

**CITY OF MARSHALL, MICHIGAN**

Ordinance No. 2019-06

**The City of Marshall, Michigan Ordains:**

That the Code of Ordinances of the City of Marshall, Title XI Business Regulations, to add Chapter 121, Commercial Marihuana to read as follows:

**§ LEGISLATIVE FINDINGS.**

WHEREAS, the City of Marshall (hereinafter referred to as the “City”), through its elected City Council, recognizes that on November 6, 2018, Michigan voters, including the residents of the City, approved Proposal 18-1, creating the Michigan Regulation and Taxation of Marihuana Act (hereinafter referred to as the “MRTMA” or the “Act”, being M.C.L. §§ 333. 27951 *et seq.*) and provided for the licensing and regulation of recreational marihuana establishments under the MRTMA.

WHEREAS, the Medical Marihuana Facilities Licensing Act (MMFLA), PA 281 of 2016, provides the structure for medical marihuana facilities and the Michigan Regulation and Taxation of Marihuana Act provides the structure for adult-use (“recreational”) marihuana establishments.

WHEREAS, the Marihuana Regulatory Agency (MRA) has issued emergency administrative rules for the purpose of implementing the Michigan Regulation and Taxation of Marihuana Act.

WHEREAS, the Emergency Rules define *Equivalent Licenses* between the MMFLA (medical) and the MRTMA (adult-use) as follows: MMFLA (Medical) Any Class Grower (A, B, C), Processor, Provisioning Center, Secure Transporter, Safety Compliance Facility and the MRTMA (adult-use) Any Class Grower (A, B, C), Processor, Retailer, Secure Transporter, Safety Compliance Facility.

WHEREAS, the City allows for medical marihuana Grower, Processor, Secure Transporter, and Safety Compliance Facility under the Medical Marihuana Facilities Licensing Act.

WHEREAS, the MRTMA provides that a municipal ordinance may completely prohibit or limit the number of marihuana establishments within its boundaries.

WHEREAS, the City of Marshall desires to protect the public health, safety, and welfare of the residents of the City by permitting specific MMFLA equivalent MRTMA state-licensed marihuana establishments as: Grower, Processor, Safety Compliance Facility, and Secure Transporter, and Excess Grower license within the boundaries and jurisdiction of the City.

WHEREAS, the City of Marshall desires to prohibit marihuana Microbusinesses, marihuana Retailers, and Temporary Marihuana Event licenses and Designated Consumption Establishment licenses within the boundaries and jurisdiction of the City.

## GENERAL PROVISIONS

### § PURPOSES AND INTENT.

The City of Marshall adopts this Ordinance:

(A) To implement the provisions of the Michigan Regulation and Taxation of Marihuana Act, Prop 1 of 2018, so as to protect the public health, safety, and welfare of the residents of the City by setting forth the manner in which specific recreational marihuana establishments can be operated within the boundaries and jurisdiction of the City.

(B) To establish a new chapter in the City of Marshall Code of Ordinances pertaining to the regulation of marihuana establishments and commercial marihuana activities consistent with state law. Nothing in this Ordinance purports to permit activities that are otherwise illegal under state or local law or expressly prohibited by this Ordinance.

(C) Further, this Ordinance:

- (1) Prohibits Marihuana Retail licenses under the MRTMA and similar marihuana commercial operations, and Marihuana Microbusiness licenses under the MRTMA and similar marihuana commercial operations, Temporary Marihuana Event licenses, and Designated Consumption Establishment licenses within the boundaries and jurisdiction of the City.
- (2) Provides for and limits the location, type, and number of marihuana establishments licensed under the MRTMA and agency licensees within the boundaries and jurisdiction of the City.
- (3) Provides for and regulates and controls marihuana establishments, agency licensees, and the commercial grow, process, testing, and distribution of marihuana, and the lawful production of related products as set forth herein, and for purposes of implementing the Michigan Regulation and Taxation of Marihuana Act, where such activities will have minimal detrimental impact.
- (4) Implements the provisions of the MRTMA with respect to local zoning, land use, and regulation of specific marihuana establishments and state licenses within the boundaries and jurisdiction of the City, except where prohibited by this Ordinance;
- (5) To protect public health and safety through reasonable limitations on marihuana establishments, agency licensees, and commercial entity operations, and limitations upon other marihuana related activities provided for by the MRTMA, as they relate

to noise, air and water quality, neighborhood safety, security for the establishment and its personnel, and other health and safety concerns.

- (6) To provide fees to defray and recover the costs to the City of the administrative and enforcement costs associated with marihuana establishments, and permitted marihuana activities as provided under the MRTMA.
- (7) Restrict the issuance of marihuana establishment licenses only to persons that have demonstrated the desire and ability to comply with this Ordinance and relevant City ordinances and regulations, and with state law and regulation.

(D) This Ordinance authorizes the establishment of specific marihuana establishments within the City of Marshall, Michigan, consistent with the provisions of the Act, and with regulations enacted by the department, and subject to the following:

- (1) Nothing in this Ordinance is intended to promote or condone the commercial marihuana cultivation and grow, processing, transportation, testing, production, distribution, sale, or possession of marihuana in violation of any applicable law.
- (2) This Ordinance is to be construed to protect the public over marihuana establishments and licensee interests. Operation of a marihuana establishment is a revocable privilege and not a right in the City. There is no property right for a person or establishment to engage in or obtain a license to engage in marihuana as a marihuana establishment or marihuana commercial enterprise within the boundaries and jurisdiction of the City.
- (3) All licensees and their employees and agents are assumed to be fully aware of the law; the City shall not therefore be required to issue warnings before issuing citations or other enforcement measures for violations of this Ordinance or any applicable City ordinance, regulation, or state law or regulation.

## § DEFINITIONS.

The following words, terms and phrases in this Ordinance shall have the meanings ascribed to them, except where the context clearly indicates otherwise:

**ACT** means the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018.

**AGENCY** or **MRA** means the Marihuana Regulatory Agency.

**APPLICANT** means a person who applies for a state license. Applicant includes, with respect to disclosures in an application, for purposes of ineligibility for a license, or for purposes for a transfer of interest, and only for applications submitted on or after January 1, 2019, a managerial employee

of the applicant, a person holding an indirect ownership interest of 10% or more in the applicant, and the following for each type of applicant:

- (a) For an individual or sole proprietorship: the proprietor and spouse.
- (b) For a partnership and limited liability partnership: all partners and their spouses.
- (c) For a limited partnership and limited liability limited partnership: all general and limited partners, not including a limited partner holding a direct or indirect ownership interest of less than 10% and who does not exercise control over or participate in the management of the partnership, and their spouses.
- (d) For a limited liability company: all members and managers, not including a member holding a direct or indirect ownership interest of less than 10% and who does not exercise control over or participate in the management of the company, and their spouses.
- (e) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, and all stockholders, not including those holding a direct or indirect ownership interest of less than 10%, and their spouses.
- (f) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, and all stockholders, not including those holding a direct or indirect ownership interest of less than 10%, and their spouses.
- (g) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive 10% or more of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.
- (h) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

**MARIHUANA REGULATORY AGENCY (MRA)** means the Marihuana Licensing Agency created within LARA in order to regulate and administer state licenses.

