

Updated by Benjamin Marentette on 3/12/20; Updated by Lauren Tribble-Laucht on 3/20/20 and 7/20/20; updated by Benjamin Marentette on 7/29/20. Updated by LTL 8/6/20; Updated by LTL 8/19/20 Updated by LSB 8/21/20

## TRAVERSE CITY CODE OF ORDINANCES

### ORDINANCE AMENDMENT NO. 1137

Effective date: August 27, 2020

TITLE: Adult Use Marijuana Permitting Regulations

THE CITY OF TRAVERSE CITY ORDAINS:

That Chapter 843, of the Traverse City Code of Ordinances, be enacted/amended to read in its entirety as follows:

#### **843.01. - Findings and purpose.**

- (a) The purpose of this chapter is, pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq., to: authorize the establishment of certain types of adult-use marihuana establishments in the City of Traverse City; provide for standards and procedures for the review, issuance, renewal, or revocation of permits for such establishments; and establish fees for such permits.
- (b) Nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for the growing, sale, consumption, use, distribution or possession of marihuana in any form or manner that is not in compliance with the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq., and all other applicable rules and regulations promulgated by the state of Michigan.
- (c) Because federal law is not affected by state law or rules, nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this code, is intended to grant, nor shall any provision of this chapter or this code, be construed as granting immunity from criminal prosecution under federal law. The Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq., and all other applicable rules promulgated by the state of Michigan do not protect licensees, or the owners or occupants of properties on which the adult-use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.
- (d) The City intends to issue permits for and to regulate marihuana establishments to the extent they are permitted under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq. The City does not intend that permitting and regulation under this chapter be construed as a finding that such establishments comply with any law. By requiring a City permit and compliance with the requirements of this chapter, the City intends to protect the public health, safety and welfare by: promoting the safe, regulated manufacturing, production, and sale by state-licensed establishments of adult-use marihuana, and to ensure the safe access to adult-use marihuana to adults age twenty-one and older; discouraging the sale of unsafe and

unlicensed marihuana products; preserving and protecting the health, safety and welfare of the residents of the City and the general public by minimizing unsafe and unregulated marihuana production and sale; and establishing standards and procedures by which the siting, operation, and maintaining of an Adult-Use Marihuana Establishment shall be governed.

- (e) This chapter is to be construed to protect the public over adult-use marihuana establishment interests. The operation of a licensed adult-use marihuana establishment is a revocable privilege and not a right in the City. Nothing in this chapter is to be construed to grant a property right for an individual or business entity to engage, obtain, or have renewed, a City-issued permit to engage in the use, distribution, cultivation, production, possession, transportation or sale of adult-use marihuana as a commercial enterprise in the City.
- (f) Marihuana use, distribution, cultivation, and production can have an impact on health, safety, and community resources. This chapter is intended to permit marihuana cultivation, distribution, production, and testing where it may have minimal impact and potential negative impacts are minimized. The State of Michigan has adopted enabling legislation that provides for local permitting, however the State law is not intended to, and does not, address the local impacts of adult-use marihuana operations, making it appropriate for local regulation of adult-use marihuana establishments.
- (g) Adult-use marihuana businesses are a highly regulated industry in the City. All licensees are assumed to be fully aware of the law. The City shall not therefore be required to issue warnings before taking actions to address violations of this code.
- (h) This chapter is intended to specify the time, place and manner restrictions for operating an adult-use marihuana establishment in the City as specified in Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq.
- (i) The experience of the City in processing and enforcing medical marihuana licensing evidences that the provisions herein are capable and worthy of being carried out in practice by a reasonably prudent businessperson.
- (j) The City Commission has determined to allow adult-use marihuana establishment to operate within the City on the condition that the establishments are operated in compliance with this code rather than banning adult-use marihuana establishments in the City as permitted by Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq.

#### **843.02. - Indemnification of City.**

- (a) By accepting a permit issued pursuant to this chapter, the 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 adult use marihuana establishment owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.
- (b) By accepting a permit issued pursuant to this chapter, the holder agrees 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 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 an adult-use marihuana establishment 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).

#### **843.03. - Reservation of legislative prerogative.**

- (a) The City Commission reserves the right to amend or repeal this chapter in any manner, including, but not limited to the complete elimination of any type or number of adult-use marihuana establishments authorized to operate in the City.
- (b) Nothing in this chapter may be held or construed to grant or "grandfather" any adult-use marihuana establishment a vested right, license, permit or privilege to continued operations within the City.
- (c) Nothing in this chapter may be held or construed to replace the medical marihuana regulations adopted by the City.

#### **843.04. - Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

- (1) *Act* means the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 MCL 333.27951 et seq., as amended.
- (2) *Applicant* means a person who applies for a state license:
  - (i) For purposes of this definition, an applicant includes a managerial employee of the applicant, a person holding a direct or indirect ownership interest of more than 10% 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 10% or less 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 10% or less 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 10% or less, 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 10% or less, and their spouses.
  - (G) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive more than 10% 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.
- (ii) For purposes of this definition, an applicant does not include:
- (A) A person who provides financing to an applicant or licensee under a bona fide financing agreement at a reasonable interest rate.
  - (B) A franchisor who grants a franchise to an applicant, provided that the franchisor does not have the right to receive royalties based upon the sale of marihuana or marihuana infused products by the applicant who is a franchisee. Nothing in this subrule shall be construed to preclude a franchisor from charging an applicant who is a franchisee a fixed fee. As used in this definition, the terms “franchise,” “franchisor,” and “franchisee” shall have the meanings set forth in section 2 of the Franchise Investment Law, 1974 PA 269, MCL 445.1502.
  - (C) A person receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation.
  - (D) A person receiving reasonable payment under a licensing agreement or contract approved by the agency concerning the licensing of intellectual property including, but not limited to, brands and recipes.
  - (E) A person who receives a percentage of profits as an employee if the employee does not meet the definition of “managerial employee” and the employee does not receive more than 10% of the gross or net profit from the licensee during any full or partial calendar or fiscal year.
  - (F) A person who receives a bonus as an employee if the employee is on a fixed wage or salary and the bonus is not more than 25% of the employee’s pre-bonus annual compensation or if the bonus is based upon a written incentive/bonus program that is not out of the ordinary for the services rendered.
- (3) *Building* means a combination of materials forming a structure affording a facility or shelter for use or occupancy by individuals or property. Building includes a part or parts of the building and all equipment of the building. A building shall not be construed to mean a building incidental to the use for agricultural purposes of the land on which the building is located, or a greenhouse.
- (4) *City* means the City of Traverse City, Michigan.
- (5) *City Manager* means the City Manager of the City of Traverse City
- (6) *City Clerk* means the City Clerk of the City of Traverse City.

