

**City of Mount Clemens, Michigan**

**20.110 - MEDICAL MARIHUANA FACILITIES ORDINANCE, CITY OF MOUNTCLEMENS, MICHIGAN, ord. effect. December 27, 2018, IS HEREBY REPEALED.**

The CITY OF MOUNT CLEMENS hereby ordains:

**24.110 - MARIHUANA BUSINESS ORDINANCE, CITY OF MOUNT CLEMENS, MICHIGAN**

24.111 - Sec. 1.

**SHORT TITLE.**

This Ordinance shall be known and may be cited as the City of Mount Clemens Marihuana Business Ordinance.

24.112 - Sec. 2.

**LEGISLATIVE INTENT.**

The purpose of this Ordinance is to exercise the police regulatory, and licensing powers of the City of Mount Clemens by licensing and regulating grower facilities and establishments, provisioning centers and adult-use retail establishments, safety compliance facilities and establishments, processor facilities and establishments, secure transporter facilities and establishments, to the extent permissible under the Medical Marihuana Facilities Licensing Act (PA 281 of 2016) and the Michigan Regulation and Taxation of Marihuana Act (Initiated Law 1 of 2018) and to protect the public health, safety, and welfare of the residents of the City of Mount Clemens.

The city finds that the activities described in this Ordinance are significantly connected to the public health, safety, security and welfare of its citizens and it is therefore necessary to regulate and enforce safety, security, fire, policing, health and sanitation practices related to such activities and also to provide a method to defray administrative costs incurred by such regulation and enforcement. The city finds that it is necessary to protect the residential neighborhoods by limiting the location and the concentration of the types of medical marihuana facilities and adult-use marihuana establishments to specified areas within the city.

It is not the intent of this Ordinance to diminish, reduce, or restrict the rights of a qualified patient or primary caregiver otherwise authorized by the Michigan Medical Marihuana Act or to prohibit the personal possession and cultivation of marihuana by adults twenty-one (21) years of age or older.

24.113 Sec. 3.

**DEFINITIONS, INTERPRETATION AND CONFLICTS.**

For the purposes of Ordinance:

- A. All activities related to marihuana, including those related to a grower facility and establishment, provisioning center and adult-use retail establishment, secure transporter facility and establishment, processor facility and establishment, a safety compliance facility and establishment shall be in compliance with the rules of the Marihuana Regulatory Agency or any successor agency, the rules and regulations of the City of Mount Clemens, the Michigan Medical Marihuana Act, Medical Marihuana Facilities Licensing Act, and the Michigan Regulation and Taxation of Marihuana Act.
- B. Any use which purports to have engaged in the cultivation or processing of marihuana into an usable form, or the distribution of marihuana, or the testing of marihuana either prior to or after enactment of this Ordinance, but without obtaining the required licensing set forth in this Ordinance, shall be deemed to be an illegally established use and therefore not entitled to legal nonconforming status under the provisions of this Ordinance, the City Zoning Ordinances or state law.
- C. 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, produce, possess dispense or transport marihuana. Nothing in this article is intended to grant immunity from any criminal prosecution under federal law.
- D. By accepting a permit issued pursuant to this Ordinance, the permit holder waives and releases the City, its officers, elected officials and employees from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of medical marihuana facility or adult-use marihuana establishment owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.
- E. By accepting a Permit issued pursuant to this Ordinance, all Permit Holders agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees and insurers, against all liability, claims or demands arising on account of bodily injury, sickness, disease, death, property loss or damage or any other loss of any kind, including, but not limited to, any claim of diminution of property value by a property owner whose property is located in proximity to a permitted operating facility, arising out of a, claimed of have arisen out of, or in any manner connected with the operation of a Marihuana Business or use of a product cultivated, processed, distributed or sold that is subject to the permit, 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).
- F. By accepting a Permit issued pursuant to this Ordinance, a Permit Holder 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 of 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 333.7101 et seq.
- G. The following terms shall have the definitions given:

“Application” means an application for a permit under this Ordinance and includes all supplemental documentation attached or required to be attached thereto; the person filing the application shall be known as the "Applicant."

“City” means the City of Mount Clemens, Michigan.

“Church” means an entire building set apart for purposes of public worship, which is tax exempt under state law, 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.

“Class A Marihuana Microbusiness” means a business that cultivates not more than 300 plants, processes and packages it, and sells it to individuals who are 21 years of age or older, or to a safety compliance facility, but not to other marihuana establishments.

“Commission” means the City Commission of Mount Clemens, Michigan.

“Cultivation or Cultivate” means (1) all phases of growth of marihuana from seed to harvest, and drying, trimming, and curing; or (2) preparing, packaging or repackaging, labeling or relabeling of any form of marihuana.

“Department” means the Michigan State Department of Licensing and Regulatory Affairs and any successor department or agency within the Department of Licensing and Regulatory Affairs, including the Marihuana Regulatory Agency (“MRA”).

“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.

“Equivalent Licenses” has the meaning defined in the MRA’s Rules, to wit, R 420.1(1), or its successor rule. The license types in the following numbered columns are equivalent:

	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>Medical (MMFLA)</b>	<b>Grower Facility</b>	<b>Processor Facility</b>	<b>Provisioning Center</b>	<b>Secure Transporter</b>	<b>Safety Compliance Facility</b>
<b>Adult Use (MRTMA) Marihuana Establishment</b>	<b>Marihuana Grower, including Excess Marihuana Grower</b>	<b>Marihuana Processor</b>	<b>Marihuana Retailer</b>	<b>Marihuana Secure Transporter</b>	<b>Marihuana Safety Compliance Facility</b>

“Excess Marihuana Grower” means a license issued to a person holding 5 class C Marihuana Grower licenses and licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

“Grower” shall have the same meaning as that term is defined in the MMFLA, to wit, MCL 333.27102(g), and as the term “marihuana grower” is defined in the MRTMA, to wit, MCL 333.27953(i).

“License” means a current and valid license for a Marihuana Facility and/or a Marihuana Establishment issued by the State via the MRA.

“Licensee” means a person holding a License under the MMFLA and/or MRTMA.

“Location” means the particular building or buildings within a permitted property on which the permit holder will be authorized to conduct the Business activities pursuant to the permit.

“Marihuana” means that termed as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

“Marihuana Business” means a Marihuana Facility operating pursuant to the MMFLA or a Marihuana Establishment operating pursuant to the MRTMA, or both.

“Marihuana Establishment(s)” means a location at which a Licensee is required to be licensed to operate a Grower (including Excess Marihuana Grower), Safety Compliance Location, Processor, Retail Establishment and/or Secure Transporter, pursuant to the requirements of the MRTMA and this Ordinance.

“Marihuana Event Organizer” means a person licensed to apply for a temporary marihuana event license.

“Marihuana Facility(ies)” means a location at which a Licensee is required to be licensed to operate a Grower, Safety Compliance Location, Processor, Provisioning Center and/or Secure Transporter pursuant to the requirements of the MMFLA and this Ordinance.

“Marihuana Microbusiness(es)” means a business that cultivates not more than 150 plants; processes and packages it; and sells it to individuals who are 21 years of age or older, or to a safety compliance facility but not to other marihuana establishments.

“MMFLA” means the Medical Marihuana Facilities Licensing Act, MCL 333.27101, et seq. as amended from time to time.

“MMMA” means the Michigan Medical Marihuana Act, MCL 333.26421 et seq. as amended from time to time.

