



# Planning Commission Meeting Agenda

Tuesday, April 20, 2021 at 7:00 PM  
27400 Southfield Road, Lathrup Village, Michigan 48076

## ZOOM REMOTE MEETING INFORMATION

**Webinar ID:** 996 6174 3524

**Password:** 435623

**CLICK HERE:** [Online Link](#)

**Telephone:** 646.558.8656 or 312.626.6799

**CLICK HERE:** [Public Comment Form Link](#)

*In accordance with Emergency Orders issued by the Michigan Department of Health and Human Services, Oakland County, local officials, and State of Michigan legislation, which allows for electronic meetings of public bodies, notice is hereby given that the City of Lathrup's Planning Commission will be meeting electronically using [www.Zoom.us](http://www.Zoom.us) for videoconference and public access.*

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Roll Call**
4. **Approval of Agenda**
5. **Approval of Meeting Minutes**
  - A. [Planning Commission Minutes 3-16-2021](#)
6. **Public Comment**
7. **New Business**
  - A. [Public Hearing - Zoning Text Amendments: Building Materials](#)
  - B. [Zoning Text Amendments - Chapter 5: Site Standards & Chapter 6: Development Review](#)
8. **Old Business and Tabled Items**
  - A. [Cannabis discussion - draft zoning ordinance and general code language](#)
9. **Other Matters for Discussion**
10. **General Communication**
11. **Adjourn**

At 7:08 p.m. the Regular meeting was called to order by Chair Piotrowski on Tuesday, March 16, 2021 remotely via Zoom.

- Commissioners Present: Mark Piotrowski, Chair
- Jason Hammond – Vice Chair
- Bruce Kantor, City Council Liaison
- Anna Thompson, Secretary
- Wilbert Fobbs, III, Resident
- Les Stansbery, Resident

Excused: Commissioner - Charito Hulleza

This meeting is being held remotely. All Commissioners who were present announced they are in Lathrup Village, Michigan, Oakland County with the exception of Anna Thompson who is located in Ann Arbor, Michigan, Washtenaw County.

Staff Present: Dr. Sheryl Mitchell, City Administrator, Susie Stec, Community and Economic Development Manager, Yvette Talley, City Clerk

Also Present: Scott Baker, City Attorney, Matthew Wojciechowski and Eric Pietsch of Giffels Webster

All present joined in the Pledge of Allegiance.

**CALL TO ORDER AND ROLL CALL**

Roll call was taken. Motion by Commissioner Hammond, seconded by Commissioner Thompson to excuse Commissioner Charito Hulleza from this meeting.

Yes: Fobbs, Hammond, Kantor, Piotrowski, Stansbery, Thompson

No: None

Motion carried.

**APPROVAL OF AGENDA**

Motion by Commissioner Kantor, seconded by Commissioner Hammond to approve the Agenda.

Yes: Fobbs, Hammond, Kantor, Piotrowski, Stansbery, Thompson

No: None

Motion carried.

**MINUTES OF JOINT MEETING WITH CITY COUNCIL ON FEBRUARY 8, 2021**

Motion by Commissioner Kantor, seconded by Commissioner Stansbery to approve the minutes of the Regular Meeting of February 8, 2021.

Yes: Fobbs, Hammond, Kantor, Piotrowski, Stansbery, Thompson  
No: None  
Motion carried.

**MINUTES OF REGULAR MEETING ON FEBRUARY 16, 2021**

Motion by Commissioner Kantor, seconded by Commissioner Stansbery to approve the minutes of the Regular Meeting of February 16, 2021.

Yes: Fobbs, Hammond, Kantor, Piotrowski, Stansbery, Thompson  
No: None  
Motion carried.

**PUBLIC COMMENT**

None

**NEW BUSINESS**

A. Public Hearing -2021-2026 Capital Improvements Plan

Susie Stec gave an overview and answered specific questions. Chair Piotrowski opened the public hearing. Chair Piotrowski closed the public hearing.

Lillian Lowery- 18476 Roseland requested the link to be posted in the chat and it was posted by Susie Stec.

**OLD BUSINESS and TABLED ITEMS**

A. Capital Improvements Plan – Final Draft

Matthew Wojciechowski gave an overview and answered specific questions.

Commissioner Hammond asked questions about the CIP projects and stated that the inventory list should be updated.

Lillian Lowrey- 18476 Roseland asked question if CIP projects will be funded by city budget or through the milage?

Susie Stec stated there are no new mileages for CIP, they are budgeted through general budget and grants. Projects funded through bonds are for the roads and infrastructure.

Motion by Commissioner Hammond, seconded by Commissioner Stansbery to approve the 2021-2016 Capital Improvements Plan Draft with corrections and recommend viewing by City Council.

Yes: Fobbs, Hammond, Kantor, Piotrowski, Stansbery, Thompson  
No: None  
Motion carried.

B. Zoning Amendments – Building Materials Discussion

Susie Stec gave an overview and answered specific questions.

Discussed: Facing Street, park or plaza: At least 75% of all exterior building facades facing a street park or plaza shall be finished with a combination of two or more of the following – glass, brick, cut or cast stone, wood, cementitious board, integrally colored concrete units with brick proportions and textured stucco. Facing other buildings at least 50% of the exterior façade buildings shall consist of the materials previously mentioned and may include split-faced, scored, or fluted block. For single-family residential buildings, vinyl siding is permitted and alternative materials.

C. Schedule a Public Hearing for April 20, 2021 – Zoning Amendments – Building Materials

Susie Stec gave an overview and answered specific questions.

Motion by Board Member Stansbery, seconded by Board member Kantor to schedule a public hearing on Zoning Amendments – Building Materials for April 20, 2021.

Yes: Fobbs, Hammond, Kantor, Piotrowski, Stansbery, Thompson  
No: None  
Motion carried.

D. Comprehensive Plan – Implementation Strategies & Final Draft

Susie Stec gave an overview and answered specific questions. Board member Thompson commented on making this more of a priority - working with SMART (bus stops).

Eric Pietsch, Giffels Webster gave an overview and answered specific questions.

Motion by Board Member Thompson, seconded by Board Member Hammond to forward this item to City Council with the change that was discussed.

Yes: Fobbs, Hammond, Kantor, Piotrowski, Stansbery, Thompson  
No: None  
Motion carried.

**OTHER MATTERS FOR DISCUSSION**

Board Member Kantor stated capital improvements bond repairs are moving forward for sewers, water improvements and fire hydrants. Letters are being mailed regarding sidewalk repair program and the first phase we will be identifying sidewalk defects. Late May businesses and residents should receive final costs of their sidewalk responsibility. Sidewalk program will begin late Summer/early Fall.

**GENERAL COMMUNICATION & CORRESPONDENCE**

a. Legal Update

Scott Baker, City Attorney stated City still has a local state of emergency that will remain in effect and we will be able to continue meeting remotely via Zoom until the Mayor and City Council revokes it.

b. Staff Update

Susie Stec said – gave an update on the new Municode software.

**ADJOURNMENT**

Motion by Commissioner Kantor, seconded by Commissioner Hammond to adjourn this meeting.

Motion carried.

The meeting adjourned at 8:14 p.m.

Submitted by Yvette Talley

Recording Secretary

# memorandum

**DATE:** March 10, 2021  
**TO:** Susie Stec, Manager – Community & Economic Development  
**FROM:** Jill Bahm & Eric Pietsch, Giffels Webster  
**SUBJECT:** Zoning Amendment – Building Materials

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## Previous Discussion

- May 16, 2020: The Planning Commission reviewed a recommended zoning amendment and asked to set the public hearing. In as much as this was not a high priority item at the time, it was postponed.
- April 21, 2020: The Planning Commission discussed amending the zoning standards for building materials, to permit some flexibility for architects and designers using modern products. The Planning Commission made the following observations about the proposed text:
  - Generally, commissioners supported the idea of modernizing the language and allowing the Planning Commission the ability to apply standards with flexibility.
  - More guidance on how the commissioners would make consistent decisions is desired.

## Introduction

*What prompted this amendment?*

- With recent commercial and residential building improvements in the City, some questions have come up regarding the intent and restrictions on building materials. Clarification and updating the ordinance is needed.
- It should be noted that single family homes are required to follow standards for building materials and, particularly in the rear of homes, these may be cumbersome requirements that may not have been consistently applied over the years.

## Current Language

The Zoning ordinance has two sections on building materials: a general standard for building materials and materials in the Village Center (VC) district. The VC district has the highest standards in terms of building form, design and materials because architectural and design quality supports the intent for a walkable district – the idea being that when people are walking close to buildings, they really notice details much more than if they are in a car driving past. While the rest of the city is certainly important in terms of quality, the highest standards should be in the Village Center. Using the VC standards as a starting point, standards for the rest of the city may similarly use percentages of materials to promote flexibility.

**Section 3.1.8.E.3. Building Materials:**

- A. Facing Street, park or plaza: At least 90% of all exterior building façades facing a street, park, or plaza shall be finished with a combination of two or more of the following: Glass, brick, cut or cast stone, wood, cementitious board (e.g., Hardie Plank), integrally colored concrete units with brick proportions (e.g., half-high “C” brick), and textured stucco.
- B. Facing other buildings: at least 70% of the exterior façade shall consist of the materials specified in 3.A. above and may also include split-faced, scored, or fluted block.
- C. Variation: There shall be a change in the vertical or horizontal building plane when there is a change in color or material. Street facing facades shall be divided vertically into segments no greater than sixty (60) feet wide.

**Section 5.4 Building Material:**

Except as otherwise provided in this ordinance, on all permanent buildings, exterior wall construction and exposed, exterior chimneys shall be either brick, natural stone, masonry materials other than brick, or a combination thereof, provided all such materials comply with the following specifications:

- A. All brick made from clay, shale, fire clay, or mixtures thereof shall be hard burned facing brick meeting all the specifications contained in American Society for Testing and Materials Standard C216-65, for grade SW facing brick.
- B. All other brick, stone and other masonry materials not included in the foregoing paragraphs shall nevertheless meet the durability, strength, and rate of absorption standards established in said above-mentioned specifications.
- C. Architectural trim material may be wood, aluminum, or other material of equal strength and durability if the building walls proper are of fire-resistant material. Such trim material shall not cover more than ten percent of the exterior wall construction.
- D. All building materials must also conform to state and local building code requirements.

**Recommendation**

Amend the Zoning ordinance to allow more flexibility in the application of building material standards as noted in the following pages.

ORDINANCE NO \_\_ OF 2021

ORDINANCE AMENDING

THE LATHRUP VILLAGE ZONING ORDINANCE

ARTICLE 5, TO UPDATE STANDARDS FOR BUILDING MATERIALS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LATHRUP VILLAGE MICHIGAN:

PART 1. Replace Section 5.4 in its entirety as follows:

**Section 5.4 Building Material:**

~~Except as otherwise provided in this ordinance, on all permanent buildings, exterior wall construction and exposed, exterior chimneys shall be either brick, natural stone, masonry materials other than brick, or a combination thereof, provided all such materials comply with the following specifications:~~

- ~~A. All brick made from clay, shale, fire clay, or mixtures thereof shall be hard burned facing brick meeting all the specifications contained in American Society for Testing and Materials Standard C216-65, for grade SW facing brick.~~
- ~~B. All other brick, stone and other masonry materials not included in the foregoing paragraphs shall nevertheless meet the durability, strength, and rate of absorption standards established in said above mentioned specifications.~~
- ~~C. Architectural trim material may be wood, aluminum, or other material of equal strength and durability if the building walls proper are of fire resistant material. Such trim material shall not cover more than ten percent of the exterior wall construction.~~
- ~~D. All building materials must also conform to state and local building code requirements.~~

**Section 5.4 Building Material:** The city values the historic architecture of its residential neighborhoods and strives to maintain a sense of permanence throughout the city through the use of long-lasting high-quality building materials. Building materials in all zoning districts shall comply with the following, except as otherwise provided in Section 3.1.8.E.3.:

- A. Facing Street, park or plaza:** At least 75% of all exterior building façades facing a street, park, or plaza shall be finished with a combination of two or more of the following: Glass, brick, cut or cast stone, wood, cementitious board (e.g., Hardie Plank), integrally colored concrete units with brick proportions (e.g., half-high “C” brick), and textured stucco. The use of accent materials should be limited on ground floor building elevations.
- B. Facing other buildings:** at least 50% of the exterior façade buildings shall consist of the materials specified above and may also include split-faced, scored, or fluted block. For single-family residential buildings, vinyl siding is permitted.
- C. Alternative materials:** Alternative building materials may be approved when the applicant demonstrates to the satisfaction of the Planning Commission that the application of alternative materials is consistent with the intent of this section and will not have an unreasonable impact on adjacent uses. For demonstration purposes, building material specification sheets, photographs of existing application and material samples are encouraged to illustrate that



durability and appearance equivalency with materials listed in subsection A above will be maintained.

PART 2.

If any section, paragraph, sentence, clause and/or phrase of this Ordinance or the application thereof is declared unconstitutional, unenforceable or invalid by the valid judgment of any court of competent jurisdiction such unconstitutionality, unenforceability or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses and/or phrases of this Ordinance, since the same would have been enacted by the City of Lathrup village without the incorporation in this Ordinance of any such unconstitutional, unenforceable or invalid section, paragraph, sentence, clause or phrase. To this end, the provisions of this Ordinance are hereby declared severable.

PART 3.

All other Ordinances, or any parts thereof, which are in conflict with the provisions of this Ordinance, are hereby repealed. To the extent that any provision or provisions of this Ordinance are inconsistent or in conflict with any other provision of the Code of Ordinances or any regulation of the City, the provisions of this Ordinance shall be deemed to control.

PART 4

This Ordinance shall become effective upon final adoption and publication of the same in the manner prescribed by law.

This Ordinance was introduced on \_\_\_\_\_, by \_\_\_\_\_; Notice of Public Hearing was published on \_\_\_\_\_. A Public Hearing was held, the title having been read and the Ordinance considered, on motion to adopt by \_\_\_\_\_, seconded by \_\_\_\_\_, a record vote was taken and the following result was had:

**YEA:**

**NAY:**

**ABSENT:**

**WHEREUPON**, the presiding officer declared the above Ordinance duly adopted on the \_\_\_\_\_ day of \_\_\_\_\_.

**ATTEST:**

\_\_\_\_\_

# memorandum

**DATE:** April 16, 2021  
**TO:** Susie Stec, Manager – Community & Economic Development  
**FROM:** Jill Bahm & Eric Pietsch, Giffels Webster  
**SUBJECT:** Zoning Amendment – Minor Administrative Amendments

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## Introduction

*What prompted this amendment?*

- There is some language in the Zoning Ordinance pertaining to administrative roles and responsibilities that have caused some confusion in the past with new and existing development.

## Current Language

There are several references to the building official providing a review or determination that may be better suited to the city administrator, city planner or other position with more direct communication with applicants and the planning commission.

