

**LAPEER CITY COMMISSION  
MINUTES OF A REGULAR MEETING  
February 5, 2018**

A regular meeting of the Lapeer City Commission was held February 5, 2018 at Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan. The meeting was called to order at 6:30 p.m.

**ROLL CALL**

Present: Mayor Sprague.

Commissioners Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Absent: None.

City Manager: Dale Kerbyson, present.

City Attorney: Michael Nolan, present.

**AGENDA APPROVAL**

**13 2018 02-05**

Moved by Marquardt. Seconded Bostick-Tullius.

Approve the Agenda for February 5, 2018 as presented.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

**MINUTES**

**14 2018 02-05**

Moved by Bostick-Tullius. Seconded by Bennett.

Approve the minutes from the Regular meeting held January 16, 2018 and Workshop-Retreat Meeting held January 20, 2018 as presented.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

Minutes from various Boards and Commissions were received into record.

**PUBLIC COMMENTS**

Janet Adams, Baldwin Road, gave invocation.

Jared Maynard, Clinton Township, representative of Pure Roots LLC, provided company info and handout.

**CONSENT AGENDA**

**15 2018 02-05**

Moved by Bostick-Tullius. Seconded by Osentoski.

Approve the Consent Agenda for February 5, 2018 resulting in the following.

1. Special Event Request from Lakestone Bank & Trust, Ice Cream Social, June 22, 2018, Farmer's Market Pavilion.
2. Special Event Request from Voiture 1536 40o8, Fantasy Forrest, October 13, 2018, Rowden Park, contingent upon current receipt of insurance.
3. Contract for Planning Services For the City of Lapeer with Rowe Professional Services Company and authorize the Mayor and City Manager to sign said contract.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

**BILL LISTING FOR FEBRUARY 5, 2018**

**16 2018 02-05**

Moved by Marquardt. Seconded by Atwood.

Approve the Bill Listing for February 5, 2018 in the amount of \$969,784.10.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

## **PROCLAMATIONS, RECOGNITIONS AND RESOLUTIONS**

None.

## **PUBLIC HEARINGS**

None.

## **ADMINISTRATIVE REPORTS**

Secondhand Dealer and Pawnbroker License: Cash 4 All.

### **17 2018 02-05**

Approved by Mayor Sprague. Moved by Bostick-Tullius. Seconded by Marquardt.

Mayor approve a Secondhand Dealer License and Pawnbrokers License for Cash 4 All located at 773 East Street, Lapeer.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

Police Department: Firearms Purchase.

### **18 2018 02-05**

Moved by Marquardt. Seconded by Osentoski.

Approve the trade-in and purchase of new firearms as presented for a final cost of \$12,201.00 to be paid from account 265-301-642000.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

Audit Report: Layton and Richardson PC, Luke Downing.

Luke Downing representative of Layton and Richardson provided an overview of the audit ending June 30, 2017 and Letter of Comments and Recommendations.

### **19 2018 02-05**

Moved by Bennett. Seconded by Bostick-Tullius.

Approve the Audit Report and accept the Audit Recommendations for the Year Ending June 30, 2017 as presented by Layton and Richardson PC.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

Liquor License Request: Liquid Art LLC.

### **20 2018 02-05**

Moved by Marquardt. Seconded by Osentoski.

RESOLVED that the application from Liquid Art LLC for the following license(s), Small Distiller and New Sunday Sales Permit (PM) to be located at 303 W. Nepessing Street, Lapeer, MI 48446 in Lapeer County be approved.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

Ordinance: New and Amendment.

New – Chapter 68 (An Ordinance To Authorize and Regulate The Establishment Of Medical Marihuana.

Amendment – Chapter 7 (Zoning Ordinance).

Commissioner Bostick-Tullius introduced the proposed Ordinance Chapter 68 (An Ordinance To Authorize And Regulate The Establishment Of Medical Marihuana) and

proposed amendments as modified to Chapter 7 (Zoning Ordinance) of the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

