
ORDINANCE NO. 2018-_____

AN ORDINANCE OF THE CITY OF JACKSON, MICHIGAN TO ESTABLISH REQUIREMENTS FOR MEDICAL MARIHUANA FACILITIES AND RECREATIONAL MARIHUANA ESTABLISHMENTS, TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE OF THE CITY OF JACKSON; TO SET LICENSING FEES FOR THE PURPOSE OF DEFRAYING THE COSTS ASSOCIATED WITH THE IMPLEMENTATION AND ENFORCEMENT; AND TO PROVIDE PENALTIES FOR VIOLATIONS.

THE PEOPLE OF THE CITY OF JACKSON ORDAIN:

Section 1. Purpose.

The purpose of this Ordinance is to exercise the police, regulatory, and land use powers of the City by licensing and regulating medical marihuana provisioning centers, medical marihuana grower facilities, medical marihuana safety compliance facilities and medical marihuana secure transporters to the extent permissible under State law to protect the public health, safety, and welfare of the residents of the City.

A secondary purpose of this Ordinance is to state the City of Jackson's intention to opt in to the Michigan Regulation and Taxation of Marihuana Act with the specific regulations for recreational marihuana facilities to be determined at a later date after the State of Michigan has developed laws and rules for such establishments.

The City finds that the operation of medical marihuana facilities and recreational marihuana establishments is helpful to the public health and welfare of its citizens and it is therefore necessary to regulate and enforce safety and health practices related to such facilities.

Section 2. That Article XVIII of Chapter 16 of the City of Jackson Code of Ordinances be amended as follows:

ARTICLE XVIII. MARIHUANA USES.

Sec. 16-510. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. In addition, any term defined by the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq., as amended ("MMMA"), the Medical Marihuana Facilities Licensing Act ("MMFLA"), 2016 PA 281, and/or the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 ("MRTMA"), shall have the definition given in the MMMA, as

amended, the MMFLA, as amended or the MRTMA as amended. If the definition of a word or phrase set forth in this Chapter conflicts with the definition in the MMMA, the MMFLA, or the MRTMA or if a term is not defined but is defined in the MMMA, the MMFLA or the MRTMA, then the definition in the MMMA, the MMFLA and/or the MRTMA shall apply. Also, any term defined by 21 USC 860(E) referenced in this Chapter shall have the definition given by 21 USC 860(E).

Advisory Bulletin means an Advisory Bulletin for the Medical Marihuana Facilities Licensing Act posted by the Department of Licensing and Regulatory Affairs Bureau of Medical Marihuana Regulation Division.

Bureau means the Bureau of Medical Marihuana Regulation, a division of the Department of Licensing and Regulatory Affairs.

Chapter means Chapter 16 of the Code of the City of Jackson, as amended

City means the City of Jackson, Michigan.

Code means the Code of Ordinances of the City of Jackson, as amended.

Council, or *City Council* means the City Council of Jackson, Michigan.

Emergency Rules means the Emergency Rules for the Medical Marihuana Facilities Licensing Act promulgated by the Department of Licensing and Regulatory Affairs Bureau of Medical Marihuana Regulation Division, as amended.

Enclosed Locked Facility means a closet, room, or other comparable, stationary, and fully enclosed are equipped with secured locks or other functioning security devices. Marihuana plants grown outdoors are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground and as defined in the by state law. If this definition is amended by Michigan law, the amended definition shall apply.

Grower means a licensee that is a commercial entity located in this state that cultivates, dries, trims, and/or cures and packages marihuana for sale to a provisioning center, or another grower.

LARA means the State of Michigan Licensing and Regulatory Affairs division which is charged with administration and enforcement of the Michigan Medical Marihuana Act and the Michigan Medical Marihuana Facilities Licensing Act.

License Application refers to the requirements and procedures set forth in this Article.

Medical Marihuana Home Use means either:

- (a) A dwelling where a qualifying patient grows or uses medical marihuana for his or her personal consumption in the privacy of the patient's primary residence, or
- (b) A dwelling or accessory structure to a dwelling where a registered primary caregiver grows medical marihuana in or at his primary residence for registered qualifying patients with whom the primary caregiver is registered to through the Michigan Licensing and Regulatory Affairs Division (LARA) or its successor.

Licensee means a person holding a state operating license and a City of Jackson license to operate a medical marihuana facility.

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

Marihuana Establishments means a marihuana grower, marihuana safety compliance facility, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by LARA.

