

TITLE XI: BUSINESS REGULATIONS

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CHAPTER 110: BUSINESS AND TRADE LICENSES

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§ 110.01 BUSINESS LICENSES REQUIRED.

No person shall, directly or indirectly, operate, conduct, maintain or manage any business or premises for which any license or permit is required by any provision of this chapter or code without first procuring a license or permit from the City in the manner prescribed in this chapter.

(Ord. 619-11-09, passed 11-2-09)

§ 110.02 STATE LICENSE NOT EXEMPTION.

The fact that a license or permit has been granted to any person by the state to engage in the operation, conduct, maintenance or management of any business or premises shall not exempt such person from the necessity of procuring a license or permit from the City if such license is required by this code.

(Ord. 619-11-09, passed 11-2-09)

§ 110.03 APPLICATION FOR LICENSE.

Each person required to procure a license from the City shall make application for the license to the City Clerk in the form and manner prescribed by the City Clerk and shall state under oath the facts required for, or applicable to, the granting of the license, including the following:

(A) The full names, business addresses and residence addresses of all owners, proprietors, officers, managers and local employees of applicant's business or the names and addresses of each officer if the applicant is a corporation.

(B) The place or places in the City where it is proposed to maintain applicant's business, and the length of time during which it is proposed the business will be conducted.

(C) The nature, character and quality of the goods, wares, merchandise or services to be sold or offered for sale by the applicant in the City.

(D) The nature and kind of business which the applicant proposes to conduct and the manner of operating it.

(E) A list of all assumed, trade or firm names under which the applicant intends to do business.

(F) The nature and character of advertising done or proposed to be done in order to attract customers.

(G) Whether or not the applicant or person conducting or managing applicant's business has been convicted of a crime, misdemeanor or the violation of any provision of this code or other ordinance of the City, and if so, full particulars of each conviction or violation.

(Ord. 619-11-09, passed 11-2-09)

§ 110.04 LICENSE YEAR.

The license year shall terminate on December 31 at 12:00 midnight next after the issuance of the

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license. In all cases where the provisions of this code permit the issuance of licenses for periods of less than one year, the expiration date shall be indicated on the face of the license.

(Ord. 619-11-09, passed 11-2-09)

§ 110.05 STATE LICENSE LAWS; COMPLIANCE PREREQUISITE.

No license or permit required by this chapter or code shall be issued to any person who is required to have a license or permit from the state until such person shall submit evidence of the state license or permit and proof that all fees for it have been paid.

(Ord. 619-11-09, passed 11-2-09)

§ 110.06 COMPLIANCE WITH CODE.

No license shall be granted to any applicant therefore until the applicant has complied with all of the provisions of this chapter and code pertaining to the business for which application is made, nor shall any license be granted where the approval of any officer of the City is required prior to the issuance thereof until such approval is made.

(Ord. 619-11-09, passed 11-2-09)

§ 110.07 PAYMENT OF FEES.

No license shall be issued until the fees set forth in § 110.18 shall be paid by the applicant to the City Clerk.

(Ord. 619-11-09, passed 11-2-09)

§ 110.08 EXEMPTION.

No license fee shall be required from any person exempt from payment of the fee by state or federal law. Such persons shall comply with all other provisions of this chapter. The City Clerk shall, in all such cases, issue to such persons licenses which are clearly marked as to said exemption and the reason therefore.

(Ord. 619-11-09, passed 11-2-09)

§ 110.09 REFUSAL TO ISSUE LICENSE; REVOCATION, CAUSES.

Licenses requested under this chapter may be refused by the City Clerk or City Manager and

licenses issued may be suspended or revoked by the City Clerk or City Manager at any time, for any of the following causes:

(A) Fraud, misrepresentation or false statement contained in the application for license.

(B) Fraud, misrepresentation or false statement made in the operation of a business.

(C) Any violation of this code.

(D) Conducting a business in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, morals, safety or welfare of the public.

(E) The failure or inability of an applicant to meet and satisfy the requirements and provisions of this code.

(Ord. 619-11-09, passed 11-2-09)

§ 110.10 NOTICE OF SUSPENSION OR REVOCATION.

Written notice of suspension or revocation stating the cause or causes therefor shall be delivered to the licensee personally or mailed to the address stated in the application for license.

(Ord. 619-11-09, passed 11-2-09)

§ 110.11 HEARING BY CITY COMMISSION.

(A) Any person whose license is revoked or suspended or any person whose request for a license is refused shall have the right to a hearing before the City Commission provided a written request therefore is filed with the City Clerk within ten days following the delivery or mailing of notice of revocation or suspension or within ten days following such refusal.

(B) The City Commission may reverse any refusal to issue a license or any suspension or revocation of a license, and the City Commission may grant or reinstate any license. No person shall operate any business when the license or permit has been suspended, revoked, or canceled.

(Ord. 619-11-09, passed 11-2-09)

§ 110.12 RENEWAL OF LICENSE.

Unless otherwise provided herein, an application for renewal of a license shall be considered in the same manner as an original application.
(Ord. 619-11-09, passed 11-2-09)

§ 110.13 CARRYING LICENSE; DISPLAY; REQUIREMENTS.

No licensee shall fail to carry any license issued in accordance with the provisions of this chapter or code upon his person at all times when engaged in the operation, conduct or maintenance of any business for which the license was granted; except that where such business is operated, conducted or maintained at a fixed place or establishment, said license shall be displayed at all times in some conspicuous place in his place of business; and he shall produce the same for examination when applying for a renewal thereof or when requested to do so by any City police officer or by any person representing the issuing authority.
(Ord. 619-11-09, passed 11-2-09)

§ 110.14 EXPIRED OR DUPLICATE LICENSE; DISPLAY.

No person shall display any expired, suspended, or revoked license or any license for which a duplicate has been issued.
(Ord. 619-11-09, passed 11-2-09)

§ 110.15 LICENSES NONTRANSFERABLE.

No license or permit issued under the provisions of this code shall be transferable, unless specifically so provided herein.
(Ord. 619-11-09, passed 11-2-09)

§ 110.16 PROVISIONS COMPLEMENTARY AND SUPPLEMENTAL.

The general provisions of this chapter, together with other relevant provisions of any other chapter of

this code, or the general provisions hereafter authorized, or required by state law, and any and all thereof relative to licenses, permits, businesses, premises or anything connected therewith, shall each be construed to be complementary and supplemental to each other so far as relevant, and where not otherwise provided or inconsistent herewith, constitute a part of the regulations and conditions applicable generally to any particular license or permit in the same manner as though these provisions were fully written into each separate chapter.

(Ord. 619-11-09, passed 11-2-09)

§ 110.17 PENALTY FEE.

Any business requiring a yearly business license will be charged a penalty fee of 25% of the normal fee after 15 days from date of license expiration; 50% after 30 days and double the license fee after 60 days if such business was in business on December 31 preceding the license year.
(Ord. 619-11-09, passed 11-2-09)

§ 110.18 LICENSE FEE AND BOND SCHEDULE.

(A) Schedule established. The fee required to be paid and the amount of any bond required to be posted to obtain any license to engage in the operation, conduct, or carrying on of any trade, profession, business or privilege for which a license is required by the provisions of this code shall be as hereinafter provided in this chapter. No license shall be issued to any applicant unless he first pays to the City Clerk the fee and posts a bond in the amount required for the type of license desired.

(B) Fees for licenses. Fees for licenses shall be as prescribed in the following schedule under the business, trade, occupation, or privilege to be licensed. Bonds, where required, shall be in the amounts listed beneath the license fee prescribed for such business.

(C) License fee and bond schedule.

[Text resumes on page 6.]

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Type of Business	Fee
Circus, Menagerie, Carnival, Exhibition, Side Show (Chapter 119)	
First day	\$100
Each subsequent day	\$50
Bond, conditioned to indemnify the City or others for any property damage and clearing premises	\$3,000
Pawnbrokers and Secondhand Dealers (Chapter 112)	
Pawnbrokers – Annual fee	\$200
Bond	\$3,000
Secondhand Dealers	\$50
Junk Dealers	\$50
Antique Dealers	\$50
Peddlers (Chapter 111)	
Per day	\$20
Per week	\$50
Per month	\$75
Per year	\$100
Under 16 years of age	\$0
Subject to restriction of the use of such streets as may be designated by the Director of Public Safety	
Transient Merchants (Chapter 111)	
Farm Products – Produce	
Per day	\$5
Per month	\$25
Per year	\$30
Christmas Tree Sales – For the sale season (approximately one month)	\$25
Dealers in Precious Metals and Gems (Chapter 115)	
Certificate of Registration – Annual fee	\$50
Other Merchants	
Per day	\$35
Per week	\$50
Per month	\$75
Per six months	\$100
Per year	\$200
Going-Out-of-Business (Chapter 113)	
(Set by State Law)	
First 30 days of the sale	\$50
Renewal for 30 days	\$50

Business and Trade Licenses

6A

Type of Business	Fee
Mobile Food Vendors	
Per year	\$100
Per month	\$75
Per week	\$50
Per day	\$20

(Ord. 619-11-09, passed 11-2-09; Am. Ord. 624-05-10, passed 5-17-10; Am. Ord. 632-11-10, passed 11-1-10; Am. Ord. 642-12-11, passed 12-5-11; Am. Ord. 686-02-15, passed 2-16-15; Am. Ord. 696-06-16, passed 6-20-16; Am. Ord. 717-02-18, passed 2-19-18)

CHAPTER 111: PEDDLERS AND TRANSIENT MERCHANTS

Section

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- 111.02 License required
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- 111.04 Veteran's exemption
- 111.05 Closing out sales
- 111.06 License requirements for employees, agents, consignees or unincorporated firms or associations
- 111.07 Mobile food vendors
- 111.08 Door-to-door hours in residential areas
- 111.09 Exempt activities

§ 111.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MOBILE FOOD VENDING. Vending, serving, or offering for sale food and/or beverages from a mobile food vending unit which meets the definition of a Food Service Establishment under Public Act 92 of 2000, which may include the ancillary sales of branded items consistent with the food, such as a tee shirt that bears the name of the organization engaged in **MOBILE FOOD VENDING**.

MOBILE FOOD VENDING UNIT. Any motorized or non-motorized vehicle, trailer, or other device designed to be portable and not permanently attached to the ground from which food and/or beverages is/are vended, served, or offered for sale.

OPERATE. All activities associated with the conduct of business, including the set up and take down activities and/or the actual hours where the mobile food vending unit is open for business.

PEDDLER. Any person who goes about from place to place, selling or offering for sale, goods, wares, merchandise and all kinds of property, traveling on foot or in vehicles, and selling from

house to house without prior specific invitation or appointment from the resident, or by crying his wares from the street. Such term shall include "hawker", "solicitor" and "huckster."

TRANSIENT MERCHANT. Any person engaged temporarily in the retail sale of goods, wares or merchandise, in any place in this City and who, for the purpose of conducting such business, occupies or uses any lot, building, truck, trailer, stall, room, tent, canopy or structure of any kind.

(1) Such term shall include: "itinerant merchants," "itinerant vendors" and persons engaged in selling goods, wares or merchandise at retail in this City and who are not on the tax rolls of this City; and

(2) Any person who commences a business of selling goods, wares and merchandise at retail within the City after the first day of January in any year and who is not assessed on the tax roll for that year and who occupies or uses the licensed premises for a period of less than 180 days shall be deemed a **TRANSIENT MERCHANT** within the meaning of this chapter.

VENDOR. Any individual engaged in the business of mobile food vending; if more than one individual is operating a single stand, cart or other means of conveyance, then **VENDOR** shall mean all individuals operating the single stand cart or other means of conveyance.

(Ord. 616-11-09, passed 11-2-09; Am. Ord. 695-06-16, passed 6-20-16)

§ 111.02 LICENSE REQUIRED.

It shall be unlawful for any person to engage in business as a peddler, route salesman or transient merchant in the City without first having procured a license from the Clerk as herein provided. A person, persons, or company applying for a business license under this section shall complete an Authorization to

Obtain a Criminal History Report form, and submit it along with the current fee for obtaining such report, to the City Clerk for processing. No license shall be granted except upon approval of the Director of Public Safety. Mobile food vendors must obtain a permit or license from the Health Department and provide a copy to the City Clerk.
(Ord. 616-11-09, passed 11-2-09; Am. Ord. 695-06-16, passed 6-20-16)

§ 111.03 LICENSE DISPLAYED.

(A) An application for a license under this chapter shall be accompanied by a fee as set forth in § 110.18.

(B) Persons under the age of 16 years of age, where all proceeds are retained by the person, shall be exempt from the license fee. No adult or business shall hire or subcontract with persons under 16 years of age in an attempt to evade the provisions of this chapter.

(C) All licenses issued to peddlers, transient merchants, and mobile food vendors shall be displayed upon each mobile vending unit, and upon request made to all licensees.
(Ord. 616-11-09, passed 11-2-09; Am. Ord. 695-06-16, passed 6-20-16)

§ 111.04 VETERANS EXEMPTION.

