

## ORDINANCE NO. 748-10-19

Commissioner Cochran moved, supported by Commissioner Anderson, the adoption of the following Ordinance.

### ORDINANCE IN TITLE 11 CHAPTER 116 TO “OPT IN” AND AUTHORIZE THE LICENSING AND OPERATION OF MEDICAL MARIHUANA FACILITIES WITHIN THE CITY OF BIG RAPIDS

WHEREAS, in 2008 Michigan voters approved the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, and

WHEREAS, in 2016 the Michigan Legislature adopted the Medical Marihuana Facilities Licensing Act, 291 PA 2016, and provided in Section 333.27205 that:

The board shall not issue a state operating license to an applicant unless the municipality in which the applicant's proposed marihuana facility will operate has adopted an ordinance that authorizes that type of facility.

WHEREAS, through September of 2019 the City Commission had not authorized any medical marihuana facility to be licensed and operated within the City of Big Rapids, and

WHEREAS, the City Commission received input and suggestions from the general public, including residents of the City of Big Rapids and residents of neighboring and outlying municipalities, on the subject of authorizing or prohibiting medical marihuana facilities within the City of Big Rapids, and

WHEREAS, the City Commission waited and observed the licensing, development, and regulation of medical marihuana facilities within the State of Michigan after the Michigan Legislature adopted the Medical Marihuana Facilities Licensing Act, and

WHEREAS, the City Commission received proposed zoning ordinance amendments from the Planning Commission that would establish zoning regulations for medical marihuana facilities authorized by the Medical Marihuana Facilities Licensing Act,

NOW, THEREFORE, THE CITY OF BIG RAPIDS ORDAINS:

**Section 1.** Medical marihuana facilities identified for licensing by the State in the Medical Marihuana Facilities Licensing Act are authorized to locate and operate within the City of Big Rapids subject to City licensing and zoning regulations applicable to medical marihuana facilities, and the Medical Marihuana Facilities Licensing Act is incorporated by reference for the purposes of administering, interpreting, and enforcing City ordinances applicable to medical marihuana facilities.

**Section 2.** Publication and Effective Date. This Ordinance shall become effective upon publication in the Pioneer.

**Section 3.** The City Clerk is directed to submit or file a copy of this ordinance with the state licensing department for marihuana establishments.

Yeas: Anderson, Cochran, Eppley, Hogenson, James

Nays: None

The Mayor declared the ordinance adopted.

Date: October 7, 2019

Published:

## ORDINANCE NO. 749-10-19

Commissioner Anderson moved, supported by Commissioner Eppley, the adoption of the following Ordinance.

### ORDINANCE IN TITLE 11 CHAPTER 116 AUTHORIZING AND REGULATING MEDICAL MARIHUANA FACILITIES IN THE CITY OF BIG RAPIDS

WHEREAS, the Medical Marihuana Facilities Licensing Act (MMFLA) was adopted by the Michigan Legislature in 2016, and

WHEREAS, the MMFLA authorized State licensed medical marihuana facilities to operate in Michigan municipalities that "opted in," and

WHEREAS, the City Commission desires to approve and adopt an ordinance to authorize and regulate medical marihuana facilities in the City of Big Rapids,

NOW, THEREFORE, THE CITY OF BIG RAPIDS ORDAINS:

**Section 1.** Title 11 Chapter 116 of the Big Rapids City Code is adopted.

#### **§ 116.110 Title**

This ordinance is to be known and may be cited as the City of Big Rapids Medical Marijuana Facilities Ordinance.

#### **§ 116.111 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.

B. Legislative Intent. This Chapter authorizes the establishment of medical marihuana facilities within the City of Big Rapids 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 ordinance is intended to grant immunity from any criminal prosecution under State or Federal law. This ordinance 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 ordinance 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 ordinance is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of marihuana 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 ordinance 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 ordinance 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.

#### **§ 116.112 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" means 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:

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

(B) 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.

(C) 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.

(D) 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.

(E) 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.

(F) 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" means the Michigan Department of Licensing and Regulatory Affairs, or its successor agency.

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

"Industrial Hemp Research and Development Act" means Public Act 547 of 2014, as may be amended

"Licensee" means a person holding a state operating license.

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

"Marihuana commercial operation" means any and all of the following marihuana facilities, whether operated for profit or not for profit:

- (A) a grower
- (B) a processor
- (C) a secure transporter
- (D) a provisioning center
- (E) a safety compliance facility

"Marihuana facility" or "facility" means a location at which a licensee is licensed to operate under the MMFLA and this Chapter.

"Marihuana plant" means any plant of the species *Cannabis sativa* L. but does not include industrial hemp.

"Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation.

"Michigan medical marihuana act" or "MMMA" means 2008 IL 1, MCL 333.26421 et seq., as may be amended.

"Michigan medical marihuana facilities licensing act" or "MMFLA" means Public Act 281 of 2016, MCL 333.27101 et seq., as may be amended.

"Operating permit" or "permit" means the permit issued pursuant to this chapter authorizing the operation of a medical marihuana facility in the City.

"Permitee" means a person who holds a permit issued by the City pursuant to this Chapter.

"Person" means 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" means 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" means 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" means a primary caregiver who has been issued a current registry identification card under the MMMA.

"Registered qualifying patient" or "patient" means 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" means the general administrative rules promulgated and from time to time amended by the Department to implement the MMFLA.

"Safety compliance facility" means 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" means a licensee that is a commercial entity that stores marihuana and transports marihuana between marihuana facilities for a fee.

"State operating license" or, "license" means 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.

## **ARTICLE II Licensing of Medical Marihuana Facilities**

### **§ 116.113 Number of Permitted Facilities**

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

<u>Type of Facility</u>	<u>Number</u>
Grower	no limit
Processor	no limit
Secure Transporter	no limit
Provisioning Center	no limit
Safety Compliance Facility	no limit.

### **§ 116.114 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 nonrefundable 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 nonrefundable 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.

#### **§ 116.115 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.

#### **§ 116.116 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 nonrefundable 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;

(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 eleven (11) inches by seventeen (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 marijuana 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 marijuana 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 ordinance; 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 (5) business days to correct the deficiency after notification by the City Clerk.

#### **§ 116.117 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.

### **§ 116.118 Issuance of Provisional Approval Certificate**

A. Within 45 days following the adoption of this ordinance the City Clerk shall accept permit applications for licensed medical marijuana facilities. Initial applications following the adoption of this ordinance 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 marijuana 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 marijuana facility operating permit determined to be in full compliance with the requirements of this Chapter shall be issued a provisional medical marijuana facility approval certificate.

C. The City Clerk shall issue a provisional medical marijuana 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 marijuana facility approval certificate only means that the applicant has submitted a valid application for a marijuana facility operating permit, and is eligible to receive the appropriate marijuana facility license from the Department. The applicant shall not locate or operate a marijuana 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 1 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 marijuana 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.

### **116.119 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 (1) 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 5 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 (5) 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.

#### **116.120 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.

#### **§ 116.121 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 (1) year, on the condition that the State operating license for the facility is renewed.

#### **§116.122 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.

#### **§ 116.123 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.

#### **§ 116.124 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.

### **ARTICLE III Specific Marihuana Facility Requirements**

#### **§ 116.125 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.

#### **§116.126 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.

#### **§ 116.127 Secure Transporter**

A. A secure transporter which operates from a marijuana 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 marijuana or marijuana-infused products must always be operated by a 2-person crew with at least 1 individual remaining with the vehicle.

C. A secure transporting vehicle must not bear any markings or other indication that it is carrying marijuana or marijuana-infused products.

### **§ 116.128 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 marijuana and marijuana-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 marijuana, marijuana-infused products, or medical marijuana paraphernalia from any outdoor location;

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

(4) Permit the use or consumption of marijuana or marijuana-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 marijuana 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 marijuana 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 marijuana and marijuana-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.

#### **ARTICLE IV General Requirements**

##### **§ 116.129 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 marijuana commercial operations shall obtain all other required permits or licenses related to the operation of the marijuana 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.

##### **§ 116.130 Signage and Advertising.**

A. All signage and advertising for a medical marijuana 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 marijuana and marijuana-infused products or use advertisements that promote medical marijuana or marijuana-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.

##### **§ 116.131 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 twenty-four 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.

### **§ 116.132 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.

### **§ 116.133 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 marijuana or marijuana-infused products may require pre-treatment before introduction in the City wastewater system.

#### **§ 116.134 Visibility of Activities.**

A. All activities of marijuana 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 marijuana plants from public view, with no marijuana 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 marijuana, marijuana-infused product, or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.

#### **§ 116.135 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 marijuana 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 marijuana facility shall permit the emission of marijuana 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 marijuana 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.

#### **§ 116.136 Reports of Crime**

All criminal activities or attempted violations of any law at the medical marijuana facility shall be reported promptly to the Big Rapids Department of Public Safety within twenty-four (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.

#### **§ 116.137 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.

#### **§ 116.138 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 Article, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any permit issued hereunder.

