Nothing in this Article is intended to grant, nor shall be construed as granting, immunity or insulate or shield a business, person, applicant, affiliate, or licensee from federal seizure and/or forfeiture as allowed by federal law and does not insulate a business or owners, employees or agents from federal criminal arrest and/or prosecution. A medical marihuana facility license issued under this Article, and choosing to establish and operate a medical marihuana facility pursuant to that license, is done so at the licensees own risk, and the City shall assume no liability for any actions, claims, liabilities, assertions of liability, losses, costs or expenses.

Sec. 7-301. - Definitions.

For the purpose of the provisions of this Article, all words and phrases herein shall be construed to have the meanings as provided for in the Medical Marihuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, MCL 333.27101, et. seq., as amended, the Michigan Medical Marihuana Act (MMMA), Initiated Law 1 of 2008, MCL 333.26421, et. seq., as amended, and the Administrative Rules promulgated under the Administrative Procedures Act, 1969 PA 306, MCL 24.201 to 24.328, by the Department of Licensing and Regulatory Affairs, Bureau of Marihuana Regulation, Medical Marihuana Facilities, R 333.201 et. seq., unless the context clearly indicates or requires a different meaning.

- (a) "Applicant" means an individual, person, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity or other business entity who applies for a local City license to operate a medical marihuana facility in the City of Madison Heights.
- (b) "Church" means an entire house or structure set apart primarily for use for purposes of public worship, and which is tax exempt under the laws of this state, and in which religious services are held and with which a clergyman is associated, and the entire structure of which is kept for that use and not put to any other use inconsistent with that use.
- (c) "Family child care home" and "group child care home" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111, and only apply to the bona fide private residence of the operator of the family or group child care home.
- (d) "Medical Marihuana Facility" means a location at which a license holder is licensed to operate under the MMFLA and this Article.
- (e) "Minor" means an individual less than 21 years of age.
- (f) "MMMA" means the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421, et. seq., as amended.
- (g) "MMFLA" means the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333.27101, et. seq., as amended.

- (h) "License" means a license issued by the City of Madison Heights under this Article.
- (i) "Rules" or "Administrative Rules" means the administrative rules promulgated under the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, by the Department of Licensing and Regulatory Affairs, Bureau of Marihuana Regulation, Medical Marihuana Facilities, R 333.201 et. seq. enacted to implement the MMFLA.
- (j) "School building" includes buildings used for school purposes to provide instruction to children in grades kindergarten through 12, when that instruction is provided by a public, private, denominational, or parochial school, except those buildings used primarily for adult education or college extension courses. School does not include a proprietary trade or occupational school.
- (k) "State operating license" means a license that is issued under the MMFLA that allows the licensee to operate as a Medical Marihuana Facility.
- (l) All other terms used in this Article have the same definitions ascribed to them in the MMFLA, the MMMA, or the Administrative Rules accordingly.

Sec. 7-302. – Medical Marihuana Facilities Authorized.

Pursuant to Section 205(1) of the MMFLA, the City of Madison Heights authorizes the operation of the following types of medical marihuana facilities within the City of Madison Heights: Growers; Processors; Provisioning Centers; Safety Compliance Facilities; and Secure Transporters. Provided the facility has obtained a valid state operating license issued pursuant to the MMFLA, and the facility is in compliance with the additional requirements of this Article and with all other applicable laws, administrative rules and ordinances.

Sec. 7-303. – No pre-existing non-conforming facilities

No person or entity that was open or operating any facility purporting to produce, manufacture, test, transfer or transport medical marihuana or marihuana prior to the adoption of this ordinance, shall be a lawful use or lawful nonconforming use.

Sec. 7-304. – No affect on Michigan Medical Marihuana patients or caregivers.

This Article does not apply to or regulate any patient or caregiver activities or conduct that is in compliance with the Michigan Medical Marihuana Act.

Sec. 7-305. – License requirements.

