

90039 Result: Adopted.

Mover: O'Connor. Supporter: Moody.

Yeas: Bliss, Lenear, O'Connor, Jones, Ysasi, Reppart, Moody

AN ORDINANCE TO AMEND CHAPTER 105 "MARIHUANA RELATED MUNICIPAL LICENSING" OF TITLE VII OF THE CODE OF THE CITY OF GRAND RAPIDS.

ORDINANCE NO. 2020 - 20

THE PEOPLE OF THE CITY OF GRAND RAPIDS DO ORDAIN:

Section 1. That Chapter 105 of Title VII of the Code of the City of Grand Rapids be amended as follows:

"Chapter 105 - CANNABIS RELATED MUNICIPAL LICENSING

Sec. 7.361. - Purpose and Intent.

The City of Grand Rapids intends to license and regulate cannabis facilities and establishments as authorized under the Michigan Medical Marihuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, MCL 333.27101 et seq., and the Michigan Regulation & Taxation of Marijuana Act (MRTMA), Public Act 1 of 2018, MCL 333.27951 et seq., and to exercise authority as a home rule city to enforce ordinances under its police power in order to preserve the public health, safety, and welfare. By requiring a license and compliance with the requirements of this Chapter, the City intends to protect the public health, safety, and welfare by:

- (1) Promoting the safe, regulated manufacturing, production, and sale by state-licensed cannabis establishments and facilities;
- (2) Discouraging the sale of unsafe and unlicensed cannabis products;
- (3) Preserving and protecting the health, safety, and welfare of the residents of the City and the general public by minimizing unsafe and unregulated cannabis production and sale;
- (4) Minimizing the impact of the cannabis industry's intensive use of water and energy, particularly the growing process of cannabis plants. It is the City of Grand Rapids' intention to minimize the impact cannabis establishments have on public infrastructure and the environment by maximizing efficiency and reducing the need for the use of nonrenewable resources wherever possible;

- (5) Promoting and encouraging participation in the cannabis industry by people from communities that have been disproportionately impacted by cannabis prohibition and enforcement and to positively impact those communities.

Sec. 7.362. - Definitions.

The following terms shall have the definitions indicated for the purposes of this Chapter:

- (1) Terms contained in the Michigan Medical Marijuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, MCL 333.27101 et seq., and the Michigan Regulation and Taxation of Marijuana Act, Public Act 1 of 2018, MCL 333.27954 et seq., as amended (MRTMA), apply to the terms found herein. This Chapter contains some words and phrases that are defined in the MMFLA & the MRTMA. As used in this Chapter, they have the same meaning as provided in the MMFLA & MRTMA, unless the term is otherwise defined in this Chapter or the context requires a different meaning.
- (2) "*Applicant*" means a person who applies for a Cannabis Related Municipal License under this Chapter.
- (3) "*Cannabis*" shall have the same meaning as "marihuana" as defined in the MRTMA, MCL 333.27953(e). The term "cannabis" shall be the preferred term used in this ordinance, unless the term "marihuana" occurs in a proper name, including a state statute or agency name.
- (4) The words "*Establishments*" and "*Facilities*" are used interchangeably and refer to any cannabis related locations at which a licensee is licensed to operate under either MMFLA, MRTMA, or both.
- (5) "*Licensee*" means a person or entity issued a cannabis establishment or facility license under this Chapter or by the State, including safety compliance facilities, cannabis event organizers, temporary events, and secure transporters.
- (6) "*Municipal cannabis license*" or "*license*" means a required Cannabis Related Municipal License issued pursuant to this Chapter that allows the licensee to operate within the City as one of the following, as specified in the license:
 - (a) Grower, including Class A Grower, Class B Grower, Class C Grower, and Excess Grower;
 - (b) Processor;
 - (c) Provisioning Center;
 - (d) Retailer;
 - (e) Designated Consumption Establishment;

- (f) Microbusiness;
- (g) Safety Compliance Facility;
- (h) Secure Transporter;
- (i) Cannabis Related Event Coordinator;
- (j) Cannabis Related Temporary Event.