Marihuana facility means a location at which a licensee is licensed to operate under the MMFLA and the Code.

Marihuana plant means any plant of the species *Cannabis sativa* L.

Marihuana product means marihuana or marihuana infused product, or both, as those terms are defined in in the MMFLA, Emergency rules or advisory bulletins of LARA.

Medical marihuana facility means a grower, provisioning center, safety compliance facility or secured transporter as defined herein and as defined in the Michigan Medical Marihuana Facilities Licensing Act and its rules and regulations, as amended that has a current license to operate from both the State of Michigan and the City of Jackson.

Medical Marihuana Rules means rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, by LARA.

Michigan Medical Marihuana Act means the Michigan Medical Marihuana Act, MCL 333.26421 to 333.26430.

Michigan Medical Marihuana Facilities Licensing Act means the Michigan Medical Marihuana Act, 2016 PA 281.

Michigan Regulation and Taxation of Marihuana Act or *MRTMA* means the Act passed by the voters of the State of Michigan at the November 6, 2018 election which is expected to be referred to as Initiative Law 1 of 2018.

MMMA refers to MCL 333.26421 et seq., known as the Michigan Medical Marihuana Act.

Ordinance means this Ordinance.

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

Primary caregiver means an individual as defined by the MMMA and as authorized by and registered through LARA to grow and distribute medical marihuana for up to five (5) qualifying patients.

Primary residence means the one place where a person has his or her true, fixed and permanent home to which, whenever absent, he or she intends to return and that shall continue as a principal residence until another principal residence is established.

Qualifying patient means an individual, as defined by the MMMA, that has been diagnosed by a physician as having a medical condition alleviated by the use of medical marihuana, and who is registered through LARA to grow and/or consume medical marihuana.

Stakeholder means, with respect to a trust, the beneficiaries; with respect to a limited liability company, the managers or members; with respect to a corporation, whether profit or non-profit, the officers, directors, or shareholders; and with respect to a partnership or limited liability partnership, the partners, both general and limited.

State means the State of Michigan.

Sec. 16-511. No license required for medical marihuana home use.

No license from the City Clerk is required by either a qualifying patient or a primary caregiver to operate a medical marihuana home use.

Sec. 16-512. Requirements for medical marihuana home uses.

For purposes of a medical marihuana home use, the following shall apply:

- (A) A registered qualifying patient may grow twelve (12) marihuana plants for his or her personal use in his or her primary residence.
- (B) A primary caregiver may grow twelve (12) marihuana plants in his or her primary residence for each of up to five (5) registered qualifying patients with whom the primary caregiver is connected to through the Michigan Licensing and Regulatory Affairs Division (LARA) or its successor agency.
- (C) A primary caregiver also may grow twelve (12) marihuana plants for himself or herself if the primary caregiver is also a registered qualifying patient.

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- (D) A primary caregiver may only transfer medical marihuana to a maximum of five (5) qualifying patients with whom the primary caregiver is registered through LARA.
 - (E) Not more than twenty (20%) percent of the total floor area, including a basement, of a dwelling unit can be used for the growing of medical marihuana plants.
 - (F) The principal use of the dwelling used for the medical marihuana home use must be residential occupancy and must be in actual use as such.
 - (G) There shall be no on-site person-to-person transfers of medical marihuana on the premises of a primary caregiver, however a primary caregiver may deliver medical marihuana to the primary residence of his or her registered qualifying patients without the use of a secured transporter.
 - (H) There can be no alteration to or activity at the exterior of the dwelling or yard that alters the residential character of the premises.
 - (I) The medical marihuana home use must not generate a volume or character of pedestrian or vehicular traffic beyond that normally generated by homes in the residential neighborhood.
 - (J) Only off-street parking facilities that are normal for residential use and located on the premises may be used.
 - (K) No offensive noise, vibration, smoke, dust, odor, heat or glare noticeable at or beyond the property line is permitted.
 - (L) All medical marihuana plants must be contained in an enclosed, locked facility as that term is defined by Michigan law.
 - (M) If medical marihuana plants are contained in an enclosed, locked facility. The enclosed, locked facility must be:
 - (1) Located farther than one thousand (1000) feet from a school or library; and
 - (2) In compliance with all building and zoning regulations for accessory structures contained in Chapters 14 and 28 of this Code.
 - (N) The outdoor cultivation of medical marihuana must comply with the Emergency Rules and applicable State law, as amended.
 - (O) A medical marihuana home use must be in compliance with all provisions of this Code.
 - (P) A medical marihuana home use must be in compliance with the Michigan Medical Marihuana Act, and its rules and regulations, as amended.