- (7) *Designated consumption establishment* means a commercial space that is authorized by state license and City permit to allow adults 21 years of age and older to consume marihuana products at the location indicated on the state license and City permit.
- (8) *Duplicative application* means more than one application per property or more than one application submitted by the same applicant.
- (9) *Excess marihuana grower* means a licensee and permittee holding 5 class C marihuana grower licenses and licensed and permitted to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.
- (10) *Grower* means a licensee and permittee that is a commercial entity located in this City that is licensed and permitted to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.
- (11) *LARA* means the Michigan Department of Licensing and Regulatory Affairs.
- (12) *Licensee* means a person holding a state operating license issued under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 MCL 333.27951 et seq., as amended.
- (13) *Marihuana* means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.
- (14) *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 state and permitted to operate under the Act and this chapter.
- (15) *Marihuana event organizer* means a licensee and permittee who may apply for a temporary marihuana event license and permit pursuant to the Rules and this chapter.
- (16) *Marihuana microbusiness* means a licensee and permittee who may 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.
- (17) *Marihuana plant* means any plant of the species *Cannabis sativa* L.
- (18) *Marihuana product* means marihuana or marihuana-infused product, or both, as those terms are defined in the Act unless otherwise provided for in the Rules and this chapter.
- (19) *Marihuana retailer* means a licensee and permittee who may obtain marihuana from marihuana establishments to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.
- (20) *MMFLA* means Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., as amended.
- (21) *MRA* means Marihuana Regulatory Agency.
- (22) **Permit or Adult-Use Marihuana Establishment Permit** means the final permit issued by the City of Traverse City to a Permittee pursuant to this chapter.
- (23) *Permittee* means a person who has been issued an adult-use marihuana establishment permit pursuant to this chapter.
- (24) *Person* means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity, as well as those persons defined as applicants.
- (25) *Prequalified* means the applicant has submitted all information to LARA required by

Rule 420.3 and 420.4 and LARA has determined the applicant is approved for pre-qualification status. Proof of such determination by LARA shall be provided by the applicant to the City.

- (26) *Processor* means a licensee and permittee that is a commercial entity located in this City that obtains marihuana from marihuana establishments, processes and packages marihuana and sells or otherwise transfers marihuana to marihuana establishments.
- (27) *Proposed marihuana establishment* means a location at which an applicant plans to operate under the Act, Rules, and this chapter if the applicant is issued a state license, and a permit under this chapter.
- (28) *Qualified applicant* means an applicant whose application has not been denied as provided in this chapter and the zoning provisions of this code and has been approved by the City Clerk to participate in the competitive process for issuance of permits.
- (29) *Rules* mean the emergency and general rules of the Marihuana Regulatory Agency adopted pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 MCL 333.27951 et seq., as may be amended from time to time.
- (30) *Safety compliance facility* means a licensee and permittee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver or other authorized person, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility or other authorized person.
- (31) *Secure transporter* means a licensee and permittee that is a commercial entity located in this City that transports marihuana between marihuana establishments for a fee.
- (32) *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.
- (33) *State operating license* or *license* means a license that is issued pursuant to the Act that allows the licensee to operate as one of the following, specified in the license:
  - (i) A grower.
  - (ii) A processor.
  - (iii) A secure transporter.
  - (iv) A retailer.
  - (v) A safety compliance facility.
  - (vi) A microbusiness
  - (vii) An event organizer.
  - (viii) A temporary event.
  - (ix) A designated consumption establishment.
- (34) *Statewide monitoring system* or, unless the context requires a different meaning, “system” means an internet-based, statewide database established, implemented, and maintained by the agency that is available to licensees, law enforcement agencies, and other state departments, agencies, and financial institutions as authorized by the licensee. The system shall be available on a 24-hour basis for tracking marihuana transfer and sales and transportation by licensees, including transferee, date, quantity, and price.
- (35) *Temporary marihuana event* means a licensed and permitted event 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 and City permit

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during the dates indicated on the state license and City permit.

- (36) *Tracking Act* means the Marihuana Tracking Act, MCL 333.27901 et seq.
- (37) Unless the context requires a different meaning, any term used in this article that is defined by the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 MCL 333.27951 et seq., as amended.
- (38) Unless the context requires a different meaning, any term used in this article that is defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq. shall have the definition given in that act.
- (39) Unless the context requires a different meaning, any term used in this article that is defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in that act.
- (40) Unless the context requires a different meaning, any term used in this article that is defined by the Marihuana Tracking Act, MCL 333.27901 et seq. shall have the definition given in that act.

**843.05. - Number of permits.**

The maximum number of each type of adult-use marihuana establishment permit which may be issued in the City is as follows:

<b>Type of Permit</b>	<b>Number</b>
Grower	No limit
Processor	No limit
Secure Transporter	No limit
Retailer	4
Safety Compliance Facility	No limit
Microbusiness	2
Designated Consumption Establishment	0
Excess Marihuana Grower	0
Marihuana Event Organizer[LT1]	No limit

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Temporary Marihuana Event[LT2]	0
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**843.06. - Permit required.**

- (a) No person shall own or operate a marihuana establishment or conduct any activity authorized under the Act in the City without holding a valid Adult-Use Marihuana Permit from the City Clerk and a state operating license.
- (b) No person or entity that was open or operating any facility purporting to produce, manufacture, test, transfer or transport adult-use marihuana prior to the adoption of this chapter by the City Commission shall be considered a lawful use or lawful nonconforming use.
- (c) The permit requirement in this chapter shall be in addition to any other requirements imposed by any other state or local law, including but not limited to state or local laws applicable to commercial entities performing functions similar to the functions performed by adult-use marihuana establishments.
- (d) This chapter does not apply to, or regulate, any protected patient or caregiver conduct pursuant to the Michigan Medical Marihuana Act of 2008.
- (e) A permit issued under this chapter is valid only for the location of the establishment and type of establishment that is listed on the permit application and is valid only for the operation of the establishment at that location by the permit applicant, provided the establishment remains in compliance with all of the requirements of this chapter.
- (f) The revocation, suspension, and placement of restrictions by the state on a state operating license shall apply equally to a permit issued by the City.
- (g) Acceptance of a permit from the City under this chapter constitutes consent by the permittee, owners, managers and employees to permit the City Manager or designee to conduct inspections of the establishment to ensure compliance with this chapter.
- (h) A Marihuana establishment operating without a City permit under this Article or without a State license is declared to be a public nuisance.

**843.07. - Application for permit.**

- (a) Permit applications for adult-use marihuana establishments shall be received by the City Clerk during a period specifically designated by the City Clerk for that purpose, and at no other time.
- (b) Except as provided in this section, the City Clerk shall be responsible for establishing the procedure for receiving, reviewing and processing permits, establishing the beginning and ending dates during which permits will initially be received, establishing the beginning and ending dates during which permits may be received each year, and providing public notice regarding the permitting process and of the time period within which the City will receive permit applications.
- (c) Any person desiring to secure a permit shall make application to the City Clerk upon a form provided by the City Clerk. All permit applicants must be prequalified for an adult-



use marihuana establishment license by the Michigan Department of Licensing and Regulatory Affairs (LARA) before submitting an application. For 24 months after LARA begins to receive applications for adult-use marihuana establishments, the City Clerk shall only accept applications for adult-use marihuana establishment permits: for a class A marihuana grower or for a marihuana microbusiness, from persons who are residents of Michigan; for a marihuana retailer, marihuana processor, class B marihuana grower, class C marihuana grower, or a marihuana secure transporter, from persons holding a state operating license pursuant to the Medical Marihuana Facilities Licensing Act; and for a marihuana safety compliance facility or marihuana event organizer, from any applicant.

