

CITY OF MARSHALL, MICHIGAN
ORDINANCE #2017-05

The City of Marshall, Michigan Ordains:

Legislative Findings

The City of Marshall, through its elected City Council, recognizes that the state of Michigan has permitted by legislative action, the medical use of Marihuana, in the Michigan Medical Marihuana Act (the MMMA, being MCL 333.26421 et seq.) and provided for the licensing and regulation of medical marihuana growers, processors, provisioning centers, secure transporters, and safety compliance facilities, in the Michigan Medical Marihuana Facilities Licensing Act (the MMMFLA, being, MCL 333.27101 et seq.)

It is further recognized that the MMFLA provides that a municipal ordinance is a pre-requisite for State approval of any State license issued under the MMFLA.

It is further recognized that, at the time of the enactment of this ordinance, Marihuana remains subject to criminal penalties under both federal and state law.

It is further recognized that while federal and state regulation of Marihuana may be pervasive, and local regulation of Marihuana subject to a claim of preemption, the MMMFLA expressly permits local control or regulation of certain aspects of the operation of a Medical Marihuana facility, but only if the City enacts an ordinance permitting some, or all, of the facilities also regulated by the MMMFLA.

It is further recognized that <<reserved for future council input following the public hearing >>.

Purposes and Intent

The City of Marshall adopts this ordinance:

- (1) To implement the provisions of the MMMFLA (Public Act 281 of 2016; MCL333.27101, et. seq.) with respect to local zoning and land use.
- (2) To establish a new section in the City of Marshall code pertaining to the permitted distribution of medical marihuana consistent with state law. Nothing in this Chapter purports to permit activities that are otherwise illegal under state or local law.
- (3) To prevent the diversion of medical marihuana for unlawful use and protect the safety and welfare of the community.
- (4) To provide for and limit, the location, type and number of facilities licensed under the MMMFLA within the City limits, without totally prohibiting the types of land uses otherwise permitted by the MMMFLA.

Definitions

The following phrases, when used in this Chapter, shall be construed as defined in the MMMFLA, as amended. These definitions are for guidance only, and the actual definition in the MMMFLA:

“Grower” means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

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

"Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 to 289.8111.

"Processor" means a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

"Co-location" means the aggregation of multiple types of licenses, or additional licenses of the same type, permitted under the MMMFLA and located on one, or more, lot of record owned by an existing MMMFLA licensee, approved for operation in the City of Marshall.

"Stacking" means where an existing MMMFLA licensee, approved for operation in the City of Marshall, by written agreement, leases to or operates for another MMMFLA licensee, approved for operation in the City of Marshall.

"Volatile Substances Processing Room" means a Class 1, Division 1 room, as defined by the National Fire Protection Act, or such other fire, mechanical or electrical code adopted or in use by the City of Marshall, concerning the use of gas or other volatile substances in an extraction process.

"Security Plan" means a plan for preventing unauthorized access to, or theft and pilferage from, an MMMFLA licensed facility, approved for operation in the City of Marshall. The plan shall be subject to review and reasonable approval by City staff, but shall include at a minimum the following components: (1) an eight (8) foot tall perimeter fence; (2) an exterior lighting system; (3) a building security system; (4) an on-site security guard program; (5) an off-site official contact list; (6) established hours of operation; (7) appropriate signage; (8) a plan for facility inspection by the City of Marshall, which shall include no less than an annual comprehensive fire and security inspection; and, (9) such other conditions as may be suitable for the particular license, or facility to be operated by the MMMFLA licensee. A security plan must be approved by the City Manager with the advice of the Director of Public Safety.

"Safety compliance facility" means a licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

"Secure transporter" means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

"State operating license" or, unless the context requires a different meaning, "license" means a license that is issued under this act that allows the licensee to operate as 1 of the following, specified in the license:

- (i) A grower.
- (ii) A processor.
- (iii) A secure transporter.
- (iv) A safety compliance facility.

"Zoning Ordinance" means the City of Marshall Zoning Ordinance, adopted September 16, 2016, as amended.

Grower

The location at which a grower cultivates medical marihuana is a permitted use in the following zoning districts; I-1, and I-2, as provided by and subject to the requirements of the Zoning Ordinance (art. III, § 3.19-20). The city will restrict locations and entity but shall not restrict number of licenses managed by that entity.