## Recommendation

Amend the Zoning ordinance to allow the city administrator or his/her designee to provide review or determinations as appropriate. These amendments are included in Chapters 5 and 6.

**Section 5.3 Waste and Rubbish**

H. Permit Requirements. No container shall be placed or permitted to remain on any lot unless there is in effect a special permit issued by the ~~building official~~ city administrator or his/her designee in conformity with the provisions of article 6.

**Section 5.5 Protective or Barrier Walls Required**

In districts R2, O, CV, VC and MX where a lot abuts an R1 district (or abuts an alley which abuts an R1 district), the owners of each lot in R2, O, CV, ~~MX, VC~~ districts who erect any building, structure, or parking facility on the lot, shall provide and thereafter maintain in good condition, a protective or barrier wall between R1 district and such lot in conformity with the following requirements:

1. It shall be a continuous and solid face brick, masonry, or stone wall at least five feet high (but not more than six feet high) as measured from the side of the wall farthest from the R1 district as finally and properly graded.
2. It shall be at least eight inches thick and reinforced with steel, pilasters, or the equivalent and shall provide for proper drainage to flow through or around the wall in accordance with sound engineering practice.
3. It shall extend the full length of the property being put to use by the provider of the wall; provided, however, it shall not be extended to within the front 20 feet of an abutting R1 lot and may be reduced to three feet high in the end 20 feet.
4. It shall be placed adjacent to and along the property line which abuts the R1 district where the two districts abut each other. It shall be placed on R1 side of any alley, in the alley, when there is an alley which runs between the two districts. ~~When there is an existing wall or fence on the adjacent residential property, the required screenwall shall be placed such that the space in between may be adequately maintained.~~
5. The ~~building official~~ city administrator or his/her designee, in the exercise of his sound discretion, may provide for minor deviations from the foregoing specifications as provided in Section 6.1.B

**Section 5.9 Grading**

4. Where a wall or other structure is required by this ordinance to be placed so as to obstruct the established flow of surface waters, it shall be constructed so as to allow or permit such waters to flow or otherwise be conveyed to the public stormwater system.

In the event of unusual topographical conditions or circumstances, or an apparent conflict between the directives of these regulations, the ~~building official~~ city engineer may and shall approve an applicant's sound engineering solutions to problems in the course of approving site plans and issuing building permits, subject to appeal to the Zoning Board of Appeals. The ZBA may and shall grant variations and deviations from these regulations in appropriate cases.

Section 5.13

9. Off-street parking layout standards

- H. The ~~building official~~ city engineer may require the posting of such traffic control signs as are necessary to promote vehicular and pedestrian safety in accordance with principles of sound traffic engineering.

13. Maximum number of parking spaces

- D. Requirements for multiple-use buildings or areas within buildings shall be computed from the table after allocating the units of measure to each use. All uses listed assume that the establishment will be conducted in a manner customary for similar uses in the city in the past. If another or different type or manner of use is contemplated, the applicant shall detail any unusual features of the proposed use which shall bear upon the adequacy of parking. In the event the ~~building official~~ city administrator or his/her designee shall have reasonable doubt as to the application of the table to a use or application, he shall refer the matter to the Zoning Board of Appeals for determination

**Section 5.15 Landscaping**

5. Existing plant material. On some sites, sound ecological management principles dictate that reasonable efforts be made to preserve mature trees, shrubs, and other live plant materials from heedless or needless destruction. In instances where healthy plant materials exist on a site prior to its development, the ~~building official~~ city administrator or his/her designee may adjust the application of landscaping standards to allow credit for preserved materials in keeping with the intent of this section so long as the functional or practical equivalent landscaping is provided.
15. Special landscaping requirements. When requested by the ~~building official~~ city administrator or his/her designee, all site plans submitted for approval shall include a landscape element which clearly shows all existing trees which are more than six inches in trunk caliper when measured three feet above ground level in height. The plans must clearly designate which of such trees are to be saved and which will be destroyed by the development. The landscape element must also show the landscape design features of the development. No site plan shall be approved unless the plan affirmatively shows that reasonable care and diligence has been exercised to preserve existing healthy trees and shrubs and other valuable mature plant materials on the site.

### 6.1 SITE PLAN REVIEW

The site plan review requirements in this article are intended to provide a consistent and uniform method of review of proposed development plans, to ensure full compliance with the regulations of this article and other applicable ordinances and state and federal laws, to achieve efficient use of land, to protect natural resources, and to prevent adverse impact on adjoining or nearby properties. It is the intent of these provisions to encourage cooperation and consultation between the city and the applicant to facilitate development in accordance with the city's land use objectives.

#### 1. Site plan approval.

A. Planning commission approval. Planning commission approval of a site plan is required prior to establishment, construction, expansion, or structural alteration of any structure or use, as follows:

- i. All special uses, conditional zoning, and planned development requests subject to the provisions of this article.
- ii. All residential uses, single- and multiple-family, except the following:
  - a. Construction, moving, relocating or structurally altering a single- or two-family home, including any customarily incidental accessory structure by the homeowner. All necessary building permits are required.
  - b. Family day care homes, as licensed by the State of Michigan and as defined in Section 2.2.
- iii. All office, commercial, and industrial uses, subject to the provisions of this article.
- iv. All other uses, not specifically mentioned in subsection B.
- v. Construction, expansion or alteration of a condominium, as defined by state law, shall be subject to the procedures and standards of this section.
- vi. Construction, expansion or alteration of a planned development (PD) project shall be subject to development plan approval in accordance with the procedures and standards of this Zoning Ordinance.
- vii. Essential services and public utilities and facilities.
- viii. Development of a non-single-family residential use in a single-family district.
- ix. Any excavation, filling, soil removal, mining or landfill, or creation of ponds, except as otherwise specified in subsection B., following.
- x. Any development that proposes a new means of ingress and egress onto a public or private road.
- xi. Vacation of a road easement.

B. Administrative site plan review. Projects eligible for administrative approval include development projects, uses, and activities, which have been determined to be appropriate for an administrative site plan review and approval by the ~~building official, city administrator, and city planner.~~ **city administrator or his/her designee.** ~~In the case of reuse or expansion of an existing development, an approved site plan must be on file at the city to be eligible for administrative review.~~ Projects eligible for administrative approval include the following:

- i. Minor changes during construction due to unanticipated site constraints or outside agency requirements, and minor landscaping changes or species substitutions, consistent with an approved site plan.
- ii. Minor building modifications that do not alter the facade beyond normal repairs, height or floor area of a multiple-family or nonresidential building.
- iii. For a multiple-family or nonresidential uses, construction of accessory structures or fences or construction of a wall around a waste receptacle, or installation of a fence around a mechanical unit or other similar equipment.
- iv. Changes to a site required by the ~~building official~~ **city administrator or his/her designee** to comply with state construction code requirements.
- v. Sidewalk or pedestrian pathway construction or relocation, or barrier-free access improvements.
- vi. Construction of an addition to an existing building or expansion of an existing, conforming use, subject to the following:

- a. No variances to the requirements of this article are required.
- b. The proposed addition or expansion shall not increase the total square footage of the building or area occupied by the use by more than 25 percent or 1,000 square feet, whichever is less, provided further that no other expansion has occurred within the past three years.
- vii. Reuse or reoccupancy of an existing building that has been vacant for more than 90 days, subject to the following:
  - a. No variances to the requirements of this article are required.
  - b. The proposed use shall be conducted within a completely enclosed building.
  - c. The proposed use shall not require additional parking demands, access changes or other substantial modifications and improvements to the existing site or building.
- viii. Any excavation, filling, soil removal, mining or creation of ponds not to exceed 2,500 square feet, provided that such activity is not related to a residential, office, commercial or industrial development project.
- ix. ~~Family day care homes (less than six children), as licensed by the State of Michigan.~~
- x. Temporary construction building and uses.
- xi. Accessory structures and uses specified in article 2 (accessory buildings, structures and uses).
- xii. Mobile Food Vending, as a temporary land use, subject to the following conditions:
  - a. Location. Mobile food vending is permitted in the Village Center district on private property that is vacant or used for non-residential purposes. The vendor must provide approval of the property owners. Mobile food vending units shall be located and maintained on a dust-free surface and shall not be placed on existing landscaped areas.
  - b. Number of Vendors. There is no limit on the number of mobile food vendors allowed on a site, provided that all of the requirements of this section are met. However, if there are more than two mobile food vending units on a parcel at any one time, the following shall apply: 1) a designated on-site manager is required to direct traffic flow and maintain the site as described in this section, and 2) a restroom shall be provided within 200 ft of the vending area.
  - c. Duration. A mobile food vending unit may be allowed to park at an approved location for up to 3 days per year. The Zoning Administrator may grant two additional 3-day periods if the applicant has satisfied all of the requirements of this section. A vendor may seek a new approval for a location on a different property in the City within the same calendar year.
  - d. Goods available. Mobile food vending units may only sell food and non-alcoholic beverages. Sales of alcoholic beverages are prohibited. No others goods or services may be sold from a mobile food vending unit.
  - e. Trash and upkeep. Mobile food vending units and the area upon which they are temporarily located shall be kept in good repair and free of refuse and debris. A trash receptacle shall be provided and emptied daily, or more frequently to meet demand.
  - f. Hours of operation. Mobile food vending units shall not be in operation between the hours of 10 p.m. and 7 a.m. The Zoning Board of Appeals may extend operating hours upon finding that such extension will not negatively impact adjacent uses.
  - g. Parking. Mobile food vending units shall not occupy any parking spaces required for the existing use of the property. The City may take into consideration seasonal variation in parking demand and building occupancy when making this determination. There shall be at least three parking spaces for the mobile food vending unit provided and maintained on a dust-free surface.
  - h. Site amenities permitted. Mobile food vending units may provide seating for up to twelve customers within 30 ft of the mobile food vending unit. Such seating shall not occupy any required parking spaces and shall be kept in good repair. One additional parking space shall be provided for every two seats.

- i. Signage. Mobile food vending units may be painted with signage but shall not have any signs or otherwise objects that otherwise attract attention projecting from the unit. No additional site signage is permitted.
  - j. Sound. Sound amplifying equipment is prohibited. The decibel level of any equipment used in association with the mobile food vending unit, including generators, shall not exceed 70 decibels (dbA) as measured at the property lines.
  - k. Lighting. Mobile food vending units shall be lit with available site lighting. No additional exterior lighting is permitted unless permitted by the zoning board of appeals upon finding that proposed exterior lighting mounted to the mobile vending unit will not spill over on to adjacent residential uses as measured at the property line.
  - l. Temporary restroom facilities. Temporary restroom facilities, if provided, shall only placed on the subject property from one day before until one day after the approved mobile vending dates. Any temporary restroom facility shall be placed a minimum of 100 ft from a single family residential use, as measured from the property line.
  - m. Permits. Administrative approval is valid for the duration of the mobile food vending in the approved location, but in no case greater than 3 days, unless granted an extension of the site plan for two additional 3-day periods in one calendar year. The mobile food vendor shall comply with all additional required permits and licenses as applicable.
- xiii. ~~The city planner, city administrator, building official~~ city administrator or his/her designee or applicant shall have the option to request planning commission review of a project otherwise eligible for administrative site plan approval.

A sketch plan, prepared in accordance with Section 46.1.4.I, rather than a complete site plan package, shall be required for projects eligible for administrative approval involving a legally existing and conforming use and building, and where proposed alterations to a building or site that do not result in expansion or substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, the demand for public infrastructure or services, significant environmental impacts or increased potential for hazards.

2. Site plan review applications and procedures.

- A. Optional pre-application conference. In order to facilitate processing of a site plan in a timely manner, the applicant may request a pre-application site plan conference with the city planner and city administrator or designee. The purpose of such a conference is to provide information and guidance to the applicant that will assist in preparation of the site plan. The applicant need not present drawings or site plans at a pre-application conference, but even if drawings or site plans are presented, no formal action shall be taken on a site plan at a pre-application conference. ~~The city planner's fee for any such pre-application conference shall be paid by the applicant if such charges are not covered by the city's monthly retainer.~~ A pre-application fee, as established on the city's fee schedule, shall be paid prior to the pre-application conference.
- B. Optional conceptual review by planning commission. An applicant may file a written request for conceptual review of a preliminary site plan by the planning commission, prior to submission of a site plan for formal review. A site plan submitted for conceptual review shall be drawn to scale, and shall show site development features in sufficient detail to permit the planning commission to evaluate the following:
  - i. Relationship of the site to nearby properties;
  - ii. Density;
  - iii. Adequacy of landscaping, open space, vehicular drives, parking areas, drainage, and proposed utilities; and
  - iv. Conformance with city development policies and standards.
  - v. Conceptual review fees shall be paid according to the fee schedule established by the city council. No formal action shall be taken on a site plan submitted for conceptual review, and neither the applicant nor the planning commission shall be bound by any comments or suggestions made during the course of the conceptual review.

- C. Submission of site plan for ~~final~~ review. In order to initiate formal review by the planning commission, the applicant is required to submit the following material to the city hall:
  - i. ~~One Three~~ completed and signed ~~copies~~ copy of the application for site plan review;
  - ii. ~~Fourteen individually folded copies of the site plan;~~ One 24" x 36" paper copy of the site plan and one electronic copy of the site plan;
  - iii. Proof that the plan has been submitted for review to governmental agencies that have jurisdiction over any aspect of the project, including, but not limited to; the county road commission, county drain commission, county health division, Michigan Department of Transportation, Department of Natural Resources and Environment, and other agencies deemed appropriate by the planning commission or city council; and
  - iv. The required review fee.

Site plan materials must be submitted in complete form to the city at least 21 days prior to the planning commission or city council at which the review is requested.

- D. Distribution of plans. The site plans and application shall be distributed, as necessary, to the city planner, city engineer, city attorney and other city consultants and staff for review.
- E. Determination of compliance. The city consultants and staff shall review the plans to determine compliance with city ordinances and regulations. The applicant may be required to complete revisions and submit the plans for further review prior to review of the plans by the planning commission or city council. All required revisions must be completed or the site plan may not be placed on the planning commission or city council agenda for review.

3. Review and action.

- A. Planning commission final action and recommendation. The planning commission shall review the site plan proposal together with any public hearing findings and any requested reports and recommendations from the ~~building official~~ city administrator or his/her designee and other reviewing agencies. The planning commission is authorized to take the following action on the plan, subject to guidelines in the zoning ordinance: approval, approval with conditions, denial, or table the site plan, as follows:

- i. Approval. Upon determination that a site plan is in compliance with the standards and requirements of this article and other applicable ordinances and laws, approval shall be granted.
- ii. Approval subject to conditions. Upon determination that a site plan is in compliance except for minor modification, the conditions for approval shall be identified and the applicant shall be given the opportunity to correct the site plan. The conditions may include the need to obtain variances or obtain approvals from other agencies. If a plan is approved subject to conditions, the applicant shall submit a revised plan with a revision date, indicating compliance with the conditions.