Sec. 7.363. - Cannabis Establishments and Licensees Authorized to Operate within the City.

- (1) Pursuant to the MMFLA & MRTMA, the City of Grand Rapids authorizes the operation in the City of the following cannabis licenses, provided they possess a state operating license issued under the MMFLA, MRTMA, or both, and they comply with the additional requirements of this Chapter, Chapter 61 (Zoning), and all other applicable laws and ordinances:
 - (a) Class A Grower, Class B Grower, Class C Grower, and Excess Marijuana Grower;
 - (b) Processor;
 - (c) Provisioning Center;
 - (d) Retailer;
 - (e) Microbusiness;
 - (f) Secure Transporter;
 - (g) Safety Compliance Facility.
- (2) Pursuant to the MRTMA, the City of Grand Rapids does not currently authorize operation in the City of the following cannabis licenses:
 - (a) Designated Consumption Establishment;
 - (b) Cannabis Related Temporary Event.
- (3) A Cannabis Related Event Coordinator may be located within the City of Grand Rapids without a municipal license, so long as none of the coordinated events are held within the City of Grand Rapids.

Sec. 7.364. - Cannabis Related Municipal License Required.

- (1) No person shall operate a cannabis establishment in the City of Grand Rapids without first obtaining a municipal license and/or permit to do so as required by this Chapter.
- (2) For co-located cannabis establishments, as authorized by this Code and state law, a separate Cannabis Related Municipal License is required for each type of establishment operated.

- (3) For cannabis establishments with stacked and/or excess grow operations as authorized by this Code and state law, a license is required for each stacked and excess cannabis grower license.
- (4) The license requirement in this Chapter shall be in addition to any other requirements imposed by any other state or local law, including but not limited to state or local laws applicable to commercial entities performing functions similar to the functions performed by cannabis establishments.
- (5) A license issued under this Chapter shall be valid for one (1) year after the date of issuance, unless the City Clerk issues a longer license as authorized by this Ordinance. The expiration date of the state operating license that corresponds to a cannabis facility license issued under this Chapter constitutes the expiration date of the Cannabis Related Municipal License. Expiration of the Cannabis Related Municipal License does not affect a person's licensure under MMFLA or MMRTA but does affect the person's ability to operate a cannabis establishment in the City.
- (6) This Chapter does not apply to, or regulate, any patient or caregiver conduct protected by the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 et seq. (MMMA).

Sec. 7.365. - General Provisions.

- (1) A Cannabis Related Municipal License is a revocable privilege and not a right. Nothing in this Chapter may be held or construed to grant a vested right, license, permit or privilege to continued operations within the City.
- (2) A license issued under this Chapter is valid only for the applicant named on the license, the location of the establishment, and type of establishment identified on the license. Each license is personal and exclusive to the licensee.
- (3) The revocation, suspension, and placement of restrictions by the State on a state operating license apply equally to a license issued by the City.
- (4) An applicant or licensee has a continuing duty to provide information requested by the City and to cooperate in any investigation, inquiry, or hearing conducted by the City.
- (5) Acceptance of a license from the City under this Chapter constitutes consent by the licensee for the City to conduct inspections of the licensed premises to ensure compliance with this Chapter.
- (6) The issuance of any license pursuant to this Chapter does not create an exception, defense, or immunity to any person with regard to any potential

criminal or civil liability the person may have under any federal or state law or city ordinance.

- (7) No Cannabis Related Municipal License may be sold, assigned, mortgaged or otherwise transferred.

Sec. 7.366. - Application Requirements.