- (a) *License required.* It shall be unlawful for any individual, person, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity or other business entity to conduct

business as a medical marihuana facility in the City without having first obtained from the City an annual license pursuant to this Article and any applicable State operating licenses.

- (b) *License transferrable.* No license issued pursuant to this Article shall be transferred unless approved by the State and City.
- (c) *Fees.*
 - (1) *Application Fee.* The fee to submit a city application to obtain a city license to operate a medical marihuana facility in the City shall be set by Resolution of Council and shall be reasonably related to the expenses in processing and reviewing the application. No rebate or refund shall be made of any application fee.
 - (2) *License Fee.* For those applications that are granted a city license, the fee for the city license shall be set by resolution of the City Council, not to exceed \$5,000.00. The required fee for each license shall be paid in full at the time of the approval of the city license to operate a medical marihuana facility. No rebate or refund shall be made of any license fee or part thereof by reason of the death of the licensee or by nonuse of the license or discontinuance of the operation of the facility.
- (d) *Number of licenses.* The City has limited the number of licenses issued under this Article and may revise this limit from time to time. The maximum number of each type of City Medical Marihuana Facility License allowed by the City shall be:

Type of Facility	Number of Licenses
Grower – Class A (500 plants)	None
Grower – Class B (1,000 plants)	None
Grower – Class C (1,500 plants)	2
Processor	2
Secure Transporter	4
Safety Compliance Facility	4
Provisioning Center	2

- (e) *Application Requirements.*
 - (1) Each applicant required to obtain a license from the City under this Article shall make application for said license to the city clerk in the form and manner prescribed by him/her and shall state under oath such facts as may be required for, or applicable to, the granting of such license as provided in this Article and Chapter 7 of the Madison Heights Code of Ordinances.

- (2) In addition to the city application, the applicant shall provide to the City, an approved Entity/Individual Prequalification issued by the State. This shall include a full and complete copy of the Prequalification application materials, together with any and all supporting documents and attachments, that were submitted to the State of Michigan, Department of Licensing and Regulatory Affairs, Bureau of Marihuana Regulation, Medical Marihuana Facilities, in the application for an Entity/Individual Prequalification Application Packet under the MMFLA and the Administrative Rules.
- (3) Each applicant required to obtain a license from the City under this Article shall also submit the following additional information unless included in the materials required to be submitted in subsection (2) above:
 - (A) The Applicant shall identify an individual to act as primary responsible person for the applicant and point of contact for the application who shall be either a resident of the City, a resident of Oakland County or reside within 100 miles of the City;
 - (B) If the Applicant is an individual or sole proprietorship, the proprietor and their spouse, if any, shall provide their name, address, date of birth, business address, business telephone number, email address, social security number, and, if applicable, federal tax identification number;
 - (C) If the Applicant is not an individual or sole proprietorship, information regarding the business entity, including, without limitation, the name and address of the entity, website address (if any), type of business organization, proof of registration with, or a certificate of good standing from the State of Michigan, and the federal tax identification number of the business entity;
 - (D) The identity of every person that submits a Supplemental Applicant Prequalification Application Packet on Applicant's behalf as required by the MMFLA. All such persons shall provide a suitable copy of government-issued photographic identification, their name, address, date of birth or formation, business address, business telephone number, email address, social security number, and, if applicable, federal tax identification number. If additional persons are added the Applicant's operations, Applicant must supplement its City application with the identity of any applicable new persons;
 - (E) If Applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a medical marihuana facility;
 - (F) A copy of any deed, lease, or binding real estate interest reflecting the right of Applicant to possess, or an option reflecting Applicant's right to purchase or lease, the proposed licensed premises;