The applicant may resubmit the site plan to the planning commission for final approval after conditions have been met. The planning commission may waive its right to review the revised plan, and instead authorize the ~~city planner or building official~~ city administrator or his/her designee to review and approve the site plan after all required conditions have been addressed.

- iii. Denial. Upon determination that a site plan does not comply with the standards and regulations set forth in this section or elsewhere in this article, or requires extensive revision in order to comply with said standards and regulations, site plan approval shall be denied.
- iv. Tabling. Upon determination that a site plan is not ready for approval or rejection, or upon a request by the applicant, the planning commission may table consideration of a site plan until a future meeting.

- B. City council review of single-family developments. Any site plan involving a single parcel that is proposed to include two or more sites for single-family detached dwellings (including, but not limited to; single-family site condominiums) shall require city council review and approval. In this case the planning commission's action shall be considered a recommendation and the decision by the city council shall become final. In the case of a condominium project, the master deed and condominium bylaws shall also be subject to city council review and approval. The city council shall approve, approve with conditions, deny, or table the site plan in accordance with the guidelines described previously in subsection E.



C. Recording of site plan review action. Each action taken with reference to a site plan review shall be duly recorded in the minutes of the planning commission as appropriate. The grounds for action taken upon each site plan shall also be recorded in the minutes.

After the planning commission has taken final action on a site plan and all steps have been completed, three copies of the application and approved plans shall be stamped "APPROVED" and signed by the city planner. One marked copy will be returned to the applicant and the other two copies will be kept on file in the city hall.

D. Procedure after site plan approval.

i. Application for building permit. Following final approval of the site plan and the engineering plans, the applicant may apply for a building permit. It shall be the responsibility of the applicant to obtain all other applicable city, county, or state permits prior to issuance of a building permit.

A building permit for a structure in a proposed condominium project shall not be issued until evidence of a recorded master deed has been provided to the city. However, the building official may issue permits for site grading, erosion control, installation of public water and sewage facilities, and construction of roads, prior to recording the master deed. No permit issued or work undertaken prior recording of the master deed pursuant to this section shall grant any rights or any expectancy interest in the approval of the master deed.

ii. Expiration of site plan approval. If construction has not commenced within 12 months of final approval of the site plan, or if construction has not been completed within 12 months after it was commenced, the site plan approval becomes null and void and a new application for site plan review shall be required. The city council, after recommendation from the planning commission, may grant an extension of up to 12 months, upon written request from the applicant, if it finds that the approved site plan adequately represents current conditions on and surrounding the site and provided that the site plan conforms to the current zoning ordinance standards.

iii. Application for certificate of occupancy. Following completion of site work and building construction, the applicant may apply for a certificate of occupancy or a temporary certificate of occupancy from the building official in accordance with the procedures set forth in the zoning ordinance. It shall be the applicant's responsibility to obtain these required certificates to any occupancy of the property.

iv. Property maintenance after approval. It shall be the responsibility of the owner of a property for which site plan approval has been granted to maintain the property in accordance with the approved site design on a continuing basis until the property is razed, or until new zoning regulations supersede the regulations upon which site plan approval was based, or until a new site design is approved. Any property owner who fails to so maintain an approved site design shall be deemed in violation of the use provisions of this article and shall be subject to the same penalties appropriate for a use violation.

With respect to condominium projects, the master deed shall contain provisions describing the responsibilities of the condominium association, condominium owners, and public entities, with regard to maintenance of the property in accordance with the approved site plan on a continuing basis. The master deed shall further establish the means of permanent financing for required maintenance and improvement activities which are the responsibility of the condominium association. Failure to maintain an approved site plan shall be deemed in violation of the use provisions of this article and shall be subject to the same penalties appropriate for a use violation.

v. Recorded and as-built condominium documents. Upon approval of the site plan for condominium project involving new construction, the condominium project developer or proprietor shall furnish the city with the following:

- a. One copy of the recorded master deed; and
- b. One copy of any condominium bylaws and restrictive covenants.

Upon completion of the project, the condominium project developer or proprietor shall furnish the city with the following:

- a. Two copies of an "as-built survey"; and

- b. One ~~electronic copy of the site plan. copy of the site plan on a Mylar sheet of at least 13 x 16 inches with an image not to exceed ten and one half x 14 inches.~~

The as-built survey shall be reviewed by the city engineer for compliance with city ordinances. Fees for this review shall be established by the city council.

- E. Revocation. Approval of a site plan may be recommended to be revoked by the planning commission if construction is not in conformance with the approved plans. In such case, the site plan shall be placed on the agenda of the planning commission for consideration and written notice shall be sent to the applicant at least ten days prior to the meeting. The ~~building official~~ city administrator or his/her designee, applicant, and any other interested persons shall be given the opportunity to present information to the planning commission and answer questions. If the planning commission finds that a violation exists and has not been remedied prior to the hearing, then it shall recommend that it revoke the approval of the site plan to the city council.
- F. Modification to approved plan. A site plan approved in accordance with the provisions in this section may be subsequently modified, subject to the following requirements:
  - i. Review of minor modifications. Minor modifications to an approved site plan may be reviewed by the ~~city administrator or his/her designee~~ building official.
    - a. *Minor modification defined.* Minor modifications are changes that do not substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, the demand for public services, or the vulnerability to hazards. Examples of minor modifications include:
      - (1) An addition to an existing commercial or industrial building that does not increase or decrease the floor space by more than 25 percent or 3,000 square feet, whichever is less.
      - (2) Re-occupancy of a vacant building that has been occupied for less than 12 months.
      - (3) Changes to building height that do not add an additional floor.
      - (4) Additions or alterations to the landscape plan or landscape materials.
      - (5) Relocation or screening of the trash receptacle.
      - (6) Alterations to the internal parking layout of an off-street lot.

The construction of a new building or structure, adding or deleting parking or the addition of curb cuts onto a public road are examples of modifications which are not considered minor.

- b. Determination of minor modifications. The ~~city administrator or his/her designee~~ building official shall determine if the proposed modifications are minor in accordance with the guidelines in this section. In order to make the determination, the ~~city administrator or his/her designee~~ building official shall solicit comments and recommendations from the planner, engineer, and public safety officials, as deemed necessary.
- ii. Modifications not deemed "minor" If the modifications are not deemed minor by the ~~city administrator or his/her designee~~ building official, then approval by the planning commission shall be required. Planning commission review shall be required for all site plans that involve a request for a variance, a special land use, a proposal that involves a discretionary decision, or a proposal that involves a nonconforming use or structure. City council review and approval shall be required for all modified site plans which originally required city council approval.
- iii. Recording of action. Each action related to modification of a site plan shall be duly recorded in writing on a copy of the approved plan, and shall be kept on file in the office of the ~~city administrator or his/her designee~~ building official. The planning commission shall be advised of all minor site plan modifications approved by the ~~city administrator or his/her designee~~ building official and such modifications shall be noted on the site plan and in the minutes of the planning commission.

4. Required information on all site plans.

The following information shall be included on all site plans, where applicable:

- A. Application form. The application form shall contain the following information:
  - i. Applicant's name and address.

- ii. Name and address of property owner, if different from applicant.
  - iii. Common description of property and complete legal description including the tax identification number.
  - iv. Dimensions of land and total acreage.
  - v. Existing zoning.
  - vi. Proposed use of land and name of proposed development, if applicable.
  - vii. Proposed buildings to be constructed, including square feet of gross floor area.
  - viii. Proof of property ownership.
  - ix. Employment opportunities created, if applicable.
  - x. Names, addresses, and telephone numbers of engineers, attorneys, architects, and other professionals associated with the project.
- B. Descriptive and identification data. Site plans shall consist of an overall plan for the entire development, drawn to a scale of not less than one inch = 20 feet for property less than one acre, one inch = 30 feet for property larger than one acre but less than three acres, and one inch = 50 feet for property larger than three acres. ~~Sheet size shall be at least 24 inches by 36 inches.~~ The following descriptive and identification information shall be included on all site plans:
- i. Applicant's name and address, and telephone number.
  - ii. Title block indicating the name of the development.
  - iii. Scale.
  - iv. Northpoint.
  - v. Dates of submission and revisions (month, day, and year).
  - vi. Location map drawn to scale without northpoint.
  - vii. Legal and common description of property.
  - viii. The dimensions of all lots and property lines, showing the relationship of the site to abutting properties. If the site is a part of a larger parcel, the plan should indicate the boundaries of total land holding.
  - ix. A schedule of completing the project, including the phasing or timing of all proposed developments.
  - x. Identification and seal of architect, engineer, land surveyor, or landscape architect who prepared plan.
  - xi. Written description of proposed land use.
  - xii. Zoning classification of applicant's parcel and all abutting parcels.
  - xiii. Proximity to driveways serving adjacent parcels.
  - xiv. Proximity to section corner and major thoroughfares.
  - xv. Notation of any variances which have or must be secured.
  - xvi. Net acreage (minus right-of-way) and total acreage, to the nearest one-tenth acre.
- C. Site data.
- i. Existing lot lines, building lines, structures, parking areas, and other improvements on the site and within 100 feet of the site.
  - ii. Front, side, and rear setback dimensions.
  - iii. Topography on the site and within 100 feet of the site at two-foot contour intervals, referenced to a U.S.G.S. benchmark.
  - iv. Proposed site plan features, including buildings, roadway widths and names, and parking areas.
  - v. Dimensions and centerlines of existing and proposed roads and road rights-of-way.
  - vi. Acceleration, deceleration, and passing lanes, where required.
  - vii. Proposed location of driveway entrances and on-site driveways.
  - viii. Typical cross-section of proposed roads and driveways.

- ix. Location of existing drainage courses, floodplains, lakes and streams, with elevations.
- x. Location and dimensions of wetland areas. If deemed necessary because of site or soil conditions or because of the scope of the project, a detailed hydrology study may be required.
- xi. Location of sidewalks within the site and within the right-of-way.
- xii. Exterior lighting locations and method of shielding lights from shining off the site.
- xiii. Trash receptacle locations and method of screening, if applicable.
- xiv. Transformer pad location and method of screening, if applicable.
- xv. Parking spaces, typical dimensions of spaces, indication of total number of spaces, drives, and method of surfacing.
- xvi. Information needed to calculate required parking in accordance with zoning ordinance standards.
- xvii. The location of lawns and landscaped areas, including required landscaped greenbelts.
- xviii. Landscape plan, including location, size, type and quantity of proposed shrubs, trees and other live plant material.
- xix. Location, sizes, and types of existing trees five inches or greater in diameter, measured at one foot off the ground, before and after proposed development.
- xx. Cross-section of proposed berms.
- xxi. Location and description of all easements for public right-of-way, utilities, access, shared access, and drainage.
- xxii. Designation of fire lanes.
- xxiii. Loading/unloading area.
- xxiv. The location of any outdoor storage of materials and the manner by which it will be screened.

D. Building and structure details.

- i. Location, height, and outside dimensions of all proposed buildings or structures.
- ii. Indication of the number of stores and number of commercial or office units contained in the building.
- iii. Building floor plans.
- iv. Total floor area.
- v. Location, size, height, and lighting of all proposed signs.
- vi. Proposed fences and walls, including typical cross-section and height above the ground on both sides.
- vii. Building facade elevations, drawn to a scale of one inch equals = four feet, or another scale approved by the ~~building official~~ city administrator or his/her designee and adequate to determine compliance with the requirements of this article. Elevations of proposed buildings shall indicate type of building materials, roof design, projections, canopies, awnings and overhangs, screen walls and accessory building, and any outdoor or roof-located mechanical equipment, such as air conditioning units, heating units, and transformers, including the method of screening such equipment. Such equipment shall be screened from view of adjacent properties and public rights-of-way. Such screening shall be designed to be perceived as an integral part of the building design.

E. Information concerning utilities, drainage, and related issues.

- i. Schematic layout of existing and proposed sanitary sewers and septic systems; water mains, well sites, and water service leads; hydrants that would be used by public safety personnel to service the site; and, the location of gas, electric, and telephone lines.
- ii. Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store, or transport stormwater or wastewater. The point of discharge for all drains and pipes should be specified on the site plan.
- iii. Indication of site grading and drainage patterns.

- iv. Types of soils and location of floodplains and wetlands, if applicable.
- v. Soil erosion and sedimentation control measures.
- vi. Proposed finish grades on the site, including the finish grades of all buildings, driveways, walkways, and parking lots.
- vii. Listing of types and quantities of hazardous substances and polluting materials which will be used or stored on-site at the facility in quantities greater than 25 gallons per month.
- viii. Areas to be used for the storage, use, loading/unloading, recycling, or disposal of hazardous substances and polluting materials, including interior and exterior areas.
- ix. Underground storage tanks locations.
- x. Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of site cleanup.

F. Information concerning residential development.

- i. The number, type and location of each type of residential unit (one-bedroom units, two-bedroom units, etc.).
- ii. Density calculations by type of residential unit (dwelling units per acre).
- iii. Lot coverage calculations.
- iv. Floor plans of typical buildings with square feet or floor area.
- v. Garage and carport locations and details, if proposed.
- vi. Pedestrian circulation system.
- vii. Location and names of roads and internal drives with an indication of how the proposed circulation system will connect with the existing adjacent roads. The plan should indicate whether proposed roads are intended to be private or dedicated to the public.
- viii. Community building location, dimensions, floor plans, and facade elevations, if applicable.
- ix. Swimming pool fencing detail, including height and type of fence, if applicable.
- x. Location and size of recreation open areas.
- xi. Indication of type of recreation facilities proposed for recreation area.

G. Additional information.

- i. Information related to condominium development. The following information shall be provided with all site plans including condominium development:
  - a. Condominium documents, including the proposed master deed, restrictive covenants, and condominium bylaws.
  - b. Condominium subdivision plan requirements, as specified in section 66 of Public Act 59 of 1978, as amended, and Rule 401 of the Condominium Rules promulgated by the Michigan Department of Commerce, Corporation and Securities Bureau.
- ii. Items not applicable. If any of the items listed are not applicable to a particular site, the following information should be provided on the site plan:
  - a. A list of each item considered not applicable.
  - b. The reason(s) why each listed item is not considered applicable.
- iii. Other data which may be required. Other data may be required if deemed necessary by the city administrative officials, planning commission, or city council to determine compliance with the provisions in this article. Such information may include traffic studies, market analysis, environmental assessment and evaluation of the demand on public facilities and services.

H. Transportation impact studies.

- i. Developments requiring a transportation impact study (TIS). A TIS shall be required prior to approval of any of the following types of projects:
  - a. Fast-food restaurants, convenience and party stores, and businesses that have drive-up or drive-through service.
  - b. Residential projects containing 50 or more dwelling units in the total project.
  - c. Commercial, office, industrial, warehouse, institutional, entertainment, and mixed-use development proposals involving 30,000 square feet or more in gross floor area.

On multi-phase projects, a TIS shall be required if the entire project exceeds the threshold levels cited above, even if one or more phases of the project do not meet the threshold levels.