**CULTIVATE** or **CULTIVATION** means to propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.

**CO-LOCATION** means the aggregation of multiple types of licenses, additional licenses, or equivalent licenses permitted under the MRTMA and MMFLA and state rules and located on one, or more, lot of record owned by an existing MRTMA and/or MMFLA licensee, approved for operation in the City of Marshall.

**COMMON OWNERSHIP** means two or more state licenses or two or more equivalent licenses held by one person.

**DEPARTMENT** means the Michigan Department of Licensing and Regulatory Affairs (LARA).

**DESIGNATED CONSUMPTION ESTABLISHMENT** means a commercial space that is licensed by the agency and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license.

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

**EQUIVALENT LICENSES** means any of the following held by a single licensee:

- (a) A marihuana grower license, of any class, issued under the MRTMA and a grower license, of any class, issued under the MMFLA.
- (b) A marihuana processor license issued under the MRTMA and a processor license issued under the MMFLA.
- (c) A marihuana retailer license issued under the MRTMA and a provisioning center license issued under the MMFLA.
- (d) A marihuana secure transporter license issued under the MRTMA and a secure transporter license issued under the MMFLA.
- (e) A marihuana safety compliance facility license issued under the MRTMA and a safety license issued under the MMFLA.

**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** mean a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

**INDUSTRIAL HEMP** means a plant of the genus cannabis and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry-weight basis, or per volume or weight of marihuana-infused product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus cannabis regardless of moisture content.

**LICENSEE** means a person holding a state operating license.

**MARIHUANA** means all parts of the plant of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana

concentrate and marihuana-infused products. For purposes of this Ordinance, marihuana does not include: (1) the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination; (2) industrial hemp; or (3) any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

**MARIHUANA ACCESSORIES** means any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.

**MARIHUANA CONCENTRATE** means the resin extracted from any part of the plant of the genus *cannabis*.

**MARIHUANA ESTABLISHMENT** means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the department.

**MARIHUANA-INFUSED PRODUCT** means a topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.

**MUNICIPAL LICENSE** means a license issued by a municipality pursuant to section 6 of the Act that allows a person to operate a marihuana establishment in that municipality.

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

**MICHIGAN MEDICAL MARIHUANA ACT (MMMA)** means Initiated Law 1 of 2008, MCL 333.26421 *et seq.*, as may be amended.

**MARIHUANA FACILITIES LICENSING ACT (MMFLA)** means Public Act 281 of 2016, MCL 333.27101 *et seq.*, as may be amended.

**MARIHUANA TRACKING ACT** means Public Act 282 of 2016, MCL 333.27901 *et seq.*, as may be amended.

**MARIHUANA PROCESSOR** means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

**MARIHUANA RETAILER** means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

**MARSHALL DEPARTMENT OF PUBLIC SAFETY.** Includes the Marshall Police Department and Marshall Fire Department.

**MUNICIPALITY** means the City of Marshall, Michigan.

**PERSON** means an individual, corporation, limited liability company, partnership of any type, trust, or other legal entity.

**PLANT** means that term as defined in section 102 of the MMFLA, MCL 333.27102.

**PROPOSED MARIHUANA ESTABLISHMENT** means a location at which an applicant plans to operate a marihuana establishment under the Act and department rules if the applicant is issued a state license.

**RULES** means rules promulgated by the department in consultation with the MRA to implement the MRTMA.

**SECURITY PLAN** means a plan for preventing unauthorized access to, or theft and pilferage from, a marihuana establishment, approved for operation in the City of Marshall. A security plan must be approved by the City Manager with the advice of the Chief of Police. The plan shall be subject to review and reasonable approval by City staff, but shall include, at a minimum, the following components:

- a. Perimeter fence as necessary.
- b. An exterior lighting system.
- c. A building security system.
- d. An on-site security guard program.
- e. An off-site official contact list.
- f. Established hours of operation.
- g. Appropriate signage.
- h. A plan for facility inspection by the City of Marshall, which shall include no less than an annual comprehensive fire and security inspection.
- i. Such other conditions required by this Ordinance, the MRTMA, LARA rules, and as may be suitable for the particular license or marihuana establishment to be operated by the MRTMA licensee.

**SAFETY COMPLIANCE ESTABLISHMENT** means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

**SCHOOL** means a public or private licensed pre-school, or a public, private, or charter elementary, middle, junior high, or high school, vocational school, and secondary school.

**SECURE TRANSPORTER** means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

**SPECIAL LICENSE** means a state license described under section 8 of the Act and issued pursuant to section 9 of the Act.

**STACKED LICENSE** means more than 1 state license issued to a single licensee to operate as a class C marihuana grower as specified in each state license at a marihuana establishment.

**STATE OPERATING LICENSE** means a license issued by the department that allows a person to operate a marihuana establishment.

**TEMPORARY MARIHUANA EVENT LICENSE** means a state license held by a marihuana event organizer for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the state license during the dates indicated on the state license.

**UNREASONABLY IMPRACTICABLE** means that the measures necessary to comply with the rules or ordinances adopted pursuant to the Act subject licensees to unreasonable risk or require such a high investment of money, time, or any other resource or asset that a reasonably prudent businessperson would not operate the marihuana establishment.

**ZONING ORDINANCE** means the City of Marshall Zoning Ordinance, adopted September 16, 2016, as amended.

§ **FEDERAL AND STATE LAW.**

(A) Nothing in this Ordinance is intended to grant immunity from any criminal prosecution under Federal law.

(B) Relationship to State Law.

(1) Nothing in this Ordinance is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of marihuana or hemp in any form, that is not in strict compliance with the MRTMA, the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, the Marihuana Tracking Act, and all applicable rules promulgated by the State of Michigan regarding marihuana. Strict compliance with any applicable State law or regulation and this Ordinance shall be a requirement for the issuance or renewal of any license issued under this Ordinance. Noncompliance with any applicable State law or regulation or this Ordinance shall



be grounds for revocation or nonrenewal of any license issued under the terms of this Ordinance.