A veteran who obtains a veteran's license from a County Clerk pursuant to MCL 35.442 is exempt from having to obtain a City license as a peddler, transient merchant, or mobile food vendor, but the person holding the veteran's license must comply with all the applicable City code regulations, must display the veteran's license in the same manner that the City license must be displayed, and must provide a copy of the veteran's license to the City Clerk.
(Ord. 616-11-09, passed 11-2-09; Am. Ord. 695-06-16, passed 6-20-16)

§ 111.05 CLOSING OUT SALES.

No transient merchant shall advertise, represent or hold out to the public any sale as being the sale of a bankrupt's stock, creditor's, administrator's, executor's sale or closing out sale; or sale of merchandise damaged by fire, water or otherwise unless at the time of making application for a license as herein required, he states under oath all the facts

relative to the sale he proposes to conduct, including the name and addresses of the persons from whom the merchandise to be sold was purchased and a full description of all of the goods, wares and merchandise to be sold. The Clerk shall thereupon issue the license for the type of sale specified in the application.
(Ord. 616-11-09, passed 11-2-09; Am. Ord. 695-06-16, passed 6-20-16)

§ 111.06 LICENSE REQUIREMENTS FOR EMPLOYEES, AGENTS, CONSIGNEES OR UNINCORPORATED FIRMS OR ASSOCIATIONS.

A transient merchant license may be issued to a person carrying on the business of peddler or transient merchant in the City through employees. Such employees shall carry a duplicate license issued to the person. If the business of peddler or transient merchant is carried on through agents who are not employees, but consignees or by an unincorporated firm or association, each person so conducting the business of peddler or transient merchant shall be required to have a separate license.
(Ord. 616-11-09, passed 11-2-09; Am. Ord. 695-06-16, passed 6-20-16)

§ 111.07 MOBILE FOOD VENDORS.

All vendors engaging in mobile food vending shall:

(A) Locate and operate only in those City parks posted "LICENSED MOBILE FOOD VENDORS ALLOWED," in compliance with Park and Recreation Board rules on the location and hours of operation of the mobile food vending units in the park.

(B) Provide appropriate waste receptacles at the site of the unit and remove all litter, debris and other waste attributable to the vendor on a daily basis.

(C) Operate on City-owned or controlled property, in compliance with applicable parking regulations.

(D) Not operate on public property within a block of a City-authorized street fair, public festival, farmer's market, or special event without authorization from the event sponsor.

(E) Not use any flashing, blinking or strobe lights and all exterior lights over 60 watts shall contain opaque hoods or shields to direct the illumination downward.

(F) Not use loud music or amplification devices or "crying out" to gain attention in any manner that causes a disturbance or safety hazard.

(G) Comply with the City's Noise Ordinance, Sign Ordinance and all other City code provisions.

(H) Comply with all applicable federal, state and county regulations.

(I) Display only one portable sign up to six square feet, with no dimension greater than three feet and no height (with legs) greater than four feet, located within five feet of the unit; and under no circumstance shall the sign be placed upon the sidewalk or impede pedestrian and/or vehicle traffic.

(J) Operate in residential areas only between the hours of 9:00 a.m. and 9:00 p.m. and in commercial areas only between the hours of 7:00 a.m. and 11:00 p.m. On private property within a commercial area, a mobile food vendor may operate only between the hours of 6:00 a.m. and 3:00 a.m.

(K) Not locate or operate within 500 feet of the entrance to any school building between the hours of 8:00 a.m. and 5:00 p.m. on the days when school is in session.

(L) Not leave a mobile food vending unit unattended for more than two hours; and any mobile food vending unit not in operation shall be removed from all City and public property between the hours of 11:00 p.m. and 7:00 a.m. in commercial areas and 9:00 p.m. to 9:00 a.m. in residential areas.

(M) Not represent the granting of a license by the City as an endorsement of the food vendor by the City.

(N) Not utilize any electricity or power without the prior written authorization of the power customer; no power cable or similar device shall be extended across any City street, alley or sidewalk except in a manner that does not impede pedestrian or vehicular traffic, or cause any safety hazard.

(O) Not set up or locate in a place that blocks or impedes wheelchair and handicapped access or travel on sidewalks.

(P) Not locate or operate within the road right-of-way in any manner that impedes vehicular traffic.

(Q) Not take up public parking spaces or parking lots, except as authorized or permitted as part of a special event or festival.

(R) Locate no closer than 150 feet from businesses that sell the same food product as the mobile food vendor.

(S) Obtain a mobile food vendor's license and register street vending location(s) with the City Clerk and pay a fee of \$100.

(T) Comply with the terms of permits issued to the Chamber of Commerce, Downtown Business Association and other sponsors who obtain special event permits to use parking lots, close streets, conduct parades and other civic activities. Vendors that are invited by the event sponsors to participate in these events may use the areas blocked off and reserved for these special event activities. Permits for these special event activities are exclusively controlled by the sponsors of these events. Vendors not invited to participate in these activities may locate on public property no closer than 200 feet from the area reserved by the special event permit. (Ord. 695-05-16, passed 6-20-16)

§ 111.08 DOOR-TO-DOOR HOURS IN RESIDENTIAL AREAS.

No person shall engage in selling door-to-door in residential areas prior to 9:00 a.m. or after 8:00 p.m., or sunset, whichever is earlier, on any weekday or Saturday, or at any time on Sunday, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas. (Ord. 616-11-09, passed 11-2-09; Am. Ord. 695-05-16, passed 6-20-16)

§ 111.09 EXEMPT ACTIVITIES.

Persons engaged in the following described activities are exempt from the duty of applying for license under this section:

(A) The sale of goods, wares or merchandise, or solicitations on behalf and solely for the benefit of any recognized charitable or religious purpose.

(B) Commercial travelers employed by wholesale houses, who take or seek to take the orders from merchants for goods, wares or merchandise and other personal property for the purpose of resale by the merchant.

(C) Persons selling or delivering tangible personal property or services through or for a permanent business located within the City.

(D) Persons selling at events for which a blanket license has been obtained.

(E) Persons selling or distributing newspapers.

(F) Persons who sell, at their permanent residence in the City, works of art or crafts made or created by such person or a member of such person's immediate family.

(G) Persons selling tangible personal property at a garage, basement or yard sale held at one of the person's premises, if permitted under the terms of the Zoning Code.

(H) Persons conducting and selling admissions to or for theatricals, shows, rides, sports and games, concerts, circuses, carnivals or any other public amusement where no sales of other products are involved.

(I) A person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good or service that is offered to the resident for purchase at another permanent business located within the City.

(J) A persons soliciting orders by sample, brochures or sales catalogue (cosmetics, kitchen ware, jewelry, etc.) for future delivery, or making sales on residential premises pursuant to an invitation issued by the owner or legal occupant of the premises.

(Ord. 616-11-09, passed 11-2-09; Am. Ord. 695-05-16, passed 6-20-16)

CHAPTER 112: PAWNBROKERS AND SECONDHAND DEALERS

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- 112.03 License fee
- 112.04 Pawnbroker bonds
- 112.05 Sunday pawnbroker operations prohibited
- 112.06 Acceptance of property from certain persons prohibited
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- 112.09 Revocation of license
- 112.10 Penalty

Cross-reference:

Dealers of Precious Metals and Gems, see Ch. 115

§ 112.01 DEFINITIONS.

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANTIQUÉ DEALER. A person, corporation, limited liability company, member or members of a copartnership or firm specializing in appraising, buying and selling antiquities, antiques, and collectables.

PAWNBROKER. A person, corporation, limited liability company, member, or members of a copartnership or firm, who loans money on deposit, or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.

SECONDHAND DEALER OR JUNK DEALER. Any person, corporation, limited liability company, member, or members of a copartnership or firm whose principal business is that of purchasing, selling, exchanging, storing, or receiving second hand articles of any kind, scrap metals, cast iron, old iron, old steel, tool steel, aluminum, copper, brass, lead pipe or tools, or lighting and plumbing fixtures,

but excluding sellers of donated goods. Secondhand dealer or junk dealer does not include a scrap processor, an automotive recycler, or a junkyard that deals principally in industrial scrap and is licensed by a city, village, or county.

(Ord. 623-05-10, passed 5-17-10; Am. Ord. 631-11-10, passed 11-1-10; Am. Ord. 635-1-11, passed 2-7-11)

§ 112.02 LICENSE REQUIRED.

(A) No person shall engage in the business of a pawnbroker, secondhand dealer, junk dealer or antique dealer without first procuring a license from the City of Big Rapids signed by the Mayor with the approval of the Director of Public Safety.

(B) A person, persons or company applying for a pawnbroker license shall complete an authorization to obtain a criminal history report form, and submit it along with the current fee for obtaining the report, to the City Clerk for processing. The Director of Public Safety shall review and consider the criminal history prior to approving or disapproving the pawnbroker license. Any person, persons or company disapproved by the Director of Public Safety for a pawnbroker license shall be entitled to a meeting with the Director of Public Safety and the opportunity to be heard on the reason for disapproval.

(C) The license shall designate the particular place in the City where the license holder shall carry on the business, and no person shall carry on the business in any place other than the one designated in the license.

(D) The license period shall be for one year from January 1 to December 31, unless sooner revoked for cause, and shall not be transferable. If a license is issued for a partial year, the license fee amount will be pro-rated from the date of issuance of the license to December 31.

(Ord. 623-05-10, passed 5-17-10; Am. Ord. 631-11-10, passed 11-1-10; Am. Ord. 635-1-11, passed 2-7-11)

§ 112.03 LICENSE FEE.

No pawnbroker, secondhand dealer, or junk dealer license shall be issued without first paying an annual license fee in the amount established by the City in Chapter 110, § 110.18.
(Ord. 623-05-10, passed 5-17-10; Am. Ord. 631-11-10, passed 11-1-10)

§ 112.04 PAWNBROKER BONDS.

(A) Before any pawnbroker license is issued, the applicant shall furnish a surety bond with at least two sureties, or a cash bond in the penal sum of \$3,000 conditioned on the faithful performance of the duties and obligations pertaining to the conduct of the business and for the payment of all costs and damages incurred by any violation of the statute. The bond shall be approved and kept on file by the City Clerk.

(B) Any person aggrieved by the action of a licensed pawnbroker shall have a right of action on the bond for the recovery of damages or to enforce any lawful right. The bond shall remain in force for 90 days after the expiration or cancellation of the license. Any cash bond posted with the City shall be returned to the license holder without interest 90 days after the expiration or cancellation of the license, or after termination of any action against the bond, whichever is later.
(Ord. 623-05-10, passed 5-17-10; Am. Ord. 631-11-10, passed 11-1-10)

§ 112.05 SUNDAY PAWNBROKER OPERATIONS PROHIBITED.

No pawnbroker license shall authorize any business to be transacted by a pawnbroker on Sunday.
(Ord. 623-05-10, passed 5-17-10)

§ 112.06 ACCEPTANCE OF PROPERTY FROM CERTAIN PERSONS PROHIBITED.

A licensed pawnbroker or secondhand dealer shall not accept, receive for pawn, purchase, or acquire any article from a person under 18 years of age, or a person the pawnbroker or secondhand dealer suspects stole the article.
(Ord. 623-05-10, passed 5-17-10)

§ 112.07 RECORDS REQUIRED; CONTENTS; INSPECTION.

(A) A licensed pawnbroker or secondhand dealer shall keep a record in English, at the time the pawnbroker or secondhand dealer receives any article of personal property or other valuable thing by way of pawn or purchase in the course of business, that includes a description of the article, a sequential transaction number, any amount of money loaned on or paid for the article, the name, residence, general description, and driver license number, official state identification card number, or government identification number of the person from whom the article was received, and the day and hour when the article was received. The record, the place where the business is conducted, and all articles of property in the place of business are subject to examination at any time by the attorney of the governmental unit, local police agency, county prosecuting attorney, and the department of state police.

(B) Upon receipt of any article of personal property or other valuable thing by way of pawn, purchase, or trade, the pawnbroker or secondhand dealer shall make a permanent record of the transaction on a form provided by the pawnbroker or secondhand dealer that substantially complies with the form described in MCL 446.205(4). Each record shall be completed legibly in duplicate by the pawnbroker or secondhand dealer in the English language, and shall contain all of the information required by MCL 446.205(4). The pawnbroker or secondhand dealer shall retain a record of each transaction and, within 48 hours after the property is received, shall send one copy of the record of transaction to the Big Rapids Department of Public Safety.
(Ord. 623-05-10, passed 5-17-10)

§ 112.08 DESTRUCTION OR DEFACING OF PAWNED PROPERTY.

(A) A pawnbroker shall not deface, scratch, obliterate, melt, separate, or break into parts any article or thing received in pawn, or otherwise cause or allow to be done by others, anything that destroys the identity of the article or thing, or makes identification of the article or thing more difficult.

(B) A pawnbroker shall not accept by way of pledge, pawn, purchase or exchange any article or thing that customarily bears a manufacturer's serial number or other identifying insignia unless the serial number or insignia is plainly visible.
(Ord. 623-05-10, passed 5-17-10)

§ 112.09 REVOCATION OF LICENSE.