“MRA” means the State of Michigan Marihuana Regulatory Agency, or its successors.

“MRTMA” means the Michigan Regulation and Taxation of Marihuana Act Initiated Law 1 of 2018, MCL 333.27951 et. seq. as amended from time to time.

“MTA” means the Marihuana Tracking Act, MCL 333.27901 et seq. as amended from time to time.

“Ordinance” means the ordinance adopting this Ordinance and amendments thereto.

“Permit” means the document of approval issued by the City under this Ordinance, which shall grant to a Permit Holder the ability to obtain a License(s) for a Marihuana Facility and/or a Marihuana Establishment, only for and limited to, a specific Location.

“Permit Holder” means the Person that holds a current and valid Permit issued under this Ordinance.

“Permitted Property” means the real property located entirely in the City, comprised of a lot, parcel or other designated unit of real property (i.e. property address) upon which the Location is situated.

“Person” means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

“Processor” shall have the same meaning as that term is defined in the MMFLA, to wit, MCL 333.27102(u), and as the term “marihuana processor” is defined in the MRTMA, to wit, MCL 333.27953(l).

“Provisioning Center” shall have the same meaning as that term is defined in the MMFLA, to wit, MCL 333.27102(v) A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the Department's marihuana registration process in accordance with the MMMA is not a Provisioning Center for the purposes of this Ordinance.

“Retail Establishment” shall have the same meaning as the term “marihuana retailer” is defined in the MRTMA, to wit, MCL 333.27953(m).

“Rules” shall refer to the dual rules promulgated by the MRA on March 3, 2022, which govern the licensed activities of Marihuana Facilities and Marihuana Establishments in the State, as amended from time to time.

“Safety Compliance Facility” shall have the same meaning as that term is defined in the MMFLA, to wit MCL 333.27102(aa), and as the term “marihuana safety compliance facility” is defined in the MRTMA, to wit, MCL 333.27953(o).

“Same Location” has the meaning defined in the MRA’s Rules (as defined herein), to wit, R 420.1(dd), or its successor rule.

Secure Transporter shall have the same meaning as that term is defined in the MMFLA, to wit, MCL 333.27101(bb), and as the term “marihuana secure transporter” is defined in the MRTMA, to wit, MCL 333.27953(n).

“Stacked Licenses” has the meaning defined in the MRA’s Rules, to wit, R 420.1(ff), or its successor rule.

“Stakeholder” means, with respect to a trust, the beneficiaries, with respect to a limited liability company, the managers or members, with respect to a corporation, whether profit or non-profit, the officers, directors, or shareholders, and with respect to a partnership or limited liability partnership, the partners, both general and limited.

“State” means the State of Michigan.

“Temporary Marihuana Event” means a license held by a Marihuana Event Organizer for an event where on-site 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.

“Transfer” means any conveyances of ten (10%) percent or more of a stakeholder’s interest and shall require a new application, application fee and City approval.

H. Any term defined by the MMMA, MMFLA or the MRTMA and not defined in this Ordinance shall have the definition given in the MMMA, MMFLA or MRTMA.

24.114 - Sec. 4.

#### LOCATIONS AND PERMITS AUTHORIZED.

A. The City shall limit the number of Locations upon which Marihuana Businesses are hereby authorized for Permits under this Ordinance to the following:

	<i>Type of Facility</i>	<i>Number Authorized</i>
1.	Grower:	
	Class A - 500 plants:	No limit
	Class B - 1,000 plants:	No limit
	Class C - 1,500 plants:	No limit, uncapped licenses including Excess Marihuana Grower, as applicable
2.	Processor:	No limit

3.	Provisioning Center/Retail Establishment	No limit
4.	Safety Compliance Location	No limit
5.	Secure Transporters:	No limit
6.	Designated Consumption Establishments	No limit

The City commission may review and amend these numbers by resolution as it determines to be advisable and in the best interest of the City.

- B. A Grower, Provisioning Center, Retail Establishment, Processor, and Designated Consumption Establishment may, subject to other applicable provisions of this Ordinance and the Rules, operate at the Same Location.
- C. A Grower, Provisioning Center, Retail Establishment, Processor, Safety Compliance Location and Secured Transporter may, subject to the other applicable provisions of this Ordinance and the Rules, operate Equivalent Licenses at a Location.
- D. A Grower that has been issued a class C license and has applied to Stack Licenses at a Location, including pursuant to an Excess Grower License, shall apply for and obtain a separate Permit from the City for each License so stacked at a Location.
- E. This Ordinance does not apply to, regulate or prohibit any protected patient or caregiver conduct pursuant to MMMA.

24.115 - SEC. 5.

**PERMIT REQUIRED.**

- A. No person shall own or operate a Marihuana Business within the City without first applying for and receiving a Permit from the City Clerk's office and must also obtain a License from the State of Michigan.
- B. A Marihuana Business shall operate pursuant to the requirements of this Ordinance and shall comply at all times with the MMMA, MMFLA, MRTMA, MTA, as well as the Rules of the MRA, as amended from time to time.
- C. The City shall assess an annual non-refundable Permit fee and/or renewal fee of \$5,000.00 for each Marihuana Business. The annual non-refundable fee shall be due and payable with the Application for a Permit and upon the Application for a renewal of any such Permit

under this Ordinance. Applicant shall also pay any certificate of zoning fees, certificate of occupancy fees and inspection fees to defray the costs incurred by the City for inspection, administration and enforcement of the local regulations regarding the Marihuana Business.

- D. A Marihuana Business must be registered with the building department as part of its certificate of compliance and to be inspected by the zoning, building, electrical, mechanical and plumbing inspectors and the fire department and Macomb County Sheriff's Office for compliance with applicable local and state laws and codes. The Marihuana Business must pass annual safety inspections for compliance with the requirements of this Ordinance.
- E. A Permit and a renewal Permit shall not confer any vested rights or reasonable expectation of subsequent renewal on the Applicant or Permit Holder and shall remain valid only for one year. A Permit issued under this Ordinance is conditioned on the approval of the Applicant by the State pursuant to the MMFLA and MRTMA.
- F. All Applicants for a Permit or renewal must be current on taxes and any other financial obligation to the City.
- G. Each year, any pending Applications for renewal or amendment (including transfer of ownership) of existing Permits shall be reviewed and granted or denied before applications for new Permits are considered.
- H. It is the sole and exclusive responsibility of each Permit Holder or Applicant at all times during the application period and during its operation to immediately provide the City with all material changes in any information submitted on an Application and any other changes that may materially affect any License or its Permit.
- I. No Permit issued under this Ordinance may be assigned or transferred to any Person unless the assignee or transferee has submitted an Application requesting the transfer, which includes all required fees under this Ordinance, has been granted the requested transferred Permit by the City, and the transfer of the related License has been approved by the MRA. No Permit issued under this Ordinance is transferrable to any other Location.
- J. The Permit issued under this Ordinance, as well as the License shall be prominently displayed at the Location in a place where it can be easily viewed by the public, law enforcement, City officials and/or agents of the MRA. Failure to maintain or display a current Permit and License shall be a violation of this Ordinance.
- K. Acceptance by the Permit Holder of a Permit constitutes consent by the Permit Holder and its owners, officers, managers, agent and employees for any state, federal or local law enforcement to conduct random and unannounced inspections of the Marihuana Business without a search warrant, and all articles of property in that Marihuana Business at any time.
- L. No Permit shall be granted or renewed for a Marihuana Business in a residence.