- (d) A copy of all applications received shall be distributed by the City Clerk to any other necessary City departments for review to determine that the application is complete. If an application is incomplete or missing information the City Clerk shall notify the applicant of the incomplete or missing information in writing by mail or electronic mail sent to the address provided by the applicant in the application for notification. The applicant shall have ten (10) business days from the date of mailing of the written notice to provide the incomplete or missing information to the City Clerk.
- (e) Information requested in the application shall be provided for each individual identified under the definition of applicant in the application;
- (f) The application for a permit shall include at a minimum the information and documentation listed below under oath:
  - (1) The name, business address, business telephone number, social security number, and, if applicable, federal tax identification number of the applicant.
  - (2) All residential addresses of the applicant for the past three years.
  - (3) The business, occupation or employment of the applicant for five years immediately preceding the date of application.
  - (4) A copy of the application submitted to LARA for prequalification and documentation evidencing that the applicant has been prequalified for an adult-use marihuana establishment license by LARA.
  - (5) Whether the applicant has been convicted of, pled guilty or nolo contendere to, or forfeited bail concerning, any offense that would disqualify it from being licensed by the State of Michigan for the activity for which the permit is requested within the past ten years.
  - (6) Whether the applicant has been convicted of, pled guilty or nolo contendere to, or forfeited bail concerning, a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state within the past five years.
  - (7) Whether the applicant has previously violated this chapter or a substantially similar chapter in another municipality preceding the date of the application.
  - (8) The address of the proposed marihuana establishment to be operated by the applicant.

- (9) Proof that the applicant has or will have lawful possession of the premises proposed for the marihuana establishment for the period during which the permit will be issued, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing, or letter of intent by the owner of the premises indicating an intent to lease the premises to the applicant contingent upon the applicant successfully obtaining a state operating license and local permit.
- (10) Whether 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.
- (11) The mailing address and electronic mailing address at which the applicant desires to receive notification under this chapter, and phone numbers at which the applicant desires to be contacted.
- (12) Whether the applicant has ever applied for or has been granted any commercial license or certificate issued by LARA or any other jurisdiction concerning marihuana 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 the applicant has an interest in any other application for a permit or approved permit under this chapter at the time of application.
- (14) Whether the applicant has an interest in any other marihuana facility under the MMFLA or marihuana establishment under the MRTMA, and if so the type of facility/establishment, name, and location of the facility/establishment the applicant has an interest in.
- (15) A statement that the applicant will not violate any of the laws of the State of Michigan or the ordinances of the City of Traverse City in conducting the business in which the permit will be used, and that a violation may be cause for nonrenewal of a permit issued under this chapter, or for revocation of the permit.
- (16) A statement that the applicant understands that the issuance of a permit under this chapter is not intended to grant, nor shall be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana in any form or manner that is not in compliance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., the Marihuana Tracking Act, MCL 333.27901 et seq., Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., and all other applicable rules promulgated by the State of Michigan, or from criminal prosecution or the seizure of property by federal authorities under the Federal Controlled Substances Act.
- (17) A statement that the applicant understands and agrees to be bound by the indemnification provision of this chapter.
- (18) A statement by the applicant indicating acceptance of a permit from the City under this chapter constitutes consent by the permittee, owners, managers and

- employees to permit the City Manager or designee to conduct inspections of the establishment to ensure compliance with this chapter.
- (19) A statement by the applicant indicating that all individuals identified under the definition of applicant consent to criminal history investigations performed by the City Police Department.
  - (20) All marihuana establishments licensed and permitted to operate in the City shall at all times maintain in full force and effect insurance in amounts and coverage type required by the City Clerk. Applicants shall provide evidence of such insurance in the form of a certificate of insurance evidencing the existence of a valid and effective policy, or, evidence that the applicant is able to obtain such insurance and state the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, policy number if known, and the names of additional insured which shall include the City of Traverse City, its officials, and employees.
  - (21) Whether the 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 dispute over the filings concerning the payment of any tax required under federal, state, or local law, including the amount of any tax, taxing agency and time periods involved.
  - (22) For the applicant or for each stakeholder a resume that includes any relevant experience.
  - (23) With respect to Marihuana Retail Establishments or a Microbusiness, a description of any drug and alcohol awareness programs that will be provided or arranged for by the applicant and made available for the public including a description of how the public will be made aware of same.
  - (24) A written description of the training and education that the applicant will provide to employees.
  - (25) If co-location is proposed, provide an explanation of the integration of such businesses, including a drawing showing the relationship between the businesses being co-located, including square footages and the separation provided between such facilities, including identification of any points of entry, ingress or egress, and controls at each location.
  - (26) Plans or strategies for continuing community involvement.
  - (27) A description of the overall compensation plan for employees, including benefits.
  - (28) A comprehensive operating plan for the marihuana establishment for which the application is being submitted. The plan shall include all of the information required for the Marihuana Establishment Plan to be submitted in connection with a state license pursuant to the Rules, the operational standards in this chapter, as applicable, and the following at a minimum:
    - (i) A description of the type of marihuana establishment applied for.
    - (ii) A security plan for the marihuana establishment that addresses all required security measures of the Rules and addresses at a minimum the ability to meet the security measures of the Rules. The security plan must contain the specific details of each piece of security equipment to be utilized by

- the marihuana establishment and comply with the provisions of this chapter, as well as any other applicable provisions of the Rules.
- (iii) An HVAC plan for the marihuana establishment describing in detail among other things the equipment or systems that will be used to prevent any odor of marihuana from leaving the premises.
  - (iv) A staffing plan that addresses the number of persons estimated to be employed at the establishment, and employee hiring, and an employee training manual that includes, but is not limited to, employee safety procedures, employee guidelines, security protocol, and educational training, including, but not limited to, where appropriate, marihuana product information, and purchasing limits, or educational materials.
  - (v) A marketing plan that at a minimum:
    - 1. Details how the marihuana establishment will comply with all municipal chapters and state law regulating signs and advertising;
    - 2. Provides that marihuana products must be marketed or advertised only to adults age 21 and over;
  - (vi) An inventory and record keeping plan.
  - (vii) A scaled conceptual site plan.
  - (viii) Written policies and procedures to timely address any concerns or complaints expressed by residents and businesses within the neighborhood surrounding the proposed location of the adult-use marihuana establishment.
  - (ix) For growers, the operational plan shall also include a cultivation plan that includes but is not limited to:
    - 1. The cultivation process or processes that will be used including a description of the grow medium, the equipment, the fertilizer, herbicides and any other chemicals to be used, the quantity stored on site, the related safety data sheets and method of containment/disposal;
    - 2. The estimated electrical and water usage and a statement of the projected daily average and peak electrical load anticipated to be used by the marihuana establishment, a certification from a licensed master electrician that the premises are equipped to safely accept and utilize the required or anticipated electric load for the establishment, and a certification from the electrical utility supplying electricity to the establishment that the anticipated electrical loads required for the establishment will not exceed the capacity of the electrical supply system;
    - 3. A waste water plan that details how wastewater generated during the cultivation of marihuana shall be disposed of in compliance with applicable state and local laws and regulations and detailing the measures that will be taken to contain the chemicals/wastewater onsite in the event of an accidental spill;
    - 4. A plant waste disposal plan that at a minimum:

- a. Details how marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form and recorded in the statewide monitoring system. Disposal by on-site burning or via the sewer system is prohibited;
  - b. Provides that all waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106;
  - c. Provides that marihuana product waste shall be disposed of in a secured waste receptacle using one or more of the following:
    - i. A manned and permitted solid waste landfill;
    - ii. A manned compostable materials operation or facility;
    - iii. An in-vessel digester; and
    - iv. Provides disposal will be in a manner in compliance with applicable state and local laws and regulations.
    - v. An air quality plan addressing monitoring, clearance, temperature and humidity control, Co2, ozone, fumigation, and odor mitigation;
    - vi. A pesticide and chemical safety plan which shall include a detailed description of all toxic, hazardous, or flammable materials, chemicals and pesticides, that will be kept or used at the marihuana establishment, and a detailed plan describing where and how such materials, chemicals and pesticides will be stored in the marihuana establishment, and the means of disposing of unused toxic or flammable materials, chemicals, and pesticides.
- (x) For a retail establishment, the operational plan shall also include:
1. A detailed description of the products and services to be provided.
  2. A comprehensive list of chemicals used on site for marihuana related activities, their quantity, related safety data sheets and method of containment/disposal
  3. A plant waste disposal plan that at a minimum:
    - a. Details how marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form and recorded in the statewide monitoring system. Disposal by on-site burning or via the sewer system is prohibited;
    - b. Provides that all waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106;
    - c. Provides that marihuana product waste shall be disposed of in a secured waste receptacle using one or more of the following:
      - i. A manned and permitted solid waste landfill;

- ii. A manned compostable materials operation or facility;
    - iii. An in-vessel digester; and Provides disposal will be in a manner in compliance with applicable state and local laws and regulations.
- (xi) For a processor, the operational plan shall also include:
  - 1. A detailed description of the products to be produced;
  - 2. A comprehensive list of chemicals to be used on site, their quantity, related safety data sheets and method of containment/disposal;
  - 3. A waste water plan that details how wastewater generated during the processing of marihuana products shall be disposed of in compliance with applicable state and local laws and regulation, including delineation of the measures that will be taken to contain the chemicals/wastewater onsite in the event of an accidental spill;
  - 4. A plant waste disposal plan that at a minimum:
    - a. Details how marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form and recorded in the statewide monitoring system. Disposal by on-site burning or via the sewer system is prohibited;
    - b. Provides that all waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106;
    - c. Provides that marihuana product waste shall be disposed of in a secured waste receptacle using one or more of the following:
      - i. A manned and permitted solid waste landfill;
      - ii. A manned compostable materials operation or facility;
      - iii. An in-vessel digester; and
      - iv. Provides disposal will be in a manner in compliance with applicable state and local laws and regulations.
- (xii) For microbusinesses, the operational plan shall include all information required of growers, processors and retail establishments under this chapter.
- (29) Any information necessary to enable the City to subject the application to the competitive process outlined in the permit application evaluation section of this chapter.
- (30) Applicants have a continuing duty to provide the City with up-to-date information and shall notify the City Clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information and changes to any other information the applicant has provided to the City as a part of the permit application within ten days of any such change occurring.

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- (31) The City Clerk may from time to time establish other qualifications for the application and permit which shall be provided in writing to prospective applicants with the application form.

**843.08. - Acceptance or denial of application.**

- (a) Applications received may be denied by the City Clerk if the applicant, upon written notice, fails to provide missing or incomplete information within the time specified in this chapter. The City Clerk may deny an application for any of the following reasons:
- (1) The applicant has not been prequalified for a marihuana establishment state license by LARA.
  - (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 premises proposed for the location of the marihuana establishment for the period during which the permit will be issued.
  - (4) The applicant's proposed location does not comply with the zoning of this code.
  - (5) The applicant has not satisfactorily complied with all of the permit requirements in this chapter.
  - (6) The City Clerk determines that the applicant has submitted an application containing false, misleading, or fraudulent information, or who has intentionally omitted pertinent information on the application for an adult-use marihuana establishment permit.
  - (7) The applicant is delinquent in the payment of any taxes, fees or other charges owed to or collected by the City.
  - (8) The comprehensive operating plan submitted by the applicant with the application does not comply with the requirements for a marihuana establishment plan as required by the Rules, the requirements of this chapter, or the Act.
  - (9) The applicant proposes the sale, consumption, or serving of food or alcohol at the marihuana establishment.
  - (10) The application is duplicative, in categories where the City has established a maximum number of adult-use marihuana establishment permits which may be issued.
- (b) Notice of denial of an application shall be sent to the applicant in writing by mail or electronic mail to the last known address of the applicant on file with the City.

**843.09.** All applications for any permit type that is restricted as to number that are not denied as provided in this chapter, and comply with all of the requirements for an application in this chapter and the zoning provisions of this code shall be accepted by the City Clerk and shall be known as "Qualified Applicants."

**843.10. – Permit application evaluation.**

- (a) The Act in Section 9. 4. (MCL 333.27959 4.) 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 more than one applicant has applied for a category of permits that has been limited. Pursuant to this requirement, the City requires that applicants provide information so that it may complete the required competitive process. The application evaluation criteria shall be based upon all information provided with the application, and the following:

- (1) That the applicant or any of its stakeholders do not have a record of acts detrimental to the public health, security, safety, or general welfare for a period of five (5) years prior to the date of the application, except for acts related to marihuana as described in the Act.
- (2) That the applicant or any of its stakeholders have not previously operated an illegal business enterprise of any kind, except for acts related to marihuana as described in this Act.
- (3) That the applicant does not have an unfavorable record of cooperation and compliance with City regulatory agencies.
- (4) That the applicant has favorable previous business experience in the City.
- (5) That the applicant has relevant favorable experience and business expertise in the operation of the proposed marihuana establishment.
- (6) That the applicant has other businesses or investments in the City.
- (7) That the applicant has not been denied, restricted, suspended, revoked or not renewed based on circumstances concerning the applicant's regulatory compliance or fitness for receiving a permit for a period of five (5) years prior to the date of the application.
- (8) That the applicant has reasonably and tangibly demonstrated it possesses adequate resources to implement the submitted business plan.
- (9) That the proposed marihuana establishment has or will revitalize or redevelop property that has been vacant, underutilized, or unused for an extended period of time.
- (10) That the Planning Director has determined the applicant has provided a traffic management plan that meets best practices.
- (11) That the Planning Director has determined the applicant has provided a parking plan that meets best practices and minimizes the amount of surface parking.
- (12) That the parking plan provides for green infrastructure.
- (13) That the proposed location is within ¼ mile of a bus stop.
- (14) That bike racks are provided to accommodate for a minimum of six bikes.
- (15) That the applicant proposes to complete sidewalk improvements that benefit the public.
- (16) That the proposed establishment utilizes at least 90% of the height and building size allowed by zoning but not requiring a special land use permit.
- (17) That the proposed establishment building includes residential dwellings that will not be used as vacation home rentals.
- (18) That the applicant or its stakeholders have made, or will make, significant physical improvements to the building housing the marihuana establishment.
- (19) That the proposed plan incorporates best practices for sustainable infrastructure and energy efficient elements and fixtures.