The planning commission may require a TIS for a proposed development even though it does not meet the criteria listed above where there is evidence that the traffic that would be generated by the development would cause or aggravate unsafe traffic conditions. In making this determination, the planning commission may consider the design of proposed roads, driveways, and parking lots as well as conditions that exist on or around the site that may contribute to traffic safety concerns.

- ii. Qualifications of person preparing the TIS. The TIS shall be prepared by a traffic or transportation engineer or community planner who has a minimum of three years of experience preparing traffic impact studies. The resume and qualifications of the person who prepared the TIS shall be included in the study.

The full cost of the TIS shall be paid for by the applicant. The city may require funds to be placed in escrow to cover costs for review of the TIS by the City’s traffic engineer.

- iii. Contents of the TIS. The TIS shall contain the following elements, at minimum:

- a. Description of project. A description of the project and site plan shall be provided, showing the location of buildings, driveways, parking, adjoining roads, nearby intersections, and driveways on adjacent parcels. The project description should identify the proposed use, the gross and net square footage, and the number of parking spaces proposed.
- b. Existing conditions. Maps and narrative shall be used to identify all roads within the impact area of the project, the number of lanes and right-of-way of each road, the most recent a.m. and p.m. peak hour traffic counts, and average daily traffic (ADT) counts on each road as are available from the road commission for Oakland County.

The historical growth rate of traffic on adjacent roads shall be determined by examining traffic counts over the past three to five years. The growth rate shall be used to project background growth for the next five years or for the number of years to complete the proposed project, whichever is longer. Where information is available from the city planner, trips from proposed projects in the impact area shall be included in the background growth projections.

Where existing traffic counts are more than three years old, new counts shall be taken. Traffic counts shall be taken during average or higher than average volume conditions, generally on a Tuesday, Wednesday or Thursday of a non-holiday week. For commercial development, additional Saturday counts shall also be taken.

The description of existing conditions shall also include accident history within 500 feet of the site and for any intersection that is expected to experience a traffic volume increase of at least five percent per 24-hour period or during peak hour due to the proposed project.

- a. Projections. Maps and narrative shall be used to estimate the impact of the proposed project on traffic. Morning and evening peak hour and average daily traffic shall be forecast for the proposed development, based on the data and procedures outlined in the most recent edition of the Institute of Transportation Engineers Trip Generation Manual. The preparer may use other commonly accepted sources of data or supplement the ITE data with empirical data from similar projects in Michigan.

The directional distribution of the projected traffic shall be distributed onto the existing road network (inbound v. outbound, left turn v. right turn) to project turning movements at major site access points,

intersections, and interchange ramps. The rationale for the directional distribution shall be provided. If the forecast development generates 75 or fewer trips during the a.m. or p.m. peak hour, analysis may be limited to site access points only.

- iv. Analysis of data. The TIS shall contain the following analysis, at minimum:
  - a. Capacity analysis. The impact of the projected traffic on the capacity of roads serving the proposed development shall be analyzed, using procedures outlined in the most recent edition of the Highway Capacity Manual published by the Transportation Research Board. Pre- and post-construction capacity analysis shall also be performed at all street intersections and expressway ramps where the expected traffic will comprise five percent or more of the existing intersection capacity.
  - b. Gap analysis. A "gap study" shall be completed to analyze the frequency and duration of gaps in the flow of through traffic.
  - c. Access analysis. Maps and narrative shall be used to:
    - (1) Identify the location and design of proposed access driveways and new road intersections;
    - (2) Identify sight distance limitations;
    - (3) Determine the distance of adjacent driveways and intersections; and
    - (4) Provide sufficient evidence that the design and number of driveways proposed is the fewest necessary, that the driveways will provide safe and efficient movement of traffic, and that all driveways comply with the sight distance requirements of the Road Commission for Oakland County.
- v. Mitigation measures. The TIS shall identify realistic public and private mitigation measures needed to accommodate the projected traffic including the following, at minimum:
  - a. The TIS shall identify improvements to intersections and roads to accommodate future volumes and provided adequate capacity.
  - b. Using Road Commission for Oakland County standards, the TIS shall identify taper lanes, turn lanes, and passing lanes necessary to provide safe and adequate ingress and egress to the site.
  - c. The TIS shall identify opportunities to accommodate bicyclists and pedestrians.
  - d. The TIS shall identify opportunities to coordinate development and access with adjoining sites so as to alleviate the impact of increased traffic on public roads.
- I. Sketch plan requirements for administrative approval. The sketch plan for administrative approval shall contain the following information:
  - i. Name, address, telephone and fax numbers of the applicant (and property owner, if different from applicant) and firm or individual preparing the plan.
  - ii. The property location (address, lot number, tax identification number).
  - iii. Site plan shall be drawn to an engineer's scale.
  - iv. Size and dimensions of proposed structures, including gross and usable floor areas, number of stories, and overall height.
  - v. Dimensions of all property lines, showing the relationship of the site to abutting properties. If the site is part of a larger parcel, the plan should indicate the boundaries of total land holding.
  - vi. Existing site features, including natural and historical features, structures, driveways, fences, walls, signs, and other improvements.
  - vii. Location, dimensions, setback distances, and use(s) of all proposed improvements.
  - viii. Location and description of all existing and proposed easements and rights-of-way for utilities, access, and drainage.
  - ix. Other information as requested by the reviewer to verify that the site and use are in accordance with the purpose and intent of this article and the city's master plan.

5. Standards for site plan approval.

The following criteria shall be used as a basis upon which site plans will be reviewed and approved:

- A. Adequacy of information. The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed uses and structures.
- B. Site design characteristics. All elements of the site design shall be harmoniously and efficiently organized in relation to topography, the size and type of parcel, the character of adjoining property, and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted by this article.
- C. Appearance. Landscaping, earth berms, fencing, signs, walls, and other site features shall be designed and located on the site so that the proposed development is aesthetically pleasing and harmonious with nearby existing or future developments.
- D. Compliance with district requirements. The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, open space, density and all other requirements set forth in Section 3.1, unless otherwise provided in this article.
  - i. Site condominiums. In the case of site condominiums, these regulations shall be applied by requiring the site condominium unit and a surrounding limited common element to be equal in size to the minimum lot size and lot width requirements for the district in which the project is located. The site condominium unit shall be equivalent to the area of the lot where a principal building can be constructed and there shall be a limited common element associated with each site condominium unit which shall be at least equivalent to the minimum yard area requirements.
  - ii. Detached condominiums. In the case of detached condominiums, these regulations shall be applied by requiring that the detached condominium units comply with the requirements governing minimum distance between buildings, attachment of buildings, and other applicable requirements for the district in which the project is located. Furthermore, proposed detached condominium projects shall not exceed the maximum permitted density for the district in which the project is located.
- E. Preservation of natural areas. The landscape shall be preserved in its natural state as much as possible, by minimizing tree and soil removal, alteration to the natural drainage course and the amount of cutting, filling, and grading.
- F. Privacy. The site design shall provide reasonable visual and sound privacy. Fences, walls, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the safety and privacy of occupants and uses.
- G. Emergency vehicle access. All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
- H. Ingress and egress. Every structure or dwelling unit shall be provided with adequate means of ingress and egress via public streets and walkways.
- I. Pedestrian circulation. The site plan shall provide a pedestrian circulation system which is insulated as completely as is reasonably possible from the vehicular circulation system.
- J. Vehicular and pedestrian circulation layout. The arrangement of public and common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets or pedestrian or bicycle pathways in the vicinity of the site. The width of streets and drives shall be appropriate for the volume of traffic they will carry. In order to insure public safety and promote efficient traffic flow and turning movements, the applicant may be required to limit street access points or construct a secondary access road.
- K. Drainage. Appropriate measures shall be taken to insure that the removal or drainage of surface waters will not adversely affect adjoining properties or the capacity of the public or natural storm drainage system. Provisions shall be made for a feasible storm drainage system, the construction of stormwater facilities, and the prevention of erosion. Surface water on all paved areas shall be collected at intervals so that it will not obstruct vehicular or pedestrian traffic and will not create nuisance ponding in paved areas. Final grades may be required to conform to existing and future grades of adjacent properties. Grading and drainage plans shall be subject to review by the city engineer.



- L. Soil erosion and sedimentation. The proposed development shall include measures to prevent soil erosion and sedimentation during and upon completion of construction, in accordance with currently county and city standards.
- M. Exterior lighting. Exterior lighting shall be designed so that it is deflected away from adjoining properties and so that it does not impede vision of drivers along adjacent streets.
- N. Public services. Adequate services and utilities, including water, sewage disposal, sanitary sewer, and storm-water control services, shall be available or provided, and shall be designed with sufficient capacity and durability to properly serve the development.
- O. Screening. Off-street parking, loading and unloading areas, outside refuse storage areas, and other storage areas that are visible from adjacent homes or from public roads, shall be screened by walls or landscaping of adequate height.
- P. Danger from hazards. The level of vulnerability to injury or loss from incidents involving hazardous materials or processes shall not exceed the capability of the city to respond to such hazardous incidents so as to prevent injury and loss of life and property. In making such an evaluation, the city shall consider the location, type, characteristics, quantities, and use of hazardous materials or processes in relation to the personnel, training, equipment and materials, and emergency response plans and capabilities of the city.  
 Sites which include storage of hazardous materials or waste, fuels, salt or chemicals shall be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater, or nearby water bodies.
- Q. Health and safety concerns. Any use in any zoning district shall comply with applicable federal state, county, and local health and pollution laws and regulations with respect to noise; dust, smoke and other air pollutants; vibration; glare and heat; fire and explosive hazards; gases; electromagnetic radiation; radioactive materials; and, toxic and hazardous materials.
- R. Sequence of development. All development phases shall be designed in logical sequence to insure that each phase will independently function in a safe, convenient and efficient manner without being dependent upon subsequent improvements in a later phase or on other sites.
- S. Coordination with adjacent sites. All site features, including circulation, parking, building orientation, landscaping, lighting, utilities, common facilities, and open space shall be coordinated with adjacent properties.
- T. The approving body shall review the site plan for compliance with the design guidelines applicable to the zoning district in which the property is located, as follows: Village Center District Design Guidelines (as adopted the 15 day of October, 2012, and as may be amended from time to time).

## 6.2 SPECIAL USE PROCEDURES AND STANDARDS

- 1. Application of article. The special land uses and activities eligible for approval consideration are specified elsewhere in this ordinance by the regulations applicable to the various districts. This article sets forth the procedures and supporting materials required for application, review, and approval of all special land uses which are permitted in various zoning districts only after review and approval. It also sets forth the general requirements and standards upon which decisions on requests for special land use approval shall be based which shall be in addition to any others specified elsewhere in this ordinance as to specific special uses.
- 2. Approving authorities. The city council shall be the approving authority and shall be responsible for review and approval of special land uses. All special land use decisions of the city council shall be administratively final and subject to appeal only to courts of competent jurisdiction.
- 3. Application and site plan. All persons desiring a special use approval shall file with the ~~building official~~ **city administrator or his/her designee** a written detailed application setting forth the nature and extent of the proposed use, the proposed manner of operation (including hours of operation, occupancy loads, parking adequacy data, neighborhood and community impact data, and any other information which the applicant deems to be relevant to a determination as to the use should be approved). The application shall be accompanied by a site plan prepared in conformity with Section 6.1. The application and site plan should affirmatively show that the use, as proposed, will comply with all of the other applicable provisions of this ordinance.

4. Preliminary examination. The ~~building official city administrator or his/her designee~~ shall examine the application and obtain from the applicant, in writing, such additional representations and other information as to the proposed use as are reasonably related to its impact on adjacent properties and the community at large and which the ~~building official city administrator or his/her designee~~ reasonably deems to be relevant to a determination as to whether the use is eligible for approval. When the application and supporting materials are complete, the ~~building official city administrator or his/her designee~~ shall make a notice of request of a public hearing to the city clerk.
5. Notice of request. A notice that a request for a special land use public hearing has been received shall be given as provided in 6 and 7 below.
6. Notice, how given. The public hearing notice requirements as set forth in Section 7.6 shall be applicable.
7. Notice, contents. The public hearing requirements set forth in Section 7.6 shall be applicable.
8. Public hearings.
  - A. For all special land uses provided in this ordinance, and for all other like uses where reference is made in this ordinance to Section 6.2, as a prerequisite to approval of the use there shall be a public hearing with notice as provided in this article.
  - B. All such public hearings shall be conducted by the Planning Commission.
  - C. Public hearings on special land use approval shall be held in conformity with the procedures and requirements of applicable statutory and constitutional provisions, but the proving authority shall have the widest lawful range of discretion in adopting rules and making rules in the course of conducting hearings and otherwise performing the duties of an administrative tribunal.
  - D. When a public hearing is continued at the request of the applicant, the Planning Commission shall require additional notice of the continued hearing to be sent by mail to those persons entitled to notice under Section 7.2.6. The applicant shall be required to bear the cost of such re-notice.
9. Decisions. The approving authority may, in the exercise of sound and lawful discretion, deny, approve, or approve with conditions, requests for special land use approval. All such decisions shall be incorporated in a statement of conclusions relative to the special land use under consideration, shall specify the basis for the decision, and shall specify any conditions imposed. Any conditions may be imposed which are deemed necessary and appropriate to assure that the use will be conducted as represented and will continue to meet the requirements and standards established for initial approval of the use. All decisions shall be made within a reasonable time after the expiration of any applicable notice or hearing periods.
10. General standards for approval. The approving authority shall approve special land uses when it determines that the proposed use does and will conform to any special requirements specified elsewhere for that specific use and also meets the following general requirements and standards:
  - A. The use must be a "reasonable use" (as defined in Section 2.2) as and where proposed to be located.
  - B. The use must conform to all of the other regulations of this ordinance and the other ordinances of this city.
  - C. The location, intensity, and periods of operation of the use must be such as to eliminate any reasonable likelihood that it will be, cause, or create a public or private nuisance in fact.
  - D. The use, as and where proposed, must not be inconsistent with the spirit and purpose of this ordinance nor contrary to the principles of sound community planning.
  - E. The use must be of such character and be so arranged on the site so as not to cause or create adverse effects on neighboring properties or the community at large be [by] reason of noise, dust, dirt, glare, odor, fumes, pedestrian or vehicular traffic, or other factors discernible to the human senses beyond those customarily resulting from other uses permitted in the same district in this city.
  - F. The use must not diminish the fair market value of neighboring lands or buildings to any substantial or significant degree.
  - G. The site design and proposed manner of operation of the use must provide for the maximum reasonable and feasible enhancement of the environment of the surrounding area. In determining whether this standard has been met, the approving authority shall consider any provisions for buffering, landscaping, or other site amenities over and above the minimum requirements of this ordinance.