- M. A Permit Holder may not engage in any other Marihuana Business at the Location or on the Permitted Property, or in its name at another Location within the City, without first obtaining a separate Permit as required under this Ordinance and the Rules.
- N. Pursuant to section 6 of the MRTMA, the City hereby prohibits and shall not authorize any Permits to operate a marihuana microbusiness or a Class A marihuana microbusiness in the City.

24.116 - Sec. 6.

#### OTHER LAWS AND ORDINANCES.

In addition to the terms of this Ordinance, any Marihuana Business shall comply with all City ordinances, including without limitation the City zoning ordinance, and with all other applicable federal, state and local ordinances, laws, codes and regulations. To the extent that the terms of this Ordinance are in conflict with the terms of any other applicable federal, state or local ordinances, laws codes or regulations, the terms of the most restrictive ordinance, law, code or regulation shall control.

#### 24.117 - Sec. 7. APPLICATION FOR AND RENEWAL OF PERMITS.

- A. Application. An Application for a Permit for a Marihuana Business shall be submitted to the Clerk, on forms provided by the City, and shall contain at a minimum, the following information:
  - (1) The name, address, phone number and email address of the Applicant and the proposed Marihuana Business.
  - (2) The names, home addresses and personal phone numbers for any person who controls, directly or indirectly the operation of the marihuana establishment, and each stockholder, member or other person having a ten (10%) percent or greater beneficial interest in the proposed marihuana establishment.
  - (3) One copy of all of the following:
    - (a) All documentation showing the proposed Permit Holder's valid tenancy, ownership or other legal interest in the proposed Location and Permitted Premises. If the Applicant is not the owner of the proposed Location and Permitted Property, a notarized statement from the owner of such Location authorizing the use of the Location for a Marihuana Business.
    - (b) If the proposed Permit Holder is a corporation, non-profit organization, limited liability company, or any other entity other than a natural person, indicate its legal status, attach a copy of all company formation documents (including amendments), proof of registration with the State, and a certificate of good standing.

- (c) A valid, unexpired driver's license or state issued ID for all Applicants/supplemental Applicants (including, but not limited to, owners, directors, officers and managers of the proposed Marihuana Business).
- (d) Evidence of a valid sales tax license if such a license is required by state law or local regulations.
- (e) Non-refundable application fee/renewal fee of \$5,000.
- (f) Business and operations plan, showing in detail the Marihuana Business's proposed plan of operation, including without limitation the following:
  - (i) A description of the type of Marihuana Business proposed and the anticipated or actual number of employees. The name of the proposed manager of the Marihuana Business. The days and hours the Marihuana Business will be open and/or in operation.
  - (ii) A security plan meeting the requirements of this Ordinance which shall include a general description of the security systems(s) and lighting plan showing the lighting outside of the Marihuana Business for security purposes in compliance with City requirements, current centrally alarmed and monitored security system service agreement for the proposed Location, and confirmation that those systems will meet state requirements, as set forth in the Rules, and be approved by the State prior to commencing operations.
  - (iii) A list of material safety data sheets for all nutrients, pesticides, and other chemicals proposed for use in the Marihuana Business. A copy of a procedural plans for testing of contaminants, including mold and pesticides.
  - (iv) A description and plan of all equipment and methods that will be employed to stop any impact to adjacent uses, including enforceable assurances that, to the greatest extent reasonably possible, no odor will be detected from outside the Location.
  - (v) A plan for the disposal of Marihuana and related byproducts that will be used at the Marihuana Business which includes at a minimum how the plan will 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 to the sewage system is prohibited.
- (g) An identification of any business that is directly or indirectly involved in the growing, processing, testing, transporting or sale of Marihuana for the Marihuana Business.

- (h) Whether any Applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in the State 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.
  - (i) A preliminary site plan of the Location and the Permitted Property. The preliminary site plan shall also include an interior floor plan as well as a scale diagram illustrating the Location upon which the Marihuana Business(s) is to be operated, including all available parking spaces and specifying which parking spaces, if any, are handicapped accessible.
  - (j) Information regarding any other Marihuana Business that the Permit Holder/Licensee is authorized to operate in any other jurisdiction within the state, or another state, and the applicant's involvement in each Business.
  - (k) Proof of insurance. A Permit Holder/Licensee shall at all times maintain in full force and effect for duration of the License, worker's compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000.00 per occurrence and a \$2,000,000.00 aggregate limit issued from a company licensed to do business in Michigan having an AM Best rating of at least A-. A Permit Holder/Licensee shall provide proof of insurance to the City Clerk in the form of a certificate of insurance evidencing the existence of a valid and effective policy which discloses the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, the policy number and the names of the additional insureds. The policy shall name the City of Mount Clemens and its officials and employees as additional insureds to the limits required by this section. A Permit Holder/Licensee or its insurance broker shall notify the City of any cancellation or reduction in coverage within seven days of receipt of insurers' notification to that effect. The Permit Holder/Licensee shall forthwith obtain and submit proof of substitute insurance to the City Clerk within five business days in the event of expiration or cancellation of coverage.
- (4) Any other information reasonably requested by the City to be relevant to the processing or consideration of the Application.
  - (5) A signed release authorizing the Macomb County Sheriff's office and/or ICHAT, to perform a criminal background check to ascertain whether the Applicant, any supplemental Applicant and each Stakeholder and employee of the Applicant meet the criteria set forth in this Ordinance.

- (6) Information obtained from the Applicant or proposed Permit Holder related to the licensure under this Ordinance, the MMFLA and MRTMA is exempt from disclosure under the Freedom of Information Act.

B. Renewal Application and Amendment.

- (1) Each Permit issued under this Ordinance must be renewed annually. The City Clerk shall make renewal and amendment Applications and forms available and shall develop rules to determine how Applications, forms or supplemental information requests for renewal or amendment will be accepted.

- (2) Renewal Application Timelines.

The same requirements that apply to all new Applications for a Permit apply to all renewal Applications. Renewal Applications shall be submitted to and received by the Clerk not less than 45 days prior to the expiration of the annual Permit, except that an Application requesting a transfer of ownership shall be submitted and received not less than 90 days prior to the expiration of the Permit. A Permit Holder whose Permit expires and for which a complete renewal Application has not been received in accordance with the time frame set forth in this section shall be deemed to have forfeited the Permit under this Ordinance.

- (3) Amendments.

- (a) A Marijuana Business shall not make or allow any changes to be made in the operation, management, or ownership of the Marijuana Business as represented in the Permit Application, without first obtaining the approval of the City through an amended Application.
- (b) An amended Application must be submitted when there is a change in any information the Applicant or Permit Holder/Licensee was required to provide to the City or the MRA in the most recent application on file with the City or the MRA, as applicable.
- (c) If the City denies an amended Application, then a Permit Holder/Licensee shall be allowed to operate under its License only if the proposed amendments are not in effect and if the License is otherwise valid.

C. Approval, issuance, denial and appeal. All inspections, review and processing of an Application shall be completed within 60 days of receipt of a complete Application and all required fees. An Application shall not be approved unless:

- (1) The Fire Department and the Building Department has inspected the proposed Location and Permitted Property for compliance with all laws for which they are charged with enforcement and for compliance with the requirements of this Ordinance.