CHAPTER 68  
AN ORDINANCE TO AUTHORIZE AND REGULATE THE ESTABLISHMENT OF  
MEDICAL MARIHUANA FACILITIES

§ 68-01 Purpose

- A. It is the intent of this Ordinance to authorize the establishment of certain types of medical marihuana facilities in the City of Lapeer and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this Ordinance to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the City of Lapeer through imposition of an annual, nonrefundable fee of not more than \$5,000.00 on each medical marihuana facility licensee. Authority for the enactment of these provisions is set forth in the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- B. Nothing in this Ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the State of Michigan. This ordinance permits authorizations for activity based on the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. Nothing in this Ordinance shall be construed as allowing persons to engage in conduct that endangers others or causes a public nuisance, or to allow marihuana uses and activities not in strict accordance with the express authorizations of the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- C. As of the effective date of this Ordinance, marihuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., which makes it unlawful to manufacture, distribute, or dispense marihuana, or possess marihuana with intent to manufacture, distribute, or dispense marihuana. Nothing in this Ordinance is intended to grant immunity from any criminal prosecution under state or federal laws as they may be enforced by either the federal or state governments relative to such uses and activities. Thus, the authorization of activity and the approval of a license under this Ordinance shall not have the effect of superseding or nullifying federal or state law applicable to the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, and all applicants and grantees of licenses are on notice that they may be subject to prosecution and civil penalty, including forfeiture of property.

§ 68-02 Definitions

For the purposes of this ordinance:

- A. Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., shall have the definition given in the Michigan Medical Marihuana Act.
- B. Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in the Medical Marihuana Facilities Licensing Act.
- C. Any term defined by the Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marihuana Tracking Act.

- D. "Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.
- E. "Licensee" means a person holding a State operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- F. "Marijuana" or "marihuana" means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.
- G. "Marihuana facility" means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marihuana grower, marihuana processor, marihuana provisioning center, marihuana secure transporter, or marihuana safety compliance facility. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.
- H. "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- I. "Processor" means a licensee that is a commercial entity located in Michigan 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.
- J. "Provisioning center" means a licensee that is a commercial entity located in Michigan that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.
- K. "Safety compliance facility" means a licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.
- L. "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.

#### § 68-03 Authorization of Facilities and Fee

- A. There is no limitation on the maximum number of each type of marihuana facility permitted in the City of Lapeer.
- B. The Lapeer City Commission, at any time, may review this Ordinance and determine whether the number should be limited and if so, determine a maximum number for each type of marihuana facility. However, it shall not limit the number of licenses to a number less than those currently approved. The review and its findings shall be recorded in the minutes of the relevant meeting of the Lapeer City Commission.
- C. An annual nonrefundable fee shall be paid by each marihuana facility licensed under this Ordinance in an annual amount of not more than \$5,000.00 as set forth in the City of Lapeer Fee Schedule as approved by the City Commission.
  - (1) Should any person, for whatever reason, not receive a license under 68.04 C. (1) Application or (2) Provisional License, one half of the

application fee may be returned provided that no appeal process has occurred.

#### § 68-04 Requirements and Procedure for Issuing License

- A. No person shall operate a marihuana facility in the City of Lapeer without a valid marihuana facility license issued by the City of Lapeer pursuant to the provisions of this Ordinance as authorized by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- B. A marihuana facility license issued under this Ordinance is valid for one year and is not transferable.
- C. The procedure in processing a request for a marihuana facility license will involve three steps as follows:

(1) Application.

- (a) File an application with the City Clerk's office upon a form provided by the City of Lapeer and submittal of the annual nonrefundable fee.
- (b) Upon the applicant's completion of the application form and furnishing all required information and documentation, the City Clerk's office shall accept the application and assign it a sequential application number by facility type based on the date and time of acceptance. No application will be accepted without all required information and documentation attached.
- (c) The City Clerk's office shall refer the application to the Assessing Department to verify that the proposed site is outside the buffer zones stipulated in Section 7.13.12(i) of the Zoning Ordinance and to the Planning Department to verify that the property is located in a zoning district that allows the permitted use. The Assessing Department and the Planning Department shall respond to the City Clerk's office within 10 business days.
- (d) The City Clerk's office shall act to approve or deny an application not later than fifteen (15) business days from the date the fully completed application was accepted.
- (e) If approved, the City Clerk's office shall issue the applicant a provisional license.

(2) Standards for Issuance of Provisional License.

The Clerk shall issue a Provisional License under this Ordinance when, from a consideration of the application and from such other information as may otherwise be obtained, the Clerk determines that:

- (a) The application (including any required attachments and submissions) is complete and signed by the applicant;
- (b) The Applicant has paid the nonrefundable application fee and any other fees required;
- (c) The application does not contain a material falsehood or misrepresentation;
- (d) The proposed location of the Facility is permitted in the location sought to be approved as outlined in Section 68.04.C(3)(a).