- (2) Except as otherwise provided by the MRTMA and this Ordinance, a person who owns or leases real property upon which a marihuana establishment is located and who has no knowledge that the licensee is violating or violated the MRTMA or a provision of this Ordinance, is not subject to criminal or civil prosecution under any applicable City ordinance regulating marihuana.

## **§ CITY LIABILITY AND INDEMNIFICATION.**

(A) By accepting a license issued under the MRTMA and the agency, and pursuant to this Ordinance, the licensee waives and releases the City, its officers, elected officials, employees, and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest, prosecution or civil enforcement of marihuana establishment owners, licenses, operators, employees, clients or customers for a violation of this Ordinance, state or federal laws, rules or regulations.

(B) By accepting a license issued under the MRTMA and the agency, and pursuant to this Ordinance, all licensees agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, agents and insurers, against all liability, claims or demands arising on account of bodily injury, sickness, disease, death, property loss or damage or any other loss of any kind, including but not limited to, any claim of diminution of property value by a property owner whose property is located in proximity to a licensed operating establishment, arising out of, claimed to have arisen out of, or in any manner connected with the operation of a marihuana establishment or use of a product cultivated, processed, distributed or sold that is subject to the license, or any claim based on an alleged injury to business or property by reason of a claimed violation of the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §1964(c) or any other alleged violation of law.

(C) By accepting a license issued under the MRTMA and the agency, and pursuant to this Ordinance, a licensee agrees to indemnify, defend and hold harmless the City, its officers, elected officials, employees, agents and insurers, against all liability, claims, penalties, or demands arising on account of any alleged violation of any existing law including 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.

§ **LOCATION AND NUMBER OF PERMITTED ESTABLISHMENTS.**

(A) The location and maximum number of each type of marihuana establishment and commercial entities under the Act permitted in the City is governed by applicable location and zoning regulations or as set forth in the table below.

(B) Table of Establishments and Licenses.

<u>Type of Establishment</u>	<u>Permitted or Number/ Location</u>
Marihuana Retailer	0
Marihuana Microbusiness	0
Temporary marihuana event	0
Designated consumption establishment	0
Marihuana Safety Compliance Facility	2 total in districts: I-1 and I-2, combined
Marihuana Secure Transporter	Unlimited number in districts: I-1 and I-2
Marihuana Processor	Permitted/Zoned in districts: I-1 and I-2
Class A Marihuana Grower	Permitted/Zoned in districts: I-1 and I-2
Class B Marihuana Grower	Permitted/Zoned in districts: I-1 and I-2
Class C Marihuana Grower	Permitted/Zoned in districts: I-1 and I-2
Excess Marihuana Grower	Permitted/Zoned in districts: I-1 and I-2

§ **LOCATION AND ELIGIBILITY.**

(A) No marihuana establishment shall be eligible to be issued a State or City operating license unless the applicant complies with this Ordinance and all City zoning regulations.

(B) No marihuana establishment shall be located within 1,000 feet of an existing school or City park.

(C) A licensee shall not operate a marihuana establishment at any place in the City other than the address provided in the application on file with the City Clerk.

(D) Marihuana Establishment licenses permitted under this Ordinance are governed by type and location requirements, as follows:

(1) Marihuana Grower License:

a. The location at which a grower establishment cultivates marihuana is a permitted use in the following zoning districts: I-1 and I-2, as provided by and subject to the requirements of this Ordinance and the Zoning Ordinance § 3.19-20. The City will

restrict locations and entity but shall not restrict number of licenses managed by that entity. Grower establishment, as measured from the property lot line, shall not be within 2,640 feet of another grow establishment or processing establishment licensed under the MRTMA, or grow or processing facility licensed under the MMFLA. Subject to the provisions of the MRTMA, more than one Marihuana Grower establishment license may be permitted per parcel or lot.

b. All grower establishments and operations must be within an enclosed, secured structure.

c. A licensee may occupy the same premises if holding a Grower and Processor license for the premises, and otherwise consistent with the Act and any rules promulgated by LARA.

d. A Grower may hold more than one class of grower license and excess marihuana grower license.

e. Consistent with the provisions of the Act, an applicant and each investor in a Grower license cannot have an interest in a secure transporter, safety compliance establishment, or microbusiness.

f. A Grower shall comply with all of the provisions of the MRTMA and shall:

- 1) Location of this establishment shall be permitted up to, but not beyond, any applicable lot coverage limitations set forth in the City of Marshall Zoning Ordinance.
- 2) An approved Security Plan.
- 3) Enter all transactions, current inventory, and other information as required by the MRTMA, LARA rules, the Marihuana Tracking Act, and all other applicable laws and regulations.
- 4) Sell or transfer marihuana seeds or marihuana plants only to another grower by means of a secure transporter, consistent with LARA rules.
- 5) Sell or transfer marihuana, other than seeds, only to a processor or marihuana retailer by means of a secure transporter, consistent with LARA rules.
- 6) No pesticides or insecticides which are prohibited by applicable law for fertilization or production of edible produce shall be used on any marihuana cultivated, produced, or distributed by a marihuana business.

7) A marihuana establishment shall be ventilated so that the odor of marihuana cannot be detected by a person with a normal sense of smell at the exterior of the marihuana establishment property line or at any adjoining use or property. Odor must be managed at the establishment 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.

g. Grower establishment must submit to City administration and receive an approved Security Plan and compliance with this Ordinance prior to operations.

h. Co-location and stacking of Grower licenses shall be permitted up to, but not beyond, any applicable lot coverage limitations set forth in this Ordinance and the City of Marshall Zoning Ordinance.

i. All buildings and structures shall be subject to inspection at any time by the City Fire Department to insure compliance with all applicable statutes, codes and ordinances.

(2) Marihuana Processor License:

a. The location at which a Processor establishment 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 § 3.19-20. The City will restrict locations and only one Marihuana Processor establishment license shall be permitted per parcel or lot. Processor establishment, as measured from the property lot line, shall not be within 2,640 feet of another grow establishment or processing establishment licensed under the MRTMA, or grow or processing facility licensed under the MMFLA.

b. All Processor establishments and operations must be within an enclosed, secured structure.

c. A licensee may occupy the same premises if holding a Grower and Processor license for the premises, and otherwise consistent with the Act, and any LARA rules.

d. A Processor license authorizes the purchase of marihuana only from a Grower and sale of marihuana-infused products or marihuana only to a marihuana retailer, unless otherwise provided for under LARA rules.

e. An applicant and each investor in a processor license shall not have an interest in a secure transporter, safety compliance establishment or microbusiness.

f. A processor shall comply with all of the following:

- 1) Location of this establishment shall be permitted up to, but not beyond, any applicable lot coverage limitations set forth in the City of Marshall Zoning Ordinance.
- 2) An approved Security Plan.
- 3) Enter all transactions, current inventory, and other information as required by the MRTMA, LARA rules, the Marihuana Tracking Act, and all other applicable laws and regulations.
- 4) Transfer marihuana and marihuana-infused products only by means of a secure transporter, or in compliance with LARA rules.
- 5) Processor shall not produce any products other than useable marihuana products intended for human consumption.