- (2) The City Community Development Director has confirmed that the proposed Location complies with the zoning ordinance and this Ordinance.
- (3) The City Treasurer has confirmed that the Applicant and/or any supplemental Applicant is not in default to the City.
- (4) Initial Marihuana Establishment Application and Selection Standards.

(a) Initial Receipt Period. The initial receipt period shall commence on January 30, 2023 and shall end at close of business on February 3, 2023. The City Clerk shall only accept one (1) application for one person and/or entity at a time and will not accept multiple applications for multiple people or entities submitted by the same person, and may impose such other and further requirements as he/she shall deem appropriate and necessary for the orderly submission of applications. The clerk shall time and date stamp any complete application and assign it a sequential application number, based on the date and time of receipt by the Clerk, after first assigning numbers 1 and 2 to the Plaintiffs in the matter of Nu Group LLC, a Michigan Limited Liability Company, and 222 Companies LLC, a Michigan Limited Liability Company vs. City of Mount Clemens, a Michigan Municipal Corporation, Macomb County Circuit Court Case No. 22-002501-CZ. The Clerk shall act to approve or deny an application no later than sixty (60) days from February 3, 2023. If approved, the Clerk shall issue the applicant a conditional permit and subsequently, a final permit after issuance by the State of Michigan of an operating license. If the application is denied, the clerk shall issue a written notice of denial to the applicant and mail the same by first class mail to the address for the applicant provided in the application. The applicant shall have fourteen (14) days from the mailing of the denial to appeal the denial to the City Manager by filing of a Notice of Appeal with the City Manager's office. The City Manager may require additional information or act upon the appeal based upon the information supplied to the Clerk. There shall be no further right of appeal from the City Manager's decision which is final.

(b) Denial of Application.

The City Clerk may deny an application for any of the following reasons:

- (1) Applications received may be denied by the City Clerk if the applicant, upon written notice, fails to provide missing or incomplete information within ten (10) days thereafter.
- (2) The applicant did not pay the required application fee at the time of submission of the application.

- (3) The applicant has not provided satisfactory proof that the applicant has or will have lawful possession of the property proposed for the location of the marihuana establishment for the period during which the license will be issued.
- (4) At the time of receipt by the Clerk of the Application, the applicant's proposed establishment location does not comply with the zoning and separation distances from other uses as set forth in this ordinance and the City's Zoning Ordinance.
- (5) The applicant has not satisfactorily complied with all of the application requirements in this chapter.
- (6) The applicant has a suspended or revoked state or local medical or adult use marihuana license in another jurisdiction.
- (7) The City Clerk determines that the applicant has submitted an application containing false, misleading, or fraudulent information, or has intentionally omitted pertinent information on the application.

D. Applications for new Permits where no building is as yet in existence. Any Applicant for a Marihuana Business permit whose buildings are not yet in existence at the time of the City's initial Permit approval shall have one year immediately following the date of the City's initial approval to complete construction of the building, in accordance with applicable zoning ordinances, building codes and any other applicable state or local laws, rules or regulations, and to commence business operations. The City Commission may extend the approval for a Permit for an additional one-year period. In the event an Applicant does not commence operations within two years of initial approval, the conditional permit approval shall be deemed forfeited. The Applicant may appeal to the City Commission for an extension beyond year two upon a showing of good cause.

E. Duty to supplement.

- (1) If, at any time before or after a Permit is issued pursuant hereto, any information required in the Permit Application, the MMFLA, the MRTMA, or the Rules, changes in any way from that which is stated in the Application, the Applicant, Permit Holder/ Licensee shall supplement such information in writing within ten days from the date upon which ~~the~~ such change occurs.
- (2) An Applicant, Permit Holder/Licensee has a duty to notify the City Clerk in writing of any pending criminal charge, and any criminal conviction of a felony or other offense involving a crime of moral turpitude by the

Applicant, any supplemental Applicant manager, or employee within ten days of the charge.

- (3) An Applicant, Permit Holder or Licensee has a duty to notify the City Clerk in writing of any pending criminal charge, and any criminal conviction, whether a felony, misdemeanor, petty offense, or any violation of a local law related to the cultivation processing, manufacture, storage, sale, distribution testing or consumption of any form of Marihuana, the MMMA, the MMFLA, MRTMA, MTA, the Rules any building, fire, health or zoning statute, code or ordinance related to the cultivation, processing, manufacture, storage, sale, distribution testing or consumption of any form of Marihuana by the Permit Holder/Licensee, any owner, principal officer, director, manager, or employee within ten days of the event.

- F. Permit forfeiture. In the event that a Marihuana Business does not commence operations within one year of issuance of a Permit, or extension thereof as granted in the City Commission's reasonable discretion, the Permit shall be deemed forfeited; the business may not commence operations and the Permit is not eligible for renewal.

24.118 - Sec. 8.

#### GENERAL OPERATIONAL REQUIREMENTS.

Except as may be pre-empted by state law or regulation, the following general requirements for Marihuana Business apply:

1. A Marihuana Business must obtain a License before they can open for business.
2. No person shall reside in or permit any person to reside in the Marihuana Business or Permitted Property.
3. No person under the age of 18 shall be allowed to enter Marihuana Business, excepting a Provisioning Center, in which case the person must be accompanied by a parent or legal guardian.
4. Signs shall comply with the City's sign ordinance.
5. There shall be posted in a conspicuous location within each Marihuana Business a legible sign containing the following warning language:
  - (a) The possession, use, or distribution of Marihuana is a violation of federal law.
  - (b) It is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by, Marihuana; and
  - (c) No one under the age of 18 years is permitted on the premises.

6. Outdoor storage is strictly prohibited.
7. Discharge of toxic, flammable or hazardous materials into the City sewer is prohibited.
8. A copy of premises liability and casualty damage insurance in the amount described herein shall be submitted to the City when the Applicant has been notified that they have been approved for a Permit.
9. A Marihuana Business shall at all times maintain a security system that meets the requirements set forth in the Rules. A description of the security plan shall be submitted with the Application for a Permit. A separate security system is required for each Marihuana Business. The security plan must include, at a minimum the following:
  - (a) Security surveillance cameras installed to monitor and record all entrances, along with the interior and exterior of the Permitted Premises and all areas of the premises where persons may gain or attempt to gain access to Marihuana or cash maintained by the Marihuana Business.
  - (b) Robbery and burglary alarm systems which are professionally monitored and operated 24 hours a day/seven days a week. The security plan submitted to the City shall identify the company monitoring alarm, including contact information, and be updated within 72 hours of any change of monitoring company.
  - (c) A locking safe permanently affixed to the location that shall store any processed marihuana and all cash remaining in the Marihuana Business overnight. For marihuana or marihuana infused products that must be kept refrigerated or frozen, the Marihuana Business may lock the refrigerated container or freezer in a manner authorized by the City in place of use of a safe, so long as the container is affixed to the building structure.
  - (d) All Marihuana in whatever form stored at the Marihuana Business shall be kept in a secure manner and shall not be visible from outside the Location, nor shall it be grown, processed, exchanged, displayed or dispensed outside the Location.
  - (e) All security recordings and documentation shall be preserved for at least 30 days by the Permit Holder/Licensee and made available to any law enforcement upon request for inspection.
10. The amount of Marihuana at the Marihuana Business and under the control of the Permit Holder/Licensee, shall not exceed that amount permitted by the License and Permit.
11. Except for a Designated Consumption Establishment, smoking or consumption of controlled substances, including Marihuana, within the Marihuana Business is prohibited.
12. All activities of a Marihuana Business must occur indoors.