- (20) That the application includes a proposed plan for renewable energy use and resource conservation using best practices.
  - (21) That the proposed plan exceeds the minimum requirements for stormwater drainage.
  - (22) That the security plan provided for the marihuana establishment exceeds the minimum requirements of the Rules and this chapter.
  - (23) That the applicant has completed outreach in the vicinity of the proposed location in advance of the application.
  - (24) That the applicant's outreach in the vicinity of the proposed location in advance of the application includes multiple methods of outreach.
  - (25) That the applicant's outreach extends outside the vicinity of the proposed location (i.e. more than 500 feet away from the proposed location).
  - (26) That the proposed establishment will provide full time employment to at least one employee who is not a shareholder of the applicant.
  - (27) That the proposed establishment will pay employees a minimum of \$15.00 per hour.
  - (28) That the proposed establishment will offer health insurance to employees.
  - (29) The proposed establishment provides a breakroom for employees.
  - (30) That the proposed location is in an area underserved by other marihuana establishments.
  - (31) That the applicant will utilize locally-sourced services.
  - (32) That the applicant has applied for and will maintain a co-location of equivalent licenses at one location.
- (b) The City Clerk may engage professional expert consultant assistance in performing any of the duties and responsibilities under this chapter.
  - (c) The City Clerk shall evaluate each application using a scoring matrix adopted by the City Commission by resolution and issue the appropriate permit or send the applicant a notice of rejection setting forth specific reasons why the City did not issue the permit within 90 days after receipt of a complete application.
  - (d) Should a permit for an adult-use marihuana establishment become available due to expiration, revocation, or non-renewal, the City Clerk shall set an application period to receive applications for a permit(s) for an adult-use marihuana establishment. All properly submitted and complete applications shall be subject to examination and review by the City in accordance with this ordinance. The City Clerk may elect to issue or not issue permits for any of the permitted uses or issue permits in any combination thereof, but in no instance shall issue more permits than are permitted pursuant to the terms of this ordinance. The Clerk shall not issue a permit when an application has received fewer than sixty (60) points in the competitive process evaluation.
  - (e) In the event that multiple applications are evaluated equally in the competitive process the scoring-tied applications will be entered into a random draw using procedures set by the City Clerk. Those applications randomly selected shall be eligible to receive the permit applied for consistent with this chapter.

**843.12. – Adult-use marihuana establishment permit.**

- (a) Adult-use marihuana establishment permits will be issued by the City Clerk to those applicants selected in the competitive process. For categories of permits where there is a limited number of permits to be issued, the applicant shall receive a minimum score of 60 points in order to be eligible for a permit. In order to be issued a marihuana establishment permit a selected applicant shall:
  - (1) Submit proof to the City Clerk it has been issued a State Operating License; and
  - (2) Successfully complete the inspection required by this chapter; and
  - (3) Submit proof to the City Clerk of obtaining all permits and approvals required by all applicable chapters of the City ordinances including but not limited to an approved site plan; and
  - (4) Submit proof of insurance required by this chapter in the form of a certificate of insurance evidencing the existence of a valid and effective policy, stating the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, policy number, and the names of additional insureds which shall include the City of Traverse City, its officials, and employees. An applicant who holds a permit for a secure transporter permit shall additionally show proof of auto insurance, vehicle registration and registration as a commercial motor vehicle as applicable for any transporting vehicles used to transport marihuana product in order to be issued a marihuana establishment permit by the City Clerk.
- (b) The site plan required for issuance of a marihuana establishment permit shall be consistent with the requirements the Zoning Ordinance.
- (c) Before issuance of a marihuana establishment permit the necessary City departments, including but not limited to the Fire Department shall conduct an inspection of the proposed marihuana establishment to verify that the premises of the establishment are constructed and can be operated in accordance with the application submitted, the approved site plan, the requirements of this code and any other applicable law, rule, or regulation. No marihuana establishment permit may be issued and no marihuana establishment may conduct any business or operations until the inspection is completed and it is determined that the premises of establishment are constructed and can be operated in accordance with the application, marihuana establishment plan, and comprehensive operating plan submitted with the application as well as the approved site plan, and the establishment is in compliance with the requirements of this code and any other applicable law, rule, or regulation.
- (d) The marihuana establishment permit shall be issued only in the name of the applicant.
- (e) A marihuana establishment permit issued under this chapter is a revocable privilege granted by the City and is not a property right. Granting the permit does not create or vest any right, title, franchise or other property interest.
- (f) Each permit is exclusive to the person who is issued the permit and that person must apply for and receive approval of the City Clerk pursuant to this chapter before a permit or any interest in the applicant is transferred, sold, or purchased or otherwise amended.
- (g) The marihuana establishment permit and State Operating License shall be displayed in a conspicuous public place in the business establishment.

- (h) Acceptance of a marihuana establishment permit under this chapter shall constitute permission to the City Manager or his or her designee, within the authority granted him or her by this code under which such permit was granted, to enter upon and inspect the premises of the marihuana establishment at all reasonable times.
- (i) A permittee has a continuing duty to provide the City with up-to-date information including contact information or changes to any other information it has submitted with its permit application and shall notify the City Clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other information the permittee provides to the City.
- (j) Conversion of Permits. A permit for an adult-use marihuana establishment may not be converted to a permit for a medical marihuana facility and vice versa.

### **843.13 - Fees.**

A nonrefundable application fee set by resolution of City Commission shall be submitted with any application under this chapter. This fee shall be in addition to, and not in lieu of, any other fees for licensing or permitting requirements including but not limited to site plan review, zoning, or building permits.

### **843.14 - Minimum operational standards for all adult use marihuana establishments.**

All marihuana establishments shall at a minimum comply with the following operational standards:

- (a) Marihuana establishments shall be open for inspection upon request by any individual designated by the City Manager for determination of compliance with all applicable laws, rules, and regulations during the stated hours of operation/use and at such other times as anyone is present on the premises. Inspections may include inspection of the establishment premises, surveillance records, camera recordings, reports, records or other materials required as a condition of a permit under this chapter or a state operating license. Acceptance of a marihuana establishment permit, leasing, or any other consent to use of property to a marihuana establishment constitutes consent to such inspections and the seizure of any surveillance records, camera recordings, reports record or other materials required as a condition of the permit under this article or a state operating license without a search warrant. The person issued a permit, or an employee or agent thereof shall not hinder or obstruct a law enforcement officer or employee of the City from conducting inspections pursuant to this chapter, and shall not refuse, fail, or neglect to cooperate with a law enforcement officer or City employee in the performance of his or her duties in enforcing this chapter, the Act, or applicable state administrative rules.
- (b) Marihuana establishments shall conduct the activities of the marihuana establishment, including, without limitation, the cultivating, growing, processing, displaying, manufacturing, selling, storage of marihuana and marihuana-infused products, and storage of all materials used in connection with the cultivating, growing, processing, displaying, manufacturing, and selling of marihuana and marihuana-infused products indoors in a building and out of public view.

- (c) No alcohol or tobacco products may be sold, used, or consumed on the premises of the marihuana establishment. No marihuana or marihuana-infused products may be used or consumed on the premises of the marihuana establishment.
- (d) Requirements Related to Monitoring and Security of Restricted Areas and Inventory.
  - (1) All components of the security plan submitted with the application, as it may be amended, shall be in good working order, monitored, and secured twenty-four hours per day. Except for a co-located marihuana business that is virtually separated, a separate security system is required for each business. The security plan must include, at a minimum, the following security measures:
    - i. Cameras. The adult-use marihuana establishment shall at a minimum install and use security cameras to monitor and record all areas of the premises as required by the Act and the Rules. (except in restrooms), and where persons may gain or attempt to gain access to marihuana or cash maintained by the adult-use marihuana establishment. Cameras shall record operations of the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of forty days in a secure offsite location in the City or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The offsite location shall be included in the security plan submitted to the City Clerk and provided to the City Police Department upon request, and updated within seventy-two hours of any change of such location.
    - ii. Use of Safe for Storage. The adult-use marihuana establishment shall install and use a safe for storage of any processed marihuana and cash on the premises when the establishment is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto. For marihuana-infused products or marihuana being tested in a testing facility 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 use of a safe, so long as the container is affixed to the building structure.
    - iii. Alarm System. The adult-use marihuana establishment 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 be updated within seventy-two hours of any change of monitoring company. If the alarm system includes a panic alarm, an operable dedicated phone for law enforcement to respond to the alarm shall remain on the premises at all times.
- (e) Subject to the laws of this state, before hiring a prospective employee, a permittee shall conduct a background check of the prospective employee. If the background check indicates the prospective employee has been convicted for an offense involving distribution of a controlled substance to a minor, the permittee shall not hire the prospective employee. Permittee shall maintain records of all such completed background