- H. Standards for Approval. For establishments involving the manufacture or sale of any alcoholic beverages controlled by the Michigan Liquor Control Act, Public Act No.58 of 1998 (MCL 436.1101 et seq.) or cannabis facilities regulated by the State of Michigan, the applicant must demonstrate a quantifiable need for the proposed use within either the City of Lathrup Village or the surrounding area. Upon demonstration of such need the proposed use will then be evaluated under the standards set forth in Chapter 18, Article III of the Lathrup Village Code of Ordinances, as well as the special use standards found in this section
- 11. Effect of decision. Every special land use approval shall permit the applicant and its successors in occupancy of the premises to use the premises in conformity with the decision and not otherwise. In the event the user desires to change the manner of conducting a special use, a new application shall be made and processed, provided however, a special use may be changed to an expressly permitted, fully conforming use without further special use proceedings.
- 12. Modification of approvals. The approving authority may reopen, review, and/or modify any special land use approval decision on application of any person entitled to notice under Section 6.2.6 if and when it determines, pursuant to a public hearing after notice given pursuant to Section 6.2.6 and Section 6.2.7, that any of the conditions to initial approval have not been met or are being violated and that the use, as actually being conducted, does not meet the requirements and standards for initial approval. A special use approval may also be suspended or revoked, after like notice and hearing, whenever the approving authority determines that any of the causes exist which are grounds for a suspension or revocation of a certificate of occupancy.

# memorandum

**DATE:** April 15, 2021  
**TO:** City of Lathrup Village Planning Commission  
**FROM:** Jill Bahm, Giffels Webster  
**SUBJECT:** Zoning Discussion - Cannabis

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## Recent Action

- **April 20, 2021.** The Planning Commission will discuss the final draft zoning ordinance, with minor changes that cross-reference to the draft licensing ordinance. Once satisfied with this language, the Planning Commission may wish to set a public hearing.
- **February 8, 2021.** The Planning Commission held a public hearing on a separate ordinance related to primary caregiver facilities as permitted by the Michigan Marihuana Facilities Licensing Act (MMFLA). This ordinance provides for such uses in a specific district in the City and prohibits them from residential districts.
- **January 19, 2021 Planning Commission Meeting.** The Planning Commission discussed the draft ordinance and changes to mitigate odors and impacts on adjacent uses.
- **October 20, 2020 Planning Commission Meeting.** The Planning Commission discussed a general concept and the background considerations for cannabis regulation in the City.

The remainder of the memo that follows includes that background as well as a summary of the proposed draft ordinance language and discussion questions.

## Introduction

### *What prompted this discussion?*

- On November 6, 2018, Michigan voters approved Proposal 18-1, which legalized recreational marijuana and created the Michigan Regulation and Taxation of Marihuana Act (MRTMA). The law required all Michigan communities to decide if it would allow or prohibit state-licensed recreational marijuana establishments.
- The city of Lathrup Village held an informational town hall meeting in January 2019 and the city, along with many other communities across the state, opted out of the MRTMA. City Council included a “sunset” on the opt-out, to encourage discussion on the issue.
- A subcommittee has been researching how other communities regulate cannabis facilities and, in August 2020, recommended that the city allow a limited number of facilities.
- City Council extended the sunset on the opt-out through August 2021, allowing for time to create ordinances that are appropriate to the city of Lathrup Village. This will include general code and zoning amendments.

### *What types of facilities are permitted by the MRTMA?*

The MRTMA and its associated administrative rules define the following uses:

- **“Designated consumption establishment”** means a commercial space that is licensed by the agency and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license issued under the Michigan regulation and taxation of marihuana act.
- **“Grower”** means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor, provisioning center, or another grower.
- **“Microbusiness”** means a person or entity licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a Marihuana Safety Compliance Facility, but not to other marihuana establishments.
- **“Processor”** means a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center or another processor.
- **“Provisioning center”** means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a 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 act.
- **“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.
- **“Secure transporter”** means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.
- **“Temporary marihuana event license”** means a state license held by a marihuana event organizer under the Michigan regulation and taxation of marihuana act, for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the state license.

*What is the difference between cannabis, marihuana and marijuana?*

According to the Michigan Marihuana Regulatory Agency (MRA), Michigan’s spelling with an “h” was chosen for the Marihuana Tax Act of 1937. As governing state laws spell marihuana with an “h,” MRA legal communication and references to statutes in relation to the Michigan Medical Marihuana Act or the Michigan Medical Facilities Licensing Act or the Michigan Regulation and Taxation of Marihuana Act – and the corresponding administrative rules will use an “h” in the spelling of Marihuana. In non-formal communication, “j” will generally be used.

Regardless of the spelling, there are some people who consider the word marijuana to be pejorative and racist, due to the classification given by drug enforcement agencies during and after prohibition and

again in the 1960’s. We recommend using the term cannabis to refer to the industry from a more objective perspective that removes any historical stigma and negative connotations coming from the use of the word marijuana.

### Current Language

*What does the Zoning Ordinance say?*

- Since cannabis facilities are not currently permitted in the city, the zoning ordinance does not address them. If the city did permit them without specific zoning standards, the Planning Commission would determine which permitted uses are the most similar and those standards would apply.
- For example, a provisioning center is essentially a retail use and would be permitted wherever retail uses are permitted and any standards, such as parking, etc. that apply to retail establishments would apply to provisioning centers. Other establishments, such as a transporter, may be more industrial in nature and be permitted as such.

### Potential impacts and considerations

The MRTMA allows communities to select which types of facilities and how many it wishes to permit. The recent petitions submitted vary from two provisioning centers to as many as seven provisioning centers and each of the other facilities. Zoning standards may be developed to protect the public health, safety, and welfare. The city may wish to consider potential impacts of cannabis facilities to determine if any specific standards should apply to mitigate those impacts. Some of those issues may include:

- Safety. Are there safety concerns for employees of the facilities, patrons of the facilities or the public in surrounding areas? What about the appearance of security measures like shutters, bars and the like?
- Parking and traffic. Are there any unusual parking or traffic considerations associated with these uses?
- Energy and water consumption. In particular, grow and processing facilities can be high-demand uses for energy and water. Are there any areas of the city in which this could be problematic? Could this be mitigated by including renewable energy and water re-use in the scoring criteria and rewarding businesses that address these issues effectively with additional points?
- Nuisances. What nuisances are typically associated with these facilities? These concerns generally include odor, but are there other concerns?

These concerns may be addressed through some of the following approaches:

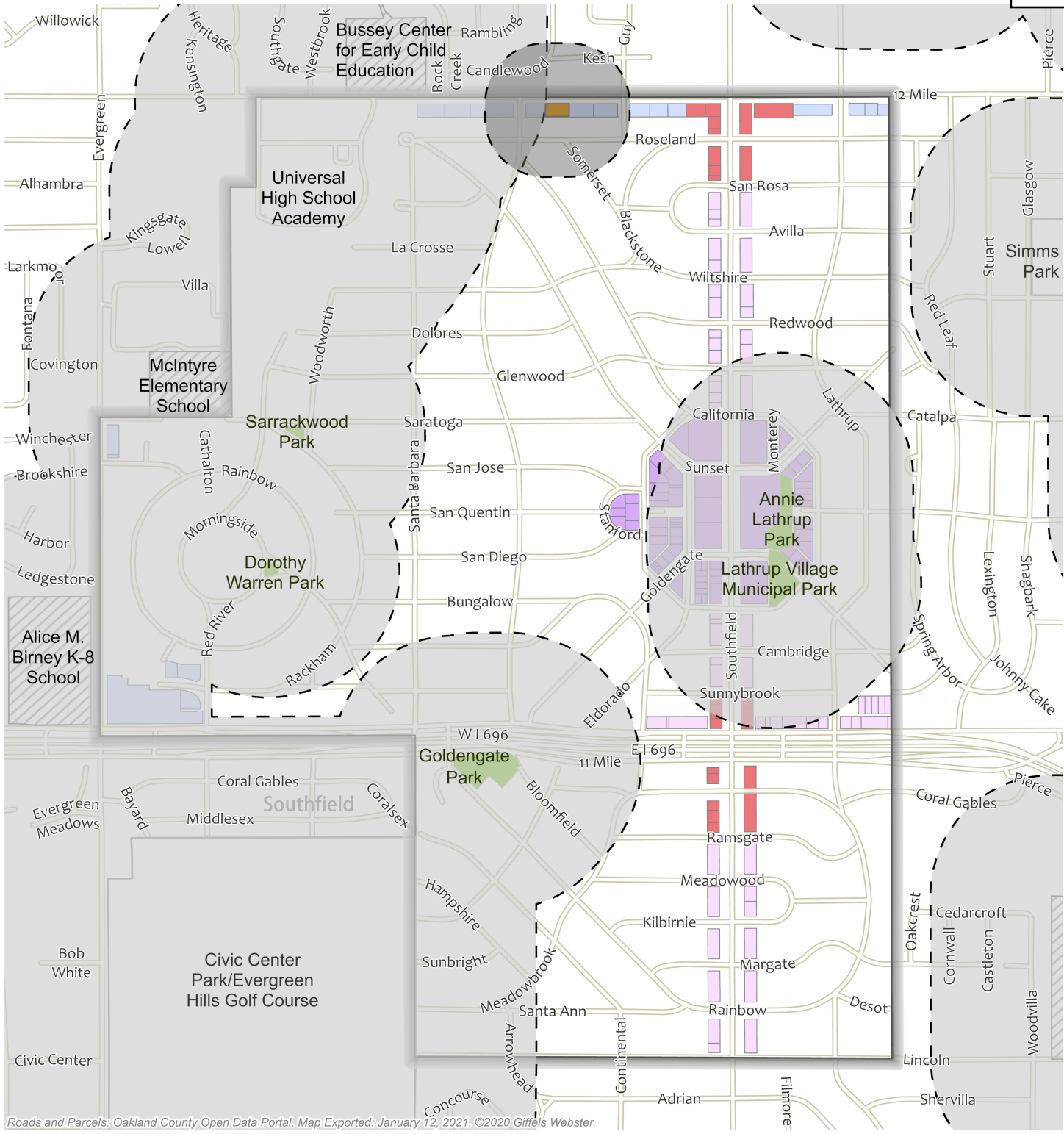
- Location. Where in the community should such uses be permitted?
  - Facilities are generally grouped as follows:
    - Grow, processing, testing and transport facilities, in urban areas, are mainly indoor uses, and are generally industrial in nature.
    - Microbusinesses have a grow component but also may sell to the public, similar to a micro-brewpub.
    - Provisioning centers are retailers and designated consumption establishments are similar to bars. Many communities recognize that these centers may be perceived as

safer when located in a standard retail-type setting, rather than in an industrial setting.

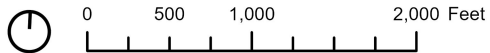
- Issues to be explored:
  - Are there any compatibility issues with existing uses?
  - State law requires uses to be located at least 1,000 ft from schools, which precludes several areas of the city, including most of downtown – but should these uses be permitted downtown? Should there be setbacks from residentially zoned areas? Is a setback from residential zoning practical given that nearly all non-residential properties in the city abut residential zoning?
  - Is there a concern about concentration of such uses or should they all be located together?
  - Are there any accessory uses that should be considered, like drive-through facilities, or the sales of other products, including alcohol?
- Trash. How is waste handled? Where is it stored?
- Hazardous materials. Specific standards related to the storage of hazardous materials should apply.
- Hours of operation. Should any of these uses be limited in their hours of operation?
- Parking. How is visitor parking accommodated? What should the standards be? How are deliveries accommodated?
- Outdoor activities. Should any outdoor sales, storage or seating be permitted?
- Signage. Signs will be regulated through the city’s sign ordinance; any cannabis-related facilities should be treated the same way in terms of time, place and manner. While the MRTMA does allow some content-based regulation, it is unclear if this is consistent with general sign-based case law.
- Lighting. How is the site lit to ensure safety while limiting an overly bright site, glare and excessive energy usage?
- Building design. Are there standards for building design and/or form that should be included? Should facilities have any energy-related standards?
- Fencing/screening and landscaping. Are there any additional site improvements needed to screen or buffer any of these facilities from surrounding uses?
- Permitted uses. With use and site standards in place, should these uses be permitted by-right or as special land uses (which require public hearings)?

## Recommendation

- See draft ordinance attached.



Roads and Parcels: Oakland County Open Data Portal. Map Exported: January 12, 2021. ©2020 Giffels Webster.



- Office
- Commercial - Vehicular
- Mixed Use
- Village Center
- Southfield Park
- Schools
- Lathrup Village Park
- Shelters
- 1000' School and Park Buffer
- 500' Shelter Buffer



ORDINANCE NO. \_\_\_\_  
CITY OF LATHRUP VILLAGE  
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND THE CITY OF LATHRUP VILLAGE ZONING ORDINANCE

ARTICLE 2, TO ADD DEFINITIONS FOR CANNABIS FACILITIES, ARTICLE 3, TO ADD SPECIFIC CANNABIS FACILITIES TO THE MIXED USE AND COMMERCIAL VEHICULAR DISTRICTS AS SPECIAL LAND USES, AND TO ARTICLE 4, TO ADD SPECIFIC STANDARDS FOR PERMITTED CANNABIS FACILITIES.

THE CITY COUNCIL OF THE CITY OF LATHRUP VILLAGE ORDAINS:

PART I. DEFINITIONS.

Amend Section 2.2 – Definitions, to add the following definitions:

**Cannabis facilities.** Cannabis facilities mean “marihuana facilities” as defined by the State of Michigan. **Additional terms are defined in Section 18-282 of the City of Lathrup Village municipal code.** 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:

**Air contaminants.** Stationary local sources producing air-borne particulates, heat, odors, fumes, spray, vapors, smoke or gases in such quantities as to be irritating or injurious to health.

**Cannabis facility.** A location at which a license holder is licensed to operate under the Michigan Medical Marihuana Facilities Licensing Act (MMFLA) and the Michigan Regulation and Taxation of Recreational Marihuana Act (MRTMA)

**Cannabis retailer.** A person licensed to obtain cannabis from cannabis establishments and to sell or otherwise transfer cannabis to cannabis establishments and to individuals who are 21 years of age or older.

**Person.** An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

**Safety compliance facility.** A facility authorized to receive cannabis from, test cannabis for, and return cannabis to a licensed cannabis facility.

**Separation Distance Measurements.** The distance computed by measuring a straight line from the nearest property line of the parcel used for the purposes stated in this ordinance to the nearest property line of the parcel used as a cannabis facility.