- (1) An application for a cannabis facility license shall be submitted to the City Clerk in a form provided by the City. Any application that does not include all information requested by the application form or is not supported by the materials required by this Chapter or the license application shall be denied and/or rejected.
- (2) The application may require information that will enable the City Clerk to make a fair determination as to the applicant's fitness and ability to comply with the provisions of this Code and all other applicable laws, ordinances and regulations, including but not limited to:
 - (a) The name and address of the facility and any other contact information requested on the application form.
 - (b) The name and address of all owners (entities and individuals) of the real property where the facility is located.
 - (c) A copy of official paperwork issued by the State indicating that the applicant has successfully completed the prequalification step of the application for a state operating license.
 - (d) Proof of applicant's ownership, legal possession, or otherwise legal interest in the premises.
 - (e) Proof that the appropriate zoning approval has been received.
 - (f) Copy of the security plan required by State Administrative Rule 35, R. 333.235, or MRTMA Emergency Rule 35, or their successor regulations.
 - (g) Evidence of a valid and effective policy for general liability insurance within minimum limits of one million dollars (\$1,000,000.00) per occurrence and a two million dollars (\$2,000,000.00) aggregate limit issued from a company licensed to do business in Michigan having an AM Best rating of at least B++ shall be produced that includes the name/s of the insured, effective and expiration dates, and policy number. The City of Grand Rapids and its officials and employees shall be named as additional insureds. The City shall be notified of any cancellation,

expiration, reduction in coverage, or other policy changes within five (5) business days of the event.

- (h) If the application is for a grower's license, the maximum number of plants that the applicant intends to grow.
 - (i) Proof of environmental sustainability plan conforming to the requirements of this Chapter.
 - (j) Proof of social equity plan conforming to the requirements of this Chapter.
 - (k) Any information and materials required by City Policy.
 - (l) Other information and materials specific to the type of establishment or activity being licensed as indicated on the license application.
- (3) Payment of a non-refundable application fee per cannabis license sought and/or proof that the applicant has, within the prior three hundred sixty-five (365) days, paid the zoning application fee for zoning approval associated with the cannabis facility type identified in the application as required in Chapter 61, Section 5.9.19. Fees shall be offset to ensure the annual fees required by cannabis facility ordinances or zoning regulations promulgated pursuant to the MMFLA & MRTMA do not exceed five thousand dollars (\$5,000.00) annually, per application.

Sec. 7.367. - Environmental Sustainability.

- (1) All establishments shall enroll in the Grand Rapids 2030 District prior to operation. Enrollment shall be, at a minimum, as a building owner or substantially similar enrollment option that enables the confidential reporting of cannabis facility performance data, which shall be reported via Energy Star Portfolio Manager on at least an annual basis and no later than sixteen (16) months after operations commence.
- (2) A grower of any class and microbusinesses shall be required to meet the following environmental sustainability requirements:
 - (a) Create and submit an analysis of predictive energy load, including design energy use intensity (EUI) to the City's Office of Sustainability as well as all energy utilities serving the applicant, including electricity, natural gas, and steam, at the time of the Cannabis Related Municipal License application.

- (b) Create and submit an environmental sustainability plan to the City's Office of Sustainability at the time of the Cannabis Related Municipal License application, that includes the following items:
 - (i) Estimated greenhouse gas (GHG) emissions for the coming year and reporting on the past year's GHG emissions;
 - (ii) Identification of water efficiency measures planned;
 - (iii) A list of wastewater pollutant loadings and toxics; and
 - (iv) A solid waste management plan detailing disposal plans and anticipated amounts for plants, soils and other wastes that will be generated.
- (c) At least fifty (50) percent of plant canopy area that is partially or fully illuminated by electric lighting shall be illuminated by fixtures with photosynthetic photon efficacy of at least 1.9 $\mu\text{mol}/\text{J}$ at the time operations commence.
- (d) Submit a whole building energy audit meeting ASHRAE Level II guidelines or better to the City's Office of Sustainability within sixteen (16) months after operations commence.
- (e) All applications for renewal of any license shall include the environmental sustainability plan submission required by this section and proof of compliance with the annual reporting requirements under this section.