Sec. 16-513. License Allocation and Annual Fees.

- (A) No person shall operate a Provisioning Center, Grower Facility, Safety Compliance Facility, or Secure Transporter Facility in the City of Jackson without first obtaining a license to do so from the City Clerk and the State of Michigan.
- (B) The City Clerk, after the approval from City Council, shall issue no more than the following numbers and types of facility licenses. The term of each license shall be one (1) year. The following are the numbers and types of licenses:
 - 1. Two (2) Grower Licenses of Class A (maximum of 500 marihuana plants) as defined in the MMFLA which are not stackable;
 - 2. Three (3) Provisioning Center Licenses;
 - 3. Two (2) Safety Compliance Facility License; and
 - 4. Two (2) Secure Transporter License.

There shall be a non-refundable fee for the application and license. The non-refundable fee for a Medical Marihuana Facility license shall be established by Resolution of the City Council and shall only license one type of facility.

- (C) A licensee may only hold one license for each of the types of medical marihuana facilities, although a licensee may hold licenses for different types of medical marihuana facilities if all of the facilities are co-located in one structure. For example, a licensee may not hold two City provisioning center licenses but may hold one City provisioning center license and one City grower license if the provisioning center and the grow operation are located in the same structure. The fact that the licensee may have been issued two State licenses for the same type of facility is irrelevant to the City's licensing process.

Sec. 16-514. License Application Committee.

- (A) A Medical Marihuana Licensing Review Committee (hereafter Committee) shall be created and consist of the City Manager, the Director of Police and Fire Services, the Director of Neighborhood and Economic Operations, the Chief Building Official, and one (1) Councilmember selected by the City Council.
- (B) The Committee shall review applications deemed complete by the City Clerk for medical marihuana facilities pursuant to a set of guidelines to be determined by the Committee and approved by City Council. Incomplete applications will not be reviewed by the Committee. The guidelines established by the Committee and approved by City Council shall include, but not be limited to, the following areas of assessment of the applicant and its stakeholders: financial status and history, business history, regulatory compliance

history, criminal history, tax payment history, litigation history, and bankruptcy history. In addition, the guidelines shall assess the location of the proposed facility and the structure which will contain the facility, job opportunities created by the applicant, and the community impact of the proposed facility and the social responsibility of the applicant and its stakeholders. The guidelines will be posted on the City of Jackson webpage once approved by the City Council

- (C) After assessing the applicant according to the guidelines above, the Committee shall make a recommendation to the City Council as to whether a facility license should be issued to the applicant, as well as any conditions that should be complied with in order to obtain the license.

Sec. 16-515. License Applications Submission.

- (A) Application for each Medical Marihuana Facility license required by this Chapter shall be made in writing to the City Clerk, and must be approved by the City Council after receiving a recommendation submitted by the Medical Marihuana Licensing Committee. The applicant must also have been approved by the State of Michigan prior to the granting of a license by the City and prior to commencing operation of a facility. Additional complete copies of the application must also be provided to the City Clerk to distribute to the following City staff:

1. The City Attorney;
2. The City Engineer;
3. The City Manager;
4. The Director of Neighborhood and Economic Operations;
5. The Director of Police and Fire Services; and
6. The City Treasurer.

- (B) Upon the expiration of an existing license, a license will be automatically renewed by the City of Jackson for one (1) year if:

1. There are no uncured administrative violations in the prior year;
2. The applicant or its stakeholders have paid the annual licensing fee for the renewal period;
3. Any Stakeholder changes have been fully disclosed to the City of Jackson;
4. Neither the applicant nor any of its stakeholders are in violation of any provision of the Code;