(3) Marihuana Secure Transporter License:

a. The location at which a secure transporter stores marihuana and transports marihuana from is a permitted use in the following districts: I-1 and I-2, as provided by and subject to the requirements of the Zoning Code § 3.19-20.

b. Secure Transporter must meet the following requirements:

- 1) An approved Security Plan; and
- 2) Location of this license shall be permitted up to, but not beyond, any applicable lot coverage limitations set forth in the City of Marshall Zoning Ordinance.

c. Secure Transporter license is limited to the storage and transport of marihuana, marihuana-infused products and money associated with the purchase or sale of marihuana and marihuana-infused products between marihuana establishments at the request of a person with legal custody of the marihuana, marihuana-infused products, or money.

e. An applicant and each investor with an interest in a secure transporter license cannot have an interest in a grower, processor, marihuana retailer, marihuana microbusiness or safety compliance facility.

f. Secure Transporter which operates from a marihuana establishment located within the City shall secure a license from the City.

g. Secure transporter shall comply with all of the following:

- 1) Each driver operating pursuant to this section shall have a valid chauffeur's license issued by the State of Michigan.
- 2) Each vehicle must be operated with a 2-person crew with at least 1 individual remaining with the vehicle at all times during the transportation of marihuana or marihuana-infused product.
- 3) A route plan and manifest shall be entered into the statewide monitoring system, and a copy shall be carried in the transporting vehicle and presented to a law enforcement officer upon request.
- 4) The marihuana and marihuana-infused products shall be transported in one or more sealed containers and shall not be accessible while in transit.
- 5) A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana or marihuana-infused products to determine compliance with this Ordinance and the Act.
- 6) A secure transporter shall enter all transactions, current inventory, and other information into the statewide monitoring system if such is required by the Act, LARA rules, or the Marihuana Tracking Act.
- 7) A secure transporting vehicle shall not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.
- 8) When determining and reporting the route to take, a secure transporter shall select the most direct route that provides efficiency and safety.

(4) Marihuana Safety Compliance Facility License:

a. The location at which a safety compliance facility tests marihuana and marihuana-infused 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 Code § 3.19-20. The City will allow up to a total of two (2) state-approved and licensed safety compliance facilities in zoning districts: I-1 and I-2, combined.

b. Safety Compliance facility must meet the following requirements:

- 1) An approved Security Plan; and

- 2) Location of this license shall be permitted up to, but not beyond, any applicable lot coverage limitations set forth in the City of Marshall Zoning Ordinance.
- c. All testing must be conducted within an enclosed, secured structure and consistent with the provisions of the Act and any LARA rules.
- d. A licensed safety compliance establishment is authorized to:
  - 1) Take marihuana from, test marihuana for, and return marihuana to only a licensed marihuana grower, marihuana processor, marihuana retailer, or marihuana microbusiness.
  - 2) Collect a random sample of marihuana at the marihuana establishment of a marihuana grower, marihuana processor, marihuana retailer, or marihuana microbusiness for testing.
- e. A safety compliance establishment must be accredited by an entity approved by the agency by 1 year after the date the license is issued or have previously provided drug testing services to this state or this state's court system and be a vendor in good standing in regard to those services. The agency may grant a variance from this requirement upon a finding that the variance is necessary to protect and preserve the public health, safety, or welfare.
- f. An applicant and each investor with any interest in a safety compliance establishment cannot have an interest in a grower, secure transporter, processor, marihuana retailer or marihuana microbusiness.
- g. A safety compliance establishment shall comply with all of the following:
  - 1) Perform safety tests to certify that marihuana is reasonably free of known contaminants in compliance with the standards established by the agency.
  - 2) Use validated test methods to perform all safety tests and to determine tetrahydrocannabinol (THC), tetrahydrocannabinol acid (THC-A), cannabidiol (CBD), and cannabidiol acid (CBD-A) concentrations.
  - 3) Perform other tests necessary to determine compliance with any other good manufacturing practices as prescribed in LARA rules.
  - 4) Enter all transactions, current inventory, and other information into the statewide monitoring system as required by the Act, LARA rules, or the Marihuana Tracking Act.

- 5) Have a secured laboratory space that cannot be accessed by the general public.
- 6) Retain and employ at least 1 laboratory manager with a relevant advanced degree in a medical or laboratory science, to include, but not limited to ensure compliance with the Act and LARA rules.

**§ LICENSE REQUIRED.**

(A) No person shall establish or operate a marihuana establishment or marihuana commercial entity in the City without a valid municipal license issued by the City and a State license for each such establishment to be operated. License certificates shall be kept current and publicly displayed within the establishment.

(B) City licenses are required as follows:

- (1) A nonrefundable application fee per license in the amount as permitted by the Act and its regulations, as established by City Resolution, must be paid to defray administrative and review costs associated with processing an application for a marihuana establishment. If more than one type of marihuana license is to be located at a specified location, each proposed establishment shall require a separate license application and fee.
- (2) The nonrefundable application fee required under this section shall be due and payable upon submission of the application.
- (3) The application fee requirement set forth in this section shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or City law or ordinance, including, by way of example, any applicable zoning or building permits.
- (4) The issuance of any license pursuant to this section does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marihuana under federal law.
- (5) Licenses may be allowed to be stacked for multiple uses per premise, subject to the City's determination that such uses are compatible together at that location, are consistent on a shared basis with all the provisions of the MRTMA and applicable rules, and each use is consistent with zoning and other provisions of the City Code of Ordinances, including but not limited to this Ordinance and the Zoning Ordinance. If those conditions are met, more than one different marihuana



establishment licensee may be located on one parcel, as permitted under this Ordinance.

**§ GENERAL LICENSE APPLICATION REQUIREMENTS.**

(A) A person seeking a license pursuant to the MRTMA and the provisions of this Ordinance shall submit an application to the City on City-issued forms. At the time of application, each applicant shall pay a nonrefundable license application fee as provided in this Ordinance to defray the costs incurred by the City for background investigations and inspection of the proposed premises, as well as any other costs associated with the processing of the application. In addition, the applicant shall present a suitable form of government-issued identification.