(3) Provisional License.

- (a) A provisional license means only that the applicant has submitted a valid application for a marihuana facility license, that the proposed facility is located in a proper zoning district, that the proposed

facility is not located in a required buffer zone and the applicant shall not locate or operate a marihuana facility without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the City of Lapeer.

- (b) A provisional license will lapse and be void if such permits and approvals are not diligently pursued as follows:
  - (i) Existing structure with no site changes. 90 days
  - (ii) Existing structure with minimal site changes 1 year requiring an Administrative zoning review.
  - (iii) Proposed construction of a structure requiring 1 year Site Plan Review by the Planning Commission.
- (c) After submission of all other permits and approvals required under the provisional license, and payment of the annual nonrefundable fee the City Clerk's office shall approve or deny the marihuana facility license with fifteen (15) business days.

(3) Marihuana Facility License.

A permit issued pursuant to this Ordinance does not eliminate the need for the Applicant to obtain other required licenses and permits related to the operation of the facility(ies) sought to be approved hereunder, including, without limitation, any and all necessary business registration and licenses, building permits, mechanical permits, plumbing permits, or electrical permits. Before a Marihuana Facility License can be issued under this Ordinance, all requirements as listed below, including all other applicable provisions within the City of Lapeer's Ordinances must be met.

- (a) Submit a photocopy of the applicant's valid and current license issued by the State of Michigan in accordance with the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- (b) Maintaining a valid marihuana facility license by the State of Michigan is a condition for the issuance and maintenance of a marihuana facility license under this Ordinance and continued operation of any marihuana facility.
- (c) Site plan approval and/or other necessary approved permits per Chapter 7 (Zoning Ordinance) are required before the City Clerk is permitted to issue a license.
- (d) All City of Lapeer departments are required to sign-off on their review of the provisional license once approval has been determined. The City of Lapeer Departments and licensed professionals that are part of the review and approval process are as follows:
  - (i) Planning Department, Planner/Planning Consultant.
  - (ii) Department of Public Works, Director of Public Works.
  - (iii) Building Department, Building Official.
  - (iv) Assessing Department, Assessor.
  - (v) Fire Department, Fire Chief.
  - (vi) Police Department, Police Chief.
  - (vii) City Engineering Consultant (site plan reviews only).
- (e) Execute a statement to be initialed by the Applicant that the Applicant and the employees of the Facility(ies) may be subject to prosecution under federal marijuana laws.
- (f) Execute a statement to be initialed by the Applicant that the City of Lapeer accepts no legal liability in connection with the approval and subsequent operation of the Facility.

**§ 68-05 Denial or Revocation of License and Appeal Process**

- A. Denial. An application may be denied by the City Clerk in writing setting forth the grounds for such denial for one or more of the following criteria:
- (1) A failure to meet the conditions or maintain compliance with the standards and requirements established by this ordinance in reference to the operation of a licensed facility; or
  - (2) One or more violations of the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., or any city ordinance on the premises; or
  - (3) Maintenance of a nuisance on the premises; or
  - (4) Nonpayment of real and/or personal property taxes, fines, liens, income tax, hydrant and sprinkler fees or any fees owed to the City; or
  - (5) A demonstrated history of excessive calls for public safety (police, fire and ambulance); or
  - (6) Applicant has made or provided false information in the application or has otherwise become disqualified for the issuance of a marihuana facility license within any part of the requirement and procedure for issuing a license.
- B. Revocation. A Marihuana Facility License may be revoked by the City Clerk based on the following:
- (1) Violation of the standards for approval in Section 68-05.A. of this ordinance.
  - (2) Denial, suspension, revocation or restriction of license by the State of Michigan.
  - (3) A violation of the Act, any state or local regulations, the provisions of this ordinance or the provisions of a license.
  - (4) (a) Conviction of or release from incarceration for a felony under the laws of this state, or any other state, or the United States of the Applicant or the Applicant's managerial employees within the past 10 years or has been convicted of a controlled substance-related felony within the past 10 years.  
  