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5. The property where the facility will be located has been certified by the Director of Neighborhood and Economic Operations to be in compliance with the City of Jackson's building design standards and the approved site plan for the property;
 6. The applicant has no unpaid delinquent taxes, special assessments, fees or charges of any type owed to the City, and
 7. The applicant has paid and received the renewal of its State license.
- (C) An application for a Medical Marihuana Facility license required by this chapter shall contain the following:
1. The appropriate non-refundable application and licensee fee per Resolution of the City Council;
 2. A complete copy of the application package submitted to the State of Michigan for the facility license;
 3. If the applicant is an individual, the applicant's name, date of birth, physical address, copy of government issued photo identification, email address, and one or more phone numbers, including emergency contact information;
 4. If the applicant is not an individual, the names, physical addresses, email addresses, and one or more phone numbers of each stakeholder of the applicant, including designation of the highest ranking stakeholder as an emergency contact person and contact information for the emergency contact person, articles of incorporation, or assumed name registration documents, Internal Revenue Service SS-4 EIN confirmation letter, and a copy of the operating agreement of the applicant, if a limited liability company, a copy of the partnership agreement, if a partnership, or a copy of the by-laws or shareholder agreement, if a corporation;
 5. The name and address of the proposed Medical Marihuana Facility and any additional contact information deemed necessary by the City Clerk;
 6. For the applicant and/or for each stakeholder of the applicant, an affirmation under oath that they are at least 18 years of age and have never been convicted of or pled guilty to any criminal offense under the laws of any jurisdiction for a controlled substance related crime. If convicted of such an offense, the applicant must provide information of the conviction, including the date, name and location of the court, arresting agency, and prosecuting agency, the case caption, the docket number, the offense, the disposition, and the location and length of incarceration.
 7. A signed release authorizing the Department of Police and Fire Services to perform a criminal background check to ascertain whether the applicant, each stakeholder of the applicant, each managerial employee (if known at the time of application) and employee (if known at the time of application) of the applicant

meet the criteria set forth in this Ordinance. For any managerial or other employee hired after the date of the license application, this release must be provided within ten (10) days of the commencement of employment.

8. A signed release consenting to and authorizing the Department of Police and Fire Services to inspect the premises of the facility for compliance with the provisions of this Code;
9. The name, date of birth, physical address, copy of photo identification, and email address for any managerial employee or employee of the Medical Marihuana Facility, if other than the applicant. For any managerial or other employee hired after the date of the license application, this information must be provided within ten (10) days of the commencement of employment.
10. An affirmation under oath as to whether the applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action;
11. A copy of the proof of financial responsibility submitted to LARA with the state application.
12. One of the following:
 - (a) Proof of an ownership interest of the entire premises wherein the Medical Marihuana Facility is to be operated. Co-ownership with a person or person who are not the owner, member or shareholder of the licensee is not permitted; or
 - (b) Written consent from the property owner for use of the premises in a manner requiring licensure under this chapter along with a copy of the lease for the premises;
13. Proof of an adequate premise liability and casualty insurance policy in the amount not less than \$1,000,000 per occurrence, covering the Medical Marihuana Facility and naming the City as an additional insured party, available for the payment of any damages arising out of an act or omission of the applicant or its stakeholders, agents, employees, or subcontractors;

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14. A description of the security plan meeting all requirements of the Emergency Rules for the Medical Marihuana Facility, including, but not limited to, any lighting alarms, and recording/monitoring devices. The security plan must contain the specification details of each piece of security equipment and must be approved by the Director of Police and Fire Services;
 15. A copy of the marihuana facility plan required by LARA as well as a floor plan of the Medical Marihuana Facility, and a scale diagram illustrating the property upon which the Medical Marihuana Facility is to be operated, including all available parking spaces, and specifying which parking spaces, if any, are handicapped-accessible;
 16. A copy of a current certificate of occupancy and zoning compliance certificate for the structure housing the facility;
 17. An affidavit that neither the applicant nor any Stakeholder of the applicant is in default to the City. Specifically, that the applicant or Stakeholder of the applicant has not failed to file or pay any income taxes, property taxes, special assessments, fines, fee or other financial obligations to the City;
 18. An affidavit that the transfer of Marihuana to and from Medical Marihuana Facilities shall be in compliance with the MMMA and the MMFLA or other applicable state laws;
 19. A staffing plan;
 20. Any proposed text or graphical materials to be shown on the exterior of the proposed Medical Marihuana Facility;
 21. A business plan;
 22. A location area map of the Medical Marihuana Facility and surrounding area that identifies the relative locations and the distances (closest property line to the subject Medical Marihuana Facility's building) to the subject Medical Marihuana Facility to the closest real property types of property identified in Section 16-524 (A) of this Article. The applicant must also submit a boundary and ALTA survey at a standardized engineering scale, with the scale being chosen by City staff;
 23. A facility sanitation plan to protect against any Marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any Marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction in the sewerage system is prohibited;