The grower must also meet the following requirements:

- (1) The odor must be managed at the site and by the installation of an operable filtration to ventilation and exhaust equipment and odors must otherwise be effectively confined to the interior of the building or dwelling from which the odor is generated.
- (2) The facility must not be within 5,280 – foot of another grow or processing facility.
- (3) For a facility using artificial light for night time growing period, a plan to contain demonstrating that the owner can contain all artificial light to the interior space of the facility.
- (4) An approved Security Plan.
- (5) Co-location and Stacking of this license shall be permitted, up to, but not beyond, any applicable lot coverage limitations set forth in the City Marshall Zoning Code.

Processor

The location at which a processor extracts resin from the marihuana or creates a marihuana-infused product is a permitted use in the following zoning districts; I-1, and I-2, as provided by and subject to the requirements of the Zoning Ordinance (art. III, § 3.19-20). The city will restrict locations and entity but shall not restrict number of licenses managed by that entity.

A processor must meet the following requirements:

- (1) The odor must be managed by the installation of an operable filtration to ventilation and exhaust equipment and odors must otherwise be effectively confined to the interior of the building or dwelling from which the odor is generated.
- (2) No marihuana shall be manufactured or processed in any manner that would create excessive noise beyond the interior of the structure if adjoining tenants may be disturbed by said noise.
- (3) The facility must not be within 5,280 – foot of another grow or processing facility.
- (5) An approved Security Plan.
- (6) Co-location and Stacking of this license shall be permitted, up to, but not beyond, any applicable lot coverage limitations set forth in the City Marshall Zoning Code.

Secure Transporter

The location at which a secure transporter stores marihuana and transports marihuana from is a permitted use in the following zoning districts I-1 and I-2, as provided by and subject to the requirements of the Zoning Ordinance (art. III, § 3.19-20). The city will allow up to two (2) state approved and licensed secure transporters.

A transporter must meet the following requirements:

(1) An approved Security Plan.

(2) Co-location of this license shall be permitted, up to, but not beyond, any applicable lot coverage limitations set forth in the City Marshall Zoning Code.

Safety Compliance Facility

The location at which a safety compliance facility tests medical marihuana and marihuana in-fused products is a permitted use in the following zoning districts; I-1, and I-2, as provided by and subject to the requirements of the Zoning Ordinance (art. III, § 3.19-20). The city will allow up to two state approved and licensed safety compliance facilities. A Safety Compliance must meet the following requirements:

(1) An approved Security Plan.

(2) Co-location of this license shall be permitted, up to, but not beyond, any applicable lot coverage limitations set forth in the City Marshall Zoning Code.

Municipality Compliance with State Board

1. The city shall provide the following information to the state Medical Marijuana licensing board within 30 days after the city receives notification from the applicant that he or she has applied for a license under Public Act 281.

a. A copy of the local ordinance that authorizes the Medical Marijuana Facility.

b. A copy of any zoning regulations that apply to the proposed Medical Marijuana Facility within the city.

c. A description of any violation of the local ordinance or zoning regulations included under subdivision (a) or (b) committed by the applicant, but only if those violations relate to activities licensed under this act or the Michigan Medical Marijuana Act.

2. The board may consider this information submitted in subsection (1) however, the failure of the city to provide the information to the board shall not be used against the applicant.

3. A municipal ordinance may establish an annual, nonrefundable fee of not more than \$5000 to defray the administrative and enforcement costs of associated with the operation of a Marijuana facility in the municipality.

4. Information a municipality obtains from an applicant related to licensure under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Future Legislation or Initiative to Allow Adult Use of Marihuana

In the event that future laws deem Adult Use of Marihuana to be legal in the state of Michigan, the city hereby preserves the ability to allow additional Marihuana Facilities in accordance with law and market demand.

Severability

If any section, sub-section, paragraph, sentence, or word of this Chapter is deemed to be invalid, the invalidity of such provision shall not affect the validity of any other sections, sub-sections, paragraphs, sentences, or words of this Chapter, or the application thereof; and to that end, the sections, sub-sections, paragraphs, sentences, and words of this Chapter shall be deemed severable.

This Ordinance [or a summary thereof as permitted by MCL 125.3401] shall be published in the Marshall Chronicle, a newspaper of general circulation in the City of Marshall qualified under state law to publish legal notices. This Ordinance shall be recorded in the Ordinance Book and such recording shall be authenticated by the signatures of the Mayor and the City Clerk.

This Ordinance is declared to be effective immediately upon publication.

Adopted and signed the 5th day of June, 2017.



Jack Reed, MAYOR



Trisha Nelson, City Clerk

I, Trisha Nelson, being duly sworn as the Clerk for the City of Marshall, hereby certify that the foregoing is a true and complete copy of an ordinance approved by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on June 5, 2017, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available by said Act.



Trisha Nelson, City Clerk