(b) Conviction of an Applicant or an Applicant's managerial employees of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or has been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state within the last 5 years.
  - (5) Operations have ceased at the Facility for more than 90 days, including during a change of ownership of the Facility.
  - (6) Ownership of the Facility has been transferred without the new owner obtaining a Marihuana Facility License pursuant this Ordinance.
- C. Notice of Decision.
- The Clerk shall notify the Applicant of the decision to deny an application for or the revocation of a Marihuana Facility License under the terms and provisions of this Ordinance within three business days of rendering the decision. Notice shall be given by mailing a copy of the Clerk's decision to the Applicant or License holder by certified mail and/or personal service postage prepaid, at the address shown in the application. Notice is deemed to have been properly given upon mailing by certified mail and/or personal service.
- D. Appeal Process.

An Applicant or Licensee has the right to appeal the Clerk's denial of an application for or the revocation of a Marihuana Facility License to the Lapeer City Commission.

- (1) Any person whose application or license has been denied, suspended, revoked or restricted by the State of Michigan has no recourse through the appeal process with the City of Lapeer.
- (2) Any person whose application or license has been denied or revoked under 68-05 A. or 68-05 B. by the City of Lapeer will have thirty (30) days from the date of the notice to provide a written response to the City of Lapeer.
- (3) The Applicant or Licensee shall be provided with not less than ten (10) days' prior written notice of the appeal hearing to be held by the City Commission.
- (4) The burden of proof in an appeal filed under this section shall be on the Applicant or Licensee.
- (5) If the Lapeer City Commission finds by a preponderance of the evidence that the decision of the Clerk was correct, the Lapeer City Commission shall uphold the decision of the Clerk. If the Lapeer City Commission finds by a preponderance of the evidence that the decision of the Clerk was incorrect, the Clerk's decision shall be set aside and the Marihuana Facility License issued (if it was previously denied) or reinstated (if it was previously revoked).
- (6) Any decision made by the Lapeer City Commission pursuant to this section shall be a final decision and may be appealed to a court of competent jurisdiction by any person within thirty (30) days of the date of the City Commission decision. The Applicant's or Licensee's failure to timely appeal the decision is a waiver the Applicant's or Licensee's right to contest the denial of the application or the revocation of the Marihuana Facility License.
- (7) Any person whose license has been denied or revoked shall not be able to reapply for any type of license allowed under this Ordinance for one year from the date a denial or revocation became effective.

#### § 68-06 License Renewal

- A. A marihuana facility license shall be valid for one year from the date of issuance, unless revoked as provided by law.
- B. A valid marihuana facility license shall be renewed on an annual basis by submitting a renewal application upon a form provided by the City of Lapeer and payment of the annual license fee. Application to renew a marihuana facility license shall be filed at least thirty (30) days prior to the date of its expiration.

#### § 68-07 Applicability

The provisions of this Ordinance shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marihuana facility were established without authorization before the effective date of this Ordinance.

#### § 68-08 Penalties and Enforcement

- A. Any person who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and subject to the payment of a civil fine as outlined in the City Ordinance, Chapter 62, Section 62.04. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.

- B. A violation of this Ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, the City of Lapeer may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Ordinance.
- C. This Ordinance shall be enforced and administered by the City of Lapeer Police Department or such other City of Lapeer official as may be designated from time to time by resolution of the Lapeer City Commission.

§ 68-09 Severability

In the event that any one or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this Ordinance.

§ 68-10 Effective Date

This Ordinance shall take effect on April 1, 2018.  
Date of Publication: \_\_\_\_\_

CHAPTER 7  
Zoning Ordinance

Sec. 7.06.02, Table 7.06.1

**OS-1 Office Service District, B-2 General Business District, B-3 Regional Business District-**

| Use   | OS-1 | B-1 | B-2 | B-3 | Additional Requirements |
|---|------|-----|-----|-----|-------------------------|
| <b>Medical Marihuana Facility Uses</b>        |      |     |     |     |                         |
| Medical Marihuana Provisioning Center         |      |     | P   | P   | Section 7.13.12         |
| Medical Marihuana Safety Compliance Facility  | SLU  |     | SLU |     | Section 7.13.12         |
| Medical Marihuana Secure Transporter Facility |      |     | SLU | SLU | Section 7.13.12         |

Sec. 7.07.02, Table 7.07.1

**CBD-1 Central Business District and CBD-2 Central Business District –**

| Use                                    | CBD-1 | CBD-2 | Additional Requirements |
|--|-------|-------|-------------------------|
| <b>Medical Marihuana Facility Uses</b> |       |       |                         |
| Medical Marihuana Provisioning Center  | P     | P     | Section 7.13.12         |