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24. Copies of the financial statement of assets, copies of documents submitted to LARA to meet LARA's capitalization requirements, and copies of the CPA-attested financial statements required by the MMFLA, Emergency Rules and Advisory Bulletins.
 25. An affidavit that the liquid assets identified in the documents submitted in response to subsection 24 above will still be in liquid form at the time the license is issued by the City;
 26. As it relates to a Grower Facility, the following additional items shall be required:
 - (a) A grower plan that includes at a minimum a description of the Grower methods to be used, including plans for the growing mediums, treatments and/or additives;
 - (b) A production testing plan that includes at a minimum a description of how and when samples for laboratory testing by a state approved Safety Compliance Facility will be selected, what type of testing will be requested, and how the test results will be used;
 - (c) An affidavit that all operations will be conducted in conformance with the MMMA, the MMFLA or other applicable State laws and such operations shall not be cultivated on the premises at any one time more than the permitted number of Marihuana Plants per the MMMA, as amended, and the MMFLA, as amended; and
 - (d) A chemical and pesticide storage plan that states the names of pesticides to be used and where and how pesticides and chemicals will be stored in the facility, along with a plan for the disposal of unused pesticides.
- (D) Upon receipt of a completed Medical Marihuana Facility application meeting the requirements of this Article and confirmation that the number of existing licenses does not exceed the maximum number permitted by this Ordinance, the City Clerk shall refer a copy of the application to each of the following for their review and approval:
1. The City Attorney;
 2. The City Engineer;
 3. The City Manager;
 4. The Director of Neighborhood and Economic Operations;
 5. The Director of Police and Fire Services; and
 6. The City Treasurer.

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- (E) No application shall be approved unless:
1. Each of the staff listed in subsection (D) above has reviewed the application, found it to be complete and submitted comments regarding the applicant and the location of the facility;
 2. The Director of Neighborhood and Economic Operations has confirmed that the proposed location complies with the zoning requirements of Chapter 28 of the Code and that there is a current zoning compliance certificate and approved site plan for the property at which the facility will be located;
 3. The applicant, each Stakeholder of the applicant, and the managerial employees and employees of the applicant, have passed a criminal background check conducted by the Department of Police and Fire Services;
 4. The City Treasurer has confirmed that the applicant and each Stakeholder of the applicant are not in default to the City; and
 5. The City Attorney has completed a detailed review of the Medical Marihuana Facility application for compliance with the applicable state laws and City Ordinances;
- (F) Once comments are given by each individual or department identified in Subsection (D), the City Clerk shall then submit the application to the Medical Marihuana Licensing Review Committee for recommendation to the City Council for the issuing of a license to the applicant.
- (G) All licenses issued are contingent upon the State of Michigan issuing a license for the operation under State law;
- (H) Licensees shall report any other change in the information required to the City Clerk within ten (10) days of the change. Fees shall be set by Council Resolution for any Stakeholder or employee background check and review added after the original Application is filed.

Sec. 16-516. Deadlines for Submissions of Applications.

- (A) Initial applications for a medical marihuana facility shall be submitted beginning January 2, 2019 and will not be accepted after 11:00 am on March 4, 2019.
- (B) The Committee shall make its recommendations as to the complete applications submitted by the deadline above to the City Council for the initial facilities by 5:00 pm on July 22, 2019.

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- (C) City Council shall vote to either approve or disapprove the initial licenses beginning at the August Council meeting but all recommendations of the Committee must be voted on before the first Council meeting in October of 2019.
 - (D) Subsequent applications can be submitted by January 2 of each succeeding year beginning January 2, 2020. If January 2 falls on a Saturday or Sunday, then the first Monday after January 2 of that year. The Committee will make recommendations to the City Council before August of each succeeding year. Council shall approve any subsequent applications by October 31 of each succeeding year.

Sec. 16-517. No Temporary Operation Permitted.

No medical marihuana facility shall be permitted to operate with a City license pending a grant of a license to operate from the State of Michigan.

Sec. 16-518. Licenses Generally.