13. The Marihuana Business' operation and design shall minimize any impact to adjacent uses so as not to interfere with the reasonable and comfortable use and enjoyment of another's property, including the control of any odor by maintaining and operating an air filtration system so that no odor is detectable outside the location. Whether or not a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of another's property shall be measured against the objective standards of a reasonable person. No marihuana shall be cultivated, grown, manufactured or processed in any manner that would emit odors beyond the interior of the premises or which is otherwise discernable to another person. The odor must be prevented by the installation of an operable filtration, ~~to~~ ventilation and exhaust system. Odors must otherwise be effectively confined to the interior of the location in which the odor is generated. Venting of marihuana odors into the areas surrounding the location is deemed and declared to be a public nuisance. In the event that any odors, debris, dust, fluids or other substances exit a location, the owner of the location and the Permit Holder/Licensee shall be jointly and severally responsible for immediate full clean-up and correction of such condition.
14. All persons working in direct contact with Marihuana shall conform to hygienic practices while on duty, including but not limited to:
  - (a) Maintaining adequate personal cleanliness;
  - (b) Washing hands thoroughly in adequate hand washing areas before starting work and at any other time when the hand may have become soiled or contaminated; and
  - (c) Refraining from having direct contact with marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.
15. Litter and waste shall be properly removed and the operating systems for waste disposal maintained in an adequate manner so that they do not constitute a source of contamination in areas where Marihuana is exposed.
16. Floors, walls and ceilings shall be constructed and/or maintained in such a manner that they may be adequately cleaned and kept in good repair.
17. There shall be adequate screening, mitigation, or other protection against pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for waste development and minimize the potential for waste becoming an attractant, harborage or breeding place for pests.
18. Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
19. There shall be no residential uses permitted within the same location and/or upon the same parcel as a Marihuana Business.

20. There shall be no other accessory uses permitted within the Same Location other than those associated with cultivating, processing and dispensing of Marihuana. Multi-tenant industrial buildings may permit accessory uses in suites segregated from each Marihuana Business.
21. All necessary building, electrical, plumbing, and mechanical and fire suppression permits shall be obtained from the City for any portion of the Marihuana Business in which electrical wiring; lighting and/or watering devices that support the cultivation, growing, harvesting, processing or secure transporting of the marihuana are located.
22. That portion of the Marihuana Business where any chemicals such as herbicides, pesticides or fertilizers are stored shall be subject to inspection and approval by the City Fire Department to insure compliance with the applicable fire code.
23. Except for Provisioning Centers and Retail Establishments, the dispensing of Marihuana at the Marihuana Business shall be prohibited. No free samples of marihuana shall be distributed from any Marihuana Business, unless otherwise allowed under the Rules.
24. Marihuana Businesses shall be free from infestation by insects, rodents, birds, or vermin, of any kind.
25. Growers shall not produce products other than useable Marihuana intended for human consumption.
26. Marihuana Businesses shall be open for inspection during the stated hours of operation and as such other times as anyone is present at the Location. No person shall refuse entry to, or in any manner interfere with the inspection of any Marihuana Business.
27. A Grower may co-locate with a Processor, Retail Establishment and Provisioning Center, so long as each Marihuana Business acquires separate Licenses and Permits as otherwise required under this Ordinance and the Rules.
28. Any failure by a Permit Holder/Licensee to comply with the provisions of the MMMA, MMFLA, MRTMA and the MTA, or this Ordinance is a violation of this Ordinance and is sufficient grounds for suspension and revocation of the Permit issued under this Ordinance.

24.119 - Sec. 9.

#### MINIMUM OPERATIONAL STANDARDS OF PROVISIONING CENTERS AND RETAIL ESTABLISHMENTS.

The following minimum standards for Provisioning Centers and Retail Establishments shall apply:

- A. No Provisioning Center and/or Retail Establishment shall be open for retail business between the hours of 9:00 p.m., and 9:00 a.m.; provided, however, deliveries only to

designated consumption establishments shall be permitted between the hours of 9:00 p.m. and 1:00 a.m.

- B. Consumption of Marihuana shall be prohibited on the premises of a Provisioning Center or Retail Establishment, and a sign shall be posted on the premises of each Provisioning Center and Retail Establishment indicating that consumption is prohibited upon the premises.
- C. Provisioning Centers and Retail Establishments shall continuously monitor the entire premise on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site locations for a period of 30 days;
- D. Unless permitted by the MMMA and Medical Facilities Licensing Act, MRTMA or applicable state law, public or common areas of the Provisioning Center and Retail Establishment must be separated from restricted or non-public areas of the provisioning center and/or Retail Establishment by a permanent and locked barrier. Unless permitted by the MMMA, MRTMA and MMFLA or applicable state law, no Marihuana is permitted to be stored, displayed, or transferred in an area accessible to the general public;
- E. All Marihuana storage areas within Provisioning Center and/or Retail Establishment must be separated from any customer/patient areas by a permanent and locked barrier. No Marihuana is permitted to be stored in any area accessible by the general public or registered customer/patients. Marihuana may be displayed in sales area only as permitted under the MMMA, MRTMA, MMFLA and the Rules.
- F. Any usable Marihuana remaining on the premises of the Provisioning Center and/or Retail Establishment while not in operation shall be secured in a safe that is permanently affixed to the premises;
- G. Drive-through windows on the premises of a Provisioning Center and/or Retail Establishment shall not be permitted;
- H. Provisioning Center and/or Retail Establishment shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises;
- I. No Provisioning Center and/or Retail Establishment shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the Permitted Location on which it is operated;
- J. Any Permits and/or Licenses required by this ordinance shall be prominently displayed on the premises of a Provisioning Center and/or Retail Establishment;
- K. Disposal of Marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in non-conformance with local and state laws;

- L. All dispensed Marihuana shall be packaged and labeled as provided by the MMFLA, MRTMA and Rules.
- M. All registered patients and adult-use individuals 21 years of age or older must present their applicable Michigan Marihuana Patient/Caregiver Identification Card and/or a government issued photo identification, prior to entering restricted/limited areas or non-public areas of the Provisioning Center and/or Retail Establishment, and if no restricted/limited area is required, then promptly upon entering the Provisioning Center and/or Retail Establishment.
- N. The premises shall be open at all times to any Macomb County Sheriff's Office personnel without a warrant and without notice to the holder of a license, if evidence of compliance or noncompliance with the MMMA, MRTMA, MMFLA and Rules is likely to be found and consistent with constitutional limitations, for the following purposes:
  - (1) To inspect and examine all premises of the Marihuana Business.
  - (2) To inspect, examine, and audit relevant records of the Permit Holder/Licensee and, if the Permit Holder/Licensee or any of the managerial employees or employees fails to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored.
  - (3) To inspect the person, and inspect or examine personal effects present in a Marihuana Business, of any Permit Holder/Licensee while that person is present in a Marihuana Business.
  - (4) To investigate alleged violations of the MMMA, MRTMA, MMFLA and/or the Rules.
- O. It shall be prohibited to display any signs that are inconsistent with local laws, the Rules or other applicable state law.
- P. It shall be prohibited to use advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors.
- Q. It shall be prohibited to use the symbol or image of a Marihuana leaf in the exterior building signage.
- R. No licensed Provisioning Center and/or Retail Establishment shall place or maintain, or cause to be placed or maintained an advertisement of Marihuana in any form or through any medium within five hundred (500) feet of the real property comprising a public or private elementary, vocational or secondary school.