Sec. 7.08.02, Table 7.08.1

**I-1 Industrial District and I-2 Planned Industrial District –**

| Use   | I-1 | I-2 | Additional Requirements |
|---|-----|-----|-------------------------|
| <b>Medical Marihuana Facility Uses</b>          |     |     |                         |
| Medical Marihuana Grow Facility                 | P   | P   | Section 7.13.12         |
| Medical Marihuana Processor/Processing Facility | P   | P   | Section 7.13.12         |
| Medical Marihuana Safety Compliance Facility    | P   | P   | Section 7.13.12         |
| Medical Marihuana Secure Transporter Facility   | P   | P   | Section 7.13.12         |

**Article 7.13 USE REQUIREMENTS**

Sec. 7.13.12 Medical Marihuana Facility Uses

- (a) Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by state law may not be permitted by City of Lapeer. In the event that a court with jurisdiction declares some or all of this article invalid, then City of Lapeer may suspend the acceptance of applications pending the resolution of the legal issue in question.
- (b) At the time of application for a permit the marihuana facility must be licensed by the State of Michigan and then must be at all times in compliance within the laws

of the State of Michigan including but not limited to the Michigan Medical Marihuana Act, MCL 33 3.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the State of Michigan.

- (c) Facilities shall provide a security plan in compliance with the Department of Licensing and Regulatory Affairs rules.
- (d) The use or facility must be at all times in compliance with all other applicable state laws and ordinances of City of Lapeer.
- (e) Marihuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the provisioning center.
- (f) All medical marihuana facilities activity shall be conducted in a fully enclosed building and outdoor display, sales, or storage shall not be allowed.
- (g) A marihuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales of marihuana, may not be permitted as a home business or accessory use nor may they include accessory uses except as otherwise provided in this ordinance.
- (h) Hours of Operation.
  - a. Hours of operation of provisioning center facilities shall be restricted to be between the hours 7 am to 11 pm.
  - b. Hours of operation of safety compliance facilities shall be restricted to be between the hours of 7 am to 7 pm.
- (i) Buffer Requirements are considered a setback or separation area in which a Medical Marihuana use permitted under this ordinance must maintain a defined spacing from an existing use as stated below. Buffers are measured from the property line as determined by the City of Lapeer Assessing Department. A proposed Medical Marihuana use must be outside of designated buffer areas.
  - a. A 1,000 foot buffer is required from all public, parochial and other private schools offering courses in general education, and consisting of grade levels kindergarten through 12<sup>th</sup> grade. This buffer requirement is in correlation with the State of Michigan Drug Free School Zone (MCL 333.7410) not including measuring procedures along a public right-of-way.
  - b. A 500 foot buffer is required from all licensed child care centers, child day care centers, nursery schools and child care institutions. All facilities listed here pertain to child care facilities that cater to children under the age of 18 but excluding those operating out of a private home such as child care group home and child care family home licenses. Such facilities, centers and institutions are further defined in 7.24(f)(1) and 7.24(f)(2) of this Zoning Ordinance.
  - c. A 500 foot buffer is required from all Federal owned, used, or operated property. Such Federal uses currently include the United States National Guard Armory of Michigan, Telecommunication Exchange Federal Facility, and the United States Postal Office, excluding transportation facilities such as the railroad and interstate I-69.
  - d. A 200 foot buffer is required from all designated public parks within the City of Lapeer, excluding trail ways and cemeteries such as Linear Park and Oakdale Cemetery.
- (j) Buildings used for grow facilities, processor facility, safety compliance facility, provisioning center, and secure transport shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall 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. The filter (s) shall be rated for the applicable CFM. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days or as determined by the manufacture's recommendations. Negative air pressure shall be maintained

inside the building. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.

- a. An alternative odor control system is permitted if the applicant submits and the City of Lapeer Planning Commission accepts a report by a mechanical engineer licensed in the State of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The City of Lapeer may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.