#### **§ 116.139 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.

**§ 116.140 Violations and Penalties.**

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 Article, 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 \$1,000, plus court-imposed costs and any other relief that may be imposed by the court for a subsequent violation committed within one (1) 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.

**Section 2.** The ordinance shall be effective 20 days after publication.

**Section 3.** The City Clerk is directed to publish this ordinance as a summary of this ordinance in the Pioneer.

Yeas: Anderson, Cochran, Eppley, Hogenson, James

Nays: None

The Mayor declared the ordinance adopted.

Date: October 7, 2019

Published:

**ORDINANCE NO. 750-10-19**

Commissioner Anderson moved, supported by Commissioner Eppley, the adoption of the following Ordinance.

**ORDINANCE IN TITLE 11 CHAPTER 116 TO “OPT OUT”  
AND COMPLETELY PROHIBIT MARIHUANA ESTABLISHMENTS IN THE  
CITY OF BIG RAPIDS**

WHEREAS, the Michigan Regulation and Taxation of Marihuana Act (MRTMA), Initiated Law 1 of 2018, was approved by the Michigan and Big Rapids electorate November 6, 2018, and

WHEREAS, the MRTMA authorizes and allows state and local licensing of marihuana establishments identified in the Act, and the State is expected to accept applications for marihuana establishment licenses starting November 1, 2019, and

WHEREAS, state licensed marihuana business establishments identified in the MRTMA can locate and operate within the City of Big Rapids unless the City Commission adopts an ordinance that “opts out” and completely prohibits or limits the number of marihuana establishments within the City, and

WHEREAS, the City Commission listened to extensive public comments, Planning Commission recommendations, and City Staff recommendations on the subject of allowing or prohibiting marihuana business establishments,

NOW, THEREFORE, THE CITY OF BIG RAPIDS ORDAINS:

**Section 1.** Marihuana establishments defined and authorized by The Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, are completely prohibited within the City of Big Rapids.

**Section 2.** This ordinance shall be effective upon publication in the Pioneer.

**Section 3.** The City Clerk is directed to submit or file a copy of this ordinance with the state licensing department for marihuana establishments.

Yeas: James

Nays: Anderson, Cochran, Eppley, Hogenson

The Mayor declared the ordinance **NOT ADOPTED**.

Date: October 7, 2019

Published:

**ORDINANCE NO. 751-10-19**

Commissioner Anderson moved, supported by Commissioner Eppley, the adoption of the following Ordinance:

**ORDINANCE IN TITLE 11 CHAPTER 116 AUTHORIZING AND REQUIRING A CITY PERMIT TO OPERATE CERTAIN MARIHUANA BUSINESS ESTABLISHMENTS IN THE CITY OF BIG RAPIDS**

WHEREAS, the voter Initiated Law 1 of 2018, MCL 333.27953 et seq., authorized Michigan municipalities to completely prohibit or limit marihuana business establishments within municipal boundaries, and

WHEREAS, the City Commission desires and intends to prohibit marihuana business establishments in the City of Big Rapids that allow or provide on site consumption of marihuana or marihuana infused products,

NOW THEREFORE, the **City of Big Rapids ordains:**

**Section 1. 116.210 Authorized Marihuana Establishments.** The following marihuana establishments authorized by the Voter Initiated Law 1 of 2018 are authorized to operate within the City of Big Rapids according to state law and local ordinance regulations with a City permit and a state license.

<u>Type of Establishment</u>	<u>Number Authorized</u>
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

**§ 116.211 Prohibited Marihuana Establishments.** The following marihuana establishments authorized by the Voter Initiated Law 1 of 2018 are prohibited from operating within the City of Big Rapids.

<u>Type of Establishment</u>	<u>Number Authorized</u>
Designated Marihuana Consumption Establishment	None
Marihuana Event Organizer	None
Any other type of marihuana related business Licensed by the Department	None

**§ 116.212 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 of Big Rapids 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 Section 116.210 shall be the same as the procedure for obtaining a City permit for an authorized medical marihuana facility in Sections 116.110-116.135.

**§ 116.213 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 in Sections 116.136-116.140.

**Section 2.** The ordinance shall be effective 20 days after publication.

**Section 3.** The City Clerk is directed to publish this ordinance or a summary of this ordinance in the Pioneer.

Yeas: Anderson, Cochran, Eppley, Hogenson, James

Nays: None

The Mayor declared the ordinance adopted.