- (G) A description of the type of the proposed medical marihuana facility and its physical address;
- (H) Applicant's business plan for its proposed operation, including but not limited to, Applicant's financial ability to operate its facility;
- (I) A "to scale" architectural diagram of the proposed licensed premises, showing, without limitation, building floor plan and layout, all entryways, doorways, or passage ways, and means of public entry and exits to the proposed licensed premises, loading zones, available onsite parking spaces, fencing at the premises, landscaping, and all areas in which medical marihuana will be stored, grown, manufactured or dispensed;
- (J) A "to scale" architectural diagram of the proposed licensed premises, showing, without limitation, building floor plan and layout including all fire suppression and fire related requirements of the International Fire Code.
- (K) A lighting plan showing the lighting outside of the Medical Marihuana Facility for security purposes and to demonstrate compliance with any applicable City Ordinances;
- (L) A staffing plan which describes the anticipated or actual number of employees, including an estimate of the number and type of jobs that the medical marihuana facility is expected to create, including the employment of City residents;
- (M) An explanation, with supporting factual data if applicable, of the economic benefits to the City, including, but not limited to job creation, plans for community outreach, and anticipated philanthropic or charitable activities of the Applicant;
- (N) A statement that Applicant is not in default to the City for any property tax, special assessment, utility charges, fines, fees or other financial obligation owed to the City;
- (O) Any additional information that the City reasonably determines to be necessary in connection with the investigation and review of the application.

(4) The application shall include a signed authorization and consent for the City Building Official, Police, Fire Marshal, or designee(s) to conduct inspections of the interior and exterior of the entire premises, including all units, common areas and offices. Said inspection shall be for the purpose of determining compliance with the International Fire Code, International Property Maintenance Code, Michigan

Plumbing Code, Michigan Mechanical Code, National Electrical Code, Michigan Rehabilitation Code and the Michigan Building Code.

- (5) The application shall include a signed acknowledgement that the Applicant is aware and understands that any issuance of a license is a privilege and they accept any and all risk of adverse public notice, embarrassment, criticism, or other action, or financial loss, which may result from action with respect to an application or the public disclosure of information, and expressly waive any and all claims for damages as a result thereof.
- (6) The application shall include a signed acknowledgement that the Applicant does not have any other operating license that is prohibited by the MMFLA.
- (7) The application shall include a signed acknowledgement and release of liability that the applicant acknowledges that the licensed activities under the MMFLA and the City license are currently prohibited by federal law and that a City license does not insulate or shield the applicant from federal seizure, forfeiture and/or federal criminal arrest or prosecution.
- (8) The application shall include a signed acknowledgement and release of liability acknowledging that the applicant is aware and understands that any issuance of a license is a privilege and denial of a license by the City, for any reason, shall not be cause to bring an action against the City and that the applicant shall discharge the City from any liability and causes of action if denied a license by the City.

Sec. 7-306. – Initial Application Period.

- (a) At the time this Ordinance is adopted, applications for Medical Marihuana Facilities for city licenses will not be accepted.
- (b) Within 60 days following the adoption of this ordinance the City shall establish an initial application period for Medical Marihuana Facilities. For a period of 30 days, the City shall accept license applications for proposed Medical Marihuana Facilities.
- (c) After the initial application period closes, the City shall verify that any applications received in this initial application period are full and complete applications. The City shall consider an application full and complete if it includes all information requested by this Article and the city application forms.
- (d) If, after the initial 30-day application period, the city does not receive more applications than the permitted number of licenses for a particular type of facility, then the city shall accept license applications for only those facilities, on an ongoing basis, until such time as the number of allowed licenses have been approved for those specific facilities.

Sec. 7-307. – Preliminary Denial of Application.