- S. Certified laboratory testing results that meets the MMMA, MRTMA, MMFLA and Rules, as applicable, must be available to all Provisioning Center and/or Retail Establishment patients/customers upon request.
- T. All Provisioning Centers and/or Retail Establishments shall comply with all applicable requirements of the City of the Mount Clemens Zoning Ordinance.
- U. No paraphernalia shall be visually displayed for public viewing from outer premises of a Provisioning Center and/or Retail Establishment.

24.120 - Sec. 10.

MINIMUM OPERATIONAL STANDARDS OF A GROWER.

The following minimum standards for a Grower shall apply:

- A. A Grower shall comply at all times and in all circumstances with the MMMA, MMFLA, MRTMA and Rules, as they may be amended from time to time. It is the responsibility of the owner to be aware of changes in the MMFLA and MRTMA. The city bears no responsibility for failure of the owner to be unaware of the changes in these acts;
- B. A Grower must manage its onsite odor by the installation of an operable filtration to ventilation and exhaust system and odors must otherwise be effectively confined to the interior of the building from which the odor is generated;
- C. The Permitted Property shall be open for inspection upon probable cause that a violation of this Ordinance has occurred, during the stated hours of operation and at such other times as anyone is present on the Permitted Property;
- D. Any Grower shall maintain a log book and/or database indicating the number of Marihuana plants onsite at the Location at any given time. Each Marihuana plant will be tagged as required by the MRTMA, MMFLA and Rules;
- E. All Marihuana shall be contained within an enclosed locked facility;
- F. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring, lighting and/or watering devices that support the Grower, growing or harvesting of Marihuana are located;
- G. The portion of the structure storing any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspections at any time and approval by the City of Mount Clemens Fire Department to insure compliance with the International Fire Code;
- H. All persons working in direct contact with Marihuana shall conform to hygienic practices while on duty, including but not limited to: (1) Maintaining adequate personal cleanliness; (2) Washing hands thoroughly in adequate hand-washing areas before starting work and at

any other time when the hands may have become soiled or contaminated; and (3) Refrain from direct contact with Marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected;

- I. Litter and waste shall be properly removed and the operating systems for waste disposal shall be maintained in an adequate manner so that they do not constitute a source of contamination in areas where Marihuana is exposed;
- J. Floors, walls and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair;
- K. Marihuana that can support the rapid growth of undesirable microorganisms, including but not limited to mold shall be held in a manner that prevents the growth of these microorganisms;
- L. A Grower premises shall be free from infestation by insects, rodents, birds, or vermin of any kind;
- M. Exterior signage or advertising identifying the premise as a Grower shall be prohibited.
- N. All Growers shall comply with all applicable requirements of the City of Mount Clemens Zoning Ordinance.

24.121 - Sec. 11.

#### MINIMUM OPERATIONAL STANDARDS OF A SAFETY COMPLIANCE LOCATION

The following minimum standards for a Safety Compliance Location shall apply:

- A. A Safety Compliance Location shall comply at all times and in all circumstances with the MMMA, MRTMA, MMFLA and Rules, as they may be amended from time to time. It is the responsibility of the owner to be aware of changes in the MMFLA and MRTMA. The city bears no responsibility for failure of the owner to be unaware of the changes in these acts;
- B. Consumption and/or use of Marihuana shall be prohibited on the premises of a Safety Compliance Location, and a sign shall be posted on the premises indicating that consumption is prohibited upon the premises;
- C. The premises shall be open at all times to any Macomb County Sheriff's Office personnel, without a warrant and without notice to the Permit Holder/Licensee if evidence of compliance or noncompliance with the MMMA, MRTMA, MMFLA or Rules is likely to be found and consistent with constitutional limitations, for the following purposes:
  - (1) To inspect and examine all premises of Marihuana Business

- (2) To inspect, examine, and audit relevant records of the Permit Holder/Licensee and, if the Permit Holder/Licensee or any of the managerial employees or employees fails to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored.
  - (3) To inspect the person, and inspect or examine personal effects present in a Marihuana Business, of any Permit Holder/Licensee while that person is present in a Marihuana Business.
  - (4) To investigate alleged violations of the MMMA, MRTMA, MMFLA or Rules.
- D. Any Safety Compliance Location shall maintain a log book and/or database which complies with the MMMA, MRTMA, MMFLA and Rules;
- E. All Marihuana shall be contained within the building in an enclosed, locked facility in accordance with the MMMA, and MRTMA, MMFLA and Rules;
- F. There shall be no other accessory uses permitted within the Permitted Property other than those associated with testing Marihuana;
- G. All persons working in direct contact with Marihuana shall conform to hygienic practices while on duty, including but not limited to: (1) Maintaining adequate personal cleanliness; (2) Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when the hands may have become soiled or contaminated; and (3) Refrain from direct contact with Marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected;
- H. Litter and waste shall be properly removed and the operating systems for waste disposal shall be maintained in an adequate manner so that they do not constitute a source of contamination in areas where Marihuana is exposed;
- I. Floors, walls and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair;
- J. Marihuana that can support the rapid growth of undesirable microorganisms, including but not limited to mold shall be held in a manner that prevents the growth of these microorganisms;
- K. The dispensing, consumption and/or use of Marihuana at the Safety Compliance Location shall be prohibited;

- L. Exterior signage or advertising identifying the premises as a Safety Compliance Location shall be prohibited.
- M. A Safety Compliance Location Permit Holder/Licensee and each stakeholder shall not have interest in a Grower, Processor, Provisioning Center, Retail Establishment, or Secured Transporter, and shall not be a registered qualifying patient or registered primary caregiver.

24.122 - Sec. 12.

#### MINIMUM OPERATIONAL STANDARDS OF A PROCESSOR.

The following minimum standards for a Processor shall apply:

- A. The Processor shall comply at all times and in all circumstances with the MMMA, MRTMA, MMFLA and Rules, as they may be amended from time to time. It is the responsibility of the owner to be aware of changes in the MMFLA and MRTMA. The city bears no responsibility for failure of the owner to be unaware of the changes in this act;
- B. Consumption and/or use of Marihuana shall be prohibited on the premises of a Processor, and a sign shall be posted on the premises indicating that consumption is prohibited upon the premises;
- C. All activity related to the Processor shall be done indoors;
- D. The odor must be managed by installation of an operable filtration to ventilation and exhaust system and odors must otherwise be effectively confined to the interior of the building from which the odor is generated;
- E. No marihuana shall be manufactured or processed in any manner that would create excessive noise beyond the interior of the structure if adjoining tenant may be disturbed by the said noise.
- F. The premises shall be open, at all times to any Macomb County Sheriff's Office personnel, without a warrant and without notice to the holder of a license, if evidence of compliance or noncompliance with the MMMA, MRTMA, MMFLA or Rules is likely to be found and consistent with constitutional limitations, for the following purposes:
  - (1) To inspect and examine all premises of Marihuana Business.
  - (2) To inspect, examine, and audit relevant records of the Permit Holder/Licensee and, if the Permit Holder/Licensee or any of the managerial employees or employees fails to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored.



