

CHAPTER 112: MEDICAL MARIHUANA FACILITIES

Section

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§ 112.01 DEFINITIONS.

The following words and phrases have the meanings ascribed to them when used in this chapter:

(A) Co-location or co-located means the siting and operation of a combination of multiple facilities or facility types at a single location.

(B) Facility means a location at which a license holder is licensed to operate under the MMMFLA.

(C) Facility plan means the plans required to be submitted to LARA in accordance with the MMMFLA rules that includes among other things diagrams, floor plans, construction details, etc.

(D) Facility-specific step means the portion of the application for a state operating license that follows the prequalification step and pertains to the details of the proposed facility.

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

(F) LARA means the department of licensing and regulatory affairs and any successor agency to the department.

(G) Licensee means a person holding a state operating license.

(H) Licensing board means the medical marihuana licensing board created by the MMMFLA.

(I) Marihuana means all parts of the plant *Cannabis sativa* L., growing or not; the seeds of that 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. Marihuana does not include 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. Marihuana does not include industrial hemp grown or cultivated, or both, for research purposes under the industrial hemp research act.

(J) MMMA means the Michigan medical marihuana act, 2008 IL 1, as amended MCL 333.26424 et seq.

(K) MMMFLA means the Michigan medical marihuana facilities licensing act, 2016 PA 281, as amended, MCL 333.27102 et seq.

(L) MMMFLA rules means rules, including emergency rules, promulgated by LARA to implement the MMMFLA.

(M) Pre-qualification step means the portion of the application for a state operating license pertaining to the applicant's financial background and the criminal history of the applicant and other associated persons.

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

(O) Provisioning center means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through LARA's marihuana registration process in accordance with the MMMA is not a provisioning center for purposes of this chapter.

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

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

(R) Stacked grower license means more than 1 state operating license issued to a single licensee to operate as a grower of class C-1,500 marihuana plants as specified in each license at a facility.

(S) State operating license or, unless the context requires a different meaning, "license" means a license that is issued under the MMMFLA that allows the licensee to operate as a grower, processor, secure transporter, provisioning center, or a safety compliance facility.

§ 112.02 AUTHORIZED FACILITIES.

(A) Facilities eligible for authorization. The following medical marihuana facilities may be authorized to operate in the city:

- (1) Growers operating under Class A licenses;
- (2) Growers operating under Class B licenses;
- (3) Growers operating under Class C licenses;
- (4) Provisioning centers;
- (5) Processors;
- (6) Secure transporters; and
- (7) Safety compliance facilities.

(B) Co-location and stacked licenses. Co-location and stacked grower licenses are permitted in the city. For purposes of the limitations provided in division (A):

- (1) A facility with a stacked grower license counts as a single grower; and

(2) On a site with co-location, each license (other than stacked grower licenses) authorized to operate within a single location counts as a separate facility.

(C) Final authorization from city required. The authorization process described in § 112.03 determines the locations in the city at which facilities may operate. A proposed facility is not eligible for a state operating license until the clerk grants final authorization pursuant to § 112.03(D).

§ 112.03 APPLICATION FOR AUTHORIZATION.

(A) Submission. Beginning on October 1, 2018, a person may apply for authorization to operate a facility within the city by submitting the following items to the City Clerk. These items may be submitted to the Clerk before applying for requisite zoning approvals. An application is not considered complete until the City Clerk receives all of the following:

(1) A non-refundable application fee in an amount established by resolution of the City Commission.

(2) An advance of the annual administrative fee established in § 112.05(D).

(3) A photocopy of a valid, unexpired driver's license or state-issued identification card for all owners, directors, and officers of the proposed facility.