- (a) The City shall reject any application that does not meet the requirements of the MMFLA, the MMMA, the Administrative Rules or this Article. The City shall reject any application that does not contain an approved Entity/Individual Prequalification issued by the State. The City shall reject any application that contains any false, misleading or incomplete information. The City shall reject any application that proposes a location on a parcel that is not an approved parcel as depicted on the official map published by the City. The City shall reject any application that does not comply with this Article or Chapter 7 of the Madison Heights Code of Ordinances. The City shall reject any application that does not conform or comply with any of the following: International Fire Code; International Property Maintenance Code; Michigan Plumbing Code; Michigan Mechanical Code; National Electrical Code; Michigan Rehabilitation Code and the Michigan Building Code.
- (b) An Applicant whose application is rejected or denied by the City shall not be entitled to review by the City or any Board or Commission thereof and the Applicant shall waive any right to bring an action against the City for such a rejection or denial.

Sec. 7-308. – Scoring and Selecting Applicants.

- (a) In the event the City receives more eligible applications for a specific type of city license than is authorized by the City, the City shall select the Applicant or Applicants most suitable to operate its facility based on an objective and competitive process. This process is subject to the provisions of this Section. This process is only necessary if the City receives more eligible applications than is authorized for any given type of Medical Marihuana Facility.
- (b) The City shall assess, evaluate, score, and rank all impacted applications and issue city licenses to those Applicants receiving the highest score. In its application assessment, evaluation, scoring, ranking, and deliberations, the City shall assess, evaluate, score, and rank each application based upon a scoring and ranking procedure developed by the City consistent with the requirements, conditions, and provisions of this Section. The detailed scoring and ranking system shall be provided to each Applicant and included in the application materials developed by the City.
- (c) Initial scoring and ranking shall be conducted and applied by the City on the basis of assigned points from zero (0) points to two hundred (200) points with the lowest overall total score as zero (0) points and the highest possible total score being two hundred (200) points. Scoring categories include, and are limited to the following scoring points and criteria:
 - (1) The content and sufficiency of the information provided by Applicant in the application. The maximum number of scoring points in this category shall be ten (10) points;
 - (2) Whether the Applicant's proposed use is consistent with the land use for the surrounding neighborhood and will not have a detrimental effect on traffic patterns,

health, welfare or safety of residents or abutting properties. The maximum number of scoring points in this category shall be ten (10) points;

- (3) Planned neighborhood outreach on behalf of the Applicant, and whether the Applicant or its stakeholders have made, or plan to make, significant physical improvements to the area around the property or other areas contiguous to the property that would include, but not be limited to, plans to eliminate or minimize traffic, noise, and odor effects on the surrounding neighborhood and improve the surrounding neighborhood and area. Planned outreach may also include plans to make significant physical improvements to other local private or public roads, right of ways, alleys, parks or any other private or public property that would benefit the surrounding area. The maximum number of scoring points in this category shall be twenty (20) points.
- (4) The business probity, moral reputation, and relevant criminal history of Applicant or any of its stakeholders; Whether the Applicant or any of its stakeholders have a record of acts detrimental to the public health, security, safety, morals, good order, or general welfare prior to the date of the application; Whether the Applicant or any of its stakeholders have any other professional licenses, including by way of example, but not limited to, such licenses as a medical doctor, lawyer or accountant; Whether the Applicant or any of its stakeholders are residents of the City or of Oakland County. The maximum number of scoring points in this category shall be twenty (20) points.
- (5) Whether Applicant and its stakeholders have made or plan to make significant capital improvements to the proposed facility, the surrounding neighborhood, and/or the City. This includes, but is not limited to:
 - (A) The total overall capital investment in funds to be invested in the renovations to the property and surrounding area including the overall investment in equipment, fixtures, and other related items;
 - (B) The total number of years that a property or site, to be renovated by the Applicant, has been vacant;
 - (C) How significant the upgrades or renovations to the property and surrounding area are, such as, but not limited to: the extent of renovations to an existing building or buildings; the extent of new construction of a building or buildings; the extent of renovation to a location or site that may involve a Brownfield involved site or other like condition on the property; the overall size of the site and building or buildings of the proposed renovations;
 - (D) Whether or not the property to be improved has an environmentally friendly design and environmentally friendly production and waste management design and plan;

- (E) The extent of, and additions to or extra security measures taken above the minimum security measures required under state law; the extent of, and additions to or other extra measures taken above the state minimum requirements for growing, processing, testing, transporting or selling medical marihuana;
- (F) The extent of upgrades and renovations to the landscaping, parking, lighting and similar to the site and surrounding area.