- checks. All employees must be 21 years of age or older.
- (f) Access to the marihuana establishment is restricted to the permittee, employees of the permittee, and individuals 21 years of age and older, LARA through its investigators, agents, auditors or the state police, and, local law and code enforcement officers and any other designees of the City Manager.
  - (g) All marihuana establishments must be at a fixed location. Mobile marihuana establishments and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products by marihuana establishments as otherwise expressly authorized by the Act.
  - (h) All marihuana establishments shall comply with all provisions of the permit, this chapter, state law and Rules. Failure to comply shall be grounds for non-renewal or denial of a permit, revocation, suspension or restriction of a permit.
  - (i) The business, operations, marketing and advertising of all marihuana establishments and marihuana products shall comply at all times with applicable state law and regulations, and this chapter.
  - (j) Marihuana products not identified and recorded in the statewide monitoring system pursuant to the Act, the Tracking Act, and the Rules are prohibited from being on the premises of any adult-use marihuana establishment, and shall not be sold or transferred by any permittee.
  - (k) Any marihuana product without a batch number or identification tag pursuant to the Rules is prohibited from being at or on the premises of any adult-use marihuana establishment.
  - (l) Marihuana establishments shall comply with the building and fire safety provisions of the Rules as are applicable to the particular type of establishment at all times.
  - (m) Marihuana product waste shall be destroyed, or rendered into an unusable and unrecognizable form in a manner that prevents its acquisition by any person who may not lawfully possess it, and recorded in the statewide monitoring system. Marihuana product waste shall be disposed of in a secured waste receptacle using one or more of the following:
    - (1) A manned and permitted solid waste landfill;
    - (2) A manned compostable materials operation or facility;
    - (3) An in-vessel digester;
    - (4) Or as otherwise permitted by the Rules.
  - (n) All marihuana product waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106.
  - (o) All marihuana product waste or marihuana products that are to be destroyed, or that LARA orders to be destroyed, shall not be sold.
  - (p) All inventory of marihuana products must be stored in a secured, limited-access area or restricted-access area, and identified and tracked consistent with the statewide monitoring system under the Act, the Tracking Act, and the Rules.
  - (q) All containers used to store marihuana products for transfer or sale between marihuana establishments shall meet the requirements of the Rules for such containers.
  - (r) All chemicals or solvents must be stored separately from marihuana products and kept in

locked storage areas.

- (s) Marihuana-infused products or materials used in direct contact with such products must have separate storage areas from toxic or flammable materials.
- (t) Each permittee shall post and keep at all times visible to the public, in a conspicuous place on the premises, a sign to be furnished by the City Clerk's office, which sign shall be in the following form: "WARNING: THE TRAVERSE CITY POLICE DEPARTMENT MUST BE NOTIFIED IMMEDIATELY OF ALL UNLAWFUL ACTS AND DISTURBANCES IN THIS ESTABLISHMENT." Permittees shall immediately report to the police department any unlawful act, conduct, or disturbance committed upon the premises.
- (u) Each permittee shall post and keep at all times visible to the public, in a conspicuous place on the premises, a sign to be furnished by the City Clerk's office, which sign shall be in the following form: "IT IS ILLEGAL TO CONSUME MARIHUANA IN A PUBLIC PLACE, INCLUDING CITY PARKS, OR WHERE PROHIBITED BY THE PERSON WHO OWNS, OCCUPIES OR MANAGES THE PROPERTY."
- (v) Respond to inquiry. The Permittee is required to respond by phone or email within 24 hours of contact by the City concerning its marihuana establishment at the phone number or email address provided to the City as the contact for the business. Each 24 hour period during which an owner or manager does not respond to the City shall be considered a separate violation.
- (w) Onsite Use Prohibited. No marihuana shall be used, smoked, eaten, or otherwise consumed or ingested in any manner within the marihuana establishment.

#### **843.15. - Minimum operational standards applicable to retail establishments.**

All retail establishments shall, in addition to the minimum operational standards for all marihuana establishments, comply with the following operational standards at a minimum:

- (a) retail establishments shall open no earlier than 7:00 a.m. and close no later than 10:00 p.m.
- (b) No marihuana plants shall be allowed on the premises.
- (c) During times when the retail establishment is not open to the public, processed marihuana, marihuana products, cash and currency shall be stored in a safe or security vault that is incorporated into the building structure or securely attached to the building structure or a safe room with a security vault or other secure door.
- (d) A retail establishment shall purchase marihuana only from a grower or processor.
- (e) All transfers of marihuana to a retail establishment from a separate marihuana establishment shall be by means of a secure transporter.
- (f) A retail establishment shall sell or transfer marihuana only to individuals aged 21 or older.
- (g) A retail establishment shall transfer marihuana to or from a safety compliance facility or establishment for testing only by means of a secure transporter.
- (h) The sale or transfer of marihuana shall only occur after it has been tested and bears the label required for retail sale by the Act and the Rules.
- (i) All transactions, current inventory, and other information of the retail establishment shall

be entered into the statewide monitoring system as required by the Act, Rules, and the Marihuana Tracking Act.

- (j) Marihuana and marihuana paraphernalia shall not be sold, given away, or dispensed from any outdoor location.
- (k) A retail establishment shall have a separate room that is dedicated as the point of sale area for the transfer or sale of marihuana products.
- (l) All marihuana products shall be kept behind a counter or other barrier to ensure customers do not have direct access to the marihuana products.
- (m) A retail establishment shall comply with all packaging and labeling requirements of the Rules before selling or transferring marihuana products.
- (n) Scanner for Proof of Age. The retail establishment shall verify the proof of age of every person entering the business with an electronic ID scanner. An "electronic ID scanner" is a device that is capable of quickly and reliably confirming the validity of an identification using computer processes that contains all of the components approved by the City Manager. For legitimate identifications that cannot be scanned, including passports, military IDs and other lawful government issued identification, use of the electronic ID scanner is not required, but the retail establishment shall be responsible for verifying that the identification provided is reliable verification of the age of the person.
- (o) Confiscation of Fraudulent IDs. If a permittee or an employee of a retail establishment has reasonable cause to believe that person is under twenty-one years of age and is exhibiting fraudulent proof of age in an attempt to enter a marihuana retail establishment or to obtain any marihuana or marihuana product, the permittee or employee shall be authorized to confiscate such fraudulent proof of age. Within 72 hours, any fraudulent proof of age confiscated shall be turned over to the City Police Department
- (p) *Co-location restrictions.* Adult-use retail marihuana establishments and medical marihuana establishments may be under common ownership in the same location and share the same licensed premises, subject to the following:
  - (1) A medical marihuana provisioning center that permits admittance of patients under twenty-one (21) years of age may also hold an adult-use retail establishment permit and operate a dual marihuana business operation on the same premises. In such case, the adult-use retail marihuana establishment permittee must post signage that clearly conveys that persons under twenty-one (21) years of age may not enter the area which contains the adult-use retail marihuana establishment. Under these circumstances, and upon approval of the local and state licensing authorities, the medical marihuana provisioning center and the adult-use retail marihuana store must be physically separate but may share a common foyer and must have separate entrances and exits. Medical marihuana and adult-use retail marihuana goods and products must be separately displayed and sold. Record keeping for the business operations of both must enable the local and state licensing authorities to clearly distinguish the inventories and business transactions of medical marihuana and medical marihuana-infused products from adult-use retail marihuana and adult-use retail marihuana products.
  - (2) Co-located permitted operations must be operated in accordance with both the medical and adult-use marihuana statutes, ordinances, Rules and regulations.