(4) A signed application (available in the Clerk's office), which must include all of the following information and documents:

(a) 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;

(b) If the applicant is not an individual, the names; dates of birth; physical addresses, including residential and any business address; copy of government-issued photo identifications; email address; and one or more phone numbers of each stakeholder of the applicant, including designation of the highest ranking representative as an emergency contact person; contact information for the emergency contact person; articles of incorporation or organization; assumed name registration; Internal Revenue Service EIN confirmation letter; copy of the operating agreement of the applicant, if a limited liability company; copy of the partnership agreement, if a partnership; names and addresses of the beneficiaries, if a trust, or a copy of the bylaws or shareholder agreement, if a corporation;

(c) The name, address, tax identification number, and current zoning designations of the proposed medical marijuana facility;

(d) The name and address of the current property owner of record;

(e) If the current property owner is different than the applicant (e.g. where the applicant has a lease, option, land contract, or other future interest in the property), the property owner's signature is required in addition to the applicant's.

1. An applicant may submit applications for multiple properties.

2. However, only one application shall be submitted per property, unless the applications are for proposed co-located facilities.

(f) The proposed facility type;

(g) If the proposed facility type involves stacked growing licenses, the number of licenses sought;

(h) A complete list of all marihuana permits and licenses held by the applicant;

(i) Written consent for the city to inspect the facility at any time during normal business hours to ensure compliance with applicable laws and regulations;

(j) A location area map of the marihuana facility and surrounding area that identifies the relative locations and the distances (closest property line to the subject marihuana facility's building) to the closest real property comprising a public or private elementary, vocational, or secondary school;

(k) A copy of all documents submitted by the applicant to LARA in connection with the application for a state operating license under the MMFLA (including documents submitted for prequalification);

(l) A copy of all documents submitted by the applicant to LARA in connection with the application for a state operating license under the MRTMA, if applicable;

(m) A copy of all documents issued by LARA indicating that the applicant has been prequalified for a state operating license under the MMFLA; and

(n) Any other information reasonably requested by the city relevant to the processing or consideration of the application.

(B) Initial receipt period set by resolution. For any facility type subject to numerical limitations under § 112.02, the city shall establish an initial receipt period that will commence on October 1, 2018, and will end on a date to be set by resolution of the City Commission. The City Commission shall adopt such resolution on or before October 1, giving consideration to the number of applicants that have completed the pre-qualification step of the state licensing process by that time.

(C) Clerk action upon receipt. The Clerk will accept and receive any application that includes the required items listed above, unless the city has already received an application for the same property (other than an application for a proposed co-located facility) from another applicant. Upon receiving a complete application, the clerk will time- and date-stamp the application and inform the applicant of the following:

(1) The number of existing facilities of the proposed facility type currently operating within the city;

(2) The number of pending applications for the desired facility type

(3) The date, time, and location of any drawing that may be conducted pursuant to division (D).

(D) Conditional authorization. The City Clerk will conditionally authorize facilities as follows:

(1) If, after close of business on the end date of the initial receipt period, the city has received more applications for a given facility type than would be permitted under § 112.02, the Clerk will conduct a drawing to randomly select applicants for conditional authorization and to establish a waiting list for future conditional authorizations for that facility type. The drawing will be noticed and conducted as a public meeting.

(2) For any facility type not subject to numerical limits under § 112.02, or otherwise not subject to the drawing process described in division (D)(1), the Clerk will conditionally authorize facilities in the order in which applications are received.

(3) Once the Clerk has issued conditional authorizations for all of the facilities of a given facility type that would be permitted under § 112.02, the Clerk will place subsequent applications at the end of the waiting list for that facility type.

(E) Final authorization. The City Clerk will grant final authorization for the facility if the applicant:

(1) Submits an application for special use authorization pursuant to § 154.410(B)(4)(p) of the zoning ordinance within 90 days of receiving conditional authorization;

(2) Obtains special use authorization within 12 months of receiving conditional authorization; and

(3) Obtains a state operating license within 18 months of receiving conditional authorization.

(F) Expiration of conditional authorization. If the applicant for a conditionally authorized facility fails to satisfy any of the deadlines established above, the conditional authorization will expire. The City Commission may extend any of the deadlines upon a showing of good cause.

(G) Waiting list and refund of administrative fee. The Clerk will keep and maintain the waiting lists established pursuant to division (D) until the maximum number of facilities of the type to which the list pertains are operating in the city (at which time the Clerk will discard the waiting list). If a conditional authorization for a proposed facility of that facility type expires, the clerk will conditionally authorize the next application on the waiting list. Upon discarding the waiting list, the Clerk will refund the advance of the annual administrative fee established in § 112.05(D) to all applicants remaining on the waiting list.