Date: October 7, 2019

Published:

## ORDINANCE NO. 752-10-19

Commissioner Eppley moved, supported by Commissioner Anderson, the adoption of the following Ordinance:

### ORDINANCE AMENDING ARTICLES 2, 3 AND 11 OF THE BIG RAPIDS ZONING ORDINANCE TO DEFINE AND PERMIT CERTAIN STATE LICENSED MARIHUANA BUSINESS FACILITIES AND ESTABLISHMENTS IN THE C-1, C-2, C-3 AND INDUSTRIAL DISTRICTS

WHEREAS, the Planning Commission developed amendments to the Big Rapids Zoning Ordinance to permit state licensed Marihuana Businesses in Commercial and Industrial Zoning Districts, and

WHEREAS, the Planning Commission conducted public hearings on the Zoning Ordinance text amendments, and

WHEREAS, the Planning Commission recommended adoption of a text amendment to the Big Rapids Zoning Ordinance that would add definitions of marihuana businesses and permit the state licensed marihuana businesses subject to the conditions of Article 3 District Regulations and Section 11.1:29 Use Standards.

NOW THEREFORE, the **City of Big Rapids** ordains:

**Section 1.** The definitions pertaining to Marihuana Businesses are added to Article 2.9 to read as follows:

- (1) **LARA** – The Michigan Department of Licensing and Regulatory Affairs.
- (2) **MRA** – The State of Michigan Marihuana Regulatory Agency.
- (3) **Licensee** – A person holding a state license.
- (4) **Marihuana** – All parts of the plant of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. It does not include industrial hemp.
- (5) **Marihuana Establishment** – A location at which a licensee is licensed to operate under one of the State of Michigan Marihuana laws.
- (6) **Grower** – A person with a commercial license to cultivate, dry, trim, cure, and package marihuana and sell or otherwise transfer marihuana to marihuana establishments.
- (7) **Microbusiness** – A person with a commercial license to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise

transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

- (8) **Marihuana Plant** – Any plant of the species *Cannabis sativa* L. Marihuana plant does not include industrial hemp.
- (9) **Processor** – A person with a commercial license to obtain marihuana from marihuana establishments, process and package marihuana, and sell or otherwise transfer marihuana to marihuana establishments.
- (10) **Retailer** – A person with a commercial license to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older. Also called provisioning centers.
- (11) **Safety Compliance Facility** – A person with a commercial license to test marihuana, including certification for potency and the presence of contaminants.
- (12) **Secure Transporter** – A person with a commercial license to obtain marihuana from marihuana establishments in order to store and transport marihuana to marihuana establishments for a fee.
- (13) **Excess Marihuana Grower** – A person, who already holds five adult-use Class C Grower licenses, and is given additional license to expand their allowable marihuana plant count.
- (14) **Municipal License** – A license or permit issued by a municipality that allows a person to operate a marihuana establishment in that municipality.

**Section 2.** Article 3, Section 3.9:2 is amended to add the following text as permitted principal uses and structures in the C-1 District:

3.9:2 (3)(f) Marihuana establishments that are retailers, safety compliance facilities or microbusinesses, subject to the conditions of Section 11.1:29.

3.9:2(3)(g) and other similar establishments.

**Section 3.** Article 3, Section 3.10:2 is amended to add the following text as permitted uses and structures in the C-2 District:

3.10:2(1)(v) Marihuana establishments that are retailers, safety compliance facilities, or microbusinesses, subject to the conditions of Section 11.1:29.

3.10:2(1)(w) other similar establishments.

**Section 4.** Article 3, Section 3.11:2 is amended to add the following text as permitted uses and structures in the C-3 District:

3.11:2(2)(i) Marihuana establishments that are retailers, safety compliance facilities, or microbusinesses, subject to the conditions of Section 11.1:29.

3.11:2(2)(j) other similar establishments.

**Section 5.** Article 3, Section 3.12:7 is amended to add the following text as permitted principal uses and structures in the Industrial District:

3.12:7 (4) Marihuana establishments that are growers, excess growers, processors, safety compliance facilities, or secure transporters, subject to the conditions of Section 11.1:29.

**Section 6.** Article 11.1:29 is amended to read as follows:

Marihuana establishments may be permitted subject to the general and specific conditions below:

(1) Conditions which apply all marihuana establishments are listed below:

(a) All such establishments shall hold a valid License for the appropriate operation as issued by the State of Michigan.

(b) Co-located marihuana establishments and stacked grower licenses may be permitted subject to the regulations of this Ordinance and any applicable rules promulgated by LARA.

(c) The Licensee shall have, or shall have applied for, a Municipal License or permit as described in the City Code.

(d) No such facility shall be situated within 500 feet of a K-12 school, public or private.