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- (q) It shall be unlawful for any person to:
  - (1) distribute marihuana to any person who shows visible signs of intoxication from alcohol, marihuana, or other drugs; or
  - (2) fail to confiscate fraudulent proof of age. It shall be an affirmative defense if the person reasonably believed that attempts to confiscate a fraudulent proof of age would cause a threat to any person.

#### **843.16. - Minimum operational standards applicable to grow establishments.**

All grow establishments shall, in addition to the minimum operational standards for all marihuana establishments, comply with the following operational standards at a minimum:

- (a) Until December 31, 2021, the permittee or an active employee shall have a minimum of two years' experience as a registered primary caregiver.
- (b) While holding a permit for grower establishments, no permittee shall be a registered primary caregiver and shall not employ an individual who is simultaneously a registered primary caregiver.
- (c) All transactions, current inventory, and other information of the grow establishments shall be entered into the statewide monitoring system as required by the Act, Rules, and the Tracking Act.
- (d) All activities and operations of the grow establishments, including cultivation, shall take place indoors within a building.
- (e) The use of compressed gases such as carbon dioxide in the cultivation of marihuana shall meet the requirements of the Rules for such processes.
- (f) A grow establishments shall not use any pesticides in the cultivation of marihuana that has not been approved by LARA for such purpose.

#### **843.17. - Minimum operational standards applicable to processor establishments.**

All processor establishments shall, in addition to the minimum operational standards for all marihuana establishments, comply with the following operational standards at a minimum:

- (a) A processor shall purchase marihuana only from a grower and shall sell marihuana-infused products or marihuana only to a retail establishment.
- (b) A processor shall transfer marihuana only by means of a secure transporter.
- (c) Until December 31, 2021, the permittee or an active employee shall have, a minimum of two years' experience as a registered primary caregiver.
- (d) While holding a permit for processor establishments, no permittee shall be a registered primary caregiver and shall not employ an individual who is simultaneously a registered primary caregiver.
- (e) All transactions, current inventory, and other information of the processor establishments shall be entered into the statewide monitoring system as required by the Act, Rules, and the Tracking Act.
- (f) Processes that extract oil from marihuana plants and marihuana products using flammable gas, flammable liquid, or compressed gases of varying materials including, but not limited to, butane, propane, and carbon dioxide shall meet the requirements of the



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Rules for such processes.

#### **843.18. - Minimum standards applicable to secure transporters.**

All secure transporter establishments shall, in addition to the minimum operational standards for all marihuana establishments, comply with the following operational standards at a minimum:

- (a) Take physical custody of marihuana or money but legal custody belongs to the transferor or transferee.
- (b) not sell or purchase marihuana products.
- (c) store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana establishments for a fee.
- (d) Marihuana may not be transported to a registered qualifying patient or registered primary caregiver.
- (e) Marihuana product may only be transported in a locked, secured, sealed container that is not accessible while in transit. Money associated with the purchase or sale of marihuana product between facilities shall be locked in a sealed container kept separate from the marihuana product and only accessible to the secure transporter licensee/permittee and its employees.
- (f) Each driver transporting marihuana must have a chauffeur's license issued by the State of Michigan.
- (g) 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 years or have been convicted of a misdemeanor involving a controlled substance within the past 5 years.
- (h) Each vehicle shall be operated with a two-person crew with at least 1 individual remaining with the vehicle at all times during the transportation of marihuana.
- (i) 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.
- (j) A secure transporting vehicle shall not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.
- (k) A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with the Act and this chapter.
- (l) All transactions, current inventory, and other information of the secure transporter shall be entered into the statewide monitoring system as required by the Act, Rules, and the Tracking Act.

#### **843.19. Minimum standards applicable to safety compliance establishments.**

All safety compliance establishments shall, in addition to the minimum operational standards for all marihuana establishments, comply with the following operational standards at a minimum:

- (a) A safety compliance establishment is authorized to only receive marihuana from, test

marihuana for, and return marihuana to a marihuana establishment.

- (b) A safety compliance establishment must be accredited by an entity meeting State of Michigan requirements by 1 year after the date the license is issued or have previously provided drug testing services to the State of Michigan or Michigan's court system and be a vendor in good standing in regard to those services unless a variance from this requirement is granted by the board as provided by the Act.
- (c) A safety compliance establishment shall:
  - (1) Perform tests to certify that marihuana is reasonably free of chemical residues such as fungicides and insecticides.
  - (2) Use validated test methods to determine tetrahydrocannabinol, tetrahydrocannabinol acid, cannabidiol, and cannabidiol acid levels.
  - (3) Perform tests that determine whether marihuana complies with the standards established for microbial and mycotoxin contents.
  - (4) Perform other tests necessary to determine compliance with any other good manufacturing practices as prescribed in the Rules.
  - (5) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in the Act, Rules, and the Tracking Act.
  - (6) Have a secured laboratory space that cannot be accessed by the general public.
  - (7) Retain and employ at least 1 staff member with a relevant advanced degree in a medical or laboratory science.
  - (8) Comply with all provisions of the Rules regarding the testing, retesting, and sampling of marihuana and marihuana products.
  - (9) Establish an adequate chain of custody and instructions for sample and storage requirements.

**843.20. - Minimum operational standards applicable to microbusinesses.**

Microbusiness establishments shall comply with all minimum operational standards applicable to retail establishments, processors and grow establishments.

**843.21. – Marihuana establishment co-location and stacking.**

Separate marihuana establishment uses, under common ownership, and with proper licensing issued by LARA for each use, shall be permitted to operate at the same location with approval from the City. Co-locating establishments must have a state license, and City permit for each marihuana establishment type and use.

**843.22. - Renewals and amendments of existing permits.**

- (a) Renewal or amendment of existing permits.
  - (1) Applications of renewal or amendment of existing permits shall be reviewed and granted or denied before applications for new permits are considered.
  - (2) The same application procedures, including the non-refundable fee, that apply to the submittal of a new permit application shall apply to renewal or amendment of

existing permits.