- (3) To inspect the person, and inspect or examine personal effects present in a Marihuana Business, of any Permit Holder/Licensee while that person is present in a Marihuana Business.
  - (4) To investigate alleged violations of the MMMA, MRTMA and Medical Marihuana Facilities Licensing Act or applicable state laws.
- G. Any Processor shall maintain a log book and/or database which complies with the MMMA, MRTMA, MMFLA and Rules;
- H. All Marihuana will be tagged as required by the MMMA, MRTMA, MMFLA and Rule;
- I. All Marihuana shall be contained within the building in an enclosed, locked facility in accordance with the MMMA, MRTMA, MMFLA and Rules;
- J. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring, lighting and/or watering devices that support the processing of Marihuana are located;
- K. The portion of the structure storing any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspections at any time and approval by the City of Mount Clemens Fire Department to insure compliance with the International Fire Code;
- L. The dispensing of Marihuana at the Processor premise shall be prohibited;
- M. All persons working in direct contact with Marihuana shall conform to hygienic practices while on duty, including but not limited to: (1) Maintaining adequate personal cleanliness; (2) Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when the hands may have become soiled or contaminated; and (3) Refrain from direct contact with Marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected;
- N. Litter and waste shall be properly removed and the operating systems for waste disposal shall be maintained in an adequate manner so that they do not constitute a source of contamination in areas where Marihuana is exposed;
- O. Floors, walls and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair;
- P. There shall be adequate screening, mitigation, or other protection against pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste development becoming an attractant, harborage or breeding place for pests;

- Q. Marihuana that can support the rapid growth of undesirable microorganisms, including but not limited to mold shall be held in a manner that prevents the growth of these microorganisms;
- R. A Processor premise shall be free from infestation by insects, rodents, birds, or vermin of any kind;
- S. Processor shall produce no products other than those containing usable marihuana, and/or hemp intended for human consumption;
- T. Exterior signage or advertising identifying the premise as a Processor shall be prohibited.

24.123 - Sec. 13.

#### MINIMUM OPERATIONAL STANDARDS OF A SECURE TRANSPORTER.

The following minimum standards for a Secure Transporter shall apply:

- A. The Secure Transporter shall comply at all times and in all circumstances with the MMMA, MMFLA, MRMTA and Rules as they may be amended from time to time. It is the responsibility of the owner to be aware of changes in the MMFLA and MRTMA. The city bears no responsibility for failure of the owner to be unaware of the changes in these acts.
- B. Consumption and/or use of Marihuana shall be prohibited at a Secure Transporter's Permitted Property.
- C. A Secure Transporter Permit Holder/Licensee and each stakeholder shall not have interest in a Grower, Processor, Provisioning Center, Retail Establishment, or Safety Compliance Location, and shall not be a registered qualifying patient or registered primary caregiver.
- D. A Secure Transporter shall also comply with the following:
  - (1) Each driver transporting Marihuana must have a chauffer's license issued by the State.
  - (2) Each employee who has custody of Marihuana or money that is related to a Marihuana transaction shall not have been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past five (5) years or have been convicted of a misdemeanor involving a controlled substance within the past five (5) years.
  - (3) Each vehicle shall be operated with a two-person crew with at least one individual remaining in the vehicle at all times during the transportation of Marihuana.

- (4) A route plan and manifest shall be entered into a statewide monitoring system, and a copy shall be carried in the transporting vehicle and presented to a law enforcement officer upon request.
- (5) The Marihuana shall be transported in one or more sealed containers and not be accessible while in transit.
- (6) A Secure Transporter vehicle shall not bear markings or other indication that it is carrying Marihuana or Marihuana infused product.

24.124 - Sec. 14.

#### MINIMUM OPERATIONAL STANDARDS OF A DESIGNATED CONSUMPTION ESTABLISHMENT.

The following minimum standards for a Designated Consumption Establishment shall apply:

- A. No Designated Consumption Establishment shall be open between the hours of 1:00 a.m. and 9:00 a.m.
- B. Designated Consumption Establishments shall continuously monitor the entire premise on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site location for a period of 30 days.
- C. No Designated Consumption Establishment shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the Permitted Location building on which it is operated.
- D. Any Permits required by this ordinance shall be prominently displayed on the premises of a Designated Consumption Establishment.
- E. All patrons must present a valid government issued photo identification prior to entering a Designated Consumption Establishment.
- F. The premises shall be open, at all times to any MRA investigators, agents, auditors, local or state police, without a warrant and without notice to the holder of a license, if evidence of compliance or noncompliance with the MMMA, MRTMA, MMFLA and Rules is likely to be found and consistent with constitutional limitations, for the following purposes:
  - (1) To inspect and examine all premises of Marihuana Business.
  - (2) To inspect, examine, and audit relevant records of the Permit Holder/Licensee and, if the Permit Holder/Licensee or any of the managerial employees or employees fails to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings,

photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored.

- (3) To investigate alleged violations of the MMMA, MRTMA, MMFLA and/or the Rules.
- G. It shall be prohibited to display any signs that are inconsistent with local laws, the Rules or other applicable state law.
- H. It shall be prohibited to use advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors.
- I. No Designated Consumption Establishment shall place or maintain, or cause to be placed or maintained an advertisement of Marihuana in any form or through any medium within five hundred (500) feet of the real property comprising a public or private elementary, vocational or secondary school.
- J. Designated Consumption Establishments shall comply with all applicable requirements of the City of the Mount Clemens Zoning Ordinance.
- K. No paraphernalia shall be visually displayed for public viewing from outer premises of a Provisioning Center and/or Retail Establishment.
- L. The Designated Consumption Establishment shall comply at all times and in all circumstances with the MMMA, MRTMA, MMFLA and Rules, as they may be amended from time to time. It is the responsibility of the owner to be aware of changes in the MMFLA and MRTMA. The city bears no responsibility for failure of the owner to be unaware of the changes in these acts.
- M. A Designated Consumption Establishment shall only entertain patrons 21 years of age or older to consume marihuana and marihuana products at its Permitted location in accordance with the provisions of this ordinance and the Rules.
- N. A Designated Consumption Establishment shall not allow the sale, use or consumption of alcohol or tobacco on the Permitted property.
- O. A Designated Consumption Establishment shall not sell or transfer marihuana or marihuana products to patrons directly. A Designated Consumption Establishment may only allow patrons to receive deliveries of marihuana and marihuana products from an adjoining Provisioning Center and/or Retail Establishment during all hours of the Designated Consumption Establishment's operation as allowed under this ordinance and the Rules.
- P. A Designated Consumption Establishment shall destroy and dispose of any marihuana or marihuana product left at the location that is considered waste in accordance with this ordinance and the Rules and in compliance with all applicable state and local laws and

regulations. Permit Holder shall maintain a log of any marihuana and marihuana product that is considered waste which must include a description of the waste and the amount and the manner in which it was disposed. The Permit Holder shall make the log available to City officials, law enforcement and the MRA upon request.

- Q. A Designated Consumption Establishment Permit Holder shall maintain an operations plan in accordance with the Rules which includes a detailed explanation of how employees will monitor and prevent over-intoxication, underage access to the Designated Consumption Establishment, the illegal sale or distribution of marihuana or marihuana products within the permitted property, and any other potential criminal activity on the premises.
- R. A Designated Consumption Establishment shall have (1) a smoke-free area for employees to monitor the marihuana consumption area, (2) a ventilation system that directs air from the consumption area to the outside of the building through a filtration system sufficient to remove visible smoke, consistent with all applicable building codes and this Ordinance, and adequate to eliminate odor at the property line, (3) a location physically separated from areas where smoking is prohibited and where smoke does not infiltrate into nonsmoking areas or buildings.