(B) The application shall also provide the following information in this subsection, under the penalty of perjury, on the City-issued forms. Such information is required for the applicant, the proposed manager of the marihuana establishment and commercial entity, and all persons who are in the marihuana commercial entity that is the subject of the application:

- (1) If the applicant is an individual, the applicant's name, date of birth, Social Security number, physical address, including residential and any business address; copy of government-issued photo identification, email address, one or more phone numbers, including emergency contact information; and, if applicable, federal tax identification number of the applicant.
- (2) If the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, and proof of registration with, or a certificate of good standing from, the State of Michigan, as applicable.
- (3) The identity of every applicant and person having any ownership interest in the establishment with respect to which the license is sought.
- (4) If the 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 marihuana establishment.
- (5) A copy of any deed reflecting the applicant's ownership of, or lease reflecting the right of the applicant to possess, or an option reflecting the applicant's right to purchase or lease, the proposed licensed premises.
- (6) Three (3) stamped or sealed 24 inch by 36 inch drawing of the proposed licensed premises showing, without limitation, building layout, all entryways and exits,

ingress and egress to the proposed licensed premises, loading zones and all areas in which marihuana will be grown, manufactured, processed, stored, or dispensed.

- (7) A location area map of the marihuana establishment and surrounding area that identifies the relative locations and the distances (closest property line to the subject marihuana establishment's building/structure) to the closest real property comprising a school or City park.
- (8) A comprehensive operation plan for the marihuana establishment which shall contain, at a minimum, the following:
  - a. A security plan, consistent with the definition of Security Plan within this Ordinance, indicating how the applicant will comply with the requirements of this Ordinance and any other applicable law, rule, or regulation.
  - b. For grower and processing establishments, a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the City.
  - c. A lighting plan showing the lighting outside of the marihuana establishment for security purposes and compliance with applicable City requirements.
  - d. A plan for disposal of any marihuana or marihuana-infused product that is not sold to a customer, in a manner that protects any portion thereof from being possessed or ingested by any person or animal.
  - e. A plan for ventilation of the marihuana establishment that describes the ventilation systems that will be used to prevent any odor of marihuana off the premises of the business. For marihuana establishments that grow marihuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises. For marihuana businesses that produce marihuana-infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.
  - f. A description of all toxic, flammable, or other materials regulated by a federal, state, or local authority that will be used or kept at the marihuana business, the location of such materials, and how such materials will be stored.

g. For grower and processing establishments, an applicant must submit electrical plans including projected peak loads and seasonal 24-hour load profiles to the City of Marshall Electric Department for an electric system load impact analysis. Applicant may be required to prepay costs associated the City's electric system enhancements that are necessary to meet to the applicant's annual electrical requirements. The associated costs may include but are not limited to:

- 1) Electric primary/secondary lines and supporting structures upgrades.
- 2) The cost of special electric transformers to accommodate the load.
- 3) The cost of all labor/material/equipment necessary to perform the upgrades.
- 4) The City of Marshall Electric Department reserves the right to deny or curtail electric service to any applicant based on the applicant's failure to meet the load acceptance review or to load requirements that cause the City of Marshall's electric system harmonic distortion, voltage fluctuations, power factor degradation or any other electric use that causes a negative impact on the City of Marshall's electric system.

h. For grower and processing establishments, an applicant must submit water main plans including projected peak daily and seasonal 24-hour water usage requirements to the City of Marshall Water Department for a review of the city's water model. Applicant may be required to construct the needed water system to city standards at their cost. Design will be required by the Developer's Engineers with reviews by city staff. Should this new water main be required to become part of the city's water system all required permits shall be submitted with the required plans and profiles to city staff for submittal to the State of Michigan. No installation of water mains shall be completed prior to receipt of the proper permits from the State.

The associated costs may include but are not limited to:

- 1) Connection Fees per City Ordinances.
- 2) Costs for analysis and review of the city's water model.
- 3) Costs for any required flow testing.

- 4) The City of Marshall Water Department reserves the right to deny or curtail water service to any applicant based on the applicant's failure to meet the requirements of the City of Marshall's water system or any other use that causes a negative impact to the City of Marshall's water system.
- (9) Prior to making a modification to a structure that would require a building permit or which would alter or change items required by this subsection, the licensee shall submit to the City detailed construction drawings showing at minimum, a full site plan, interior and exterior lighting requirements, the full mechanical heating and ventilation plan, a detailed security plan, before and after floor plans and specifications, non-rated and rated separation details and locations, accessible route from the public way to the accessible entrance, accessible route to the primary function and within the facility and accessible bathrooms. The licensee shall make application for a plan review and a building permit for the modifications to the premises, on forms provided by the City. Additional specifications may be required. A building or structure hereafter constructed or renovated for use as a marijuana establishment shall not be used or occupied in whole or in part until a certificate of use and occupancy has been issued by the City.
- (10) Proof of Insurance. A licensee shall at all times maintain 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 per occurrence and a \$2,000,000 aggregate limit issued from a company licensed to do business in Michigan. A licensee shall provide evidence to the City Clerk of the ability to obtain a certificate of insurance for a valid and effective policy which discloses the limits of each policy, the name of the proposed insurer, the effective date and expiration date of each policy, the policy number, and the names of the additional insureds. When issued, the policy shall name the City of Marshall and its officials and employees as additional insureds to the limits required by this section. A licensee or its insurance broker shall notify the City of any cancellation or reduction in coverage within seven days of receipt of insurer's notification to that effect. The licensee, permittee, or lessee shall forthwith obtain and submit proof of substitute insurance to the City Clerk within 5 business days in the event of expiration or cancellation of coverage.

- (11) Whether an applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or controlled-substance-related misdemeanor, not including traffic violations, regardless of whether the offense has been reversed on appeal or otherwise, including the date, the name and location of the court, arresting agency, and prosecuting agency, the case caption, the docket number, the offense, the disposition, and the location and length of incarceration. Prior criminal history will be addressed/considered consistent with the provisions of the MRTMA, including but not limited to MCL 333.27958(1)(c).
- (12) Whether an applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.
- (13) Whether an applicant has filed, or been served with, a complaint or other notice filed with any public body, regarding the delinquency in the payment of, or a dispute over the filings concerning the payment of, any tax required under federal, state, or local law, including the amount, type of tax, taxing agency, and time periods involved.
- (14) A description of the type of marihuana establishment; and the anticipated or actual number of employees.
- (15) An acknowledgment and consent that the City may conduct a background investigation, including a criminal history check, and that the City will be entitled to full and complete disclosure of all financial records of the marihuana commercial entity, including records of deposit, withdrawals, balances and loans; and
- (16) Any additional information that the City Manager's Office or Police Department reasonably determines to be necessary in connection with the investigation and review of the application.