The maximum number of scoring points in this category shall be fifty (50) points.

- (6) Whether Applicant and its stakeholders have reasonably and tangibly demonstrated that it possesses sufficient financial resources to fund, and the requisite business experience to execute its business plan and proposed operations in its application; Whether Applicant or its stakeholders have other established business operations in the City, Oakland County or State of Michigan and any relevant connection these operations have to Medical Marihuana Facilities and the length of operation of these other business operations; Whether Applicant and its stakeholders have reasonably and tangibly disclosed its funding sources and relevant background of those funding sources; The maximum number of scoring points in this category shall be twenty (20) points;
- (7) The number of full-time and part-time positions anticipated by Applicant, and whether Applicant has articulated plans or strategies to attract, hire and retain employees that are residents of the City. Whether Applicant has articulated plans or strategies in providing competitive compensation, benefits or educational programs to its employees. The maximum number of scoring points in this category shall be ten (10) points;
- (8) Whether Applicant has obtained, is likely to obtain, or plans on obtaining additional City Licenses and State operating licenses, under the MMFLA, at its proposed location in the City to co-locate a Class C Grower, a Processor and Provisioning Center at a single location or site within the City. Applications that incorporate, or co-locate, a licensed Class-C grower, licensed processor and licensed provisioning center in the same location, in strict compliance with the conditions and provisions of the MMFLA, the Administrative Rules and this Article for the operation of these three separate licenses at the same location, for each type of license, shall be considered more preferential than single license locations for these specific types of licenses. The maximum number of scoring points in this category shall be forty (40) points;
- (9) Whether the planned signage for the proposed location is detrimental to the public health, security, safety, morals, good order, general public welfare or image of the City or is of a nature that is consistent with the land use for the surrounding neighborhood and of such a design and location that is in harmony with the purpose

and intent of this Article. This includes, but is not limited to, the size, location, construction materials of the sign and/or design of the sign, logos, or lighting. The maximum number of scoring points in this category shall be ten (10) points.

- (10) Whether Applicant has planned community outreach to the City and its residents. This includes, but is not limited to, planned outreach or educational services, charitable or philanthropic activity, community improvement or educational programs, or other factors that will improve the health, safety, and welfare of the City, its residents, and the surrounding area. The maximum number of scoring points in this category shall be ten (10) points.
- (d) The City may engage professional expert assistance in performing the City's duties and responsibilities under this Section.
- (e) After the City has processed and scored all eligible applications, the City shall prepare a summary and report listing the overall score and basis for this determination for all eligible applications. The City shall then notify the selected Applicants of the granting or denial of a license.
- (f) The City may establish additional application periods for Applicants seeking new licenses for eligible medical marihuana facilities within the City, as needed, via resolution of City Council.
- (g) Any City license issued under this Article must be established and a Certificate of Occupancy issued within six months of issuance, unless extended for good cause shown, or the licensee shall surrender the license if the use is not established within the required time.

Sec. 7-309. – License Renewal Applications.

- (a) An application for a license renewal required by this Section shall be made in writing to the City Clerk at least 60 days prior to the expiration of an existing license.
- (b) Applicants shall submit a license renewal application in writing to the City Clerk on forms provided by the City. At the time of the renewal application, the Applicant shall pay a nonrefundable license renewal fee, set by resolution of the City Council, not to exceed \$5,000.00, to defray the costs incurred by the City in reviewing the renewal application and to administer, inspect and monitor the approved facility.
- (c) The Applicant shall also provide all information required by this Section contained in the initial application, including any relevant information that has changed or been updated.
- (d) The application shall include a full and complete copy of all the findings from all inspections, investigations and audits conducted by the state Department of Licensing and Regulatory Affairs and any other state department or agency pertaining to applicants,

licensees, proposed medical marihuana facilities, and medical marihuana facility operations that shall include:

- (1) Inspections through its state investigators, agents, auditors, or the state police of proposed medical marihuana facilities as provided in section 303 of the act, MCL 333.27303, to ensure compliance with the MMFLA, the Administrative Rules and this Article.
- (2) The details and results of any investigations of individuals employed by medical marihuana facilities.
- (3) The details and results of any inspections and examinations of medical marihuana facilities and proposed medical marihuana facilities.
- (4) The details and results of any inspections, examinations, and audits of records of the licensee.

(e) The City shall renew Applicant's license unless the City discovers evidence of:

- (1) Any fraud or misrepresentation contained in the city license renewal application;
- (2) Any purposeful violation of this Ordinance, State Law or Administrative Rule;
- (3) Loss of the Applicant's State Medical Marihuana Facility License;
- (4) Failure of the Applicant to obtain a State Medical Marihuana Facility License within a reasonable time after obtaining a license under this Article; or
- (5) Conducting business in a manner or in such a way as to constitute a nuisance to the health, safety, or general welfare of the public.

Sec. 7-310. - Location requirements.

- (a) All medical marihuana facilities authorized under this Article, shall be located in the M-1, Light Industrial or M-2 Heavy Industrial Districts within the City. Any application that proposes a location other than in a M-1 or M-2 Industrial District or within the separation distances as described in subsection (b) below, shall be immediate cause for rejection and denial of the application. In addition to the M-1 and M-2 Industrial Districts, Safety Compliance Facilities, only, may also be located within the O-1, Office Building District within the City in addition to the M-1 and M-2 industrial districts.
- (b) No medical marihuana facility shall be located within 500 feet of, or be adjacent to or abut, a school building, church, family child care home, group child care home or a Residential District where residential units are located. The City shall publish and make available an official map depicting all individual parcels that are located in the M-1 or M-2 District that are eligible for locating an approved medical marihuana facility. Any application that

proposes a location other than a parcel approved on the official map shall be immediate cause for rejection and denial of the application.

(1) Exceptions:

- (A) The separation distance of 500 feet shall be reduced to 250 feet if the two locations are separated by an Interstate Highway.
- (B) Safety Compliance Facilities, only, whether located in the M-1, M-2 or O-1 district shall have no separation distances.
- (C) The separation distance of 500 feet shall not apply to Residential Districts if no residential units are located within the Residential District.

(c) No Grower shall be issued a license that would allow more than 1 grower of class C - 1,500 marihuana plants to be "stacked" or located or operate at a single location in the city.

Sec. 7-311. – Marketing and advertising restrictions.

- (a) A medical marihuana facility shall comply with all City Ordinances, the MMMA, the MMFLA, and Administrative Rules that regulate signs and advertising.
- (b) A licensee shall not engage in advertising that is deceptive, false, or misleading. A licensee shall not make any deceptive, false, or misleading assertions or statements on any marihuana product, any sign, or any document provided.
- (c) A licensee shall not advertise a marihuana product where the advertisement is visible to members of the public from any street, sidewalk, park, or other public place.
- (d) A licensee shall not be permitted to display any temporary signage or obtain a temporary sign permit.

Sec. 7-312. - Operating requirements.

A state operating license and a city license are limited to the scope of the state and city operating licenses issued for that type of medical marihuana facility and shall comply with all of the following:

- (a) A licensee shall post in a conspicuous location all applicable state and city licenses issued for the location and approved medical marihuana facility or facilities.
- (b) A licensee shall, at all times, follow and operate the medical marihuana facility in strict compliance with the MMMA, the MMFLA, the Administrative Rules and the requirements of this Article.
- (c) Medical marihuana facilities shall be partitioned from any other marihuana facility, activity or business. Marihuana facilities shall not allow onsite or as part of the medical marihuana facility any of the following:

- (1) Sale, consumption, or serving of food, except for appropriately processed and packaged medical marihuana edibles pursuant to the MMMA, MMFLA and Administrative Rules.
- (2) Sale, consumption or use of alcohol or tobacco products.
- (3) Consumption, use, or inhalation of a marihuana product.