Sec. 7.368. - Conduct of Business at Licensed Cannabis Establishment.

- (1) The operations at a licensed cannabis facility shall be conducted in compliance with the MMFLA and the MRTMA, and any rules promulgated pursuant to other laws, rules, and regulations of the state of Michigan and the City of Grand Rapids.
- (2) All security measures required by the State shall be maintained.
 - (a) Security devices and all components of those devices required by the State, including but not limited to, video surveillance systems, alarm systems, and locks, shall be in good working order.
 - (b) Licensees shall register their video surveillance systems with the Grand Rapids Police Department.
- (3) All cannabis in any form on the premises of a licensed cannabis facility shall be cultivated, manufactured, tested, sold, and packaged in the State of Michigan.

- (4) Access to the licensed cannabis establishment is restricted to the licensee, employees of the licensee, and adult patrons age 21 or older in establishments licensed for recreational cannabis, and the department, through its investigators, agents, auditors, or the State Police or authorized City employees acting within the scope of their employment. A separate waiting area may be created for visitors not authorized to enter the cannabis establishment.
- (5) Recreational cannabis products must be separated from medical cannabis products in accordance with State law.
- (6) A licensee shall display all cannabis facility licenses issued under this Chapter and state operating licenses in plain view clearly visible to patrons, clients, city officials, and state authorized agents.
- (7) A licensee shall not permit or allow the sale, consumption, or use of alcohol or tobacco products on licensed premises unless it is licensed to do so by the state and the city, and/or as otherwise permitted by law.
- (8) A licensee shall not permit or otherwise allow the use, smoke, inhalation, or consumption of cannabis, in any form, anywhere within a licensed cannabis establishment or on the property of a licensed establishment unless it is licensed to do so by the state and the city.
- (9) A licensee shall comply with the Michigan Construction Code and Americans with Disabilities Act Amendment Act of 2008 (ADAA) meeting ANSI A117.1.

Sec. 7.369. – Social Equity Plan.

- (1) All cannabis license applicants shall provide a social equity plan detailing any practices, initiatives, or policies the applicant will implement to promote and encourage participation in the cannabis industry by people from communities that have been disproportionately impacted by cannabis prohibition and enforcement and to positively impact those communities.
- (2) The social equity plan shall address, at a minimum:
 - (a) Employment practices regarding recruitment, hiring, promotion, or transfer of individuals that have been impacted by cannabis prohibition and enforcement or individuals from communities that have been disproportionately impacted by cannabis prohibition and enforcement;
 - (b) Supplier practices to promote and encourage individuals that have been disproportionately impacted by cannabis prohibition and enforcement or individuals from communities that have been disproportionately

impacted by cannabis prohibition and enforcement to participate in the cannabis industry as suppliers;

- (c) Public accommodation practices to promote and encourage people from communities that have been disproportionately impacted by cannabis prohibition and enforcement to participate in the cannabis industry;
 - (d) Community impact practices and initiatives that positively impact communities disproportionately impacted by cannabis prohibition and enforcement;
 - (e) Anti-discrimination policies that prohibit discrimination in employment and public accommodations in accordance with Chapter 176 of this Code (Human Rights Ordinance); and
 - (f) A summary outlining the licensee's social equity plan that will be published and made publicly available on a licensee website, if available, or another method reasonably calculated to reach clients, patrons, suppliers, and the public, if the licensee does not maintain an online presence.
- (3) All licensees shall make good faith effort to meet the objectives of the social equity plan submitted with the application or license renewal. "Good faith effort" means efforts designed to implement the established objectives of the licensee's Social Equity Plan which by their scope, intensity and appropriateness to the objective, can reasonably be expected to fulfill the Plan objective. License renewals shall require reporting on the licensee's good faith efforts under this section.

Sec. 7.370. - License Denial, Suspension, or Revocation.