PART 2. AMEND ARTICLE 3 TO ADD CANNABIS FACILITIES AS FOLLOWS:

**Section 3.1.7.C. Commercial Vehicular District. Special land uses**

- xi. Cannabis Facilities: Cannabis retailer and safety compliance facility**

**Section 3.1.9.C. Mixed Use District. Special land uses**

- x. Cannabis Facilities: Cannabis retailer and safety compliance facility**

**PART 3. AMEND ARTICLE 4 TO ADD A NEW SECTION 4.17 AS FOLLOWS:**

**Section 4.17 Cannabis Facilities**

- 1. **Purpose.** It is recognized by this Chapter that certain unique uses cannot easily be evaluated in the same manner as other uses because of their potential to adversely affect public health, safety and welfare; establish a public nuisance; conflict with the character of a neighborhood; impair the social and economic well-being of neighboring properties; impair the general development of an area; or operate in a manner contrary to the purpose and intent of this Chapter. However, when properly regulated, these uses can make a positive contribution to the economic vitality of the city. Therefore, it is the purpose of this Article to impose reasonable regulations upon certain uses to provide an adequate approval process while moderating their potential adverse effects on surrounding and neighboring properties.
- 2. **Applicability.** Any land use that requires a license from the Department of Licensing and Regulatory Affairs (LARA) in the administration of Michigan Medical Marihuana Facilities Licensing Act (MMFLA), Michigan Regulation and Taxation of Marihuana Act (MRTMA) or other state law providing for the sale, transport, testing, growing, distribution, and processing of cannabis or any other activity involving a cannabis-related use shall require review and approval pursuant to Article 6. Any facility not specifically authorized in this Ordinance is prohibited. Provisions of this section do not apply to the medical use of cannabis in compliance with the Michigan Medical Marihuana Act (MMMA).
- 3. **Approval Procedures for Cannabis Facilities.**
  - A. **Zoning approval.** Zoning approval shall be required prior to issuance of any license. Zoning approval does not guarantee a license for any proposed facility.
  - B. **License Required.** Licensing for cannabis facilities is required per Chapter 18 of the City of Lathrup Village Municipal Code.
- 4. **Zoning review application requirements.** Zoning applications for cannabis facilities shall be submitted as required in Section 6.2. In addition, the following information is also required:
  - A. As provided in Section 6.1, a site plan shall be required, showing the proposed building(s) to be used, remodeled or reconstructed, along with the parking, landscaping and lighting plans. Existing and proposed building elevations shall be provided, including building materials, window glazing calculations, descriptions of glass to be used, and other pertinent information that describes building construction or structural alterations.
  - B. A plan for general waste disposal, chemical disposal and plant waste disposal.
  - C. A notarized statement by the property owner that acknowledges use of the property for a cannabis facility and agreement to indemnify, defend and hold harmless the City, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising out of, or in connection to, the operation of a cannabis facility. Written consent shall also include approval of the owner and operator for the City to inspect the facility at any time during normal business hours to ensure compliance with applicable laws and regulations.
  - D. A copy of official paperwork issued by LARA as follows: paperwork indicating that the applicant has successfully completed the prequalification step of the application for the state operating license associated with the proposed land use, or proof that the applicant has filed such application for the prequalification step with LARA, including all necessary application fees.

- E. A map, drawn to scale, containing all schools, publicly owned parks or playgrounds, temporary emergency shelters, Substance Use Disorder Programs, Residential Districts, and any marihuana facilities within one-thousand (1,000) feet of the proposed location. Distances shall be measured in accordance with the Separation Distance Measurements, as defined in Section 2.2.
  - F. Operations and Management Plan. An operations and management plan shall be submitted. The plan should describe security measures in the facility **as required by Section 18-285 (18)**; this may include the movement of the product, methods of storage, cash handling, etc.
  - G. All permitted facilities shall be bonded to guarantee that all accounting and taxes are paid in full according to the law and that the operation or facility performs in accordance with all government standards
5. **Separation Distances.** It has been observed that without separation distances between cannabis facilities and certain other land uses, cannabis facilities can tend to concentrate in clusters. It is further recognized that these uses which, because of their very nature, have serious objectionable operational characteristics, particularly when concentrated under certain circumstances. In addition, special regulations of cannabis facilities have been deemed necessary to limit the intensity and density of this use, and to recognize that separation distances are necessary from certain uses as described in this Section. No cannabis facilities are permitted within one thousand (1,000) feet of the following uses:
- A. K through 12 public or private school building or licensed child care center
  - B. A government or nonprofit facility that offers regular, on-site programs and services primarily to persons 18 years of age and under and is used for said programs and services for a minimum of three (3) days a week year-round. Programs and services may include, but are not limited to, social, training, cultural, artistic, athletic, recreational or advisory services and activities and includes private youth membership organizations or clubs and social service teenage club facilities.
  - C. A publicly owned park or playground
  - D. A facility is licensed by the State of Michigan as a Substance Use Disorder Program
  - E. A facility that serves as a temporary emergency shelter
  - F. **Another provisioning center [NOTE: to be discussed by PC]**
6. **General requirements for cannabis facilities. In addition to the licensing requirements of Section 18-293, the following general requirements apply:**
- A. Consumption of cannabis shall be prohibited in all facilities, and a sign shall be posted on the premises of each facility indicating that consumption is prohibited on the premises.
  - B. Residential uses within the same structure/building are prohibited.
  - C. Outdoor storage **of any kind is prohibited. The** discharge of toxic, flammable or hazardous materials into city sewer or storm drains is prohibited. **All waste shall be kept secure and shall be disposed of in a manner consistent with local, state and federal laws.**
  - D. No cannabis facilities shall be operated in a manner that creates noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the property on which the facility is operated.

- E. Air contaminants must be controlled and eliminated by the following methods:
  - i. The building must be equipped with an activated air scrubbing and carbon filtration system that eliminates all air contaminants prior to leaving the building. Fan(s) must be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three (3). The filter(s) shall be rated for the applicable CFM.
  - ii. Air scrubbing and filtration system must be maintained in working order and must be in use at all times. Filters must be changed per manufacturers' recommendation to ensure optimal performance.
  - iii. Negative air pressure must be maintained inside the building.
  - iv. Doors and windows must remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
  - v. The building official may approve an alternative odor control system, in accordance with the Michigan Mechanical Code, if a mechanical engineer licensed in the State of Michigan submits a report that sufficiently demonstrates the alternative system will be equal to or better than the air scrubbing and carbon filtration system otherwise required.
- 7. **Specific requirements for cannabis retailers.** Such uses shall be presented as being for retail purposes and shall contribute to the vibrancy and walkability of the district. The sale or dispensing of alcohol or tobacco products at a cannabis retail facility is prohibited.
  - A. **Hours of operation.** No cannabis retailer shall be open to the public between the hours of 8 p.m. to 8 a.m.
  - B. **Facility Exterior.** The exterior appearance of a facility must be compatible with surrounding businesses and any descriptions of desired future character, as described in the Master Plan. All standards of the MX and CV district apply.
    - i. No cannabis or equipment used in the sale, testing or transport of cannabis can be placed or stored outside of an enclosed building. This section does not prohibit the placement or storage of motor vehicles outside of an enclosed building so long as money or cannabis is not left in an unattended vehicle.
    - ii. Site and building lighting shall be sufficient for safety and security, but not cause excessive glare or be designed so as to be construed as advertising with the intent to attract attention. Outdoor lighting will comply with Section 5.8.
    - iii. Drive-through facilities and mobile facilities are prohibited.
  - C. **Facility Interior.**
    - i. Interior construction, design and use of a facility will not impede the future use of a building for other uses as permitted in the assigned zone district.
    - ii. Neither cannabis nor cannabis-infused products may be placed within twenty (20) feet of the front façade, **nor lit such that they are visible from a public way.**
    - iii. Interior security measures other than security cameras shall not be visible from the public right-of-way (e.g. security shutters, bars, or other methods) during operating business hours.

- iv. Interior lighting shall not be so bright so as to create a nuisance to neighboring property owners or passersby.
- v. Ventilation, by-product and waste disposal, and water management (supply and disposal) for the facility will not produce contamination of air, water, or soil; or reduce the expected life of the building due to heat and mold; or create other hazards that may negatively impact the structure and/or surrounding properties.

**8. Specific requirements for Safety Compliance Facility.**

- 1. Shall have a secured laboratory space and cannabis storage areas that cannot be accessed by the general public.
- 2. Have appropriate education, training and/or experience to comply with state regulations on testing medical cannabis.
- 3. There shall be no other accessory uses permitted within the same facility other than those associated with testing cannabis.
- 4. Cannabis that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.

**PART 4. AMEND SECTION 5.13 AS FOLLOWS TO PROVIDE PARKING STANDARDS FOR CANNABIS FACILITIES:**

**Section 5.13.13. Minimum numbers of parking spaces required.**

**C. Business & Commercial**

- i. Professional and administrative offices, **including cannabis safety compliance facilities:** One (1) per 275 sq ft of gross leasable area
- iv. Personal services and retail uses, **including cannabis retail facilities:** One (1) per 200 sq ft of usable area...

**PART 5. SAVINGS CLAUSE.**

The amendments referenced herein do not affect or impair any act done, offense committed, or right accruing or acquired, or liability, penalty or forfeiture or punishment pending or incurred prior to the effective date of this amendment.

**PART 6. SEVERABILITY.**

This Ordinance and its various parts, sentences, paragraph, sections, clauses and rules promulgated hereunder are hereby declared to be severable. If any part, sentence, paragraph, section, clause, or rule promulgated hereunder is adjudged to be unconstitutional or invalid for any reason, such holdings shall not affect the remaining portions of this Ordinance.

**PART 7. REPEALER.**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

**PART 8. EFFECTIVE DATE; PUBLICATION.**

This Ordinance shall become effective after publication of a brief notice in the newspaper circulated in the City, stating the date of the enactment and the effective date of the Ordinance, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk, and such other facts as the City Clerk shall deem pertinent.

MADE, PASSED AND ADOPTED BY THE CITY COUNCIL, CITY OF LATHRUP VILLAGE, OAKLAND COUNTY, MICHIGAN THIS \_\_\_ day of \_\_\_\_, 2020

\_\_\_\_\_  
Yvette Talley, City Clerk

Date of Introduction:

Date of Adoption:

Date of Publication of Notice of Adoption:

**CERTIFICATE OF ADOPTION**

I hereby certify that the foregoing is a true and complete copy of the ordinance passed at a meeting of the City of Lathrup Village held on the \_\_\_ day of \_\_\_\_, 2020

\_\_\_\_\_  
Yvette Talley, City Clerk

## Chapter 18 – Businesses

### ARTICLE VI- Cannabis Businesses

#### Sec. 18-281. - Purpose.

The purpose of this article is to exercise the City of Lathrup Village's regulatory authority to locally license and regulate cannabis businesses, including cannabis retail establishments, cannabis provisioning centers, cannabis microbusinesses, cannabis grower facilities, cannabis safety compliance facilities, cannabis secure transporters, cannabis processor facilities, designated consumption establishments, cannabis event organizers, and temporary cannabis events to the extent permissible under state and federal laws and regulations, and to protect and promote the public health, safety, and welfare of the city and its residents.

#### Sec. 18-282. - Definitions.

Except as expressly defined differently, words and phrases in this article shall have the same meanings ascribed to them as in the Michigan Medical Marihuana Act, Michigan Medical Marihuana Facilities Licensing Act, Marihuana Tracking Act, Michigan Regulation and Taxation of Marihuana Act, Michigan Zoning Enabling Act, and the administrative rules and regulations promulgated by the State of Michigan and the Michigan Department of Licensing and Regulatory Affairs, as amended.

*Applicant* means an individual, person, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity or other business entity who applies for a license to operate a cannabis business in the city.

*City* means the City of Lathrup Village, Michigan.

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

*Co-locate* or *co-location* means any combination of growers, processors, and/or cannabis retail establishments that may operate as separate cannabis businesses at the same physical location.

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

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

*Cannabis* means all parts of the plant of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including cannabis concentrate and cannabis-infused products. Cannabis does not

include: (i) the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination; (ii) industrial hemp; or (iii) any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other products.

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

*Cannabis concentrate* means the resin extracted from any part of the plant of the genus cannabis.

*Cannabis business* means a cannabis grower, cannabis safety compliance facility, cannabis processor, cannabis microbusiness, cannabis retailer, cannabis provisioning center, cannabis secure transporter, or any other type of cannabis establishment or facility licensed by LARA.

*Cannabis grower* means a person licensed to cultivate cannabis and sell or otherwise transfer cannabis to cannabis establishments.

*Cannabis-infused product* means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable cannabis that is intended for human consumption in a manner other than smoke inhalation. Cannabis-infused product shall not be considered a food for purpose of the Food Law, MCL 289.1101 to 289.8111.

*Marihuana Tracking Act or MTA* means Public Act 282 of 2016, MCL 333.27901, et seq., as amended and all future amendments.

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

*Cannabis processor* means a person licensed to obtain cannabis from cannabis establishments; process and package cannabis; and sell or otherwise transfer cannabis to cannabis establishments.

*Cannabis provisioning center* means a licensee that is a commercial entity located in the city that purchases cannabis from a grower or processor and sells, supplies, or provides cannabis to registered qualifying patients, directly or through the patients' registered primary caregivers.

*Cannabis retailer* means a person licensed to obtain cannabis from cannabis establishments and to sell or otherwise transfer cannabis to cannabis establishments and to individuals who are 21 years of age or older.

*Cannabis safety compliance facility* means a person licensed to test cannabis, including certification for potency and the presence of contaminants.



*Cannabis secure transporter* means a person licensed to obtain cannabis from cannabis establishments in order to transport cannabis to cannabis establishments.

*Michigan Medical Marihuana Act*, or *MMMA* means the initiated law of 2008, MCL 333.26421, et seq., as amended and all future amendments.

*Michigan Medical Marihuana Facilities Licensing Act*, or *MMFLA* means Public Act 281 of 2016, MCL 333.26421, et seq., as amended and all future amendments.

*Michigan Regulation and Taxation of Marihuana Act* or *MRTMA* means, the initiated law of 2018, MCL 333.27951, et. seq., as amended and all future amendments.

*Person* means an individual, partnership, corporation, limited liability company, trust, or other legal entity.

*Primary caregiver* or *registered primary caregiver* means a person who is at least 21 years old and who has agreed to assist with a registered qualifying patient's medical use of cannabis and who has not been convicted of any felony within the past ten years and has never been convicted of a felony involving illegal drugs or a felony that is an assaultive crime as defined in Section 9a of Chapter X of the Code of Criminal Procedure, 1927 PA 175, MCL 770.9a.

*Process* or *processing* means to separate or otherwise prepare parts of the cannabis plant and to compound, blend, extract, infuse, or otherwise make or prepare cannabis concentrate or cannabis-infused products.

*Qualifying patient* or *registered qualifying patient* means a person who has been diagnosed by a physician as having a debilitating medical condition and who has a valid registry identification card issued by LARA or an equivalent approval lawfully issued under the laws of another state or other entity of the United States which identifies the person as a registered qualifying patient.

*School* means and includes buildings and grounds used for school purposes to provide instruction to children and youth in grades pre-kindergarten through 12 by a public, private, charter, denominational, or parochial school.