Upon the conviction of any person doing business as a pawnbroker, secondhand dealer, or junk dealer under this chapter, or upon the conviction of any clerk, agent, or employee of a pawnbroker, secondhand dealer, or junk dealer upon any charge of violating a provision of this chapter or corresponding state law, the license of the pawnbroker, secondhand dealer, or junk dealer shall be revoked by the City Clerk after notice to the license holder and an opportunity to be heard by the City Clerk. No part of the license fee shall be returned after revocation, and no license for a pawnbroker, secondhand dealer, or junk dealer shall be issued to the person for one year from the date of revocation.

(Ord. 623-05-10, passed 5-17-10; Am. Ord. 631-11-10, passed 11-1-10)

§ 112.10 PENALTY.

The violation of any provision of this chapter shall be a misdemeanor punishable by a fine of up to \$500 and jail of up to 90 days.

(Ord. 623-05-10, passed 5-17-10)

CHAPTER 113: GOING-OUT-OF-BUSINESS SALES

Section

- 113.01 Definitions
- 113.02 Exemptions from chapter provisions
- 113.03 License required
- 113.04 Application requirements
- 113.05 Issuance of license
- 113.06 License fee
- 113.07 Display of license
- 113.08 Advertisement

sale of goods, or the sale of goods which have been damaged by fire, smoke, water or otherwise, who acquired the goods for the account of others as a result of fire or other casualty.

(B) The provisions of this chapter shall not apply to sheriffs, constables, or other public or court officers, or to any other person acting under the license, direction or authority of any court, state or federal, selling goods, wares or merchandise in the course of their official duties.

(Ord. 618-11-09, passed 11-2-09)

§ 113.01 DEFINITIONS.

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

GOING-OUT-OF BUSINESS SALE. Any sale, whether described by such name or by any other name such as, but not limited to, "closing out sale", "liquidation sale", "lost-our-lease sale", "forced to vacate sale", held in such a manner as to indicate a belief that upon disposal of the stock of goods on hand, the business will cease and discontinue at the premises where the sale is conducted.

GOODS. All goods, wares, merchandise and other personal property, excepting, choses in action and money.

PERSON. Includes a person, firm, corporation, partnership, association or two or more persons having a joint or common interest.

REMOVAL SALE. Any sale held in such a manner as to induce a belief that upon disposal of the stock of goods on hand, the business will cease and discontinue at the premises where the sale is conducted, and thereafter will be moved to and occupy another location.

(Ord. 618-11-09, passed 11-2-09)

§ 113.02 EXEMPTIONS FROM CHAPTER PROVISIONS.

(A) This chapter shall not apply to any sales by a person regularly engaged in insurance or salvage

§ 113.03 LICENSE REQUIRED.

Pursuant to the provisions of Act No. 39 of the Public Acts of Michigan of 1961 (MCL 442.211 et seq.), as amended, a license issued by the City Clerk shall be obtained by any person before selling or offering to sell any goods at a sale to be advertised or held out by any means to be one of the following kinds:

(A) Going-out-of-business sale.

(B) Removal-of-business sale.

(C) Sale of goods damaged by fire, smoke or otherwise.

(Ord. 618-11-09, passed 11-2-09)

§ 113.04 APPLICATION REQUIREMENTS.

A person desiring to conduct a sale regulated by this chapter shall make a written application to the City Clerk setting forth and containing the following information:

(A) Any applicant for a license under this chapter shall file an application in writing and under oath with the City Clerk setting out the following facts and information regarding such a proposed sale:

(1) The name and address of the applicant for the license, who must be the owner of the goods to be sold, and in addition, if the applicant is a partnership, corporation, firm or association, the name and the position of the individual filing such application;

(2) The name and style in which such sale is to be conducted, and the address where the sale is to be conducted;

(3) The dates and period of time during which the sale is to be conducted;

(4) The name and address of the person who will be in charge and responsible for the conduct of the sale;

(5) A full explanation with regard to the condition or necessity, which is the occasion for the sale, including a statement of the descriptive name of the sale and the reasons why the name is truthfully descriptive of the sale. Going-out-of-business applications shall also contain a statement that the business will be discontinued at the premises where the sale is to be conducted upon termination of the sale. If the application is for a license to conduct a removal sale, it shall also contain a statement that the business will be discontinued at the premises where the sale is to be conducted upon termination of the sale, in addition to the location of the premises to which the business is to be moved. If the application is for a license to conduct a sale of goods damaged by fire, smoke, water or otherwise, it shall also contain a statement as to the time, location and cause of the damage;

(6) A full, detailed, and complete inventory of the goods that are to be sold, which inventory shall:

(a) Itemize the goods to be sold and contain sufficient information concerning each item, including make and brand name, if any, to clearly identify it;

(b) List separately any goods, which were purchased during a 60-day period immediately prior to the date of making application for the license;

(c) Show the cost price of each item in the inventory together with the name and address of the seller of the items to the applicant, the date of the purchase, the date of the delivery of each item to the applicant and the total value of the inventory at cost;

(d) In no case exceed 200% of the total value of merchandise upon which personal property tax was paid by the applicant or his predecessor as evidence by a copy of the last personal property tax receipt issued;

(e) A statement that no goods will be added to the inventory after the application is made or during the sale and that the inventory contains no goods received on consignment.

(B) Any person making a false statement in the application provided for in this section shall be in violation of this chapter.
(Ord. 618-11-09, passed 11-2-09)

§ 113.05 ISSUANCE OF LICENSE.

(A) A license shall be issued hereunder on the following terms:

(1) (a) A license to conduct a sale issued pursuant to this chapter shall not be issued or valid for a period of more than 30 days from the start of the sale, and the sale may be conducted only during the period set forth in the license.

(b) The license may be renewed not more than twice for a period not to exceed 30 days for each renewal upon affidavit of the licensee that the goods listed in the inventory have not been disposed of and that no new goods have been or will be added to the inventory previously filed pursuant to this article, by purchase, acquisition or consignment or otherwise. The application for renewal of the license shall be made not more than 13 days prior to the time of the expiration of the license and shall contain a new inventory of goods remaining on hand at the time the application for renewal is made, which new inventory shall be prepared and furnished in the same manner and form as the original inventory. No renewal shall be granted if any goods have been added to the stock listed in the inventory since the date of the issuance of the license. A fee of \$50.00 shall accompany an application for the license and for the renewal of a license.

(2) The license shall authorize only the one type of sale described in the application at the location named therein.

(3) The license shall authorize only the sale of goods and merchandise described in the inventory attached to the application; no person shall order any goods for the purpose of selling and disposing of the same under any sale authorized by this chapter. Any unusual purchase or additions to the stock within 60 days prior to the filing of the application hereunder shall be presumptive evidence that the purchases and additions were in contemplation of the sale authorized by this chapter.

(4) Any license herein provided for shall not be assignable or transferable.

(B) No license under this chapter shall be issued to any person:

(1) To conduct a sale in the trade name or style of a person in whose goods the applicant for the license has acquired a right or title thereto within six months prior to the time of making application for such a license.

(2) To conduct a sale, other than sale of goods damaged by fire, smoke, or otherwise on the same premises within one year from the conclusion of a prior sale of the nature covered by this act.

(C) Divisions (B)(1) and (2) above shall not apply to any person who acquired right or title in goods as an heir, devisee or legatee or pursuant to a court order of a court of competent jurisdiction.

(D) No license under this chapter shall be issued unless all personal property taxes due or which will become due by the time of the sale from the business seeking the license have been paid or until arrangements satisfactory to the city treasurer have been made for payment of said taxes from the proceeds of the sale.

(Ord. 618-11-09, passed 11-2-09)

§ 113.06 LICENSE FEE.

Any applicant for a license under this chapter shall submit to the City Clerk with his application a license fee, as prescribed in § 110.18.

(Ord. 618-11-09, passed 11-2-09)

§ 113.07 DISPLAY OF LICENSE.

A copy of the application for a license to conduct a sale under this chapter, including the inventory filed herewith, shall be posted in a conspicuous place in the sales room or place where the inventoried goods are to be sold, so that the public may be informed of the facts relating to the goods before purchasing same, but the copy need not show the purchase price of the goods. The duplicate copy of a license shall be attached to the front door of the premises where the sale is conducted in such a manner that it be clearly visible from the street.

(Ord. 618-11-09, passed 11-2-09)

§ 113.08 ADVERTISEMENT.

Any advertisement or announcement published in connection with any sale outlined under this chapter shall conspicuously show on its face the number of license issued by the City Clerk and the date of its expiration.

(Ord. 618-11-09, passed 11-2-09)

CHAPTER 114: [RESERVED]

[Next chapter begins on page 23.]

CHAPTER 115: DEALERS OF PRECIOUS METALS AND GEMS

Section

- 115.01 Purpose
- 115.02 Definitions
- 115.03 Application by a dealer
- 115.04 Fees
- 115.05 Issuance of certificate of registration
- 115.06 Posting of certificate of registration
- 115.07 Hours of operation
- 115.08 Recordkeeping
- 115.09 Penalty for violation

Cross-reference:

Pawnbrokers and Secondhand Dealers, see Ch. 112

§ 115.01 PURPOSE.

This Chapter shall establish the procedure for the City of Big Rapids to issue a certificate of registration to a dealer in precious metals and gems as required by The Precious Metal and Gem Dealer Act, MCL 445.481 et seq. (Ord. 636-1-11, passed 2-7-11)

§ 115.02 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

AGENT OR EMPLOYEE. A person who, for compensation or valuable consideration, is employed either directly or indirectly by a dealer.

DEALER. Any person, corporation, partnership, or association, which, in whole or in part, engages in the ordinary course of repeated and recurrent transactions of buying or receiving precious items from the public within this state.

GOLD. Elemental gold having an atomic weight of 196.967 and the chemical element symbol of Au, whether found by itself or in combination with its alloys or any other metal.

JEWELRY. An ornamental item made of a material that includes a precious gem.

LOCAL POLICE AGENCY. The Department of Public Safety for the City of Big Rapids.

PLATINUM. Elemental platinum having an atomic weight of 195.09 and the chemical element symbol of Pt, whether found by itself or in combination with its alloys or any other metal.

PRECIOUS GEM. A diamond, alexandrite, ruby, sapphire, opal, amethyst, emerald, aquamarine, morganite, garnet, jadeite, topaz, tourmaline, turquoise or pearl.

PRECIOUS ITEM. Jewelry, a precious gem, or an item containing gold, silver, or platinum. Precious items do not include the following:

(1) Coins, commemorative medals, and tokens struck by, or in behalf of, a government or private mint.

(2) Bullion bars and discs of the type traded by banks and commodity exchanges.

(3) Items at the time they are purchased directly from a dealer registered under this chapter, a manufacturer, or a wholesaler who purchased them directly from a manufacturer.

(4) Industrial machinery or equipment.

(5) An item being returned to or exchanged at the dealer where the item was purchased and which is accompanied by a valid sales receipt.

(6) An item which is received for alteration, redesign, or repair in a manner that does not substantially change its use and returned directly to the customer.

(7) An item which does not have a jeweler's identifying mark or a serial mark and which the dealer purchases for less than \$5.00.

(8) Scrap metal which contains incidental traces of gold, silver, or platinum which are recoverable as a byproduct.

(9) Jewelry which a customer trades for other jewelry having a greater value, and which difference in value is paid by the customer.

SILVER. Elemental silver having an atomic weight of 107.869 and the chemical symbol of Ag, whether found by itself or in combination with its alloys or any other metal.
(Ord. 636-1-11, passed 2-7-11)

§ 115.03 APPLICATION BY A DEALER.

No dealer shall conduct business in the City of Big Rapids unless the dealer has first obtained a certificate of registration from the City.

(A) A dealer who applies for a certificate of registration shall complete an application form as provided by the City Clerk's Office, which at a minimum, shall contain the following information:

(1) Name, home address, phone number, copy of driver's license, date of birth, and right thumb print (print to be affixed to the application by the Public Safety Department or City Clerk's Office). Applications for more than one establishment shall be made on separate application forms.

(2) The name, address, telephone number, and hours of the dealer's business. If the dealer's business is a corporation, an updated copy of the articles of incorporation must be provided, or if the dealer's business is a limited liability company, an updated copy of the articles of organization must be provided, or if the dealer's business is a partnership, a valid certified copy of the assumed name certificate from the county clerk must be provided.

(3) The name, address, date of birth and right thumbprint of each employee or agent of the dealer. Within 24 hours after hiring a new employee, and before that employee makes any transactions, the dealer shall forward to the Department of Public Safety the name, address and thumbprint of the new employee.

(B) The dealer shall also submit a signed statement indicating that he has read and understands the provisions of Public Act No. 95 of 1981 (MCL 445.481 et seq.), as amended, as provided to him by the City Clerk's Office or Department of

Public Safety, and further that the dealer has informed his agents or employees, and will immediately inform all new agents or employees, as to the provisions of the Public Act 95 of 1981, as amended.