- (1) A license issued under this Chapter may be denied, suspended, revoked, or nonrenewed for any of the following reasons:
- (a) The applicant or licensee is ineligible or does not hold the appropriate state operating license under the MMFLA or MRTMA.
 - (b) The applicant or licensee, or his or her agent, manager or employee, has violated, does not meet, or has failed to comply with any of the terms, requirements, conditions or provisions of this Chapter, City Code, or with any applicable state law.
 - (c) A license application contains any misrepresentation or omission of any material fact, or false or misleading information, or the applicant has provided the city with any other false or misleading information related to the establishment.

- (d) Cannabis is grown, dispensed, possessed, distributed, or sold on the premises in violation of this Chapter or any other applicable state or local law, rule or regulation.
 - (e) The establishment is operated or is operating in violation of the specifications of the license application, license, any conditions of approval by the City or any other applicable state or local law, rule or regulation. Voluntary commitments made pursuant to City Policy are included within the specifications of the license application and the City may deny, suspend, revoke, or non-renew the license based on non-compliance with those commitments.
 - (f) The City, the county, or any other governmental entity with jurisdiction, has closed the establishment temporarily or permanently or has issued any sanction for failure to comply with health and safety provisions of this Chapter or other applicable state or local laws related to public health and safety.
 - (g) The establishment's state operating license has been suspended, revoked, denied, or not renewed.
 - (h) The cannabis establishment has been operated in a manner that adversely affects the public health, safety or welfare. Evidence to support a finding under this Section may include, without limitation, a recurring pattern of conduct that violates City Code directly related to or arising from the operation of the cannabis establishment; a recurring pattern or drug-related criminal conduct within the premises of the cannabis establishment or in the immediate area surrounding the establishment; a recurring pattern of criminal conduct directly related to or arising from the operation of the cannabis establishment; or an ongoing nuisance condition emanating from or caused by the cannabis establishment. Criminal drug-related conduct considered under this Section shall be limited to the violation of a State law, state regulation, or city ordinance.
- (2) These grounds for denial, suspension or revocation of a license provided for in this Chapter shall be in addition to other grounds for denial, suspension or revocation of licenses or permits provided for in Chapter 91 and elsewhere in this Code.
- (3) Prior to suspension, revocation, or nonrenewal of any license issued under this Chapter, the licensee shall be entitled to a hearing as provided in Section 7.16 of Chapter 91 of this Code.

- (4) An applicant has the right to appeal the denial of a license as provided in Section 7.16 of Chapter 91 of this Code.

Sec. 7.371. - Revocation Not Exclusive Penalty or Remedy.

Nothing in this Chapter shall be deemed to prohibit the City from imposing other penalties or seeking other remedies authorized by the Grand Rapids City Code or other ordinance of the City, including filing a public nuisance action or any other legal action in a court of competent jurisdiction.

Sec. 7.372. - Fees.

- (1) The annual license fee shall be as specified in Chapter 92 of this Code.
- (2) License fee discounts may be provided in accordance with City Policy.

Sec. 7.373. - Renewal of Existing Licenses.

- (1) The same procedures that apply to applying for a new license shall apply to the renewal of existing licenses.
- (2) An application for renewal of an existing license shall be submitted no sooner than sixty (60) days before the existing license expires and no later than thirty-one (31) days before the expiration date.
- (3) If a license renewal is not submitted by the license expiration date, the license may be renewed within sixty (60) days after its expiration date upon application, payment of applicable fees and penalties, and satisfaction of any renewal requirements if state licensure is still active.
- (4) Multi-year license renewals may be provided in accordance with City Policy for a duration not to exceed three (3) years.

Sec. 7.374. - Issuance of License and Authorization to Operate Under License.

- (1) If, after investigation, the City Clerk shall be reasonably satisfied that the applicant has successfully demonstrated compliance with all requirements for issuance of a license, the City Clerk shall issue the applicable Cannabis Related Municipal License or grant renewal of an existing license.
- (2) A licensee is authorized to operate under a municipal license issued pursuant to this Chapter only after the following additional requirements are met.