*Stakeholder* means, with respect to a trust, the trustee and beneficiaries; with respect to a limited liability company, all members and managers; with respect to a corporation, whether profit or non-profit, all stockholders, directors, corporate officers or persons with equivalent titles; and with respect to a partnership or limited liability partnership, all partners and investors.

*State* means the State of Michigan.

*State license* means a license issued by LARA that allows a person to operate a cannabis business.

**Sec. 18-283. - Operation without city license prohibited.**

A cannabis business in the city must be licensed by the state, licensed by the city pursuant to this article and obtain zoning approval pursuant to Section 4.17 of the City of Lathrup Village Zoning Ordinance. No person shall operate a cannabis business in the city without first obtaining a license to do so from the city. A cannabis business

operating without a city license under this article or without a state license is declared to be a public nuisance.

**Sec. 18-284. - No pre-existing non-conforming facilities**

No person or entity that was open or operating any facility purporting to produce, manufacture, test, transfer or transport medical marihuana or marihuana prior to the adoption of this ordinance, shall be a lawful use or lawful nonconforming use.

**Sec. 18-285. - License application.**

- (a) Applications for a city license shall be submitted to the City Clerk on an application form to be provided by the city accompanied by a fee in the amount of \$5,000.00 per each license sought. The applicant shall submit one printed and one electronic copy of the completed application and supporting information to the City Clerk. For a co-located facility, an applicant may apply for multiple licenses using one application that explicitly details the operation of the co-located facility. Each license sought will require an additional application fee of \$5,000.00 per license.
- (b) A complete application shall be made under oath and shall contain all of the following:
  - 1) The applicant shall identify an individual to act as primary responsible person for the applicant and point of contact for the application who shall be either a resident of the city, a resident of Oakland County or reside within 100 miles of the city;
  - 2) The applicants' and any stakeholders' names, dates of birth, mailing address, email address, and phone numbers, including emergency contact information, and a copy of a government-issued photo identification card of the applicant and stakeholders;
  - 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 ten percent or less, and their spouses;
  - 4) For a partnership or limited liability partnership, all partners and their spouses;
  - 5) For a limited partnership and a limited liability limited partnership, all general and limited partners, not including a limited partner holding a direct or indirect ownership interest of ten percent or less and who does not exercise control over or participate in the management of the partnership, and their spouses;
  - 6) For a limited liability company, all members and managers, not including a member holding direct or indirect ownership interest of ten percent or less and who does not exercise control over or participate in the management of the company, and their spouses;
  - 7) If the applicant is not an individual, the articles of incorporation or organization, Internal Revenue Service SS-4 EIN confirmation letter, and the operating agreement or bylaws of the applicant, if a limited liability company or corporation;

- 8) The name and address of the proposed cannabis business and any additional contact information deemed necessary by the manager of community and economic development;
- 9) For the applicant and every stakeholder affirmation that each is at least 21 years of age;
- 10) Written consent authorizing the city's police department to perform a criminal background check to ascertain whether the applicant and stakeholders have any convictions involving dishonesty, theft, fraud, or controlled substances;
- 11) The name, date of birth, address, copy of photo identification, and email address for any operator or employee if other than the applicant;
- 12) An affirmation whether the applicant or operator has ever had a business license revoked or suspended, and if revoked or suspended, then the reason for such revocation or suspension;
- 13) For the applicant or for each stakeholder a resume that includes any prior experience with a cannabis business;
- 14) With respect to cannabis retail establishments, a description of any drug and alcohol awareness programs that will be provided or arranged for by the applicant and made available for the public;
- 15) A written description of the training and education that the applicant will provide to employees of the cannabis business;
- 16) A copy of the proposed business plan for the cannabis business, including, but not limited to:
  - a. The ownership structure of the business, including percentage ownership of each person or entity; and
  - b. Planned worker training programs; and
  - c. Financial structure and financing of the proposed cannabis business; and
  - d. Short and long-term goals and objectives; and
  - e. If co-location of cannabis businesses is proposed, provide an explanation of the integration of such businesses, including a drawing showing the relationship between the businesses being co-located, including floor area and the separation provided between such facilities, including identification of any points of entry, ingress or egress, and controls at each location; and
  - f. Any community outreach/education plans and strategies; and
  - g. Any charitable plans and strategies.
  - h. Plan outlining what supply chains will be used to provide product for the cannabis business, accompanied by any tentative supply agreements with state certified suppliers.

17) One of the following: (a) proof of ownership of the premises wherein the cannabis business will be operated; or (b) written consent from the property owner to use the premises for a cannabis business requiring licensure under this article, together with a copy of any lease for the premises;

18) Security Plan. A security plan shall address security measures related to the transportation and disposal of product and employee and customer safety. Video surveillance is required, and the camera system shall be equipped with software allowing local authorities to login securely to cameras remotely. The Lathrup Village Police Department shall review the security plan prior to acceptance of the application and shall approve the plan prior to the Planning Commission public hearing. At a minimum, the security plan shall address the following:

- a. All cannabis waste shall be disposed of in a manner consistent with federal, state, and local laws so that the cannabis waste is destroyed properly and rendered unusable. All waste containers must be maintained within the secure facility and must be equipped with locks and tamper resistant seals until they are removed by an authorized waste disposal company.
- b. To the extent applicable, the security plan should include additional strategies for onsite protection from power outages, fire, chemical spills, and address other applicable issues such as storage, access control, credentialing, security officers, cameras, alarms, and internal theft
- c. The plan shall address surveillance methods, access control strategies, territorial reinforcement, maintenance, and target hardening; including the experience of customers, employees, and neighbors (residents, offices, businesses, etc.).
- d. An explanation of how the video surveillance system will be operated, including who is responsible for monitoring the video footage and storing any video recordings.
- e. A diagram showing where all cameras are located and assigning a number to each camera for identification purposes. The diagram shall be to scale and shall be correlated with a camera index for all assigned cameras. Each camera shall be placed in a location that allows the camera to clearly record activity occurring within 20 feet of all points of entry and exit on the licensed premises and allows for the clear and certain identification of any person and activities in all areas required to be recorded. Cameras must be placed in all rooms with exterior windows, exterior walls, and roof hatches. Entrances and exits to the premises or site shall be recorded from both indoor and outdoor vantage points.

Recording distance/range of each camera should be identified on the site plan.

- f. Areas where cannabis products are weighed, packed, stored, loaded, and unloaded for transportation, prepared, or moved within the licensed premises shall be recorded, as well as limited-access areas, security room(s) and area storing the surveillance system storage device.
  - g. Licensed retailers shall record point-of-sale areas and areas where cannabis products are displayed for sale on the video surveillance system. At each point-of-sale location, camera placement must allow for the recording of the facial features of any person purchasing or selling cannabis products, or any person in the retail area, with enough clarity to determine identity.
- 19)A scaled floor plan of the cannabis business, as well as a scale diagram illustrating the property upon which the cannabis business will be operated, including all available parking spaces, and specifying which parking spaces, if any, are handicapped-accessible;
- 20)Any proposed elevation drawings, and photographs or other depiction of materials to be visible on the exterior of the proposed cannabis business;
- 21)A scaled location area map containing all schools, child care centers, publicly owned parks or playgrounds, temporary emergency shelters, Substance Use Disorder Programs, Residential Districts, and any marihuana facilities within one-thousand (1,000) feet of the proposed location;
- 22)A sanitation plan designed to protect against any cannabis being ingested on the premises by any person or animal, indicating how the waste and byproduct will be stored and disposed of, and how any cannabis will be rendered unusable upon disposal;
- 23)A proposed recordkeeping plan that will track payment method, amount of payment, time of sale, product quantity, and other product descriptors;
- 24)An affirmation that neither the applicant nor any stakeholder is in default to the city and that the applicant or stakeholder has not failed to pay any past-due property taxes, special assessments, fines, fee or other financial obligation to the city;
- 25)A copy of the applicant's notice of prequalification status issued by the Michigan Cannabis Regulatory Agency of LARA to operate a medical cannabis facility or adult-use cannabis establishment. This shall include a full and complete copy of

the prequalification application materials, together with any and all supporting documents and attachments, that were submitted to the State of Michigan, Department of Licensing and Regulatory Affairs, Bureau of Marihuana Regulation, Medical Marihuana Facilities, in the application for an entity/individual prequalification application packet under the MMFLA and the administrative rules. If the applicant does not have a prequalification from the state, the application will not be processed by the city;

26) An estimate of the number and type of jobs that the cannabis business is expected to create, the compensation expected to be paid for such jobs, and the projected annual budget and revenue of the cannabis business;

27) A signed acknowledgment that the applicant is aware and understands that all matters related to cannabis, growing, cultivation, possession, dispensing, testing, safety compliance, transporting, distribution, and use are currently subject to state and federal laws, rules, and regulations, and that the approval or granting of a license hereunder will not exonerate or excuse the applicant from abiding by the provisions and requirements and penalties associated therewith;

28) Proof of insurance covering the business and naming the City of Lathrup, its elected and appointed officials, employees, and agents, as additional insured parties, primary and non-contributory available for the payment of any damages arising out of an act or omission of the applicant or its stakeholders, agents, employees, or subcontractors, in the amount of:

- a. At least \$2,000,000.00 for property damage;
- b. At least \$2,000,000.00 for injury to one person; and
- c. At least \$2,000,000.00 for injury to two or more person resulting from the same occurrence. The insurance policy underwriter must have a minimum A.M. Best Company insurance ranking of B+, consistent with state law. The policy shall provide that the city shall be notified by the insurance carrier 30 days in advance of any cancellation or reduction in coverages.

29) Any other information requested by the city considered to be relevant to the processing or consideration of the application.

- (c) Upon receipt of a completed application and application fee, the City Clerk shall refer a copy of the application to appropriate city departments for their review.
- (d) An application shall not be eligible to be considered for approval, until:
  - (1) The police department and community and economic development departments have inspected the proposed location for compliance with all laws

for which they are charged with enforcement and for compliance with the requirements of this article.

- (2) The community and economic development department verifies the proposed location of the cannabis business complies with the zoning code.
- (3) The community and economic development department confirms the proposed cannabis business meets applicable codes and this article.
- (4) The city treasurer confirms the applicant and each stakeholder and the proposed location of the business are not in default to the city.
- (5) The police department determines the applicant meets the requirements of this article with respect to the background check and security plan.

**Sec. 18-286. – Initial application period**

- (a) The city will accept applications for a license(s) for a cannabis business over a 30 day period, as established by the city manager after the effective date of this article. At the end of the 30 day period, all properly submitted and complete applications shall be subject to examination and review by the city.
- (b) After the initial application period closes, the city shall verify that any applications received in this initial application period are full and complete applications. The city shall consider an application full and complete if it includes all information requested by this article and the city application forms.
- (c) The city may, in its discretion, elect to issue or not issue licenses for any of the cannabis business types or issue licenses in any combination thereof, but in no instance shall issue more licenses than are permitted pursuant to the terms of this article and state law.
- (d) If, after the initial 30-day application period, the city does not receive more applications than the permitted number of licenses for a particular type of facility, then the city shall accept license applications for only those facilities, on an ongoing basis, until such time as the number of allowed licenses have been approved for those specific facilities.

**Sec. 18-287. - Preliminary denial of application.**

- (a) The city shall reject any application that does not meet the requirements of the MMFLA, the MMMA, the administrative rules or this article. The city shall reject any application that does not contain an approved entity/individual prequalification issued by the state. The city shall reject any application that contains any false, misleading or incomplete information. The city shall reject any application that does not conform or comply with any of the following: International Fire Code; International Property Maintenance Code; Michigan Plumbing Code; Michigan Mechanical Code; National Electrical Code; Michigan Rehabilitation Code and the Michigan Building Code.
- (b) An applicant whose application is rejected or denied by the city shall not be entitled to review by the city or any board or commission thereof and the

applicant shall waive any right to bring an action against the city for such a rejection or denial.

**Sec. 18-288. - License application evaluation.**

- (a) To evaluate applications, the city shall use a point-based system which shall be approved, and may be modified from time-to-time, by city council resolution, and shall take into account the following application evaluation criteria:
  - a. The content and sufficiency of the information contained in the application.
  - b. Whether the proposed plan has received approval from the police department and all other appropriate departments.
  - c. Whether the proposed facility will revitalize or redevelop property that has been vacant or unused for an extended period of time.
  - d. Planned outreach on behalf of the proposed business, and whether the applicant or its stakeholders have made, or plan to make, significant physical improvements to the building housing the cannabis business, including plans to control traffic, noise, and odor effects on the surrounding area.
  - e. Whether the applicant or any of its stakeholders have a record of acts detrimental to the public health, security, safety, morals, good order, or general welfare prior to the date of the application; and whether the applicant or any of its stakeholders have ever been convicted of operating an illegal business enterprise of any kind.
  - f. Whether the applicant has reasonably and tangibly demonstrated it possesses adequate resources and experience to implement the submitted business plan.
  - g. Whether the proposed location in the city in relation to its proximity to other locations for cannabis businesses represents a reasonable and harmonious dispersion of cannabis businesses.
  - h. The proximity of the business to a school.
  - i. Whether adequate off-street parking is provided or available.
  - j. Whether the size and nature of the use in relationship to previously approved and issued cannabis business licenses is reasonable.



- k. Whether the applicant has business experience previously in the city and demonstrates that the applicant has sufficient business experience to operate the proposed cannabis business.
  - l. Whether the proposed plan incorporates sustainable infrastructure and energy efficient elements and fixtures.
  - m. Whether the proposed plan incorporates infrastructure that adequately addresses stormwater drainage.
  - n. Whether the proposed plan incorporates odor control systems to prevent odor dispersion to neighboring properties.
  - o. Whether an applicant has applied for a co-location of equivalent licenses at one location.
  - p. Other criteria as indicated important for consideration by any appropriate department of the city administration.
- (b) The city may engage professional expert consultant assistance in performing any of the duties and responsibilities under this article.
- (c) The point-based merit system, shall incorporate the evaluation criteria outlined within this article, and may include additional criteria intended to select licensees that provide the best outcome for the community as determined by the city.
- a. In the event of a tie among applicants through the merit system which would result in more approvals than available licenses, the tie will be resolved through a blind lottery drawing to determine which applicant will receive recommendation for approval.
  - b. Any application receiving less than 70 percent of possible points outlined within the point-based merit system shall be automatically denied license approval.
  - c. Applications and evaluation points yielded from a point-based merit system shall be considered for up to 1 year following the publication of merit point system scores. The effective applications and points shall be used to recommend license approval should prior recommendations be declined or fail to receive license. Applications within the process may receive a one-time extension not to exceed three months, approved by the city manager with proper display of good cause shown.
- (d) Within 90 days of receiving the last completed application, the city administrator shall recommend applications for site plan approval to the planning commission.

The city administrator may only recommend a number of applications for consideration equal to or less than the number of remaining licenses available for issuance. All other applicants shall be sent a written notice of rejection setting forth specific reasons why the city manager did not recommend their application for city council approval.