- (A) To the extent permissible, all information submitted in conjunction with an application for a license or license renewal required by this Chapter is confidential and exempt from disclosure under the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231 et seq. Furthermore, no personal information such as date of birth, social security number, home address, and home phone number of the applicant, stakeholders, or employees shall be submitted in any public document.
- (B) Licensees may transfer a license issued under this Chapter to a different location upon receiving written approval from the City Council after recommendation from the Committee. A request for a new location will require that the licensee go through the application approval process again and the licensee must make a written request to the City Clerk, indicating the current license location and the proposed license location. The applicant must also pay a facility transfer fee as set by Resolution of the City Council.
- (C) Licensees may transfer a license issued under this Chapter to a different individual or entity upon receiving written approval by the City Council after recommendation from the Committee. In order to request approval to transfer a license to a different individual or entity, the licensee must make a written request to the City Clerk, indicating the current licensee and the proposed licensee and must follow the full application process. The applicant must also pay a licensee transfer fee as set forth by Resolution of the City Council.
- (D) Licensees shall report any other change in the information required by this Chapter to the City Clerk within ten (10) business days of the change. Failure to do so may result in suspension or revocation of the license.

Sec. 16-519. General Requirements for all Medical Marihuana Facilities.

- (A) All activities related to Medical Marihuana, including those related to a Provisioning Center, a Grower Facility, Secure Transporter, or a Safety Compliance Facility shall be in compliance with the MMMA, the MMFLA, the rules and advisory opinions of the Medical Marihuana Licensing Board, the Michigan Department of Licensing and Regulatory Affairs or any successor agency, and the Code of Ordinances, resolutions, rules and regulations of the City of Jackson.
- (B) Any prospective licensee who engaged in the cultivation or processing of marihuana into a usable form, or the distribution of marihuana, or the testing of marihuana either prior to or after enactment of this Chapter but without obtaining the required licensing set forth in Chapter 16 of the Code shall be deemed to not be a legally established use and therefore not entitled to legal nonconforming status under the provisions of this Chapter, Chapter 28 of the Code, any other provision of the City Code, and/or under state law. The City finds and determines that at the time of adoption of this ordinance, the City has not previously authorized or licensed the existence of any Medical Marihuana Facility, as defined herein, in the City.
- (C) All facilities shall withhold City of Jackson income taxes from the pay of employees and timely submit all withholdings and documentation.
- (D) Before hiring a prospective employee of the applicant, the holder of a license shall conduct a background check of the prospective employee. If the background check indicates a conviction within the past ten (10) years for a controlled substance-related felony, the applicant shall not hire the prospective employee without written permission from the City Clerk after approval from the Committee;
- (E) No advertisements or packaging shall be targeted to appeal to minors. No packaging shall substantially resemble any form of candy, snack food, drink or other edible item not containing marihuana currently for sale to the general public. All edible marihuana product must be in child resistant packages or containers. All packaging of edible marihuana product shall conform to the MMFLA, the Emergency Rules and all Advisory Bulletins.
- (F) No doctor shall be permitted to offer certifications or examinations at the facility.
- (G) No alcohol, cigarettes, or over the counter pharmaceuticals may be sold on the premises.
- (H) Consumption of Marihuana shall be prohibited on the premises, and a sign shall be posted on the premises of each facility indicating that consumption is prohibited on the premises;

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- (I) All facilities must place Ten Thousand (\$10,000) Dollars in an escrow account to be held by the City to ensure payment of unpaid fines, costs and other fees owed to the City. The escrow will be returned to the applicant if no license is issued. If the City finds that a licensee has unpaid fines, fees or other costs, the City shall send the licensee a notice stating the unpaid amounts and giving the licensee ten (10) days to pay the unpaid amount. If the unpaid amount is not paid within the ten (10) day period, then the City may retain the funds to pay the unpaid amounts. All escrow funds shall be returned to the licensee at the end of the license term.
 - (J) All capitulation requirements of the MMFLA must be shown to be met.
 - (K) All facilities must have an approved certificate of occupancy and zoning certificate at the time of application or the application will not be considered.
 - (L) All Notification and Reporting requirements required by the Emergency Rules, as amended, must be followed concerning reporting of theft or diversion of marihuana product.
 - (M) The State of Michigan and City licenses must be prominently displayed at all times.
 - (N) No noise, dust, odors or other nuisance conditions in violation of the Code are permitted on the premises.
 - (O) No person is permitted to reside in a MMFLA facility.
 - (P) The premises shall be open, at all times, to Fire Fighters and Police Officers of the Department of Police and Fire Services, without a warrant and without notice to the licensee, to enter the premises, offices, facilities, or other places of business of a licensee, if there is probable cause of noncompliance with the MMMA, MMFLA, the Code or applicable state laws will be found and consistent with constitutional limitations, for the following purposes:
 - (1) To inspect and examine all premises of Medical Marihuana Facilities;
 - (2) To inspect, examine, and audit relevant records of the licensee and, if the licensee or any managerial employees or employees fails to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored;
 - (3) To inspect the person, and inspect or examine personal effects present in a Medical Marihuana Facility, of any holder of state operating license while that person is present in a Medical Marihuana Facility; and