(C) Consistent with the MRTMA, including but not limited to MCL 333.27959(7), and the Freedom of Information Act, MCL 15.231 et seq., the information provided to the City Clerk pursuant to this section relative to licensure is exempt from disclosure.

(D) All marihuana establishment and marihuana commercial entities shall obtain all other required permits or licenses related to the operation of the marihuana commercial entity, including,

without limitation, any development approvals or building permits required by any applicable code or ordinance.

(E) If a deficiency is identified in an application, the applicant shall have ten (10) business days to correct the deficiency after notification.

(F) Upon an applicant's completion of the above-provided form and furnishing of all required information and documentation, the City Clerk shall accept the application and assign it an application number by establishment type.

(G) Upon receipt of a completed application, the City Clerk shall circulate the application to the City Manager's Office, Marshall Police and Fire Departments, City Attorney, Assessing Department, Department of Public Works, Planning and Zoning Department, and the Electric Department (as well as any other City department that the Office of the City Manager may determine is pertinent to review of such applications) to determine whether the application is in full compliance with all applicable laws, rules and regulations.

(H) License Evaluation Criteria. Section 9 of the Act requires that the City establish a competitive process to select applicants who are best suited to operate in compliance with the Act and this Ordinance when a municipality limits the number of marihuana establishments that may be licensed in the municipality. In the event that the City receives more applications for a marihuana establishment than available and permitted by this Ordinance, the City requires that applicants submit a business plan including:

- (1) The applicant's experience in operating other licensed marihuana businesses in Michigan.
- (2) The applicant's general business management experience.
- (3) An estimate of the number and type of jobs that the marihuana establishment is expected to create and the amount and type of compensation expected to be paid for such jobs.
- (4) A current organizational chart that includes position descriptions.
- (5) Planned tangible capital investment in the City, including if multiple licenses are proposed, an explanation of the economic benefits to the City with supporting factual data.
- (6) If a Marihuana Grower Establishment is proposed, the number of plants anticipated.
- (7) Financial structure and financing of the proposed marihuana establishment(s).

## **§ DENIAL OF APPLICATION.**

(A) The City Clerk, following recommendations from the above-referenced departments, shall reject any application that does not meet the requirements of the MRTMA, the rules promulgated by LARA, this Ordinance, the City Code of Ordinances, Zoning Ordinance, or other applicable law or regulations. The City Clerk shall reject any application that contains any false, misleading or incomplete information.

(B) Subject to the provisions of the MRTMA, an applicant is ineligible to receive a license under this Ordinance if any of the following circumstances exist regarding the applicant:

- (1) Conviction that involved distribution of a controlled substance to a minor.
- (2) The applicant knowingly submitted an application for a license that contains false, misleading or fraudulent information, or who has intentionally omitted pertinent information on the application for a license.
- (3) The applicant is an employee, advisor, or consultant of the agency involved in the implementation, administration, or enforcement of the act or these rules pursuant to section 7 of the act, MCL 333.27957.
- (4) The applicant holds an elective office of a governmental unit of this state, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit in this state, another state, or the federal government; or is employed by a governmental unit of this state. This subdivision does not apply to an elected officer of or employee of a federally recognized Indian tribe or to an elected precinct delegate.
- (5) Conviction of or release from incarceration for a felony under the laws of this state, any other state, or the United States within the past 10 years, except that, consistent with MCL 333.27958(1)(c), a prior conviction solely for a marihuana-related offense does not disqualify an individual or otherwise affect eligibility for licensure, unless the offense involved distribution of marihuana to a minor.
- (6) Other than as set forth in MCL 333.27958(1)(c), within the past 5 years, conviction of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or having been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state.
- (7) The applicant fails to provide and maintain adequate premises liability and casualty insurance for its proposed marihuana establishment.
- (8) The applicant does not meet the MRTMA provisions concerning eligible license applicants, including but not limited to the provisions of subsections (6) - (7), and

MCL 333.27959, which set forth time periods within which only certain applicants may obtain licenses.

- (9) The applicant is an owner of, or has an interest in, such business or entity which, pursuant to the provisions of MCL 333.27959(3)(d), would make the applicant ineligible for the license for which the applicant has applied, or the applicant otherwise fails to meet other criteria established by state law.

**§ ISSUANCE OF CITY MARIHUANA ESTABLISHMENT OPERATING LICENSE.**

(A) Inspection. An inspection of the proposed marihuana establishment by the City shall be required prior to issuance of the City operating license. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any marihuana, and prior to the opening of the business to the public. The inspection is to verify that the business establishments are constructed and can be operated in accordance with the application submitted and the applicable requirements of this Ordinance and any other applicable law, rule, or regulation.

(B) After verification that the marihuana establishment is constructed and can be operated in accordance with the application submitted and the applicable requirements of this Ordinance and any other applicable law, rule, or regulation, the City Clerk shall issue a City operating license whose term shall run concurrent with the State operating license for the establishment.

(C) Maintaining a valid marihuana establishment license issued by the State is a condition for the issuance and maintenance of the City operating license issued under this Ordinance and the continued operation of any marihuana establishment.

**§ LICENSE FORFEITURE.**

In the event that a marihuana establishment does not commence operations within one year of issuance of a City operating license, the license shall be deemed forfeited; the business may not commence operations and the license is not eligible for renewal.

**§ LICENSE RENEWAL.**

(A) A City marihuana establishment operating license shall run concurrently with the State operating marihuana license issued for the establishment, unless revoked as provided by law.

(B) An annual nonrefundable operating license fee must be paid to defray the administrative and enforcement costs associated with the operating license for a marihuana establishment located in the City. A nonrefundable operating license fee will be in an amount as permitted by the Act and its regulations, as established by City Resolution. An application to renew a marihuana establishment operating license shall be filed at least thirty (30) days prior to the date of its expiration.



(C) Prior to the issuance of a renewed marihuana establishment license by the City, the premises shall be inspected to assure that it and its systems are in compliance with the requirements of this Ordinance and the City Code of Ordinances.

**§ TRANSFER, SALE OR PURCHASE OF LICENSE.**

(A) An operating license is valid only for the owner named thereon, the type of business disclosed on the application for the license, and the location for which the license is issued. The licensees of a marihuana establishment license are only those persons disclosed in the application or subsequently disclosed to the City in accordance with this Ordinance.