- (a) The licensee also holds a valid current state operating license for that location and establishment type. A copy of the valid current state operating license shall be provided to the City Clerk.
- (b) A certificate of occupancy has been issued.
- (c) The licensee is not operating in violation of any City ordinances or state law.
- (d) Zoning is deemed appropriate by the City for the location and any and all Special Land Use permits and/or waivers have been approved.
- (e) Any other license specific requirements as stated herein and in the license application have been met.

Sec. 7.375. - Penalty for Violations.

- (1) Any person who violates a provision of this Chapter shall be responsible for a municipal civil infraction and shall be subject to such civil infraction fines and costs as provided in Chapter 170, but the fee will not exceed the fee limitation set by the state.
- (2) Each day of violation shall be a separate violation.

Sec. 7.376. - Coordination with State Licensing Authorities.

The City Clerk shall coordinate with the Michigan Marijuana Regulatory Agency (MRA) to provide information that LARA or the MRA deems necessary to carry out licensing under the MMFLA and MRTMA, including but not limited to:

- (1) Attestation as to ordinances and zoning regulations adopted by the City relating to cannabis establishments, and amendments thereto.
- (2) Information regarding a licensee or applicant for a state operating license including:
 - (a) Information that the board deems necessary to determine whether a state operating license should be issued or renewed;
 - (b) Description of a violation of an ordinance or a zoning regulation committed by the licensee, but only if the violation relates to activities licensed under this Chapter, zoning regulations relating to cannabis establishments, or applicable cannabis laws;
 - (c) Denial, suspension, revocation, or nonrenewal of a cannabis facility license; or

- (d) Whether there has been a change to an ordinance or zoning regulation relating to cannabis establishments and/or licensing since the state operating license was issued, and a description of the change.
- (3) Recommendation to LARA that a state operating license for a cannabis establishment located in Grand Rapids be restricted or not renewed. The Clerk shall provide specific written input and information necessary for LARA to consider the recommendation.

Sec. 7.377. - Conflicts with Other Laws or Regulations.

Nothing in this Chapter shall be construed in such a manner as to conflict with the MMFLA, MMMA, MMRTA, or other applicable state cannabis law or rules. If any provision of this Chapter differs from a provision of any other applicable law, ordinance, rule or regulation, both the provision of this Chapter and the differing provision shall apply if possible. If the two (2) provisions are in conflict, then the provision establishing the higher or stricter standard shall apply, consistent with state law.

Sec. 7.378. - Severability.

The various parts, sections, and clauses of this Chapter are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of the Chapter shall not be affected thereby.

Sec. 7.379. - Acceptance of Licensing Applications.

- (1) The City Clerk will begin accepting license applications as follows:
- (a) On July 20, 2020 for grower, processor, provisioning center, retailer, safety compliance facility, and secure transporter license applications;
 - (b) On October 20, 2020 for microbusiness license applications;
 - (c) The City Commission may provide for an earlier acceptance date by resolution.
- (2) Medical Cannabis Facilities not in violation of this Chapter that were previously licensed under MMFLA and granted zoning approval prior to the date that the City begins accepting applications may continue to operate as a Medical Cannabis Facility (only) using their zoning approval as a temporary license until January 20, 2021 provided they submit a complete application by August 20, 2020. Operation of such a facility absent a temporary or regular license to do so once the City begins accepting applications is prohibited.

(3) The City shall give priority processing preference to applications in accordance with City Policy.

(4) This section may be amended if in the public interest to do so.”

I hereby certify that the foregoing is a true transcript of the action of the City Commission of the City of Grand Rapids, Michigan, in public session held July 7, 2020.

A handwritten signature in cursive script that reads "Joel H. Hondorp". The signature is written in black ink and is positioned above a horizontal line.

Joel H. Hondorp, City Clerk