(C) The dealer shall submit a signed statement that neither he or she nor any of his or her agents or employees has been convicted of a felony under Public Act No. 95 of 1981 (MCL 445.481 et seq.), as amended, or under section 535 of Public Act No. 328 of 1931 (MCL 750.535), as amended, within the five-year period preceding the date of the application, or convicted of a misdemeanor under such laws within a one-year period preceding the date of this application.

(D) The dealer shall submit proof of proper zoning approval permits for the site on which the business will be operated.
(Ord. 636-1-11, passed 2-7-11)

§ 115.04 FEES.

The dealer shall pay an annual fee of \$50 to cover the reasonable cost of processing and issuing the certificate of registration.
(Ord. 636-1-11, passed 2-7-11; Am. Ord. 686-02-15, passed 2-16-15)

§ 115.05 ISSUANCE OF CERTIFICATE OF REGISTRATION.

The Public Safety Director or designee shall be responsible for reviewing all applications for a certificate of registration. Upon receipt of the application and the completion of its investigation, the Public Safety Department will return the application and a signed certificate of registration to the City Clerk's Office, if the applicant is qualified to receive it. The signed certificate of registration will be issued to the dealer.
(Ord. 636-1-11, passed 2-7-11)

§ 115.06 POSTING OF CERTIFICATE OF REGISTRATION.

The certificate of registration shall be posted by the dealer in a conspicuous place at the location where transactions will occur or at the dealer's place of business within the City.
(Ord. 636-1-11, passed 2-7-11)

§ 115.07 HOURS OF OPERATION.

No dealer shall conduct business as provided in this chapter between the hours of 9:00 p.m. and 8:00 a.m.

(Ord. 636-1-11, passed 2-7-11)

§ 115.08 RECORDKEEPING.

The dealer, or his or her agents/employees, shall maintain a permanent record of each transaction, on a record of transaction form per subsection (6) of the Act No. 95 of the Public Acts of 1981, as amended, being MCL 445.481 through MCL 445.492.

(Ord. 636-1-11, passed 2-7-11)

§ 115.09 PENALTY FOR VIOLATION.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$500, or be imprisoned for a period of not more than 90 days, or both such fine and imprisonment in the discretion of the court.

(Ord. 636-1-11, passed 2-7-11)

CHAPTER 116: MARIHUANA FACILITIES

Section

Marihuana Establishments

General Provisions

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		116.61	Prohibited marihuana establishments
116.01	Title	116.62	Permits, applications and fees
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Licensing of Medical Marihuana Facilities

116.10	Number of permitted facilities
116.11	License and annual fee required; exception
116.12	Location criteria
116.13	General permit application requirements
116.14	Denial of application
116.15	Issuance of provisional approval certificate
116.16	Issuance of city marihuana facility operating permit
116.17	Permit forfeiture
116.18	Permit renewal
116.19	Transfer of permit
116.20	Permit as revocable privilege
116.21	Nonrenewal, suspension or revocation of permit

GENERAL PROVISIONS

§ 116.01 TITLE.

This chapter is to be known and may be cited as the City of Big Rapids Medical Marijuana Facilities Ordinance.
(Ord. 749-10-19, passed 10-7-19)

§ 116.02 PURPOSE.

(A) *Purpose.* The purpose of this chapter is to implement the provisions of Public Act 281 of 2016, being the Michigan Medical Marihuana Facilities Licensing Act (MMFLA), to protect the public health, safety, and welfare of the residents and patients of the City by setting forth the manner in which medical marihuana facilities can be operated in the City. Further, the purpose of this chapter is to:

(1) Authorize the establishment of medical marihuana facilities within the City and provide standards and procedures for the review, issuance, renewal, and revocation of City-issued permits for such facilities;

(2) Impose fees to defray and recover the cost to the City of the administrative and enforcement costs associated with medical marihuana facilities; and

(3) Coordinate with laws and regulations enacted by the state addressing medical marihuana.

Specific Marihuana Facility Requirements

116.30	Grower classes
116.31	Separation of licensed premises
116.32	Secure transporter
116.33	Provisioning centers

General Requirements

116.40	Compliance with rules; inspections
116.41	Signage and advertising
116.42	Security requirements
116.43	Fire suppression; hazardous materials
116.44	Waste management
116.45	Visibility of activities
116.46	Odor control
116.47	Reports of crime
116.48	Inspection of licensed premises
116.49	Other laws remain applicable
116.50	Grant of administrative authority

(B) *Legislative intent.* This chapter authorizes the establishment of medical marihuana facilities within the City consistent with the provisions of the Michigan Medical Marihuana Facilities Act, and subject to the following:

(1) The use, distribution, cultivation, production, possession, and transportation of medical marihuana remains illegal under federal law, and marihuana remains classified as a "controlled substance" by federal law. Nothing in this chapter is intended to promote or condone the production, distribution, or possession of marihuana in violation of any applicable law. Nothing in this chapter is intended to grant immunity from any criminal prosecution under state or federal law. This chapter does not protect patients, caregivers, or the owners of properties on which a marihuana commercial operation is conducted from prosecution or having property seized by federal law enforcement authorities.

(2) This chapter is to be construed to protect the public interest over medical marihuana facility interests. The operation of a licensed medical marihuana facility 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 medical marihuana as a commercial enterprise in the City.

(3) Any individual or business entity which engages in the use, distribution, cultivation, production, possession, transportation or sale of medical marihuana as a commercial enterprise in the City either prior to or after the enactment of this chapter without obtaining the required authorization required by this chapter is deemed to be an illegally established use, and is not entitled to legal nonconforming status under this chapter, the City zoning ordinance, or state law.

(4) Nothing in this chapter is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of marihuana in any form, that is not in strict compliance with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, the Marihuana Tracking Act, and all applicable rules promulgated by the State of Michigan regarding medical marihuana. Strict compliance with any applicable state law or regulation is deemed a

requirement for the issuance or renewal of any permit issued by the City-issued under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for revocation or nonrenewal of any permit issued under the terms of this chapter.

(C) *Indemnification of City.*

(1) 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 medical marihuana facility owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

(2) 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 medical marihuana facility, arising out of the operation of a medical marihuana facility 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) .

(D) *Reservation of legislative prerogative.*

(1) 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 medical marihuana facilities authorized to operate in the City.

(2) Nothing in this chapter may be held or construed to grant or "grandfather" any medical marihuana facility a vested right, license, permit or privilege to continued operations within the City. (Ord. 749-10-19, passed 10-7-19)

§ 116.03 DEFINITIONS.

Unless the context requires a different meaning, any term used in this chapter that is defined by the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, or the Administrative Rules promulgated by the Michigan Department of Licensing and Regulatory Affairs addressing medical marihuana shall have the definition given in those Acts and Rules.

APPLICANT. A person who applies for a City-issued permit to operate a marihuana facility in accordance with the terms of this chapter and the City Zoning Ordinance. With respect to disclosures in an application and for purposes of ineligibility for a permit, the term **APPLICANT** includes a managerial employee of the applicant, any person who holds any direct or indirect ownership interest of more than 10% in the applicant, and the following for each type of applicant:

(1) For an individual or sole proprietorship: the proprietor and spouse.

(2) For a partnership and limited liability partnership: all partners and their spouses. 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. 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

DEPARTMENT. The Michigan Department of Licensing and Regulatory Affairs, or its successor agency.

GROWER. A licensee that is a commercial entity that cultivates, dries, trims, or cures and packages marihuana for sale to a processor, provisioning center, or another grower.

INDUSTRIAL HEMP. That term defined in section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.

INDUSTRIAL HEMP RESEARCH AND DEVELOPMENT ACT. Public Act 547 of 2014, as may be amended.

LICENSEE. A person holding a state operating license.

MARIHUANA. That term as defined in section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.

MARIHUANA COMMERCIAL OPERATION. Any and all of the following marihuana facilities, whether operated for profit or not for profit:

- (1) A grower;
- (2) A processor;
- (3) A secure transporter;
- (4) A provisioning center;
- (5) A safety compliance facility.

MARIHUANA FACILITY or FACILITY. A location at which a licensee is licensed to operate under the MMFLA and this chapter.

MARIHUANA PLANT. Any plant of the species *Cannabis sativa* L. but does not include industrial hemp.

MARIHUANA-INFUSED PRODUCT. A topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation.

MICHIGAN MEDICAL MARIHUANA ACT or MMMA. 2008 IL 1, MCL 333.26421 et seq., as may be amended.

MICHIGAN MEDICAL MARIHUANA FACILITIES LICENSING ACT or MMFLA. Public Act 281 of 2016, MCL 333.27101 et seq., as may be amended.

OPERATING PERMIT OR PERMIT. The permit issued pursuant to this chapter authorizing the operation of a medical marihuana facility in the City.

PERMITEE. A person who holds a permit issued by the City pursuant to this chapter.

PERSON. An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity and includes persons defined as a **TRUE PARTY OF INTEREST** as that term is used at Section 404 of the MMFLA, MCL 333.27404 and persons defined as having a **BENEFICIAL INTEREST** as that term is used at Section 303(1)(g) of the MMFLA, MCL 333.27303(1)(g).

PROCESSOR. A licensee that is a commercial entity 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 or another processor. A processor is not prohibited from handling, processing, marketing or brokering industrial hemp pursuant to the Industrial Hemp Research and Development Act.

PROVISIONING CENTER. A licensee that is a commercial entity 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 and includes medical cannabis dispensaries. A noncommercial location used by a registered primary caregiver to assist a qualifying patient connected to the caregiver through the Department's marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center for purposes of this Chapter.

REGISTERED PRIMARY CAREGIVER or CAREGIVER. A primary caregiver who has been issued a current registry identification card under the MMMA.

REGISTERED QUALIFYING PATIENT or PATIENT. A qualifying patient who has been issued a current registry identification card under the MMMA or a visiting qualifying patient as that term is defined in the MMMA.

RULES. The general administrative rules promulgated and from time to time amended by the Department to implement the MMFLA.

SAFETY COMPLIANCE FACILITY. A licensee that is a commercial entity that takes marihuana from a marihuana facility or receives marihuana from a registered primary caregiver, tests the marihuana for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility. A **SAFETY COMPLIANCE FACILITY** may take or receive industrial hemp for testing pursuant to the Industrial Hemp Research and Development Act.

SECURE TRANSPORTER. A licensee that is a commercial entity that stores marihuana and transports marihuana between marihuana facilities for a fee.

STATE OPERATING LICENSE OR, LICENSE. A license that is issued by the Department under the MMFLA that allows the licensee to operate a marihuana commercial operation, as specified in the license.
(Ord. 749-10-19, passed 10-7-19)

LICENSING OF MEDICAL MARIHUANA FACILITIES

§ 116.10 NUMBER OF PERMITTED FACILITIES.

The maximum number of each type of medical marihuana commercial entity permitted in the City is as follows:

<i>Type of Facility</i>	<i>Number</i>
Grower	no limit
Processor	no limit
Secure transporter	no limit
Provisioning center	no limit
Safety compliance facility	no limit.

(Ord. 749-10-19, passed 10-7-19)

§ 116.11 LICENSE AND ANNUAL FEE REQUIRED; EXCEPTION.

(A) No person shall establish or operate a medical marihuana commercial facility in the City without first having obtained a permit from the City

and a state operating license for each such facility to be operated. Permit and license certificates shall be kept current and publicly displayed within the facility. Failure to maintain or display current state and City certificates shall be a violation of this chapter.

(B) There shall be an annual non-refundable application and permit fee to defray the administrative and enforcement costs associated with medical marihuana facilities located in the City of not more than \$5,000 per licensed facility.

(C) The annual non-refundable fee required under this section shall be due and payable with the application for a permit and upon the application for renewal of any such permit under this chapter. The permit and fee requirements of this chapter apply to all permitted marihuana facilities, whether operated for profit or not for profit.

(D) The permit fee requirement set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any state regulatory agency, or by City ordinance, including, by way of example, applicable fees for site plan review, zoning review or inspections.

(E) The issuance of any permit pursuant to this chapter does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marihuana under federal law.

(F) A separate permit shall be required for each premises on which a medical marihuana facility is operated. Operation of a grower and processor facility at the same location is authorized provided that each facility is separately licensed and permitted. Operation of a provisioning center at the same location as a grower or processing facility is not authorized.

(Ord. 749-10-19, passed 10-7-19)

§ 116.12 LOCATION CRITERIA.

(A) No medical marihuana facility shall be eligible to be issued a permit unless at the time of granting the conditional certificate, the location of the proposed facility complies with the locational requirements and separation distances from other uses set forth in the City Zoning Ordinance.

(B) Mobile marihuana facilities and drive-through operations are prohibited.

(C) A licensee shall not operate a marihuana facility at any place in the City other than the address provided in the application on file with the City Clerk. A permit issued under this chapter may be transferred to a different location upon receiving written approval from the City Clerk. In order to request approval to transfer the location of a permit, the licensee must make a written request to the City Clerk, indicating the current licensed location and the proposed licensed location. Upon receiving the written request, the City Clerk shall forward a copy of the request to affected service areas and departments of the City to determine whether the proposed location complies with all applicable laws, rules and regulations. No permit transfer will be approved unless the proposed location meets the standards identified in this chapter and the City Zoning Ordinance.