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- (4) To investigate alleged violations of the MMMA and MMFLA or applicable state laws.
 - (Q) All marihuana shall be contained within an enclosed, locked facility in accordance with the MMMA and MMFLA, as amended.
 - (R) There shall be no other accessory uses permitted within the facility.
 - (S) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Marihuana is exposed;
 - (T) Facilities shall be free from infestation by insects, rodents, birds, or vermin of any kind. There shall be adequate screening or other protection against the entry of pests.
 - (U) Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for waste becoming an attractant, harborage or breeding places for pests.
 - (V) Disposal of Marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in non-conformance with state laws;
 - (W) Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms;
 - (X) Signage shall comply with the Code and with all state laws and rules and advisory bulletins of LARA.
 - (Y) In addition to all security measures required by the State of Michigan, all Medical Marihuana Facilities shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras capable of recording with reasonable clarity at night. The video recordings shall be maintained in a secure, off-site location for a period of thirty (30) days.
 - (Z) The dispensing of medical marihuana for consumption at the premises shall be prohibited.
 - (AA) Facilities shall not be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the property on which the facility is operated.

Sec. 16-520. Minimum Operational Standards of Provisioning Centers.

- (A) In addition to all General Requirements, the following minimum standards for Provisioning Center shall apply:

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1. No Provisioning Center shall be open between the hours of 8:00 p.m. and 9:00 a.m.;
 2. Any usable Marihuana remaining on the premises of a Provisioning Center while the Provisioning Center is not in operation shall be secured as required by state law, rules and advisory opinions;
 3. A Provisioning Center must be at a fixed location. Drive-through window(s) on the premises of a Provisioning Center shall not be permitted;
 4. All Marihuana delivered to a patient shall be packaged and labeled as provided by state laws.
 5. All registered patients must present both their Michigan Medical Marihuana patient/caregiver identification card and government issued photo identification prior to entering restricted/limited areas or non-public areas of the Provisioning Center, and if no restricted/limited area is required, then promptly upon entering the Provisioning Center.
 6. No advertising material may be used that is misleading, deceptive, or false, or that is designed to appeal to minors.
 7. No Provisioning Center shall place or maintain, or cause to be placed or maintained, an advertisement of Marihuana in any form or through any medium within one thousand feet of the real property comprising a public or private elementary, vocational or secondary school.
 8. Certified laboratory testing results that meet the MMMA and MMFLA or applicable state laws must be available to all Provisioning Center patients/customers upon request.

Sec. 16-521 Minimum Operational Standards of Grower Facility.

In addition to all General Requirements in Section 16-519, the following minimum standards for Grower Facility shall apply:

- (A) All necessary building, electrical plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring, lighting and/or watering devices that support growing or harvesting of Marihuana are located;
- (B) That portion of the structure where the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Department of Police and Fire Services to insure compliance with the International Fire Code and City of Jackson Fire Prevention Ordinance;

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- (C) The dispensing of marihuana or marihuana product at the Grower Facility shall be prohibited;
 - (D) An air filtration system of sufficient size for the premises must be installed and operating at all times which recycles the air in the premises at least every 3 minutes so as to eliminate any specific odor emanating from the premises.

Sec. 16-522 Minimum Operational Standards of Safety Compliance Facility.

There are no additional regulations above the regulations applicable to all Medical Marihuana Facilities found in State law and Section 16-519.

Sec. 16-523. Secured Transporter.

In addition to all General Requirements in Section 16-519, the following minimum standards, the following minimum standards for Secured Transporters shall apply:

- (A) No marihuana or marihuana product may be left unattended in a secured transporter's vehicle unless there is either a driver or passenger in the vehicle; or
- (B) No marihuana or marihuana product may be in a vehicle unless it is securely locked within a garage.

Sec. 16-524. Nondiscrimination.

- (A) No Medical Marihuana Facility or its stakeholders or employees may discriminate against any person because of their actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity. A violation of this section shall be punishable pursuant to Chapter 15 of the Code, as well as pursuant to the penalties contained in this ordinance.