24.125 - Sec. 15.

#### MINIMUM OPERATIONAL STANDARDS OF A TEMPORARY MARIHUANA EVENT.

The following minimum standards for a Temporary Marihuana Event shall apply:

- A. Temporary Marihuana Event permits may be issued as a Special Event Permit by the Community Development Department, upon such terms and conditions and at such locations as authorized by resolution of the Mount Clemens City Commission.
- B. No temporary marihuana event may refuse representatives of the Macomb County Sheriff's Office the right during the hours of operation to inspect the permitted premises.
- C. The permit required by this ordinance shall be prominently displayed on the premises of a temporary marihuana event.

24.126 – Sec. 16.

#### LOCATION OF GROWER, SAFETY COMPLIANCE LOCATION, PROCESSOR AND SECURE TRANSPORTER.

- A. No Grower, Safety Compliance Location, Processor or Secure Transporter shall be located within:
  - (1) 1,000 feet\* of real property comprising of public or private elementary, vocational or secondary school;

- (2) 200 feet\* of a public park, or a church or religious institution defined as exempt by the Mount Clemens Assessor.
- (3) 150 feet\* of a Residential Zoning District.
- (4) 1,500 feet\* of another Marihuana Business, other than Equivalent Licenses and those Marihuana Businesses operating at the Same Location without the need to join, merge or combine parcels.

B. All Growers, Safety Compliance Locations, Processors or Secure Transporters shall be limited to the Light Industrial (I-1) and Heavy Industrial (I-2) Zoning Districts, as identified in the City Zoning Ordinance.

\* The distances set forth above shall be measured as the shortest straight-line distance between the property line of the parcel on which the marihuana establishment is located that is nearest to the listed use, and the nearest property line of the parcel on which the listed use is located.

24.127 - Sec. 17.

**LOCATION OF PROVISIONING CENTERS, RETAIL ESTABLISHMENTS AND DESIGNATED CONSUMPTION ESTABLISHMENTS.**

A. No Provisioning Center, Retail Establishment or Designated Consumption Establishment shall be located within:

- (1) 1,000 feet\* of real property comprising of public or private elementary, vocational or secondary school.
- (2) 200 feet\* of a public park, or a church or religious institution defined as exempt by the Mount Clemens Assessor.
- (3) 150 feet\* of a Residential Zoning District.
- (4) 1,500 feet\* of another Marihuana Business, other than Equivalent Licenses and those Marihuana Businesses operating at the Same Location without the need to join, merge or combine parcels.

B. All Provisioning Centers, Retail Establishments and Designated Consumption Establishments shall be limited to the Light Industrial (I-1), Heavy Industrial (I-2) and General Commercial Zoning Districts (GC), as identified in the City Zoning Ordinance.

\*The distances set forth above shall be measured as the shortest straight-line distance between the property line of the parcel on which the marihuana establishment is located that is nearest to the listed use, and the nearest property line of the parcel on which the listed use is located.

24.128 - Sec. 18.

## REVOCACTION AND REVIEW.

A Permit granted under this Ordinance may be revoked by the City Commission after an administrative hearing if the City Commission finds and determines that grounds for revocation exist. Any grounds for revocation must be provided to the Permit Holder/Licensee at least ten (10) days prior to the date of the hearing by first class mail to the address given on the Application or any address provided to the City Clerk in writing subsequent to the filing of an Application. A Permit applied for and issued under this Ordinance may be denied or revoked for the following reasons:

1. Any fraud or misrepresentation contained in the Application.
2. Any knowing violation of this Ordinance or any Code of Ordinance violation or zoning Ordinance Violation.
3. Loss of the Permit Holder/Licensee's State Marihuana Business License
4. Failure of the Applicant to obtain a State Marihuana Business License within a reasonable time after obtaining a Permit under this Ordinance.
5. The Marihuana Business is determined by the City Commission to have become a public nuisance or otherwise is operating in an unlawful manner or in such a way as to constitute a menace or hazard to the health, safety, or general welfare of the public.

24.129 - Sec. 19.

## PERMIT AND LICENSE AS REVOCABLE PRIVILEGE.

A Permit issued by this Ordinance is a revocable privilege granted by the City and is not a property right. Granting a Permit does not create or vest any right, title, franchise, or other property interest. Each Permit is exclusive to the Permittee and a Permittee or any other person must apply for and receive the City's approval before a Permit is transferred, sold, or purchased. A Permittee or any other person shall not lease, pledge or borrow or loan money against a Permit. The attempted transfer, sale, or conveyance of an interest in a License without the prior approval of the City and MRA is grounds for suspension or revocation of the Permit or for other sanction considered appropriate by the City.

24.130 - Sec. 20.

## CITY REQUIREMENTS.

The City Clerk shall provide the following information to the MRA within ninety (90) days after the City receives notification from the Applicant that the Applicant has applied for a License under the MMFLA or MRTMA:

1. A copy of the local ordinance that authorizes the Marihuana Business.
2. A copy of any zoning regulations that apply to the proposed Marihuana Business within the City.
3. A description of any violation of the local ordinance or zoning regulations included under subdivision (a) or (b) committed by the Applicant, but only those violations related to activities licensed under the MMFLA, MRTMA and MMMA.
4. The City's failure to provide information to the State Licensing Board shall not be used against the Applicant.
5. Information the City receives from the Applicant related to licensure under this Ordinance is exempt from disclosure under the Freedom of Information Act, 1976 PA 442, MCL 15.231, et. seq.

24.131 – Sec. 21.

#### VIOLATIONS AND PENALTIES

- A. Any person, including but not limited to, any Permit Holder/Licensee, stakeholder, or employee of a marihuana commercial operation, or any customer of such business, who violates any of the provisions of this ordinance, shall be responsible for a municipal civil infraction punishable by a civil fine of \$500., plus court imposed costs and any other relief that may be imposed by the court. Each day of violation shall be a separate violation.
- B. In addition to any civil fine imposed for a municipal civil infraction violation, a violation of this ordinance shall also be sufficient grounds for the suspension, revocation or non-renewal of the marihuana establishment's city operating permit.
- C. In addition to the possible denial, suspension, revocation or non-renewal of a permit under the provisions of this ordinance, the City Attorney is authorized to seek such other relief that may be available and provided by law or equity, including filing a public nuisance action or seeking injunctive relief against a person or persons alleged to be in violation of this ordinance or the City Zoning Ordinance.

24.132 – Sec. 22.

#### SEVERABILITY.

If any subsection, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this Ordinance and such holding shall not affect the validity of the remaining portions of this Ordinance.

24.133 – Sec. 23.



REPEAL.

Ordinance 20.110 through 20.132, entitled Medical Marihuana Facilities Ordinance, of the City of Mount Clemens, and Ordinance 20.064 through 20.069, entitled Prohibition of Marihuana Establishments Ordinance, of the City of Mount Clemens, Michigan Code of Ordinances are hereby repealed and deleted in their entirety. All other ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

24.134 – Sec. 24.

EFFECTIVE DATE.

This Ordinance shall be effective \_\_\_\_\_ days from the date of publication hereof.

Introduction and First Reading:

Second Reading and Adoption:

Effective Date:

**CITY OF MOUNT CLEMENS,**  
a Michigan Municipal Corporation,

By: \_\_\_\_\_  
Laura Kropp, Mayor

By: \_\_\_\_\_  
Cathleen Martin, City Clerk