- (e) Upon receiving site plan approval from the planning commission, applicants shall move forward for final license approval from the city council as recommended by the city manager.
- (f) Upon submittal of the city administrator's recommended applications to the city council, the city shall publish and provide public notice of the city council meeting when the city council will consider the license applications. Notice shall be given not less than 14 days prior to the city council meeting. All written feedback shall be presented to the city council.
- (g) The public notice shall be published in a newspaper of general circulation and posted at City Hall. The notice shall be sent by mail or personal delivery to the owners and occupants of property within 300 feet of the proposed cannabis business site. The public notice must include at minimum the following:
  - a. Proposed location of the cannabis business; and
  - b. Name of the applicant(s) or organization; and
  - c. Intended cannabis business use; and
  - d. Information pertaining to methods of accepting public feedback; and
  - e. Location, date, and time of the meeting in which city council will consider license approval.
- (h) All cannabis business licenses shall be effective for one year following its original issuance date. Annual renewal of the license shall follow the process as outlined within this article. The improvements made pursuant to site plan approval by the planning commission shall be commenced after license approval by the city council and be completed within one year after the license is approved by the city council. The city council may, in its sole and exclusive discretion, grant an extension of time not to exceed 180 days if an applicant submits a written request to the city administrator prior to the license expiration showing that its medical cannabis provisioning center facility application or adult use retail facility application with the state remains pending and that the applicant has diligently pursued approval of the state license and all other required permits, approvals

and licenses without delay or inaction on applicant's part, and showing good cause for the extension of time.

**Sec. 18-289. - License limit.**

- (a) The city council finds and determines that it is in the public interest and serves a public purpose to limit the maximum number of licenses that the city may issue, with the acceptable uses as follows:
  - 1. Adult use cannabis retail establishments/Medical cannabis provisioning center establishments – two (2);
  - 2. Adult use and medical cannabis safety compliance facilities – two (2).
- (b) The city council finds and determines that it is in the public interest and serves a public purpose to prohibit the following cannabis business uses from receiving a license from the city:
  - 1. Adult use and medical cannabis secured transporter establishments; and
  - 2. Designated consumption establishments; and
  - 3. Cannabis event organizer; and
  - 4. Temporary cannabis events; and
  - 5. Adult use and medical cannabis growing facility establishments; and
  - 6. Adult use and medical cannabis processing establishments, and
  - 7. Adult use cannabis microbusiness establishments.
- (c) Should a license for a cannabis business become available due to expiration, revocation, or non-renewal, the city administrator shall set an application period and receive applications for a license(s) for a cannabis business over a 30-day period. At the end of the 30-day period, all properly submitted and complete Applications shall be subject to examination and review by the city. The city may elect to issue or not issue licenses for any of the permitted uses or issue licenses in any combination thereof, but in no instance shall issue more licenses than are permitted pursuant to the terms of this article.

**Sec. 18-290. - Cannabis facility co-location and stacking.**

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

**Sec. 18-291. - License renewal application.**

- (a) Application for license renewal shall be made in writing to the City Clerk at least 30 days prior to the expiration of an existing license.
- (b) An application for a license renewal shall be made under oath on forms provided by the city.

- (c) An application for a license renewal shall be accompanied by a renewal fee in an amount of \$5,000.00, of which half will be returned if the license is not renewed. The renewal fee is established to defray the costs of the administration of this article.
- (d) Upon receipt of a completed application for a license renewal meeting the requirements of this article and the license renewal fee, the City Clerk shall refer a copy of the renewal application to appropriate city departments and officials for review,
- (e) An application for a license renewal shall be not be considered for approval unless:
  - a. The fire inspector has inspected the proposed location for compliance with all laws for which they are charged with enforcement within the past calendar year;
  - b. The director of the community and economic development department has confirmed that the location complies with the zoning code and this article, at the time a license is granted;
  - c. The building official has confirmed that the cannabis business meets the city building code requirements;
  - d. The city treasurer has confirmed that the applicant and each stakeholder of the applicant and the location of the cannabis business are not currently in default to the city;
  - e. The police department has reviewed the application and determined that the applicant has satisfied the requirements of this article with respect to the background check and security plan;
  - f. The applicant possesses the necessary state licenses or approvals, including those issued pursuant to the MMFLA;
  - g. The applicant has operated the cannabis business in accordance with the conditions and requirements of this article;
  - h. The cannabis business has not been determined to be a public nuisance; and
  - i. The applicant is operating the cannabis business in accordance with applicable federal, state, and local laws and regulations.
- (f) If written approval is given by each individual, department, or entity identified in subsection (e), and the renewal application is found to be compliant with this article by the community and economic development director, the community and economic development department shall issue a license renewal to the applicant. If no renewal license is issued, half of the renewal fee shall be returned. The renewal shall be deemed approved if the city has not issued formal notice of denial within 60 days of the filing date of the application, unless the applicant is advised of non-compliance with this article or incompleteness of information or any required inspection during such period.

**Sec. 18-292. - Transfer of ownership, licenses generally.**

- (a) No license issued pursuant to this article shall be transferred unless approved by the State and City.

**Sec. 18-293. - Minimum operational standards of cannabis business.**

Except as may conflict with state law or regulation the following minimum standards apply to all cannabis businesses:

- (a) The entire parcel where the cannabis business will be located must be properly zoned for that type of use, and the cannabis business operations must be entirely contained within the building.
- (b) The cannabis business shall be operated in compliance with the MMMA, the MMFLA, the MTA, MRTMA, and the state's administrative rules. Any violation of such laws or rules shall be deemed a violation of this article.
- (c) On-premises consumption of cannabis shall be prohibited at any cannabis business except testing standards as outlined by LARA.
- (d) In addition to security requirements pursuant to state laws and regulations and any other applicable city ordinances, the cannabis business shall continuously monitor the entire premises, interior and exterior, with surveillance systems that include security cameras operating 24 hours a day, seven days a week. The video recordings shall be maintained in a secure, off-site location for a period of 180 days.
- (e) The cannabis business shall be contained within a lockable facility, including all interior doors, all windows and points of entry and exits with commercial grade non-residential locks and with an alarm system monitored. Cannabis shall not be permitted to be stored in trailers or sheds or other accessory structures to the principal building. Storage shall further be in accordance with the MRTMA, MMMA, MMFLA, MTA, and promulgated rules as amended.
- (f) A locking safe or secure locking cabinet system permanently affixed to the permitted premises that shall store any cannabis and all cash remaining in the facility overnight shall be used. For cannabis-infused products that must be kept refrigerated or frozen, the facility may lock the refrigerated container or freezer in a manner authorized by the MRTMA and promulgated rules as amended in place of the use of a safe so long as the container is affixed to the building structure.
- (g) No cannabis business shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the property where the cannabis business is operated; or any other

nuisance adverse to the public health, safety and welfare of the residents of the city.

- (h) All activity related to the provisioning, transferring, testing, or transportation of all cannabis shall be done indoors and fully compliant with state law so that it is not visible to the public.
- (i) All cannabis businesses shall maintain an inventory and record keeping system and/or database identifying the amount of cannabis on the premises in accordance with the MRTMA, the MTA and the rules and regulations, as amended from time to time. This log shall be available to law enforcement personnel at anytime.
- (j) All marijuana located on premise shall be inventoried and tagged with unique RFID tag as required by MTA and promogulated rules as amended from time to time.
- (k) The state license and the city license required by this article shall be conspicuously displayed on the premises of a cannabis business.
- (l) All cannabis facilities shall apply for and obtain from the city, or other applicable government authority, all necessary building, mechanical, electrical, plumbing, sign, fence, soil erosion and city zoning compliance permits.
- (m) Floors, walls, and ceilings shall be constructed in such a manner that they may be kept adequately cleaned and in good repair.
- (n) There shall be adequate screening or other protection against the entry of pests. Waste shall be disposed of so as to minimize the development of odor and minimize the potential for waste development and minimize the potential for waste becoming an attractant, harborage or breeding place for pests.
- (o) Venting of cannabis odors into the areas surrounding the cannabis business is prohibited and deemed and declared to be a public nuisance. All facility ventilation methods shall comply with the MRTMA and administrative rules promogulated, as amended from time to time.
- (p) Waste shall be properly removed and the operating systems for waste disposal shall be maintained in an adequate manner so that they do not constitute a source of contamination in areas where cannabis is exposed. Disposal systems for spent water and spent soil shall be approved by the city and byproduct materials, soils, plant materials, and other materials shall be stored indoors until pickup for disposal and shall not be left outdoors for disposal pickup for longer

than six hours. Disposal of cannabis or cannabis waste or byproducts by on-site burning or introduction into the sewer system is prohibited.

- (q) The interior and exterior of all buildings, fixtures and other accessories shall be maintained in a presentable and sanitary condition.
- (r) Cannabis businesses shall provide its occupants with adequate and accessible restroom facilities that are maintained in a sanitary condition and good repair.
- (s) Cannabis that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
- (t) Cannabis businesses shall be free from infestation by insects, rodents, birds, or vermin or any kind.
- (u) All cannabis shall be packaged and labeled as provided by MRTMA, MTA, and promulgated rules as amended.
- (v) The premises shall be open for inspection during hours of operation and as such other times as anyone is present on the premises.
- (w) No other accessory uses are permitted within the same facility other than those associated with the retailing of cannabis.
- (x) Advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors is prohibited.

**Sec. 18-294. - Additional operational standards for cannabis retail establishments.**

Except as may conflict with state law or regulation, the following minimum standards for cannabis retail establishments shall apply:

- (a) Cannabis retail and medical cannabis provisioning center establishments may be open to the public only between 8:00 a.m. to 8:00 p.m.
- (b) Unless permitted by the MRTMA, public or common areas of the cannabis retail establishment must be separated from restricted or non-public areas of the retail establishment by a permanent barrier. Unless permitted by the MMMA, MMFLA, or the MRTMA, no cannabis may be stored, displayed, or transferred in an area accessible to the general public.
- (c) All cannabis storage areas within cannabis retail and medical cannabis provisioning center establishments must be separated from any customer/patient areas by a permanent barrier. Unless permitted by the MMMA, MMFLA, or MRTMA, no cannabis is permitted to be stored in an area accessible by the general public or registered customers/patients. Cannabis may be displayed in a sales area only if permitted by the MRTMA.

(d) Drive-thru windows on the premises of a cannabis business establishment shall not be permitted.

**Sec. 18-295. - License revocation, suspension and denial; basis for action; appeal.**

(a) Any city license issued under this article may be revoked or suspended by the city after written notice and an administrative hearing if a city official finds and determines that grounds for revocation or suspension exist. Any grounds for revocation or suspension must be provided to the licensee at least ten days prior to the date of the hearing by first class mail to the address given on the license application or any address provided to the City Clerk in writing subsequent to the filing of an application.

(b) A license applied for or issued may be denied, revoked or suspended on any of the following grounds:

- a. A violation of any provision of this article, including, but not limited to, the failure to provide the information required by this article;
- b. Any conviction of a felony or any misdemeanor involving controlled substances, theft or dishonesty by the licensee, stakeholder, or any person holding an ownership interest in the license;
- c. Commission of fraud or misrepresentation or the making of a false statement by the applicant, licensee, or any stakeholder of the applicant or licensee while engaging in any activity for which this article requires a license;
- d. Failure to obtain site plan approval from the planning commission;
- e. Failure to obtain or maintain a license or renewed license from the city pursuant to this article;
- f. Failure of the licensee or the cannabis business to obtain or maintain a state license or approval pursuant to the MRTMA, MMMA, or MMFLA;
- g. The cannabis business is determined by the city to have become a public nuisance or otherwise is operating in a manner detrimental to the public health, safety or welfare;
- h. Any default in the payment of any charges, taxes, or fees, to the city if not cured upon 45 days following notice sent by electronic means or mail to the address of the cannabis business;
- i. Violation of any state law applicable to cannabis businesses.

(c) Appeal of denial of an application, or revocation or suspension of a license: the community development department shall notify an applicant of the reason(s) for denial of an application for a license or license renewal or for revocation or suspension of a license or any adverse decision under this article and provide the applicant with the opportunity to be heard. Any applicant aggrieved by the denial or revocation or suspension of a license or adverse decision under this



article may appeal to the city council, who shall appoint a hearing officer to hear and evaluate the appeal and make a report and recommendation to the city council. Such appeal shall be taken by filing with the City Clerk, within 14 days after notice of the action complained of has been mailed to the applicant's last known address on the records of the City Clerk, a written statement setting forth fully the grounds for the appeal. The city council shall review the report and recommendation of the hearing officer and make a decision on the matter.

- (d) Following the denial of a license and any subsequent appeal during the recommendation and issuance process, the city may move to recommend the application with the next highest number of merit points as determined in the application process.

**Sec. 18-296. - Penalties; temporary suspension of a license.**

- (a) The city may require an applicant or licensee of a cannabis business to produce documents, records, or any other material pertinent to the investigation of an application or alleged violation of this article. Failure to provide the required material may be grounds for application denial, or license revocation.
- (b) Any person in violation of any provision of this article, including the operation of a cannabis business without a license shall be responsible for a misdemeanor and shall be subject to a civil fine and costs. Increased civil fines may be imposed for a repeat violation. As used in this section "repeat violation" shall mean a second or any subsequent infraction of the same requirement or provision committed by a person or Facility within any 24 month period. Unless otherwise specifically provided in this article, the penalty schedule is as follows:
  - a. \$750.00, plus costs, for the first violation;
  - b. \$1,000.00, plus costs, for a repeat violation;
  - c. \$3,000.00, plus costs per day, plus costs for any violation that continues for more than one day.
- (c) The city may temporarily suspend a cannabis business license without a prior hearing if the city finds that public safety or welfare requires emergency action affecting the public health, safety, or welfare. The city shall cause the temporary suspension by issuing a suspension notice in connection with institution of proceedings for notice and a hearing.
- (d) If the city temporarily suspends a license without a prior hearing, the licensee is entitled to a hearing within 30 days after the suspension notice has been served on the licensee or posted on the licensed premises. The hearing shall be limited to the issues cited in the suspension notice.
- (e) If the city does not hold a hearing within 30 days after the date the suspension was served on the licensee or posted on the licensed premises, then the suspended license shall be automatically reinstated and the suspension vacated.

- (f) The penalty provisions herein are not intended to foreclose any other remedy or sanction that might be available to, or imposed by the city, including criminal prosecution.

**Sec. 18-297. - Disclaimer.**

- (a) Nothing in this article shall be construed to authorize any person to engage in conduct that endangers others or causes a public nuisance, or to allow use, possession or control of cannabis for unlawful purposes or allow any other activity relating to cultivation, growing, distribution or consumption of cannabis that is otherwise illegal.
- (b) Except as may be required by law or regulation, it is not the intent of this article to diminish, abrogate, or restrict the protections for individual use of cannabis found in the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, the Marihuana Tracking Act and the Michigan Regulation and Taxation of Marihuana Act.

Secs. 18-298—18-399. - Reserved.