- (3) An application for renewal of an existing permit shall be submitted no sooner than 90 days before the existing permit expires and no later than 30 days before the existing permit expires.
- (b) Amended applications.
- (1) An amended application shall be submitted under either or both of the following circumstances:
    - i. When there is a change in any information the permit applicant was required to provide in the most recent application on file with the City, including but not limited to change in location or any change of ownership; and/or
    - ii. When there is a change in any information the permit applicant was required to provide in the most recent application for a state operating license on file with the State of Michigan, including but not limited to change in location or any change of ownership.
  - (2) An application to amend an existing permit to change any information on the most recent application on file with the City shall follow the procedure listed in this chapter.
  - (3) Applications of renewal or amendment of existing permits shall be reviewed and granted or denied before applications for new permits are considered.
- (c) It shall be unlawful for any person to make changes or allow any changes to be made in the operation of the adult-use marihuana establishment as represented in the permit application without first obtaining an amended permit from the City Clerk.
- (d) An adult-use marihuana establishment permit shall run concurrent with the state operating license issued for the establishment. Permittee shall renew the adult-use marihuana establishment permit annually in accordance with this chapter.
- (e) Renewal of permits issued in connection with class C grower stacked licenses will require only a single application form for the original class C grower permit and all stacked license permits issued to the applicant. The renewal application shall indicate that the application is for the renewal of permits issued in connection with class C grower stacked licenses and the permit or permits the applicant is seeking to renew.
- (f) Notice of denial of a renewal application shall be sent to the applicant in writing by mail or electronic mail to the last known address of the applicant on file with the City for notification of the applicant. An applicant whose renewal application is denied may appeal denial as provided in this chapter.
- (g) The City Clerk shall inform in writing by mail or electronic mail the Michigan Department of Licensing and Regulatory Affairs of all permittees whose permit is renewed and if a permittee fails to renew a permit or the permittee's renewal application is denied.
- (h) An adult-use marihuana establishment shall not be in violation of the spacing requirements in the zoning code in the event a school was located less than the minimum spacing distance from the adult-use marihuana establishment at any time after a permit under this article and a state license to operate the facility were issued.

Updated by Benjamin Marentette on 3/12/20; Updated by Lauren Tribble-Laucht on 3/20/20 and 7/20/20; updated by Benjamin Marentette on 7/29/20. Updated by LTL 8/6/20; Updated by LTL 8/19/20 Updated by LSB 8/21/20

### **843.23. - Conflicts, future laws and regulations.**

Should the State of Michigan in the future adopt additional or stricter laws or regulations governing the production, processing, transporting, testing, sale and distribution of marihuana, the additional or stricter laws and regulations shall control the establishment or operation of any marihuana establishment in the City, as well as the issuance, denial, suspension, or revocation of any permit under this article.

### **843.24. - Penalty and remedies.**

- (a) Any violation of this chapter is a municipal civil infraction subject to penalties imposed on municipal civil infractions by section 202.99 of this code and state law.
- (b) In addition to the penalties provided in this chapter, any condition caused or permitted to exist in violation of this chapter, shall be deemed a new and separate offense for each day that such condition continues to exist.
- (c) In addition to the penalties in this chapter, any violation of this chapter, the Act, or the Rules may result in the denial of a permit, or the revocation, suspension, or non-renewal of a permit issued under this chapter.
- (d) Nothing in this chapter shall prevent the City from pursuing any other remedy provided by law and equity, including an injunction, in conjunction with or in lieu of prosecuting persons under this section for violation of this chapter.

### **843.25. - Permit denial, revocation, suspension, or restriction.**

Bases for adverse action; appeal:

- (a) Any permit issued under this chapter may be denied, revoked, suspended, restricted or not renewed by the City Clerk after an administrative hearing if the City Clerk finds and determines that grounds for such action exist. Any grounds for such action must be provided to the permittee by first class mail to the address given on the permit application or any address provided to the City Clerk in writing subsequent to the filing of an application.
- (b) A permit issued under this chapter may be denied, revoked, suspended, restricted or not renewed on including but not limited to any of the following bases:
  - (1) Noncompliance with the Act, Rules, or this chapter ; or
  - (2) Any conviction of a disqualifying felony by the permittee, stakeholder, or any person holding an ownership interest in the permit; or
  - (3) Commission of fraud or misrepresentation or the making of a false statement by the applicant, permittee, or any stakeholder of the applicant or permittee while engaging in any activity for which this chapter requires a permit or license; or
  - (4) Failure to obtain or maintain any required permit pursuant to this chapter; or
  - (5) Failure of the permittee or the marihuana establishment to obtain or maintain a license or approval from the State pursuant to the Act; or

- (6) The marihuana establishment is determined by the City to have become a public nuisance or otherwise is operating in a manner detrimental to the public health, safety or welfare.
  - (7) Cultivation, processing, sale, or display of marihuana or marihuana accessories that are visible from a public place.
  - (8) The marihuana establishment is substantially different from the comprehensive operating plan, marihuana facility plan, conceptual plan or other representations contained in the application; or
  - (9) Representatives of the City are unable to access the proposed facility for permit inspections; or
  - (10) The permittee fails, refuses, or becomes unable to obtain site plan approval and certificate of occupancy.
- (c) Appeal of denial of new permit: The City Clerk shall provide notification of the reason(s) for denial of a permit by a Qualified Applicant and provide the opportunity to request reconsideration. An appeal shall be a paper hearing. Any Qualified Applicant aggrieved by the denial of a permit under this chapter may appeal to the City Clerk. Such appeal shall be taken by filing with the City Clerk, within seven days after notice of the action complained of has been mailed to the permittee's last known address on the records of the City Clerk, a written statement setting forth fully the grounds for the appeal. The City Clerk shall review the appeal and make a decision on the matter. Any decision by the City Clerk shall be final for purposes of judicial review. The City Clerk may engage professional experts to assist with the proceedings under this Section.
- (d) Appeal of revocation, suspension, restriction or non-renewal of existing permit.
- (1) Upon a determination of a violation of the conditions set forth in this chapter, the City Clerk will notify the permittee of the specific violation(s) and afford the permittee an opportunity to come into compliance with the relevant regulation. Permittee must reach compliance in that time established by the City Clerk, but in no event more than ten days after notification to permittee by City of such violation. Absent compliance within that time established the City Clerk may then forward the recommendation for revocation, suspension, restriction or non-renewal to the City Commission who shall hold a hearing as set forth in this section prior to the recommendation for adverse action on the permit:
  - (2) Prior to the revocation, suspension, restriction or non-renewal of the permit or filing with the MRA an objection to the renewal of a state license or a recommendation for the revocation or other adverse action on a state license, the City shall do the following:
    - (a) Serve written notice on the permittee, which shall include:
      - i. Notice of the proposed action and the reasons for the action.
      - ii. Date, time and location of hearing on the matter and a statement that at the hearing, the permittee may present evidence and arguments on its behalf, confront witnesses and may be represented by a licensed attorney.
      - iii. A statement requiring the permittee to notify the City Attorney's office at least seven days prior to the hearing date if they intend to contest the proposed action, and to provide the names of witnesses known at the time who will testify on their behalf.
  - (3) The hearing may be conducted by the City Commission as a whole or the City Commission may delegate to a hearing officer the function of holding the hearing. The

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hearing officer shall thereafter submit his or her findings and recommendations to the Commission. The permittee may, at his or her expense, employ a reporter to transcribe the testimony given at the hearing and make a transcript of such testimony.

- (4) The City Commission shall make a written resolution as to its findings and determination and mail same to permittee and the MRA.

**843.26. - Effect tie-barred.**

This amendment to chapter 843 shall only take effect if the Zoning Code is amended as needed to zone for the activities contemplated in this chapter.

The effective date of this Ordinance is the 27<sup>th</sup> day of August, 2020.

I hereby certify the above ordinance amendment was introduced on August 3, 2020, at a regular meeting of the City Commission and was enacted on August 17, 2020, at a regular meeting of the City Commission by a vote of Yes: 7 No: 0 at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.

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Jim Carruthers, Mayor

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Benjamin Marentette, City Clerk

I hereby certify that a notice of adoption of the above ordinance was published in the Traverse City Record Eagle, a daily newspaper published in Traverse City, Michigan, on August 21, 2020.

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Benjamin Marentette, City Clerk