Sec. 16-525. Denial and Revocation.

- (A) A license issued under this Article may be revoked after an administrative hearing to determine if any grounds for revocation exist. The hearing shall be conducted by the Committee and will be a public hearing. The Committee shall then recommend whether the license should be revoked to the City Council. Notice of the time and place of the Hearing and the grounds for revocation must be given to the licensee at least fourteen (14) days prior to the date of the hearing, by first class mail to the address given on the license application.
- (B) A license applied for or issued under this Chapter may be denied or revoked for any of the following reasons:

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1. A violation of the Code;
 2. Commission of fraud or misrepresentation or the making of a false statement by the Applicant or any stakeholder of the Applicant while engaging in any activity for which this Chapter requires a license;
 3. The Medical Marihuana Facility is determined by the City of Jackson to have become a public nuisance; and/or
 4. The Michigan Medical Marihuana Licensing Board has denied, revoked, declined to renew, ordered to cease operations, or suspended the applicant's state license. In this case, there shall be no hearing on the revocation as a licensee cannot operate without both a City and a State operating license.

Sec. 16-526. Suspension of a License.

The following apply to the suspension of a facility license:

- (A) The City Clerk, with concurrence of the City Manager, may temporarily suspend a Medical Marihuana Facility License without a hearing if the City Clerk finds that public safety or welfare requires emergency action. The City Clerk shall cause the temporary suspension by issuing a Suspension Notice in connection with institution of proceedings for a Hearing;
- (B) If the City Clerk temporarily suspends a license without a hearing, the holder of the license is entitled to an administrative hearing before the Committee within thirty (30) days after the Suspension Notice has been issued. The hearing shall be limited to the issues cited in the Suspension Notice. The Committee shall then recommend to the City Council whether the license should be suspended. Notice of the time and place of the hearing and the grounds for suspension must be given to the licensee at least fourteen (14) days prior to the date of the hearing, by first class mail to the address given on the license application.

Sec. 16-527. Penalties and Discipline.

- (A) The City may require an applicant or holder of license of a Medical Marihuana Facility to produce documents, records, or any other material pertinent to the investigation of an application or alleged violation of this Chapter. Failure to provide the required material may be grounds for application denial, license revocation, or discipline.

(B) A person who violates any provision of this Article may result in a facility license being denied, revoked, suspended, or not renewed. In addition, civil fines of up to five thousand (\$5,000) dollars may be imposed against a licensee or against an employee or Stakeholder of a licensee. Civil fines will be assessed for each day that the violation continues.

Sec. 16-528. Recreational Marihuana Establishments.

(A) The City of Jackson shall permit certain recreational establishments within the City pursuant to the laws and rules developed by the State of Michigan. The types of recreational marihuana establishment, the number of each type permitted and the zoning district in which the establishments shall be permitted shall be established at a later date after the State of Michigan has developed its laws and rules relating to recreational marihuana. The City of Jackson may also pass requirements that differ from the State of Michigan requirements. No recreational marihuana establishment may operate in the City of Jackson without first being granted a license to operate from the State of Michigan and the City of Jackson.

(B) The right of a Citizen of Jackson to consume, ingest, possess, cultivate, store or possess recreational marihuana in the citizen's home or private property is not affected by this Ordinance as these are rights contained in the Michigan Regulation and Taxation of Marihuana Act, Initiated Act 1 of 2018.

Sec. 16-529. No other medical marihuana uses authorized.

Only the medical use of marihuana as defined in the MMMA is authorized in the City of Jackson. Medical marihuana use, growing and transfer shall only be permitted in the City if and in the manner expressly authorized in this Article.

Sec. 16-530. Severability of ordinance.

If any section, subsection, sentence, clause, or phrase of this Article is for any reason held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the decision shall not affect the validity of the remaining portion of this Article.

Sec. 16-531. Inconsistent provisions repealed.

Ordinances or parts of ordinances in conflict with the provisions of this Article are hereby repealed.

Sec. 16-532. Savings clause.

All rights and duties that have matured, penalties that have been incurred, proceedings that have begun and prosecution for violations of law occurring before the effective date of this ordinance are not affected or abated by this ordinance.

Sec. 16-533.to 16-549. Reserved.

Section 3. Effective Date.

This Ordinance takes effect on the same date that a zoning ordinance for medical marihuana becomes effective.