**Article 7.16 PARKING, LOADING, ACCESS, AND CIRCULATION REQUIREMENTS, TABLE 7.16.1**

| <b>Medical Marihuana Facility</b>               |  |
|---|--|
| Medical Marihuana Grow Facility                 | One (1) space per employee in the largest working shift, plus two (2) additional spaces.   |
| Medical Marihuana Processor/Processing Facility | Five (5) plus one (1) space for every one and one-half (1 ½) employees in the largest working shift. Space on site shall also be provided for all construction workers during periods of plant construction. |
| Medical Marihuana Provisioning Center           | 1 space per 275 square feet of gross floor area, including outdoor sales space.  |
| Medical Marihuana Safety Compliance Facility    | Five (5) plus one (1) space for every one and one-half (1 ½) employees in the largest working shift. Space on site shall also be provided for all construction workers during periods of plant construction. |
| Medical Marihuana Secure Transporter Facility   | Five (5) plus one (1) space for every one (1) employee, in the largest working shift, or five (5) spaces plus one (1) space for each 1,700 sq.ft. of UFA, whichever is the greater.                          |

**Article 7.20 NONCONFORMING USES OF LAND AND STRUCTURES**

Sec. 7.20.04 Nonconforming Use of Land

**7.20.04. (e) Medical Marihuana Nonconforming Use**

- A. No marihuana facility operating or purporting to operate prior to [adoption date], shall be deemed to have been a legally existing use nor shall the operation of such marihuana facility be deemed a legal nonconforming use under this Ordinance.
- B. A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this Ordinance or any amendment thereto.
- C. Discontinuation of a State Medical Marihuana Facility License shall constitute prima facie evidence that a nonconformity has been discontinued.

**Article 7.24 DEFINITIONS**

**7.24.09 Definitions M-N**

Marijuana or marihuana – The term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.

1. Grower – A licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.
2. Licensee - A person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
3. Medical Marihuana Facility - An enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marihuana grower, marihuana processor, marihuana provisioning center, marihuana secure transporter, or marihuana safety compliance facility. The term does not include or apply to a

"primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

4. Outdoor Production – The growing of marihuana in an expanse of open or cleared ground or in a greenhouse, hoop house, or similar non-rigid structure that does not utilize any artificial lighting, including but not limited to electrical lighting sources.
5. Person - An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
6. Processor - A licensee that is a commercial entity located in Michigan 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.
7. Provisioning Center - A licensee that is a commercial entity located in Michigan that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance within the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.
8. Safety Compliance Facility - A licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.
9. Secure Transporter – A licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

Pursuant to Public Act 279 of 1909, MCL 117.3, a summary will be used for publication purposes.

Doug Piggott, Senior Planner with Rowe Professional Services Company provided a presentation of Impact of LARA Emergency Rules, City approval process, buffer zones, clarification of exclusion of private home child care group home and child care family home licenses, transportation facilities such as the railroad and Interstate I-69, trail ways and cemeteries such as Linear Park and Oakdale Cemetery; advised that both himself and Caitland McGoldrick will not be present at the next Commission meeting and to let them know of any issues they can address beforehand.

#### **CITY MANAGER'S REPORT**

City Manager Dale Kerbyson introduced new Chief Deputy City Clerk Renee Wilson.

#### **CITY ATTORNEY'S REPORT**

None.

#### **PUBLIC COMMENTS**

None.

#### **UNFINISHED BUSINESS**

##### **21 2018 02-05**

Moved by Marquardt. Seconded by Osentoski.

Appoint Bruce Huber to the Board of Review, term expiration 01-01-21.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

**MOTION CARRIED.**

#### **DEPARTMENTAL COMMUNICATIONS**

The Monthly Departmental Reports was received into record.

## **MAYOR/COMMISSIONER COMMENTS**

Commissioner Atwood: Coffee with Commish, issues/complaints brought up will bring up at next meeting; Youth Council to meet twice a month, next meeting will be Thursday, looking at projects, funding and budgets.

Commissioner Bostick-Tullius: To attend Congressional Leader meeting in DC.

Commissioner Osentoski: Happy to see ET White building sold, projects going on there.

Commissioner Bennett: First time saw modified language to marihuana and zoning ordinance, would like to have had information beforehand.

City Manager Dale Kerbyson: Met with Developer for ET White, good plans in the works and will be very nice for the City; spoke with representatives for small housing developer to look at their projects.

Mayor Sprague: Attended Citizens of the Year Awards Banquet, those nominated and what they do in the community is fantastic; audit and looking forward to another great year.

## **ADJOURNMENT**

**22 2018 02-05**

Moved by Bennett.

Adjourn the regular meeting.

Ayes: Atwood, Bennett, Bostick-Tullius, Gates, Marquardt.

Nays: None.

Absent: None.

**MOTION CARRIED.**

The regular meeting adjourned at 7:04 p.m.

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Mayor William J. Sprague

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Donna L. Cronce, MMC, City Clerk

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Tracey S. Russell, Deputy City Clerk