(e) Those provisions for signs contained in Article 6 of this Ordinance notwithstanding, signage shall be limited to one sign per establishment, either a wall sign or a freestanding sign as described below. The sign shall not be digital or internally illuminated.

i. One wall sign affixed to the building containing a marihuana facility is permitted on the front wall of the building and shall not exceed twenty (20) square feet.

ii. One freestanding sign located on a lot containing a marihuana facility is permitted. The sign shall not exceed twelve (12) square feet in area nor 4 feet in height.

(f) The use of marihuana is prohibited at all licensed marihuana establishments.

(g) No equipment or process shall be used in the facility which creates noise, dust, vibration, glare, fumes, odors, or electrical interference detectable to the normal human sense beyond the property line.

(h) The establishment shall be available for reasonable inspection, during business hours, by Code Enforcement Officials or Public Safety Officers to confirm the facility is operating in accordance with all applicable laws, including state law and city ordinances.

(i) A property owner shall have no vested rights or nonconforming use rights that would serve as a basis for failing to comply with this ordinance or any amendment of this ordinance.

(j) A Zoning Permit or Special Land Use Permit may be issued conditionally, however no operation may commence or continue until the required Municipal License or permit has been issued by the City Clerk and all conditions enumerated in the City Code have been met.

(2) Marihuana retailers, safety compliance facilities and microbusinesses may be permitted in the C-1, C-2 and C-3 Commercial Districts subject to the conditions below:

(a) The facility may only operate between the hours of 9AM to 9PM.

(b) The facility shall provide off-street parking and loading consistent with Article 5 of this Ordinance and shall be considered under Section 5.2 as Retail Sales and Rental of Goods, Merchandise and Equipment.

(c) The exterior appearance must be compatible with surrounding businesses with respect to façade type, ground floor opacity, site layout, etc.

(d) The interior of the facility must be arranged in such a way that neither marihuana nor marihuana-infused products are visible from the exterior of the facility.

(e) All activities, including all transfers of marihuana, shall be conducted within the building and out of public view. Drive-through, drive-up, or curb-side service facilities are prohibited.

(3) Marihuana growers, excess growers, processors, safety compliance facilities, and secure transporters may be permitted as a special land use in the Industrial District subject to the conditions below:

(a) The facility shall provide off-street parking and loading consistent with Article 5 of this Ordinance and shall be considered under Section 5.2 as Manufacturing and Industrial Uses.

(b) Processes must be conducted in a manner to minimize adverse impacts on the City's wastewater treatment operations. The City's Public Works Department shall review all pertinent information related to wastewater discharges and shall provide any pertinent comments on to the Planning Commission.

(c) All operations shall occur within an enclosed building and no marihuana may be stored overnight outside of an enclosed building. By way of example and without limitation, it is unlawful to store marihuana overnight in an outdoor waste bin or a secure transport vehicle parked outdoors.

(d) Applicants must provide a plan for the storage and disposal of marihuana or chemicals associated with marihuana cultivation or processing to minimize the risk of theft or harm resulting from chemical exposure.

**Section 7.** The ordinance shall be effective 20 days after publication.

**Section 8.** The City Clerk is directed to publish this ordinance in the Pioneer.

Yeas: Anderson, Cochran, Eppley, Hogenson, James

Nays: None

The Mayor declared the ordinance adopted.

Date: October 7, 2019

Published:

## ORDINANCE NO. 773-06-21

Commissioner Andrews moved, supported by Commissioner James, the adoption of the following Ordinance.

### **ORDINANCE AMENDING THE ZONING ORDINANCE TO PROHIBIT MARIHUANA RETAILERS, SAFETY COMPLIANCE FACILITIES, AND MICROBUSINESSES FROM LOCATING IN THE DOWNTOWN C-2 COMMERCIAL DISTRICT**

WHEREAS, the City of Big Rapids allowed specified marihuana businesses to locate and operate in the downtown C-2 zoning district as described in Section 11.1:29(2) of the Zoning Ordinance, and

WHEREAS, it was suggested that the City Commission should consider amending the Zoning Ordinance by removing the downtown C-2 commercial district from the list of zoning districts in which the specified marihuana businesses can locate, and

WHEREAS, a public hearing on the proposed Zoning Ordinance amendment was held before the City Commission at its regular meeting on May 17, 2021,

NOW, THEREFORE, THE CITY OF BIG RAPIDS ORDAINS:

Section 1. Section 3.10:2 (2) (w) of the Zoning Ordinance provides:

Marihuana establishments that are retailers, safety compliance facilities, or microbusinesses, subject to the conditions of Section 11.1:29.

and is amended to read as follows, deleting the entire phrase allowing marihuana businesses as a principal use in the C-2 District.