(H) Newly available authorizations.

(1) For facility types for which the maximum number of facilities specified in § 112.02 are operating in the city, an authorization will become available when:

(a) The state operating license for a facility with final authorization expires or is revoked by LARA; or

(b) This chapter is amended to authorize additional facilities of that facility type.

(2) When an authorization becomes available as described in division (H)(1), the city clerk will establish a 30-day application period to begin within the next 60 days during which the city will accept applications from interested persons, and will publish notice of the selected application period in a newspaper of general circulation at least seven business days before the beginning of that period.

(3) During the selected application period, the Clerk will accept applications using the same process described in divisions (C) and (D) above. If multiple applications are received during the application period, a drawing will be conducted as outlined in § 112.03(D) above.

§ 112.04 RELOCATION OF FACILITIES, TRANSFERS OF LICENSES, AND EXPANSION OF GROW OPERATIONS.

(A) An existing facility may be moved to a new location in the city, subject to applicable zoning regulations and approval by the Licensing Board.

(B) A license for an existing facility may be transferred to a new licensee that intends to continue operating at the same location, subject to approval by the Licensing Board.

(C) No further city approvals are required for the relocations and license transfers described in this section.

(D) A licensee may expand growing operations by upgrading the class of the license (e.g., from class A to class B, or from class B to Class C), or by obtaining a stacked license. To do so, the licensee must submit a new application to the city satisfying the requirements in § 112.03(A), which shall include payment of the application fee and an advance of any additional annual administrative fee that will be owed due to the addition of stacked licenses. The application shall be conditionally approved upon receipt of all required materials.

§ 112.05 GENERAL REGULATIONS.

(A) Submission of supplementary information to the city. Applicants for city authorization and persons operating existing facilities in the city must provide the City Clerk with copies of all documents submitted to LARA in connection with the initial license application, subsequent renewal applications, or investigations conducted by LARA. The documents must be provided to the Clerk within seven days of submission to LARA, and may be submitted by electronic media unless otherwise requested by the Clerk.

(B) Compliance with applicable laws and regulations. Medical marihuana facilities must be operated in compliance with the MMMFLA, MMMFLA rules, all conditions of the facility's state operating licenses, and all applicable city ordinances. Compliance with the foregoing does not create immunity from prosecution by federal authorities or other authorities of competent jurisdiction.

(C) No consumption on premises. No smoking, inhalation, or other consumption of marihuana shall take place on or within the premises of any facility. It shall be a violation of this chapter to engage in such behavior, or for a person to knowingly allow such behavior to occur. Evidence of all of the following gives rise to a rebuttable presumption that a person allowed the consumption of marihuana on or within a premises in violation of this section:

(1) The person had control over the premises or the portion of the premises where the marihuana was consumed;

(2) The person knew or reasonably should have known that the marihuana was consumed; and

(3) The person failed to take corrective action.

(D) Annual fee. A licensee must pay a fee of \$5,000, for each license used within the city in order to help defray administrative and enforcement costs. The holder of a stacked grower license must pay a separate fee in the amount of \$5,000 for each license. The initial annual fee(s) must be paid to the City Clerk when the application for city approval is submitted. In each subsequent year, fees are due no later than January 31.

§ 112.06 VIOLATIONS.

(A) Request for revocation of state operating license. If at any time an authorized facility violates this chapter or any other applicable city ordinance, the City Commission may request that LARA revoke or refrain from renewing the facility's state operating license.

(B) Civil infraction. It is unlawful to disobey, neglect, or refuse to comply with any provision of this chapter. A violation of this chapter is a municipal civil infraction. Each day the violation continues shall be a separate offense. Notwithstanding any other provision of this ordinance to the contrary, violators shall be subject to the following fines:

- (1) First violation: \$500;
- (2) Second offense: \$2,500; and
- (3) Each subsequent offense: \$5,000.

(C) Other remedies. The foregoing sanctions are in addition to the city's right to seek other appropriate and proper remedies, including actions in law or equity.