(Ord. 749-10-19, passed 10-7-19)

§ 116.13 GENERAL PERMIT APPLICATION REQUIREMENTS.

(A) A person seeking a permit pursuant to the Medical Marihuana Facilities Licensing Act and the provisions of this chapter shall submit an application in writing to the City Clerk on forms provided by the City. At the time of application, each applicant shall pay a non-refundable application fee to defray the costs incurred by the City for costs associated with the processing of the application. In addition, the applicant shall present a suitable copy of government-issued photographic identification with the application.

(B) The applicant shall provide the following information, under the penalty of perjury, on the City-issued form approved by or acceptable to, the City Clerk and Director of Public Safety. Such information is required for the applicant, the proposed manager of the marihuana facility, and all persons who are true parties of interest in the marihuana facility that is the subject of the application:

(1) If the applicant is an individual or sole proprietorship, the proprietor and their spouse, if any, shall provide their name, address, date of birth, business address, business telephone number, email address, social security number, and, if applicable, federal tax identification number;

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(2) If the applicant is not an individual or sole proprietorship, information regarding the business entity, including, without limitation, the name and address of the entity, website address, (if any), type of business organization, proof of registration with, or a certificate of good standing from the State of Michigan, and the names, dates of birth, addresses, email addresses, phone numbers of each true party of interest, and the federal tax identification number of the business entity;

(3) The identity of every person having any ownership interest in the applicant with respect to which the license is sought;

(4) If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a marihuana facility;

(5) A copy of any deed reflecting the applicant's ownership of, or lease reflecting the right of the applicant to possess, or an option reflecting the applicant's right to purchase or lease, the proposed licensed premises;

(6) A description of the type of the proposed marihuana commercial operation and its physical address;

(7) A scaled diagram of the proposed licensed premises, no larger than 11 inches by 17 inches, showing, without limitation, building floor plan and layout, all entryways, doorways, or passage ways, and means of public entry and exits to the proposed licensed premises, loading zones, available onsite parking spaces, fencing on or around the premises, and all areas in which medical marihuana will be stored, grown, manufactured or dispensed;

(8) A lighting plan showing the lighting outside of the medical marihuana facility for security purposes in compliance with applicable City outdoor lighting requirements;

(9) A staffing plan which describes the anticipated or actual number of employees, including an estimate of the number and type of jobs that the facility is expected to create, the amount and type of compensation, including benefits, expected to be paid for the jobs;

(10) An explanation, with supporting factual data, of the economic benefits to the City and the job creation for local residents to be achieved by the

facility, including plans for community outreach and education plans, worker training programs, through the grant of a medical marihuana facility license;

(11) A statement that neither the applicant nor any true party of interest is in default to the City for any property tax, special assessment, utility charge, fines, fees or other financial obligation owed to the City;

(12) A statement that the applicant has reviewed and agrees to conform its hiring and public accommodation practices to the state and federal anti-discrimination laws;

(13) A statement that neither the applicant nor any true party of interest is ineligible from holding a license for any of the reasons set forth in the MMFLA, MCL 333.27402;

(14) A statement that the applicant consents to inspections, examinations, searches and seizures required or undertaken pursuant to enforcement of this chapter; and

(15) Any additional information that the City Clerk or Director of Public Safety reasonably determines necessary in connection with the investigation and review of the application.

(C) Upon receipt of a completed application, the City Clerk may circulate the application to all affected service areas and departments of the City to determine whether the application is in full compliance with all applicable laws, rules and regulations.

(D) If the City Clerk identifies or is informed of a deficiency in an application, the applicant shall have one period of five business days to correct the deficiency after notification by the City Clerk. (Ord. 749-10-19, passed 10-7-19)

§ 116.14 DENIAL OF APPLICATION.

(A) The City Clerk shall reject any application that does not meet the requirements of the MMFLA, the Rules, or this chapter. The City Clerk shall reject any application that contains any false, misleading or incomplete information.

(B) An applicant whose application is rejected or denied because of missing, incomplete, erroneous, false, or misleading information, or

because of a lack of submission of the full amount of the fees due, does not have a right to appeal the decision.

(Ord. 749-10-19, passed 10-7-19)

§ 116.15 ISSUANCE OF PROVISIONAL APPROVAL CERTIFICATE.

(A) Within 45 days following the adoption of this chapter the City Clerk shall accept permit applications for licensed medical marihuana facilities. Initial applications following the adoption of this chapter for grower, processor, secure transporter, safety compliance and provisioning center facilities whose inspection, background checks, and all other information available to the City verify that the applicant has submitted a full and complete application, has made or has secured permits for making improvements to the business location consistent with the type of facility sought to be permitted, complies with applicable zoning and location requirements, and is prepared to operate the business as set forth in the application, will be reviewed by the office of the City Clerk for completeness and compliance with the requirements of this chapter. The City Clerk shall issue a provisional medical marihuana facility approval certificate to each applicant whose application is complete and in compliance with the provisions of this chapter and applicable state regulations.

(B) Complete applications for a marihuana facility operating permit determined to be in full compliance with the requirements of this chapter shall be issued a provisional medical marihuana facility approval certificate.

(C) The City Clerk shall issue a provisional medical marihuana facility approval certificate if the inspection, background checks, and all other information available to the City verify that the applicant as a grower, processor, safety compliance facility, secure transporter has submitted a full and complete permit application, complies with applicable zoning and location requirements, and is prepared to operate the business as set forth in the application, all in compliance with the City Code of Ordinances and any other applicable law, rule, or regulation.

(D) A provisional medical marihuana facility approval certificate only means that the applicant has submitted a valid application for a marihuana facility operating permit, and is eligible to receive the appropriate marihuana facility license from the

Department. The applicant shall not locate or operate a marihuana facility in the City without obtaining a state operating license approved by and issued by the Department. A provisional certificate issued by the City will expire and be void after one year, or on the date that State approval is denied by a final order to the applicant, whichever first occurs.

(E) Within 30 days from the issuance of a provisional medical marihuana facility approval certificate by the City Clerk, the applicant must submit proof to the City Clerk that the applicant has submitted a partial application with the Department for prequalification for a state operating license or has submitted a full application for such license. If the applicant fails to submit such proof, then the provisional approval shall be cancelled by the City Clerk.

(F) If a provisionally approved applicant is denied prequalification for a state operating license or is denied on full application for a state operating license, then the provisional approval shall be cancelled by the City Clerk.

(G) Provisional certificates are not transferable to another person or entity.

(Ord. 749-10-19, passed 10-7-19)

§ 116.16 ISSUANCE OF CITY MARIHUANA FACILITY OPERATING PERMIT.

(A) An applicant holding an unexpired provisional certificate issued pursuant to this chapter and for which a marihuana facility state operating license has been issued shall provide proof of same to the City Clerk.

(B) An inspection of the proposed medical marihuana facility by the City shall be required prior to issuance of the City operating permit. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any medical marihuana, and prior to the opening of the business or commencement of operations. The inspection is to verify that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of this chapter and any other applicable law, rule, or regulation.

(C) After verification that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of this chapter and any other applicable

law, rule, or regulation, and the issuance of a permanent certificate of occupancy for the facility, the City Clerk shall issue a City medical marihuana operating permit for a term of one year. The City-issued permit shall be displayed prominently within the facility.

(D) Maintaining a valid marihuana facility license issued by the state is a condition for the issuance and maintenance of the City marihuana facility operating permit issued under this chapter and the continued operation of any medical marihuana facility.

(E) *Proof of insurance.*

(1) A permittee shall at all times maintain full force and effect for duration of the permit, worker's compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000 per occurrence and a \$2,000,000 aggregate limit issued from a company licensed to do business in Michigan having an AM Best rating of at least B++. A permittee shall provide proof of insurance to the City Clerk in the form of a certificate of insurance evidencing the existence of a valid and effective policy which discloses the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, the policy number, and the names of the additional insureds. The policy shall name the City of Big Rapids and its officials and employees as additional insureds to the limits required by this section. A permittee or its insurance broker shall notify the City of any cancellation or reduction in coverage within seven days of receipt of insurer's notification to that effect. The permittee shall obtain and submit proof of substitute insurance to the City Clerk within five business days in the event of expiration or cancellation of coverage.

(2) A secure transporter shall provide proof of no-fault automobile insurance with a company licensed to do business in Michigan with limits of liability not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage, vehicle registration, and registration as a commercial motor vehicle for all vehicles used to transport marihuana or marihuana-infused product.

(3) Any failure to maintain or lapse in the insurance coverage required by this chapter will be grounds for revocation of the City-issued operating permit.

(F) A condition of the issuance of a medical marihuana operating permit includes, at a minimum, operation of the business in compliance with all of the plans and the information provided to the City as part of the application. A permittee must update any change in the information provided to the City as part of the application within five business days of such change during the term of the permit. The failure to timely update a change in information will be grounds for suspension or revocation of the operating permit.

(Ord. 749-10-19, passed 10-7-19)

§ 116.17 PERMIT FORFEITURE.

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

(Ord. 749-10-19, passed 10-7-19)

§ 116.18 PERMIT RENEWAL.

(A) A valid marihuana facility operating permit may be renewed on an annual basis by a renewal application upon a form provided by the City and payment of the annual application and permit fee. An application to renew a marihuana facility operating permit shall be filed no sooner than 90 days and at least 60 days prior to the date of its expiration. The failure to timely file for renewal is sufficient grounds to deny renewal of a permit to operate a medical marihuana facility in the City and is not subject to appeal.

(B) Prior to the issuance of a renewed marihuana facility permit by the City, the premises shall be inspected to assure that site and operations are in compliance with the requirements of this chapter.

(C) In determining whether to grant a renewal of a permit, the City Clerk or City Manager will evaluate the permit holder's compliance with the statements provided with its initial application and submission with its request for renewal of the following information:

(1) The facility's staffing plan which describes the actual number of employees, including

the number and type of jobs that the facility has created, and the amount and type of compensation (including benefits) paid for such jobs;

(2) An explanation, with supporting factual data, of the economic benefits to the City and the job creation for local residents achieved by the facility, results of efforts for community outreach, education plans, and worker training programs;

(3) A statement that the facility is not in default to the City for any property tax, special assessment, utility charges, fines, fees or other financial obligation owed to the City;

(4) A statement that the hiring and public accommodation practices of the facility conform to state and federal anti-discrimination laws.

(D) If a licensee demonstrates compliance with the requirements for renewal of an operating permit, the City Clerk shall renew the existing permit for a period of one year, on the condition that the state operating license for the facility is renewed. (Ord. 749-10-19, passed 10-7-19)

§ 116.19 TRANSFER OF PERMIT.

(A) A medical marihuana business permit is valid only for the owner named thereon, the type of business disclosed on the application for the permit, and the location for which the permit is issued.

(B) Each operating permit is exclusive to the permittee and a permittee or any other person must submit an application for a permit with the City Clerk before a permit is transferred, sold, or purchased. The attempted transfer, sale, or other conveyance of an interest in a permit without prior application for a City operating permit with the City Clerk is grounds for suspension or revocation of the existing permit. (Ord. 749-10-19, passed 10-7-19)

§ 116.20 PERMIT AS REVOCABLE PRIVILEGE.

An operating permit granted by this chapter is a revocable privilege granted by the City and is not a property right. Granting a permit does not create or vest any right, title, franchise, or other property interest. (Ord. 749-10-19, passed 10-7-19)

§ 116.21 NONRENEWAL, SUSPENSION OR REVOCATION OF PERMIT.

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

(1) The permit holder, or his or her agent, manager or employee, has violated, does not meet, or has failed to comply with, any of the terms, requirements, conditions or provisions of this chapter or with any applicable state or local law or regulation;

(2) The permit holder, or its agent, manager or employee, has failed to comply with any special terms or conditions of its license pursuant to an order of the state or local licensing authority, including those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the license;

(3) The marihuana commercial entity has been operated in a manner that adversely affects the local public health, safety or welfare; or

(4) The permit holder failed to timely submit all necessary documents and or fees to renew the City-issued permit or state operating license.

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

(C) Except as otherwise provided in this chapter, the Planning Commission shall hear and decide questions that arise in the administration of this chapter, including appeals of suspension and revocations of City operating permits. The concurring vote of a majority of the members of the Planning Commission is necessary to reverse an order, requirement, decision, or determination of an administrative official in the application of this chapter. The decision of the Planning Commission is

final. This section is not to be construed to grant the Planning Commission authority to hear any matter that is within the powers and duties of the Zoning Board of Appeals.
(Ord. 749-10-19, passed 10-7-19)

***SPECIFIC MARIHUANA
FACILITY REQUIREMENTS***

§ 116.30 GROWER CLASSES.

A grower may hold more than one class of a state operating grower license, if allowed by the state at a single location.
(Ord. 749-10-19, passed 10-7-19)

§ 116.31 SEPARATION OF LICENSED PREMISES.