~~**Marihuana establishments that are retailers, safety compliance facilities, or microbusinesses, subject to the conditions of Section 11.1:29.**~~

Section 2. Section 11.1:29(2) of the Zoning Ordinance provides:

Marihuana retailers, safety compliance facilities, and microbusinesses may be permitted in the C-1, C-2, and C-3 Commercial Districts subject to the conditions below:

(a) The facility may only operate between the hours of 9AM to 9PM.

(b) The facility shall provide off-street parking and loading consistent with Article 5 of this Ordinance and shall be considered under Section 5.2 as Retail Sales and Rental of Goods, Merchandise, and Equipment.

(c) The exterior of the facility must be compatible with surrounding businesses with respect to façade type, ground floor opacity, site layout, etc. Article 11 Use Standards 11-27.

(d) The interior of the facility must be arranged in such a way that neither marihuana nor marihuana-infused products are visible from the exterior of the facility.

(e) All activities, including all transfers of marihuana, shall be conducted within the building and out of public view. Drive through, drive-up, or curbside service facilities are prohibited.

and is amended to read as follows, deleting the C-2 zoning district from the list of zoning districts in which marihuana businesses are permitted to locate.

Marihuana retailers, safety compliance facilities, and microbusinesses may be permitted in the C-1, ~~C-2~~, and C-3 Commercial Districts subject to the conditions below:

(a) The facility may only operate between the hours of 9AM to 9PM.

(b) The facility shall provide off-street parking and loading consistent with Article 5 of this Ordinance and shall be considered under Section 5.2 as Retail Sales and Rental of Goods, Merchandise, and Equipment.

(c) The exterior of the facility must be compatible with surrounding businesses with respect to façade type, ground floor opacity, site layout, etc. Article 11 Use Standards 11-27.

(d) The interior of the facility must be arranged in such a way that neither marihuana nor marihuana-infused products are visible from the exterior of the facility.

(e) All activities, including all transfers of marihuana, shall be conducted within the building and out of public view. Drive through, drive-up, or curbside service facilities are prohibited.

Section 3. The City Clerk is directed to publish this ordinance in The Pioneer.

Section 4. This Ordinance shall be effective 20 days after publication.

Yeas: Andrews, James

Nays: Cochran, Eppley, Hogenson

The Mayor declared the ordinance **FAILED**.

Dated: June 21, 2021

Published: June 28, 2021

## ORDINANCE NO. 774-06-21

Commissioner Eppley moved, supported by Commissioner Cochran, the adoption of the following Ordinance.

### **ORDINANCE AMENDING SECTION 11.1:29(1)(d) OF THE BIG RAPIDS ZONING ORDINANCE TO ESTABLISH A SETBACK FOR LICENSED MARIJUANA RETAILERS FROM THE MOISD TRANSITION CENTER**

WHEREAS, Section 11.1:29(1)(d) of the Zoning Ordinance established a setback for licensed marijuana retailers of 500 feet from a public or private K-12 school, and

WHEREAS, MOISD officials asked the City to review the Zoning Ordinance setback provision and revise it to include a provision that would establish a setback for the MOISD Transition Center, a school for students 18-26 years of age, and

WHEREAS, the Planning Commission conducted a public hearing on a proposed amendment to Section 11.1:29(1)(d) on March 15, 2021, that would establish a setback of 500 feet from the MOISD Transition Center, and

WHEREAS, a downtown business owner objected to the proposed setback distance of 500 feet because it would prevent his site from development and use as a licensed marijuana business, and

WHEREAS, the proposed Zoning Ordinance amendment was revised to establish a setback of 400 feet from the MOISD Transportation Center, NOW, THEREFORE,

THE CITY OF BIG RAPIDS ORDAINS that:

Section 1. Section 11.1:29(1)(d) of the Zoning Ordinance which reads as follows:

No such facility shall be situated within 500 feet of a K-12 school, public or private when measured in a straight line from property line to property line.

is amended to read as follows:

No such facility shall be situated within 500 feet of a K-12 school, public or private, **or within 400 feet of the MOISD Transition Center school facility for adult learners**, when measured in a straight line from property line to property line.

Section 2. The City Clerk shall publish this Ordinance in the Pioneer, and this Ordinance shall be effective 20 days after publication.

Yeas: Cochran, Eppley, Hogenson, James

Nays: Andrews

The Mayor declared the ordinance adopted.

Dated: June 21, 2021

Published: June 28, 2021

**ORDINANCE NO. 784-03-22**

Commissioner Simmon moved, supported by Commissioner Eppley, the adoption of the following Ordinance.