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

- (1) Change in owners, officers, members, or managers.
- (2) Change of location. Upon notification of a change in location the department may determine that a new license and new inspection are required for the change of location.
- (3) The addition or removal of persons named in the application or disclosed.
- (4) Change in entity name.
- (5) Any attempted transfer, sale, or other conveyance of an interest in a license.

**§ LICENSE AS REVOCABLE PRIVILEGE.**

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

**§ NONRENEWAL, SUSPENSION OR REVOCATION OF LICENSE.**

(A) The City Manager may, after notice and hearing, suspend, revoke or refuse to renew a license for any of the following reasons:

- (1) The applicant or licensee, or his or her agent, manager or employee, has violated, does not meet, or has failed to comply with, any of the terms, requirements,

conditions or provisions of this Ordinance or with any applicable state or local law or regulation;

- (2) The applicant or licensee, or his or her agent, manager or employee, has failed to comply with any special terms or conditions of its license pursuant to an order of the state or local licensing authority, including those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the license; or
- (3) The marihuana establishment or marihuana commercial entity has been operated in a manner that adversely affects the public health, safety or welfare.

(B) Evidence to support a finding under this section may include, without limitation, a continuing pattern of conduct, a continuing pattern of drug-related criminal conduct within the premises of the marihuana establishment or marihuana commercial entity or in the immediate area surrounding such business, a continuing pattern of criminal conduct directly related to or arising from the operation of the marihuana establishment or marihuana commercial entity, or an ongoing nuisance condition emanating from or caused by the marihuana establishment or marihuana commercial entity. Criminal conduct shall be limited to the violation of a state law or regulation or City ordinance.

(C) Questions that arise in the administration of this Ordinance, including appeals of suspension and revocations of City operating licenses, shall be determined pursuant to Title XI of the City Code.

## **§ COMPLIANCE WITH RULES; INSPECTIONS.**

(A) A licensee shall strictly comply with the rules and emergency rules related to marihuana that may from time to time be promulgated by the Department.

(B) If it is determined that the Marihuana Tracking Act applies, or LARA promulgates rules or regulations which require such, a licensee shall adopt and use the statewide monitoring system of inventory control and tracking authorized by the Marihuana Tracking Act so as to provide the capability for the licensee to comply with the State requirements applicable to the type of license held by the licensee.

(C) A marihuana establishment and all articles of property in the establishment are subject to inspection, search and examination at any time by a member of the Marshall Police Department, the Michigan State Police or other law enforcement agency having jurisdiction.

(D) Any failure by a licensee to comply with department rules or the provisions of this Ordinance and any infraction or violation, however slight, is sufficient grounds for suspension and revocation of licensure under this Ordinance.

**§ SIGNAGE AND ADVERTISING.**

(A) All signage and advertising for a marihuana establishment shall comply with all applicable provisions of this Ordinance and applicable City ordinance and Codes. In addition, it shall be unlawful for any licensee to:

- (1) Use advertising material that is misleading, deceptive or false or that, as evidenced by the content of the advertising material or by the medium or the manner in which the advertising material is disseminated, is designed to appeal to minors; and
- (2) Advertise in a manner that is inconsistent with the provisions of this Ordinance, the MRTMA or LARA rules.

**§ MARIHUANA ESTABLISHMENTS; SECURITY REQUIREMENTS AND LIMITATIONS.**

(A) Security measures at all licensed premises shall comply with the requirements of this Ordinance and the MRTMA, including but not limited to MCL 333.27961, and all applicable rules and regulations promulgated by the department.

(B) A description of the Security Plan shall be submitted with the application for a City operating license. The security system, shall be maintained in good working order and provide twenty-four hours per day coverage. A separate security system is required for each establishment.

(C) The Security Plan must include, at a minimum, the following security measures:

- (1) **Cameras.** The marihuana establishment shall install and use security cameras to monitor and record all areas of the premises (except in restrooms) where persons may gain or attempt to gain access to marihuana or cash maintained by the marihuana business entity. Cameras shall record operations of the business to an off-site location, as well as all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of thirty (30) days in a secure off-site location in the City or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The off-site location shall be included in the security plan submitted to the City and provided to the Police Department upon request, and updated within seventy-two hours of any change of such location.
- (2) **Use of safe for storage.** The marihuana establishment and commercial business shall install and use a safe for storage of any processed marihuana and cash on the premises when the business is closed to the public. The safe shall be incorporated

into the building structure or securely attached thereto. For marihuana-infused products that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the City in place of the use of a safe so long as the container is affixed to the building structure.

- (3) Alarm system. The marihuana establishment and commercial business shall install and use an alarm system that is monitored by a company that is staffed twenty-four hours a day, seven days a week. The Security Plan submitted to the City shall identify the company monitoring the alarm, including contact information, and updated within seventy-two hours of any change of monitoring company.

## **§ VISIBILITY OF ACTIVITIES; CONTROL OF EMISSIONS.**

(A) All activities of marihuana establishment and commercial entities, including, without limitation, the cultivating, growing, processing, sale (where permitted), displaying, manufacturing, selling, and storage of marihuana and marihuana-infused products shall be conducted consistent with the MRTMA, including but not limited to MCL 333.27961 concerning activities to be conducted outside of public view.

(B) No marihuana or marihuana accessories shall be displayed or kept in a business so as to be visible from outside the licensed premises.

(C) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a marihuana establishment and commercial entity must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a marihuana establishment and/or commercial entity, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

## **§ MARIHUANA CULTIVATION.**

(A) Cultivation, generally.

- (1) Marihuana cultivation shall be conducted consistent with this Ordinance, the MRTMA, including but not limited to MCL 333.27961, and any LARA rules, within an enclosed, secured structure; and
- (2) Marihuana cultivation shall comply with all applicable requirements of the laws and regulations of the City and the State.

(B) All marihuana products kept on premises where marihuana plants are grown shall be stored in a locked and enclosed space.

(C) All exterior and interior lighting shall meet the requirements of City Ordinances, the Michigan Building Code and the National Electrical Code.

(D) No marihuana cultivation activity shall result in the emission of any gas, vapors, odors, smoke, dust, heat or glare that is noticeable at or beyond the property line of the dwelling at which the cultivation occurs. Sufficient measures and means of preventing the escape of such substances from a dwelling must be provided at all times. In the event that any gas, vapors, odors, smoke, dust, heat or glare or other substances exit a dwelling, the owner of the subject premises shall be liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The owner shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. In the event there is a lessee of the subject premises, the owner and the lessee shall be jointly and severally liable for such conditions.

#### **§ ODOR CONTROL.**

(A) No person, tenant, occupant, or property owner shall permit the emission of marihuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.