A grower facility and processor facility in the same location are separate medical marihuana commercial operations requiring separate licenses and separate permits. In addition to all other application requirements for separate facilities, each business, if sharing a building or structure, shall be distinctly partitioned from each other from floor to roof, have separate operations, ventilation, security and fire suppression systems, and separate entrances and exits.
(Ord. 749-10-19, passed 10-7-19)

§ 116.32 SECURE TRANSPORTER.

(A) A secure transporter which operates from a marihuana facility located within the City shall secure a permit from the City. A state-licensed secure transporter which does not have a facility located in the City, may, without securing a license from the City, operate on public streets and highways within the City.

(B) Each vehicle engaged in the transportation of marihuana or marihuana-infused products must always be operated by a two-person crew with at least one individual remaining with the vehicle.

(C) A secure transporting vehicle must not bear any markings or other indication that it is carrying marihuana or marihuana-infused products.
(Ord. 749-10-19, passed 10-7-19)

§ 116.33 PROVISIONING CENTERS.

(A) The licensee, manager, operator and employees of a provisioning center shall strictly comply with all rules addressing security (including but not limited to an operating video surveillance system), storage of marihuana and marihuana-infused products to prevent direct customer access and use of a separate room as a point of sale area.

(B) It is unlawful for the licensee, manager, operator or employees of a provisioning center to:

(1) Permit the sale, consumption, or use of alcoholic beverages or tobacco products on the licensed premises or the consumption or service of food on the licensed premises;

(2) Sell, give, dispense or otherwise distribute medical marihuana, marihuana-infused products, or medical marihuana paraphernalia from any outdoor location;

(3) Offer or distribute samples of marihuana or marihuana-infused products to a consumer free of charge;

(4) Permit the use or consumption of marihuana or marihuana-infused products on the licensed premises;

(5) Operate a licensed provisioning center at any time other than between the hours of 9:00 a.m. and 9:00 p.m. daily;

(6) Keep or grow marihuana plants within the provisioning center.

(C) Registered patients and registered primary caregivers with valid registry cards are permitted in a dedicated point of sale area; a separate waiting area may be created for visitors not authorized to enter the marihuana facility. Provisioning centers shall be wheelchair accessible and disability accommodations shall be provided to caregivers or patients upon request.

(D) A provisioning center may engage in the home delivery of marihuana and marihuana-infused products to registered qualifying patients at the patient's home address in strict compliance with Department approved procedures and rules.

(E) A provisioning center may engage in the sale of industrial hemp to a registered qualifying patient in compliance with the standards, procedures, and requirements promulgated by the Department
(Ord. 749-10-19, passed 10-7-19)

GENERAL REQUIREMENTS**§ 116.40 COMPLIANCE WITH RULES; INSPECTIONS.**

(A) A permit holder shall strictly comply with the rules that may from time to time be promulgated by the Department.

(B) All marihuana commercial operations shall obtain all other required permits or licenses related to the operation of the marihuana facility, including, without limitation, any zoning approvals or building permits required by any applicable code or ordinance.

(C) The failure by a permit holder to comply with Department rules or the provisions of this chapter is a violation of this chapter and any infraction or violation is a sufficient basis for suspension and revocation of a permit issued under this chapter.

(Ord. 749-10-19, passed 10-7-19)

§ 116.41 SIGNAGE AND ADVERTISING.

(A) All signage and advertising for a medical marihuana facility shall comply with all applicable provisions of this Code and the City Zoning Ordinance. In addition, it shall be unlawful for any licensee to:

(1) Use advertising material that is misleading, deceptive or false or that is designed to appeal to minors aged 17 or younger;

(2) Advertise in a manner that is inconsistent with the medicinal use of marihuana and marihuana-infused products or use advertisements that promote medical marihuana or marihuana-infused products for recreational or any use other than for medicinal purposes by patients and caregivers.

(B) Only one sign per street frontage, which complies with the size restrictions set forth in the City Zoning Ordinance, is permitted for a provisioning center or safety compliance center. Neon, gas lighted, and flashing signs are prohibited.

(Ord. 749-10-19, passed 10-7-19)

§ 116.42 SECURITY REQUIREMENTS.

(A) Security measures at all licensed premises shall comply with the requirements of all applicable rules and regulations promulgated by the Department.

(B) Prior to commencing operations, a description of the security plan for the facility shall be submitted to the Department of Public Safety. The security plan shall include details of a video surveillance system to be employed at the facility and procedures that meet or exceed applicable state rules addressing security.

(C) The security system, shall be maintained in good working order and provide continuous 24 hours per day recorded coverage. A separate security system is required for each facility. Permit holders shall at all times maintain a security system that meets state law requirements, and shall include:

(1) Security surveillance installed to monitor all entrances, along with the interior and exterior of the permitted premises and all safes or containers in which cash or marihuana is stored;

(2) Burglary alarm systems which are monitored and operated 24 hours a day, seven days a week;

(3) A locking safe permanently affixed to the permitted premises that shall store all marihuana and cash remaining at the facility overnight;

(4) All marihuana in whatever form stored at the permitted premises shall be kept in a secure manner and shall not be visible from outside the permitted premises, nor shall it be grown, processed, exchanged, displayed or dispensed outside the permitted premises;

(5) All security recordings and documentation shall be preserved for at least 30 days by the permit holder and made available to law enforcement upon request for inspection.

(Ord. 749-10-19, passed 10-7-19)

§ 116.43 FIRE SUPPRESSION; HAZARDOUS MATERIALS.

(A) A facility shall have installed a fire suppression system and fire alarm system for the

facility which meets the requirements imposed by applicable law. Unless a higher standard is required by applicable law or regulation, there must be a minimum of a one-hour fire separation between a medical marihuana business and any adjacent business.

(B) A description of all toxic, flammable, or other materials, including all chemical compounds and pesticides used for cultivation, processing or testing of marihuana that will be used or kept at the facility, specifying the location of such materials on the premises, and how such materials will be stored and disposed of shall be filed with the Department of Public Safety prior to the facility commencing operations.

(Ord. 749-10-19, passed 10-7-19)

§ 116.44 WASTE MANAGEMENT.

(A) A facility shall institute and employ a waste management protocol and practices that comply with applicable rules and regulations that includes a plan for disposal of any medical marihuana or medical marihuana-infused product that is not sold to a patient or primary caregiver.

(B) As determined by the Wastewater Superintendent, wastewater generated from the cultivation or processing of marihuana or marihuana-infused products may require pre-treatment before introduction in the City wastewater system.

(Ord. 749-10-19, passed 10-7-19)

§ 116.45 VISIBILITY OF ACTIVITIES.

(A) All activities of marihuana commercial operations shall be conducted indoors and out of public view, except cultivation may occur in an outdoor area provided that the area is contiguous with the facility building, fully enclosed by fences or barriers that block outside visibility of the marihuana plants from public view, with no marihuana plants growing above the height of the fence or barrier and the fences are secured and only accessible to authorized persons and emergency personnel .

(B) No medical marihuana, marihuana-infused product, or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.

(Ord. 749-10-19, passed 10-7-19)

§ 116.46 ODOR CONTROL.

(A) Growers, processors, and safety compliance facilities are required to install and maintain in operable condition an appropriate exhaust ventilation system which precludes the emission of detectable marihuana odor resulting from any grow or production process or operations from the premises. Exhaust and ventilation equipment must be installed, operated, and maintained in compliance with the Michigan Mechanical Code.

(B) No medical marihuana facility shall permit the emission of marihuana odor resulting in detectable odors that leave the facility premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property. Whether or not a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.

(Ord. 749-10-19, passed 10-7-19)

§ 116.47 REPORTS OF CRIME.

All criminal activities or attempted violations of any law at the medical marihuana facility shall be reported promptly to the Department of Public Safety within 24 hours of occurrence, or its discovery, whichever is sooner. The failure to timely report criminal activity is a violation of this chapter and may result in sanctions up to and including the suspension, revocation or non-renewal of the facility's City operating permit.

(Ord. 749-10-19, passed 10-7-19)

§ 116.48 INSPECTION OF LICENSED PREMISES.

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

(B) *Consent to inspection.* Application for a medical marihuana business license or operation of a medical marihuana business, or leasing property to

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

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

(D) A medical marihuana facility permittee or an employee or agent of the permittee, shall not threaten, hinder or obstruct a law enforcement officer or a City Inspector or investigator in the course of making an examination or inspection of the marihuana facility and premises and shall not refuse, fail, or neglect to cooperate with a law enforcement officer, inspector, or investigator in the performance of his or her duties to enforce this chapter, the MMFLA, or applicable state administrative rules. (Ord. 749-10-19, passed 10-7-19)

§ 116.49 OTHER LAWS REMAIN APPLICABLE.

To the extent the state adopts any additional or stricter law or regulation governing the sale or distribution of medical marihuana, the additional or stricter regulation shall control the establishment or operation of any marihuana commercial entity in the City. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any permit under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any permit issued hereunder. (Ord. 749-10-19, passed 10-7-19)

§ 116.50 GRANT OF ADMINISTRATIVE AUTHORITY.

The City Clerk and City Manager are granted the power and duty to fully and effectively implement and administer the permit application process and issuance of provisional approval certificates and operating permits issued by the City under this chapter. (Ord. 749-10-19, passed 10-7-19)

MARIHUANA BUSINESS ESTABLISHMENTS

§ 116.60 AUTHORIZED MARIHUANA ESTABLISHMENTS.

The following marihuana establishments authorized by the Voter Initiated Law 1 of 2018 are authorized to operate within the City according to state law and local ordinance regulations with a City permit and a state license.

<i>Type of Establishment</i>	<i>Number Authorized</i>
Marihuana grower	Unlimited
Excess marihuana grower	Unlimited
Marihuana processor	Unlimited
Marihuana microbusiness	Unlimited
Marihuana retailer	Unlimited
Marihuana safety compliance facility	Unlimited
Marihuana secure transporter	Unlimited

(Ord. 751-10-19, passed 10-7-19)

§ 116.61 PROHIBITED MARIHUANA ESTABLISHMENTS.

The following marihuana establishments authorized by the Voter Initiated Law 1 of 2018 are prohibited from operating within the City.

Type of Establishment	Number Authorized
Designated marihuana consumption establishment	None
Marihuana event organizer	None
Any other type of marihuana related business licensed by the Department (Ord. 751-10-19, passed 10-7-19)	None

\$1,000, plus court-imposed costs and any other relief that may be imposed by the court for a subsequent violation committed within one year of any previous offense.

(B) In addition to any civil fine imposed for a municipal civil infraction violation, a violation of this chapter, shall also be sufficient grounds the suspension, revocation or non-renewal of the facility's City operating permit.

(C) In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this chapter, the City Attorney is authorized to seek such other relief that may be available and provided by law or equity, including filing a public nuisance action or seeking injunctive relief against a person alleged to be in violation of this chapter or the City Zoning Ordinance.
(Ord. 749-10-19, passed 10-7-19)

§ 116.62 PERMITS, APPLICATIONS AND FEES.

No person or other legal entity can operate a marihuana business establishment authorized by the voter Initiated Law 1 of 2018 in the City without a permit issued by the City Clerk, an appropriate license issued by the state, zoning clearance, approval, or special use permit, and compliance with all applicable local zoning and regulatory ordinance provisions. The procedure for obtaining a City permit for an authorized marihuana establishment listed in § 116.60 shall be the same as the procedure for obtaining a City permit for an authorized medical marihuana facility set forth in this chapter.
(Ord. 751-10-19, passed 10-7-19)

§ 116.63 REGULATION.

The local regulations for a marihuana business establishment authorized by the voter Initiated Law 1 of 2018 are the same as the regulations for an authorized medical marihuana facility set forth in this chapter.
(Ord. 751-10-19, passed 10-7-19)

§ 116.99 PENALTY.

(A) Any person, including, but not limited to, any licensee, manager or employee of a marihuana commercial operation, or any customer of such business, who violates any of the provisions of this chapter, shall be responsible for a municipal civil infraction punishable by a civil fine of \$500, plus court-imposed costs and any other relief that may be imposed by the court for the first violation; and

CHAPTER 117: [RESERVED]

CHAPTER 118: [RESERVED]

CHAPTER 119: CIRCUSES, CARNIVALS, SHOWS AND EXHIBITIONS

Section

- 119.01 Show license
- 119.02 Circus, carnival, exhibition defined
- 119.03 Animal shows and exhibitions
- 119.04 Investigation
- 119.05 Right of entry
- 119.06 Order to cease operations
- 119.07 Insurance or bond
- 119.08 Hours of operations
- 119.09 Bond required and forfeiture of bond
- 119.10 Fees

chapter, and for which an admission fee is charged, without first obtaining a license, therefor, to be known as an "Exhibition License."

(B) The provisions of this section shall not be applicable to any fair held under the direct management and supervision of any recognized agricultural association or society, nonprofit association or corporation, at which are exhibited agricultural or industrial products, principally. (Ord. 615-11-09, passed 11-2-09)

§ 119.01 SHOW LICENSE.

No person shall advertise, sponsor, organize, conduct, or operate a circus, carnival, menagerie, exhibition, or show without first obtaining a license from the City Clerk's Office and paying the required fee. (Ord. 615-11-09, passed 11-2-09)

§ 119.02 CIRCUS, CARNIVAL, EXHIBITION DEFINED.

As used in this chapter, **CIRCUS, CARNIVAL, MENAGERIE** or **EXHIBITION** means any amusement enterprise which is operated other than in a permanent building or structure, wherein, as part of the amusement attractions, Ferris wheels, merry-go-rounds, or other similar or like mechanically operated devices are used, or where sideshows, concessions, games of skill or chance, animal exhibits or other similar or like amusements or entertainment features are provided. (Ord. 615-11-09, passed 11-2-09)

§ 119.03 ANIMAL SHOWS AND EXHIBITIONS.

(A) No person shall conduct any dog or pony show or menagerie, without first obtaining a license therefore. Such license shall be known as an "Animal Show License." No person shall conduct any panorama, exhibition of statuary or painting, or any other exhibition, not otherwise licensed under this

§ 119.04 INVESTIGATION.

(A) The City Clerk shall forward a copy of the application to the Director of Public Safety.

(B) The Director of Public Safety shall investigate the qualifications and background of the applicant and furnish a written report to the City Clerk accompanied by a recommendation as to whether the license should be granted or refused. As part of the investigation, the Director of Public Safety shall determine whether or not the applicant has been convicted of any crime involving moral turpitude, gambling, narcotics, sexual offense or has previously violated any of the provisions of this section.

(C) The Fire Marshal shall inspect the location to determine whether the proposed location is free from fire hazards and either approve or disapprove the application. (Ord. 615-11-09, passed 11-2-09)

§ 119.05 RIGHT OF ENTRY.

The operator or person in charge of any circuses, carnivals, shows, and exhibitions shall, at all times, open each and every portion of their operations for inspection by the Police Division, Fire Division or any other City department engaged in the enforcement of this chapter or in the carrying on of any inspection for such purpose. (Ord. 615-11-09, passed 11-2-09)

§ 119.06 ORDER TO CEASE OPERATIONS.

The Director of Public Safety shall close down the operation of any circus, carnival, menagerie, exhibition, or show upon the revocation of the license to operate or in the event of a serious mishap pending inspection by the appropriate agency. (Ord. 615-11-09, passed 11-2-09)

§ 119.07 INSURANCE OR BOND.

A person shall not operate a circus or carnival unless the owner or operator shall have obtained security against the owner's or operator's liability for injuries suffered by persons attending the carnival or riding amusement rides by one of the following methods:

(A) By obtaining a policy of insurance in an amount not less than \$1,000,000 insuring the owner or operator against liability for injuries suffered by persons attending the carnival or an amusement ride;

(B) By obtaining a bond in an amount not less than \$1,000,000 with the aggregate amount of the surety and the bond not exceeding the face amount of the bond;

(C) The liability limits of subsections (a) and (b) of this section may be reduced to \$50,000 if there is only one amusement ride, which is designed primarily for use by small children. (Ord. 615-11-09, passed 11-2-09)

§ 119.08 HOURS OF OPERATIONS.

No person shall hold or operate circuses, carnivals, shows, menagerie, or exhibitions between the hours of 11:00 p.m. and 8:00 a.m. (Ord. 615-11-09, passed 11-2-09)

§ 119.09 BOND REQUIRED AND FORFEITURE OF BOND.

No license shall be issued until a cash bond is posted in an amount established in § 110.18, to ensure that the licensee will comply with all of the laws of the state and the ordinances of the City in connection with the operation of the activity, and that the licensee shall cease operation on or before the expiration of the license and shall remove all equipment, paraphernalia, debris, advertisements and litter which are attributable to the activity or its

concessionaries. The bond posted by an applicant under this article shall be forfeited if the applicant has not restored to its prior condition the area as affected by the activity for which the bond was posted, including the site, roads and road rights-of-way and surrounding areas, both public and private, three days from the conclusion of the licensed activity or from expiration of the license, whichever comes first. (Ord. 615-11-09, passed 11-2-09)

§ 119.10 FEES.

When an application is made for a license required under the terms of this chapter, a fee shall be paid in an amount established under Chapter 110, § 110.18 of the Code of Ordinances. (Ord. 615-11-09, passed 11-2-09)

CHAPTER 120: [RESERVED]

CHAPTER 121: [RESERVED]

[Text continues on Page 40]

CHAPTER 122: ADULT ENTERTAINMENT ESTABLISHMENTS

Section

- 122.01 Definitions
- 122.02 Licenses
- 122.03 Application for license
- 122.04 Standards for issuance of license
- 122.05 Fee
- 122.06 Display of license or permit
- 122.07 Renewal of license or permit
- 122.08 Revocation or suspension of license
- 122.09 Physical layout of adult entertainment establishment
- 122.10 Responsibilities of the operator
- 122.99 Penalty

emphasis on the depiction or description of specified anatomical areas or specified sexual devices.

MASSAGE PARLOR. An establishment or place which is primarily in the business of providing massage services and which is not a myotherapy establishment regulated by Chapter 121 of this Code of Ordinances.

SPECIFIED ANATOMICAL AREAS. Specified anatomical areas means and includes any one or more of the following:

(1) Less than completely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Includes any one or more of the following:

(1) The fondling or erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) Human sex acts, normal or perverted, actual or simulated, including but not limited to intercourse, oral copulation, and sodomy;

(3) Human masturbation, actual or simulated;

(4) Human excretory functions as part of or as related to any of the activities described above; and

(5) Physical violence, bondage, mutilation, or rape, actual or simulated, as part of or as related to any of the activities described above.

SUBSTANTIAL PORTION. A use or activity accounting for more than 20% of any one or more of the following: stock-in-trade, display space, floor

§ 122.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADULT BOOKSTORE. An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, movies, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas;

(2) Instruments, devices, or paraphernalia designed for use as part of or in connection with specified sexual activities.

ADULT MOTION PICTURE THEATER. An establishment, where, for any form of consideration, films, motion pictures, videos, slides, or other photographic reproductions are shown and in which a substantial portion of the total presentation is devoted to the showing of material characterized by an

space, or viewing time, movie display time, or entertainment time measured per month.
(Ord. 413-12-96, passed 12-16-96)

§ 122.02 LICENSES.

(A) *Requirement.* From and after the effective date of this chapter, no adult bookstore, adult motion picture theater or massage parlor, hereinafter referred to as adult entertainment establishments, shall be operated or maintained in the City without first obtaining a license to operate issued by the City.

(B) *Limitation.* A license may be issued only for one adult entertainment establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one adult entertainment establishment must have a license for each.

(C) *Nontransferability.* No license or interest in a license may be transferred to any person, partnership, or corporation.

(D) *Exclusions.* All private schools and public schools located within the City are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum or when instructing students at Ferris State University as part of its curriculum.
(Ord. 413-12-96, passed 12-16-96) Penalty, see § 122.99

§ 122.03 APPLICATION FOR LICENSE.

(A) Any person, partnership, or corporation desiring to secure a license shall make application to the City Clerk. The application shall be dated by the City Clerk. A copy of the application shall be distributed promptly by the City Clerk to the Department of Public Safety and to the applicant.

(B) The application for a license shall be upon a form provided by the City Clerk. An applicant for a license, which shall include all partners or limited partners of a partnership applicant, and all officers and directors of a corporate applicant and all stockholders including more than 5% of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:

- (1) Name and address, including all aliases.
 - (2) Date of birth.
 - (3) Social security number.
 - (4) Michigan vehicle operator's license number.
 - (5) Written proof that the individual is at least 18 years of age.
 - (6) All residential addresses of the applicant for the past three years.
 - (7) The applicant's height, weight, color of eyes and hair.
 - (8) The business, occupation, or employment of the applicant for five years immediately preceding the date of application.
 - (9) Whether the applicant previously operated in this or any other county, city, or state under an adult entertainment establishment license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
 - (10) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond, or pleadings of nolo contendere on all crime charges, except minor traffic violations.
 - (11) Fingerprints and two portrait photographs at least two inches by two inches of the applicant.
 - (12) The address of the adult entertainment establishment to be operated by the applicant.
 - (13) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent, and the name and address of all shareholders owning more than 5% of the stock in said corporation and all officers and directors of the corporation.
- (C) Within 21 days of receiving an application for a license the City Clerk shall notify the applicant whether application is granted or denied.

(D) Whenever an application is denied, the City Clerk shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten days of receipt of notification of denial, a public hearing shall be held within 30 days thereafter before the Commission, as hereinafter provided.

(E) Failure or refusal of the applicant to give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the City Clerk.
(Ord. 413-12-96, passed 12-16-96)

§ 122.04 STANDARDS FOR ISSUANCE OF LICENSE.

(A) To receive a license to operate an adult entertainment establishment, an applicant must meet the following standards:

(1) If the applicant is an individual:

(a) The applicant shall be at least 18 years of age.

(b) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.

(c) The applicant shall not have been found to have previously violated this chapter or a substantially similar ordinance within five years immediately preceding the date of the application.

(2) If the applicant is a corporation:

(a) All officers, directors, and stockholders required to be named under § 122.03(B) shall be at least 18 years of age.

(b) No officer, director, or stockholder

required to be named under § 122.03(B) shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.

(c) No officer, director, or stockholder required to be named under § 122.03(B) shall have been found to have previously violated this chapter or a substantially similar ordinance within five years immediately preceding the date of the application.

(3) If the applicant is a partnership, joint venture, or any other type of organization where two or more persons have a financial interest:

(a) All persons having a financial interest in the partnership, joint venture, or other type of organization shall be at least 18 years of age.

(b) No person having a financial interest in the partnership, joint venture, or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.

(c) No person having a financial interest in the partnership, joint venture, or other type of organization shall have been found to have violated any provision of this chapter or a substantially similar ordinance within five years immediately preceding the date of the application.

(B) No license shall be issued unless the City Department of Public Safety has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the City Clerk no later than 14 days after the date of the application.
(Ord. 413-12-96, passed 12-16-96)

§ 122.05 FEE.

A license fee of \$250 shall be submitted with the application for a license. If the application is denied, one-half of the fee shall be returned.
(Ord. 413-12-96, passed 12-16-96)

§ 122.06 DISPLAY OF LICENSE OR PERMIT.

The license shall be displayed in a conspicuous public place in the adult entertainment establishment.

(Ord. 413-12-96, passed 12-16-96) Penalty, see § 122.99

§ 122.07 RENEWAL OF LICENSE OR PERMIT.

(A) Every license issued pursuant to this chapter will terminate at the expiration of one year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the City Clerk. The application for renewal must be filed not later than 60 days before the license expires. The application for renewal shall be filed in triplicate with and dated by the City Clerk. A copy of the application for renewal shall be distributed promptly by the City Clerk to the City Department of Public Safety and to the business operator. The application for renewal shall be upon a form provided by the City Clerk and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.

(B) A license renewal fee of \$250 shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of \$100 shall be assessed against the applicant who files for a renewal less than 60 days before the license expires. If the application is denied, one-half of the total fees collected shall be returned.

(C) If the City Department of Public Safety is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the City Clerk.

(Ord. 413-12-96, passed 12-16-96)

§ 122.08 REVOCATION OR SUSPENSION OF LICENSE.

(A) The City Commission can revoke or suspend a license or permit for any of the following reasons:

(1) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

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(2) The operator or any employee of the operator has violated any provision of this chapter or any rule or regulation adopted by the City Commission pursuant to this chapter, provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of 30 days if the Commission shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(3) The operator becomes ineligible to obtain a license or permit or the operator is convicted of or pleads nolo contendere to any felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature.

(4) Any cost or fee required to be paid by this chapter is not paid.

(5) Any intoxicating liquor or cereal malt beverage is served or consumed on the premises of the adult entertainment establishment.

(6) The operator fails to maintain a special use permit for the site as required by the zoning ordinance or fails to comply with conditions of the special use permit.

(B) The Commission, before revoking or suspending any license or permit, shall give the operator at least ten day's written notice of the charges against the operator and the opportunity for a public hearing before the City Commission, as hereinafter provided:

(1) Before the City Commission revokes or suspends a license issued herein, the City Commission shall cause written notice to be sent by certified mail to the licensee or applicant affected, at the address stated in the license or application, informing such person of the right to a hearing upon request.

(2) If the licensee does not request a hearing within 14 days of the date the notice was sent, the license may be forthwith revoked or suspended. If the licensee requests a hearing before the City Commission regarding the proposed revocation or suspension, the hearing shall be held with 21 days after the date of the written request.

(3) Any license issued by the City may be immediately suspended by the City Manager or duly appointed City official if it is determined that the licensee has violated or someone at or upon the licensed location has violated this chapter or state law and that continued operation under the license is contrary to the public health, safety, and welfare. A licensee shall have the right to a hearing before the City Commission on any license suspension by the City Manager and notice thereof shall be given in accordance with divisions (B)(1) and (2) of this section.

(4) Both the City and the licensee shall be afforded a reasonable opportunity to present evidence on the issue at the hearing. Action taken by the City Commission shall be final and any fees hereunder shall not be refunded to the applicant or licensee.

(C) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.

(D) Any operator whose license is revoked shall not be eligible to receive a license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as an adult entertainment establishment for six months from the date of revocation of the license. (Ord. 413-12-96, passed 12-16-96)

§ 122.09 PHYSICAL LAYOUT OF ADULT ENTERTAINMENT ESTABLISHMENT.

Any adult entertainment establishment having available for customers, patrons, or members any booth, room, or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

(A) *Access.* Each booth, room, or cubicle shall be totally accessible to and from aisles and public areas of the adult entertainment establishment and shall be unobstructed by any door, lock, or other control-type devices.

(B) *Construction.* Every booth, room or cubicle shall meet with the following construction requirements:

(1) Each booth, room, or cubicle shall be separated from adjacent booths, rooms, and cubicles, and any non-public areas by a wall.

(2) Each booth, room, or cubicle have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.

(3) All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light colored, non-absorbent, smooth textured, and easily cleanable.

(4) The floor must be light colored, non-absorbent, smooth textured, and easily cleanable.

(5) The lighting level of each booth, room, or cubicle, when not in use shall be a minimum of ten foot candles at all times, as measured from the floor.

(C) *Occupants.* Only one individual shall occupy a booth, room, or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge, or litter while in the booth. No individual shall damage or deface any portion of the booth. (Ord. 413-12-96, passed 12-16-96) Penalty, see § 122.99

§ 122.10 RESPONSIBILITIES OF THE OPERATOR.

(A) The operator shall maintain a register of all employees, showing the name and aliases used by the employee, home address, age, date of birth, sex, height, weight, color of hair and eyes, phone numbers, social security numbers, date of employment and termination, and duties of each employee. The above information on each employee shall be maintained in the register on the premises for a period of three years following termination.

(B) Daily hours of operation of any adult entertainment establishment shall be limited to the period of time from 8:00 a.m. to 2:00 a.m.

(C) The operator shall make the register of employees available immediately for inspection by police upon demand of a member of the City Department of Public Safety at all reasonable times.

(D) No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any areas where they can be viewed from a public sidewalk adjacent to the establishment.

(E) Any individual viewing booths, entertainment rooms, or similar cubicles designed or used for

individuals to view specified anatomical areas or to view specified sexual activities shall not be completely enclosed from the common areas, hallways, or other areas of the adult entertainment business.

(F) No employee or patron under 18 years of age shall be allowed on the premises of an adult entertainment establishment.

(G) No intoxicating liquor or cereal malt beverage shall be served or consumed on the premises of an adult entertainment establishment.

(H) The operator shall maintain the premises in a clean and sanitary manner at all times.

(I) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator, if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(J) Any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended, or renewed.

(K) No employee of an adult entertainment establishment shall allow any minor to loiter around or to frequent an adult entertainment establishment or to allow any minor to view adult entertainment as defined herein.

(L) The operator shall maintain at least ten foot candles of light in the public portions of the establishment, including aisles, at all times measured from the floor. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room, or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided, however, that at no time shall there be less than one foot candle of illumination in the aisles, as measured from the floor.

(M) The operator shall insure compliance of the establishment and its patrons with the provisions of this chapter.

(Ord. 413-12-96, passed 12-16-96) Penalty, see § 122.99

§ 122.99 PENALTY.

(A) *Terms.* Any person convicted under this chapter shall be subject to a maximum penalty of 90 days in jail, or an equal amount of time of community service, or any combination thereof not exceeding 90 days, plus \$500 fine, plus actual costs of prosecution, plus mandatory restitution to victims.

(B) *Continuing violations.* In addition to the penalty provided in division (A) of this section, any condition caused or permitted to exist in violation of the provisions of this code, or any ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist.

(Ord. 413-12-96, passed 12-16-96)

CHAPTER 123: TELECOMMUNICATIONS

Section

123.01	Purpose
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§ 123.01 PURPOSE.

The purposes of this chapter are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002) (“Act”) and other applicable law, and to ensure that the City qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

(Ord. 499-10-02, passed 10-21-02)

§ 123.02 CONFLICT.

Nothing in this chapter shall be construed in such a manner as to conflict with the Act or other applicable law.

(Ord. 499-10-02, passed 10-21-02)

§ 123.03 DEFINITIONS.

(A) The terms used in this chapter shall have the following meanings:

(1) **ACT.** The Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.

(2) **CITY.** The City of Big Rapids.

(3) **CITY COMMISSION.** The City Commission of the City of Big Rapids or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the City Commission.

(4) **CITYMANAGER.** The City Manager or his or her designee.

(5) **PERMIT.** A non-exclusive permit issued pursuant to the Act and this chapter to a telecommunications provider to use the public rights-of-way in the City for its telecommunications facilities.

(B) All other terms used in this chapter shall have the same meaning as defined or as provided in the Act, including without limitation the following:

(1) **AUTHORITY.** The Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the Act.

(2) **MPSC.** The Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term “Commission” in the Act.

(3) **PERSON.** An individual, corporation, partnership, association, governmental entity, or any other legal entity.

(4) **PUBLIC RIGHT-OF-WAY.** The area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

(5) **TELECOMMUNICATION FACILITIES OR FACILITIES.** The equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in section 332(d) of part I of title III of the Communications Act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

(6) **TELECOMMUNICATIONS PROVIDER, PROVIDER AND TELECOMMUNICATIONS SERVICES.** Those terms as defined in Section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102. Telecommunications provider does not include a person or an affiliate of that person when providing a federally licensed commercial radio service as defined in Section 332(d) of 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this chapter only, a provider also includes all of the following:

(a) A cable television operator that provides a telecommunications service.

(b) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.

(c) A person providing broadband internet transport access service. (Ord. 499-10-02, passed 10-21-02)

§ 123.04 PERMIT REQUIRED.

(A) *Permit required.* Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in the City for its telecommunications facilities shall apply for and obtain a permit pursuant to this chapter.

(B) *Application.* Telecommunications providers shall apply for a permit on an application

form approved by the MPSC in accordance with Section 6(1) of the Act. A telecommunications provider shall file one copy of the application with the City Clerk, one copy with the City Manager, and one copy with the City Attorney. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with Section 6(5) of the Act.

(C) *Confidential Information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, 442, MCL 15.231 to 15.246, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.

(D) *Application fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of \$500.00.

(E) *Additional information.* The City Manager may request an applicant to submit such additional information which the City Manager deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the City Manager. If the City and the applicant cannot agree on the requirement of additional information requested by the City, the City or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.

(F) *Previously issued permits.* Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the City under Section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251 and authorizations or permits issued by the City to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan telecommunications act but after 1985 shall satisfy the permit requirements of this chapter.

(G) *Existing providers.* Pursuant to Section 5(3) of the Act, within 180 days from November 1, 2002, the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in the City as of such date, that has not previously obtained authorization or a permit under Section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251, shall submit to the City an application for a permit in accordance with the

submitting an application under this subsection is not required to pay the \$500 application fee required under division (D) above. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the Authority, as provided in Section 5(4) of the Act. (Ord. 499-10-02, passed 10-21-02)

§ 123.05 ISSUANCE OF PERMIT.

(A) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the City Manager. Pursuant to Section 15(3) of the Act, the City Manager shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under § 123.04(B) of this chapter for access to a public right-of-way within the City. Pursuant to Section 6(6) of the Act, the City Manager shall notify the MPSC when the City Manager has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The City Manager shall not unreasonably deny an application for a permit.

(B) *Form of permit.* If an application for permit is approved, the City Manager shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Sections 6(1), 6(2) and 15 of the Act.

(C) *Conditions.* Pursuant to Section 15(4) of the Act, the City Manager may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.

(D) *Bond requirement.* Pursuant to Section 15(3) of the Act, and without limitation on division (C) above, the City Manager may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use. (Ord. 499-10-02, passed 10-21-02)

§ 123.06 CONSTRUCTIVE/ENGINEERING PERMIT.

A telecommunications provider shall not commence construction upon, over, across, or under the public rights-of-way in the City without first obtaining a construction or engineering permit as required for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit. (Ord. 499-10-02, passed 10-21-02)

§ 123.07 CONDUIT OR UTILITY POLES.

Pursuant to Section 4(3) of the Act, obtaining a permit or paying the fees required under the Act or under this ordinance does not give a telecommunications provider a right to use conduit or utility poles. (Ord. 499-10-02, passed 10-21-02)

§ 123.08 ROUTE MAPS.

Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the City, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the City. The route maps should be in paper or electronic format unless and until the MPSC determines otherwise, in accordance with Section 6(8) of the Act. (Ord. 499-10-02, passed 10-21-02)

§ 123.09 REPAIR OF DAMAGE.

Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the City, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition. (Ord. 499-10-02, passed 10-21-02)

§ 123.10 ESTABLISHMENT AND PAYMENT OF MAINTENANCE FEE.

In addition to the non-refundable application fee paid to the City set forth in § 123.04(D), a telecommunications provider with telecommunications facilities in the City's public rights-of-way shall pay an annual maintenance fee to the Authority pursuant to Section 8 of the Act. (Ord. 499-10-02, passed 10-21-02)

§ 123.11 MODIFICATION OF EXISTING FEES.

In compliance with the requirements of Section 13(1) of the Act, the City hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the Authority. In compliance with the requirements of Section 13(4) of the Act, the City also hereby approves modification of the fees of providers with telecommunications facilities in public rights-of-way within the City's boundaries, so that those providers pay only those fees required under Section 8 of the Act. The City shall provide each telecommunications provider affected by the fee with a copy of this chapter, in compliance with the requirement of Section 13(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the City's policy and intent, and upon application by a provider or discovery by the City, shall be promptly refunded as having been charged in error. (Ord. 499-10-02, passed 10-21-02)

§ 123.12 SAVINGS CLAUSE.

Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under § 123.11 shall be void from the date the modification was made. (Ord. 499-10-02, passed 10-21-02)

§ 123.13 USE OF FUNDS.

Pursuant to Section 10(4) of the Act, all amounts received by the City from the Authority shall be used by the City solely for rights-of-way related purposes. In conformance with that requirement, all funds

received by the City from the Authority shall be deposited into the Major Street Fund and/or the Local Street Fund maintained by the City under Act No. 51 of the Public Acts of 1951. (Ord. 499-10-02, passed 10-21-02)

§ 123.14 ANNUAL REPORT.

Pursuant to Section 10(5) of the Act, the City Manager shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority. (Ord. 499-10-02, passed 10-21-02)

§ 123.15 CABLE TELEVISION OPERATORS.

Pursuant to Section 13(6) of the Act, the City shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services. (Ord. 499-10-02, passed 10-21-02)

§ 123.16 EXISTING RIGHTS.

Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this chapter shall not affect any existing rights that a telecommunications provider or the City may have under a permit issued by the City or under a contract between the City and a telecommunications provider related to the use of the public rights-of-way. (Ord. 499-10-02, passed 10-21-02)

§ 123.17 COMPLIANCE.

The City hereby declares that its policy and intent in adopting this chapter is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The City shall comply in all respects with the requirements of the Act, including but not limited to the following:

(A) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, as provided in Section 4(c) of this chapter;

(B) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with Section 4(f) of this chapter;

(C) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the \$500 application fee, in accordance with Section 4(g) of this chapter;

(D) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the City, in accordance with § 123.05(A) of this chapter;

(E) Notifying the MPSC when the City has granted or denied a permit, in accordance with § 123.05(A) of this chapter;

(F) Not unreasonably denying an application for a permit, in accordance with § 123.05(A) of this chapter;

(G) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in § 123.05(B) of this chapter;

(H) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with § 123.05(C) of this chapter;

(I) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use, in accordance with § 123.05(D) of this chapter;

(J) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with § 123.06 of this chapter;

(K) Providing each telecommunications provider affected by the City's right-of-way fees with a copy of this chapter, in accordance with § 123.11 of this chapter;

(L) Submitting an annual report to the Authority, in accordance with § 123.14 of this chapter; and

(M) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with § 123.15 of this chapter. (Ord. 499-10-02, passed 10-21-02)

§ 123.18 RESERVATION OF POLICE POWERS.

Pursuant to Section 15(2) of the Act, this chapter shall not limit the City's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the City's authority to ensure and protect the health, safety, and welfare of the public.

(Ord. 499-10-02, passed 10-21-02)

§ 123.19 AUTHORIZED CITY OFFICIALS.

The City Manager or his or her designee is hereby designated as the authorized City official to issue municipal civil infraction citations for violations of this chapter.

(Ord. 499-10-02, passed 10-21-02)

§ 123.20 MUNICIPAL CIVIL INFRACTION.

A person who violates any provision of this chapter or the terms or conditions of a permit is responsible for a municipal civil infraction, and shall be subject to a fine of up to \$500 and costs of prosecution. Each day a violation continues shall constitute a separate violation. Nothing in this § 123.20 shall be construed to limit the remedies available to the City in the event of a violation by a person of this chapter or permit.

(Ord. 499-10-02, passed 10-21-02)