(d) No medical marihuana facility shall employ minors as defined herein.

(e) Provisioning center hours of operation to sell to medical marihuana products to patients shall be no earlier than eight a.m., and no later than eight p.m.

(f) No marihuana shall be cultivated, grown, manufactured, stored or processed in any manner that would emit odors beyond the interior of the structure or which is otherwise discernable to another person. The odor must be prevented by the installation of an operable filtration or ventilation and exhaust equipment and odors must otherwise be effectively confined to the interior of the building from which the odor is generated.

(g) No outdoor storage is allowed at any licensed location.

(h) Proof of Insurance. No Licensee shall commence any business operations until they have obtained the insurance required under this Section and shall keep such insurance in force during the all business operations. All coverages shall be with insurance companies licensed and admitted to do business in the State of Michigan and acceptable to the City of Madison Heights.

- 1. Worker's Compensation Insurance including Employers' Liability Coverage, in accordance with all applicable statutes of the State of Michigan.
- 2. Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than \$3,000,000 per occurrence and aggregate. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent, if not already included.
- 3. Professional Liability: The Licensee shall procure and maintain, during the life of their city license, Professional Liability insurance in an amount not less than \$1,000,000 per occurrence and aggregate. If this policy is claims made form, then the Licensee shall be required to keep the policy in force, or purchase "tail" coverage, for a minimum of 3 years after the termination of their city license.
- 4. Additional Insured: Commercial General Liability, as described above, shall include an endorsement stating the following shall be Additional Insureds: The City of Madison Heights, all elected and appointed officials, all employees and

volunteers, all boards, commissions, and/or authorities and board members, including employees and volunteers thereof. It is understood and agreed by naming the City of Madison Heights as additional insured, coverage afforded is considered to be primary and any other insurance the City of Madison Heights may have in effect shall be considered secondary and/or excess.

5. Cancellation Notice: All policies, as described above, shall include an endorsement stating that is it understood and agreed Thirty (30) days Advance Written Notice of Cancellation, Non-Renewal, Reduction, and/or Material Change, or Ten (10) days Advance Written Notice for non-payment of premium, shall be sent to: City of Madison Heights, 300 West 13 Mile, Madison Heights, MI 48071.
- (i) For a licensed facility where there is an approved combination of licenses operating separate medical marihuana facilities at the same location, the following requirements shall be met:
 - (1) Apply for and be granted separate State and City operating licenses and pay a separate regulatory assessment and license fee for each operating license.
 - (2) Have distinct and identifiable areas with designated structures that are contiguous and specific to the State and City operating licenses.
 - (3) Have separate entrances and exits, inventory, record keeping, and point of sale operations, if applicable.
 - (4) Post the State and City operating licenses on the wall in its distinct area and as provided in the Administrative Rules and this Article.
 - (5) Obtain any additional inspections and permits required for local or state building inspection, fire services, and public health standards for each facility.

SECTION 2. Repealer.

All ordinances, or parts of ordinances, in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 3. Severability.

Should any section, subdivision, clause, or phrase of this ordinance be declared by the courts to be invalid, the validity of the ordinance as a whole, or in part, shall not be affected other than the part invalidated.

SECTION 4. Savings.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

SECTION 5. Effective Date.

This ordinance as ordered shall take effect ten (10) days after its adoption and upon publication.

SECTION 6. Inspection.

A copy of this ordinance may be inspected or purchased at the City Clerk's office between the hours of 8:00 a.m. and 11:30 a.m. and between the hours of 12:30 p.m. and 4:30 p.m. on regular business days.