(B) Whether or not a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.

(C) A grower or a processor shall install and maintain in operable condition a system which precludes the emission of marihuana odor from the premises.

#### **§ SEPARATION OF LICENSED PREMISES.**

(A) A grower establishment and processor establishment are separate marihuana commercial entities requiring separate licenses, and separate premises unless co-located. In addition to all other application requirements for separate premises, each facility shall:

- (1) Have separate operations, ventilation, security, and fire suppression systems, and separate access from a public area.
- (2) Be divided within a building from floor to roof.

#### **§ PROHIBITED ACTS.**

(A) It shall be unlawful for a marihuana retailer, or similar type entity, or a marihuana microbusiness, or similar entity, to locate and operate with the boundaries and jurisdiction of the City.

(B) It shall be unlawful for a temporary marihuana event, or similar marihuana event, and designated consumption establishment, or similar entity, to locate and operate with the boundaries and jurisdiction of the City.

(C) It shall be unlawful for any licensee to permit the consumption of alcohol beverages on the licensed premises.

(D) It shall be unlawful for any licensee to permit the consumption of retail marihuana or retail marihuana products on the licensed premises.

**§ REPORTS OF CRIME.**

Reports of all criminal activities or attempts of violation of any law at the marihuana establishment or related thereto shall be reported to Marshall Police Department within twelve hours of occurrence, or its discovery, whichever is sooner.

**§ INSPECTION OF LICENSED PREMISES.**

(A) During all business hours and other times when the premises are occupied by the licensee or an employee or agent of the licensee, all licensed premises shall be subject to examination and inspection by the Marshall Police Department and all other City departments for the purpose of investigating and determining compliance with the provisions of this Ordinance and any other applicable state and local laws or regulations.

(B) Consent to Inspection. Application for a marihuana business license or operation of a marihuana business, or leasing property to a marihuana business, constitutes consent by the applicant, and all owners, managers, and employees of the business, and the owner of the property to permit the City Manager or designee to conduct routine examinations and inspections of the marihuana business to ensure compliance with this Ordinance or any other applicable law, rule, or regulation. For purposes of this Ordinance, examinations and inspections of marihuana businesses and recordings from security cameras in such businesses are part of the routine policy of enforcement of this Ordinance for the purpose of protecting the public safety, individuals operating and using the services of the marihuana business, and the adjoining properties and neighborhood.

(C) Application for a marihuana establishment business license constitutes consent to the examination and inspection of the business as a public premise without a search warrant, and consent to seizure of any surveillance records, camera recordings, reports, or other materials required as a condition of a marihuana establishment license without a search warrant.

(D) A licensee, or an employee or agent of the licensee, shall not threaten, hinder or obstruct a law enforcement officer or a City inspector or investigator in the course of making an examination or inspection of the licensed premises and shall not refuse, fail, or neglect to cooperate with a law enforcement officer, inspector, or investigator in the performance of his or her duties to enforce this Ordinance, the MRTMA, or applicable state rules.

**§ OTHER LAWS REMAIN APPLICABLE.**

To the extent the State adopts in the future any additional or stricter law or regulation governing the sale or distribution of marihuana, the additional or stricter regulation shall control the establishment or operation of any marihuana commercial entity in the City. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Ordinance, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

**§ GRANT OF ADMINISTRATIVE AUTHORITY.**

The City Manager is granted the power and duty to fully and effectively implement and administer the license application process and issuance of licenses issued by the City under this Ordinance.

**§ VIOLATIONS AND PENALTIES.**

(A) In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Ordinance, consistent with MCL 333.27956(2)(d), any person or marihuana establishment, including, but not limited to, any licensee, manager or employee of a marihuana commercial entity, who violates any of the provisions of this Ordinance, shall be responsible for a municipal civil infraction and a fine of not more than \$500, or as permitted by law.

(B) In addition, any person, including any person, customer or member of the public, who violates the provisions of section 4 of the Act, MCL 333.27954, and who acts in a manner contrary to the acts prohibited therein, except as may be otherwise provided in MCL 333.27965, shall be guilty of a misdemeanor.

(C) Notwithstanding the above, to the extent any violation or penalty set forth herein may be deemed inconsistent with any State law, or inconsistent with any rule or penalty which is promulgated by the department, now or hereafter, including but not limited to those promulgated pursuant to MCL 333.27958, then the state law or department rule or penalty shall govern over the provisions of this Ordinance, as determined by state preemption.

(D) A violation of this Ordinance is deemed to be a nuisance, per se. In addition to any remedies available at law, the City may bring an action for an injunction or other process against any person to restrain, prevent or abate any violation of this Ordinance.

(E) Each day on which any violation of this Ordinance occurs or continues constitutes a separate offense, subject to separate sanctions. The paying of a fine or sanctions under this Ordinance shall not exempt the offender from meeting the requirements of this Ordinance.

(F) In addition, the City may seek injunctive relief against persons alleged to be in violation of this Ordinance, and such other relief as may be provided by law.

(G) This Ordinance shall be administered and enforced by the Office of the City Manager or by such other person (s) as designated by the City Manager.

## **§ ADDITIONAL PROVISIONS.**

(A) Notwithstanding any provision herein, to the extent it may be determined that any provision in this Ordinance is in conflict with either the MRTMA, or the rules and regulations of LARA, or other provisions of law, then such provision of this Ordinance as is in conflict shall be subject to and preempted by the rule or provision of law of this State.

(B) Consistent with the provisions of the MRTMA, nothing herein shall prevent any employer from disciplining any employee for violation of a workplace drug policy or for working while under the influence of marihuana, nor does anything in this Ordinance prevent an employer from developing workplace policies, or from refusing to hire a person because of that person's violation of a workplace drug policy.

(C) Consistent with the MRTMA, nothing in this Ordinance prevents a landlord from prohibiting or otherwise regulating the consumption, cultivation, distribution, processing, sale or display of marihuana and marihuana accessories on leased property except that a lease agreement may not prohibit a tenant from lawfully possessing and consuming marihuana by means other than smoking as set forth in the MRTMA and the LARA rules.

## **§ SEVERABILITY**

The provisions of this Ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect. The provisions herein shall be construed as not interfering or conflicting with the statutory regulations for licensing recreational (adult use) marihuana establishments pursuant to Initiated Law 1 of 2018, as amended.




§ **EFFECTIVE DATE.**

This Ordinance shall become on 30 days after publication and recording as required by law.

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.

Adopted and signed this 16<sup>th</sup> day of September, 2019.

  
\_\_\_\_\_  
Joe Caron, 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 September 16, 2019, 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