**ORDINANCE REZONING 510 S THIRD AVENUE FROM (R-3) RESIDENTIAL TO THE (C-3) COMMERCIAL ZONING DISTRICT**

WHEREAS, the Planning Commission held a public hearing on March 16, 2022, on a proposed amendment to the Zoning Ordinance and by unanimous vote recommended that the City Commission rezone 510 S. Third Avenue from (R-3) Residential District to (C-3) Commercial District, and

WHEREAS, the City Commission accepts the Planning Commission's recommendation to rezone 510 S. Third Avenue from (R-3) Residential to (C-3) Commercial,

NOW, THEREFORE,

THE CITY OF BIG RAPIDS ORDAINS:

Section 1. The property at 510 S. Third Avenue described as:

000510 S THIRD AVENUE: BIG RAPIDS WATER POWER  
IMPROVEMENT COMPANY'S ADDITION – BLK A, LOTS 11  
& 12

is rezoned from (R-3) Residential to the (C-3) Commercial zoning district.

Section 2. The Zoning Administrator is directed to amend the zoning map to reflect the rezoning.

Section 3. This ordinance shall become effective 20 days after publication.

Section 4. The Clerk is directed to publish this ordinance in the Pioneer within 15 days of adoption, with a notice describing when and where a copy of the zoning ordinance and the amended zoning map can be inspected or purchased.

Yeas: Andrews, Cochran, Eppley, Guenther, Simmon

Nays: None

The Mayor declared the ordinance adopted.

Date: March 21, 2022

Published: March 24, 2022

## ORDINANCE NO. 785-03-22

Commissioner Eppley moved, supported by Commissioner Cochran, the adoption of the following Ordinance.

### **ORDINANCE AMENDING SECTION 11.1:29(2)(e) OF THE BIG RAPIDS ZONING ORDINANCE TO REMOVE THE PROHIBITION ON CURBSIDE SALES AND DISPENSING FOR COMMERCIAL-TYPE MARIHUANA FACILITIES**

WHEREAS, Section 11.1:29(2)(e) of the Zoning Ordinance prohibited drive-through, drive-up, or curbside service facilities, and

WHEREAS, at their meeting on January 3, 2022, the City Commission asked the Planning Commission to review this section of the Ordinance and submit a recommendation for how to move forward, and

WHEREAS, the Planning Commission conducted a public hearing on a proposed amendment to Section 11.1:29(2)(e) on March 16, 2022, that would make curbside sales and dispensing lawful with an approved Designation, NOW, THEREFORE,

THE CITY OF BIG RAPIDS ORDAINS that:

Section 1. Section 11.1:29(2)(e) of the Zoning Ordinance which reads as follows:

All activities, including all transfers of marihuana, shall be conducted within the building and out of public view. Drive-through, drive-up, or curbside service facilities are prohibited.

is amended to read as follows:

All activities, including all transfers of marihuana, shall be conducted within the building and out of public view, **except curbside sales and dispensing is lawful in private, off-street parking lots, in shared municipal parking lots, and on public on-street parking spaces with an approved "Curbside Sales and Dispensing Designation"**. Drive-through **and** drive-up ~~or curbside~~ facilities are prohibited.

Section 2. The City Clerk shall publish this Ordinance in the Pioneer, and this Ordinance shall be effective 20 days after publication.

Yeas: Andrews, Cochran, Eppley, Simmon

Nays: Guenther

The Mayor declared the ordinance adopted.

Date: March 21, 2022

Published: March 24, 2022

**ORDINANCE NO. 786-03-22**

Commissioner Simmon moved, supported by Commissioner Eppley, the adoption of the following Ordinance.

**ORDINANCE AMENDING TITLE 11 CHAPTER 116 OF THE BIG RAPIDS CITY  
CODE  
ON MARIHUANA FACILITIES**

WHEREAS, Chapter 116 of the City Code was adopted in Ordinance No. 749-10-19 authorizing and regulating medical marihuana facilities in the City of Big Rapids, and

WHEREAS, over the course of two years of administration by City Staff, several amendments to the terms and provisions of Chapter 116 were identified by City staff to clarify the procedures and regulations applicable to local operating permits of marihuana facilities, and

WHEREAS, the City Attorney recommended consideration and adoption of several amendments to Chapter 116 by the City Commission,

NOW, THEREFORE, THE CITY OF BIG RAPIDS ORDAINS:

Section 1. Chapter 116 of Title 11 is hereby amended as provided below.

**Section 116.03 Definitions is amended to read as follows, with all other provisions in Section 116.03 remaining the same.**

**“Municipal Marihuana Operating Permit”**, “Operating permit” or “permit” means the permit issued pursuant to this chapter authorizing the operation of a medical marihuana facility in the City.

**Section 116.12(B) is amended to read as follows, with all other provisions in Section 116.12 remaining the same.**

Mobile marihuana facilities and drive-through operations are prohibited. **Curbside sales and dispensing is lawful in private, off-street parking lots, in shared municipal parking lots, and on public on-street parking spaces when a “Curbside Sales and Dispensing Designation” has been approved as part of the Municipal Marihuana Operating Permit.**

**Section 116.13(B) General Permit Application requirements is amended by adding three requirements to Section 116.13(B) to read as follows.**

**(1) A copy of the Applicant's State Application for Prequalification from LARA and a copy of the Applicant's Notice of Prequalification Status from LARA.**

~~(4)~~ **(2)** 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; 2021 S-14 26D Big Rapids - Business Regulations

~~(2)~~ **(3)** 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)~~ **(4)** The identity of every person having any ownership interest in the applicant with respect to which the license is sought;

~~(4)~~ **(5)** 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)~~ **(6)** 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)~~ **(7)** A description of the type of the proposed marihuana commercial operation and its physical address;

~~(7)~~ **(8)** A scaled diagram of the proposed licensed premises, no larger than 11 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 **and designated spaces for curbside sales and dispensing**, fencing on or around the premises, and all areas in which medical marihuana will be stored, grown, manufactured, or dispensed;

~~(8)~~ **(9)** A lighting plan showing the lighting outside of the medical marihuana facility for security purposes in compliance with applicable City outdoor lighting requirements;

~~(9)~~ **(10)** 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;

**(11) A completed City of Big Rapids Income Tax Withholding Employer Registration Form or proof that the form has been filed with the City's Income Tax Administrator.**

~~(10)~~ **(12)** 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)~~ **(13)** 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)~~ **(14)** 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)~~ **(15)** 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)~~ **(16)** A statement that the applicant consents to inspections, examinations, searches and seizures required or undertaken pursuant to enforcement of this chapter; and

~~(15)~~ **(17)** 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.

**Section 116.15 (E) and (F) is amended to read as follows, with all other provisions of Section 116.15 remaining the same.**

~~(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) (E) 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.~~

**Section 116.19 is amended to read as follows:**

A. A ~~medical marihuana business permit~~ **Municipal Marihuana Operating 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~~ **Municipal Marihuana 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.~~ Before a **current** Permit is transferred or sold, the new Applicant must submit an Application for Sale or Transfer with the City Clerk, including written, notarized consent of the current Permit

holder and nonrefundable application fee. The attempted transfer, sale, or other conveyance of an interest in a permit without prior application for a **new City operating** permit with the City Clerk is grounds for suspension or revocation of the existing permit.

**C. Upon the transfer or sale of a Municipal Marihuana Operating Permit, the newly issued Permit shall be valid for one-year and shall void the previously issued Permit.**

**D. The City Clerk shall grant or deny the application for the transfer of a permit within 30 business days of the receipt of the application and all required supporting documents.**

**Section 116.33 is amended to read as follows, with all other provisions in Section 116.33 remaining the same.**

(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) 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 **except curbside sales and dispensing is lawful with an approved "Curbside Sales and Dispensing Designation"**

(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 marijuana and marijuana-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.

**(F). A provisioning center may engage in curbside sales and dispensing of marijuana and marijuana-infused products to registered qualifying patients with an approved “Curbside Sales and Dispensing Designation” on the Municipal Marijuana Operating Permit.**

**Section 116.41 is amended to read as follows:**

(A) All signage and advertising for a medical marijuana 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 marijuana and marijuana-infused products or use advertisements that promote medical marijuana or marijuana 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.~~

**Section 116.42(C)(1) is amended to read as follows, with all other provisions in Section 116.42 remaining the same.**

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 marijuana is stored **and all “Curbside Sales and Dispensing Designated” spaces;**

**Section 116.42(C)(4) is amended to read as follows, with all other provisions in Section 116.42 remaining the same.**

All marijuana 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, **except**

**curbside sales and dispensing is lawful with an approved “Curbside Sales and Dispensing Designation”;**

**Section 116.45(A) is amended to read as follows, with all other provisions of Section 116.45 remaining the same.**

(A) All activities of marihuana ~~commercial~~ **industrial** 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.

Section 2. The City Clerk shall publish this Ordinance or a summary of this ordinance in the Pioneer, and this Ordinance shall be effective 20 days after publication.

Yeas: Andrews, Cochran, Eppley, Simmon

Nays: Guenther

The Mayor declared the ordinance adopted.

Date: March 21, 2022

Published: