CITY OF GRAND RAPIDS
AGENDA ACTION REQUEST

DATE: December 4, 2018

TO: Mark Washington, City Manager

COMMITTEE: Committee of the Whole
LIAISON: Mark Washington, City Manager

FROM: Suzanne Schulz, Managing Director
Design, Development, and Community Engagement

SUBJECT: **Resolution to consider Zoning Ordinance text amendments relative to medical marihuana and setting the date for adoption of those amendments, which include allowing for secure transporters and safety compliance facilities as a permitted use in certain zone districts; modifying the administration, timing, and mapping of required separation distances; modifying separation distance requirements for provisioning centers located in Industrial zone districts; and other amendments meant to clarify and correct previously adopted language**

The text amendments under consideration are proposed in response to various issues that have arisen since the adoption of a medical marihuana ordinance by the City Commission on July 24, 2018.

The City Commission met for a work session to discuss these issues on October 9, 2018. At the work session, staff from the City's Planning Department and Attorney's Office presented several potential changes to the Zoning Ordinance. A discussion guide was prepared to help frame the conversation and is attached as an addendum to this item.

Proposed Amendments
The proposed amendments are summarized as follows:

Major changes that are proposed within the amendments include:
- Review requirements for Safety Compliance Facility & Secure Transport
- Provisioning Center separation distances in Industrial Zone Districts
- Clarification of when a Facility is a Facility/when separation distances apply
- Definition of a "school" for the purpose of separation distances
- A process for separation distance waivers
- Removal of license transfer restrictions

- Removal of automatic suspension provisions
- Guidelines for revocation of approval
- Dates for application acceptance and effect of the ordinance

*Minor changes that are proposed within the amendments include**:***
- Consistency, lettering, and spelling
- Clarification that one application is allowed per parcel
- Change of requirements for submission of facility & security plans
- Change of name of VEDA to MIVEDA
- Removal of duplicate requirement for windows
- Removal of requirement for contact information sign
- Clarification of odor control requirements
- Definition of a “playground” for the purpose of separation distances
- Clarification that facility types not specifically authorized are prohibited

The following is a description of the proposed ***major*** amendments:

Safety Compliance Facilities and Secure Transporters

Tables 5.6.06.B. & 5.7.04.B.
These amendments change the review requirements for Safety Compliance Facilities (testing laboratories) and Secure Transporters from Special Land Use to Director Review. No change is proposed to the zoning districts in which these license types would be allowed. All other license types would still be required to receive Special Land Use approval from the Planning Commission.

Tables 5.9.02. and 5.9.19.D.
These amendments reflect the change from Special Land Use to Director Review within the Use Regulations table for the two aforementioned license types.

Section 5.9.19.E.1.
These amendments remove the separation distance requirements altogether for Safety Compliance Facilities and Secure Transporters.

Industrial Provisioning Center Separation Distances

Section 5.9.19.E.1.
This change would make Provisioning Centers located in an industrial zone district (co-located with a Grower and/or Processor, and accessory to those uses) have and be subject to a 1,000 foot separation distance from other medical marihuana facilities for which separation distances apply. Provisioning Centers in commercial zone districts would still have a 2,000 foot separation distance requirement.

Assignment of Land Use Rights ("When a Facility becomes a Facility")

Section 5.9.19.E.1.c.i.

This change seeks to clarify when a medical marihuana facility is assigned land use rights, and hence the point at which required separation distances become effective. In the adopted ordinance it was unclear if this would happen:

- At the time an application is submitted; or
- At the time the request is approved by the Planning Commission; or
- At the approval's effective date; or
- When Phase II approval/operating license is approved by the State of Michigan.

This amendment clarifies this question by specifying that land use rights, and separation distance requirements from other marihuana facilities, go into force *upon the effective date of Special Land Use approval by the Planning Commission.*

Definition of a "School"

Section 5.9.19.E.1.c.ii.

This amendment clarifies a "school" for the purposes of separation distance requirements to include "*any building, playing field, or property used for school purposes to impart instruction to children in grades kindergarten through 12, when provided by a public, private, denominational, or parochial school, except those buildings used primarily for adult education or college extension courses."*

This definition can be compared to that of "Educational Use" found in the Zoning Ordinance Definitions, Section 5.16.02.E., which reads "*A facility offering classes, training courses, or skill development to the public or to members of an organization. This use includes but is not limited to elementary, middle, or high schools; vocational, business, technical schools or training centers; and colleges, and universities. May or may not include residential facilities, such as dormitories, and other accessory facilities, such as cafeterias, restaurants, retail sales, and other uses specifically related to the educational use.*"

Because the ordinance was adopted with a required separation distance from a "*public or private K-12 school*," and not from an "*educational use*," it is important to make such a distinction. Additionally, several prospective marihuana practitioners inquired about properties in the City which did not specifically meet the definition of "Educational Use" but were owned and/or used by public or private K-12 schools. To clarify this in the context of separation distance requirements, this amendment is offered.

Separation Distance Waivers

Section 5.9.19.E.2.c. and d.

The adopted ordinance pertaining to medical marihuana contains a provision that would allow certain sensitive land uses (religious institutions, substance use disorder programs, and publicly owned parks and playgrounds) to waive their separation

distance from a proposed medical marihuana facility. As adopted, the prospective marihuana practitioner would be responsible to seek a waiver from the landowner and/or operator of the sensitive land use if located within 1,000 feet of their property, which would be subject to Planning Commission approval.

These proposed amendments change the process for separation distance waivers. An application on a property requiring a separation distance waiver will be considered by default unless the landowner and/or operator of the sensitive land use files an objection to the granting of a waiver. This change essentially transfers responsibility for notification from the practitioner to the Planning Department, and transfers responsibility for the waiver from the practitioner to the landowner and/or operator of the sensitive land use. The final authority to grant the waiver would still rest with the Planning Commission.

License Transfer Restrictions

Section 5.9.19.E.4.
This Section, as adopted, disallowed the transfer of land use rights if any zoning or state licensing violations had occurred. Such prohibition is questionable under the State's Zoning Enabling Act, and is therefore removed.

Prequalification

Section 5.9.19.F.3.
The Planning Commission recommended that the prequalification requirement not be waived in its consideration of this provision. The proposed text reflects their recommendation, with two exceptions. The proposed amendment eliminates the requirement that an applicant for local approval of a medical marihuana facility would need to have already received Phase I approval/prequalification from the State of Michigan for transporters and testing facilities, however, an applicant would need to show that they have already submitted Phase I paperwork and the application fee to the State to be eligible to apply for a Special Land Use permit. Growers, processors and provisioning centers would be subject to the pre-qualification requirement.

Removal of Automatic Suspension, and Guidelines for Revocation of SLU Approval

Section 5.9.19.J.
The adopted ordinance pertaining to medical marihuana allows for the automatic revocation/suspension of land use rights under certain circumstances. Section 5.12.09.I. of the Zoning Ordinance currently allows for the revocation of a Special Land Use approval, but no other land use is currently subject to *automatic* revocation. This provision may be considered unfair and/or in conflict with State zoning enabling legislation. Therefore, the language allowing for *automatic* action was removed, and instead subsections 4 and 5 were added to give guidance for circumstances under which revocation action may be taken.

Dates for Acceptance and Effect

Section 5.9.19.N.
The adopted ordinance pertaining to medical marihuana specified the date to begin accepting applications for local approval of marihuana facilities as November 1, 2018. Due to the need for the other amendments as proposed, the City Commission placed a moratorium of up to six months on September 18, 2018. The new effective date of the ordinance is January 17, 2019.

The proposed date to begin accepting applications for Safety Compliance Facilities and Secure Transporters is now January 22, 2019.

The proposed date to begin accepting applications for Growers, Processors and Industrial Provisioning Centers is now March 4, 2019.

Section 7.
The adopted ordinance also specified an effective date for that ordinance as November 1, 2018. Given several policy issues in addition to the proposed ordinance amendments, the earliest possible date for the amended ordinance to be effective is January 17, 2019.

Planning Commission Consideration
The Planning Commission considered the amendments on November 8, 2018 and received multiple comments pertaining to items related to pre-qualification, exceptions from the definition of a school, outdoor vehicle storage, and MMFLA requirements pertaining to keeping product concealed from public view.

After holding a public hearing, the Planning Commission recommended approval of the amendments as presented, with the exception of the removal of the pre-qualification requirement and several requested clarifications:

- Further explore the definition of school and whether or not there should be a primary and ancillary expression related to play fields;
- Exempt vehicles when it comes to outdoor storage;
- The desire is for as much window transparency as possible but potentially consider an administrative departure, if necessary, for patient privacy.

Next Steps
Please place this item on the next available City Commission agenda for consideration. These Zoning Ordinance amendments will be scheduled for adoption on December 18, 2018, with an effective date of January 17, 2019.

YOUR COMMITTEE OF THE WHOLE recommends adoption of the following resolution setting the date to consider amending the Zoning Ordinance (Chapter 61 of the City Code) relative to medical marihuana, including the removal of the pre-qualification requirement; allowing for secure transporters and safety compliance facilities as a permitted use in certain zone districts; modifying the administration, timing, and mapping of required separation distances; modifying separation distance requirements for provisioning centers located in Industrial zone districts; and other amendments meant to clarify and correct previously adopted language.

WHEREAS:

1. Since the City Commission's adoption of a medical marihuana ordinance on July 24, 2018, a number of issues relative to the administration of the new ordinance have come to light, prompting discussion of potential changes to the ordinance; and

2. These issues include the pre-qualification requirement; allowing for secure transporters and safety compliance facilities as a permitted use in certain zone districts; modifying the administration, timing, and mapping of required separation distances; modifying separation distance requirements for provisioning centers located in Industrial zone districts; and other amendments meant to clarify and correct previously adopted language; and

3. The Planning Commission considered the proposed Zoning Ordinance text amendments at a public hearing held on November 8, 2018 and unanimously recommended approval of the amendments, with certain revisions; and

RESOLVED:

1. That the proposed amendments be considered for adoption by the City Commission at its meeting of December 18, 2018; and

2. In accordance with Title V, Section 10(b) [Compiler's Paragraph 60(b)] of the Charter of the City of Grand Rapids, that the attached Summary of the Ordinance be published in the official City Commission Proceedings and in a newspaper of general circulation in the City, in lieu of publishing the full text of the Ordinance

SUMMARY OF ORDINANCE 2018 –
AN ORDINANCE TO AMEND CHAPTER 61 OF TITLE V OF THE CODE OF THE CITY OF GRAND RAPIDS ENTITLED ZONING ORDINANCE

These amendments are intended to refine the approved regulatory approach for licensed medical marihuana facilities, as permitted by Public Acts 281-283, including growers, provisioning centers, safety compliance facilities, processing facilities and secure transport facilities.

Major changes that are proposed within the amendments include:

1. Review requirements for Safety Compliance Facility & Secure Transport;
2. Provisioning Center separation distances in Industrial Zone Districts;
3. Clarification of when a Facility is a Facility/when separation distances apply;
4. Definition of a “school” for the purpose of separation distances;
5. A process for separation distance waivers;
6. Removal of license transfer restrictions;
7. Removal of automatic suspension provisions;
8. Guidelines for revocation of approval;
9. Dates for application acceptance and effect of the ordinance;
10. Other amendments meant to clarify and correct previously adopted language.

The proposed Zoning Ordinance text amendments are available at the City’s website at http://grandrapidscitymi.iqm2.com/Citizens/Board/1000-City-Commissionor or examined in person at the Planning Department, 3rd Floor, 1120 Monroe Avenue NW, Grand Rapids, Michigan 49503, during business hours until 4 p.m., Monday-Friday. The Planning Department may be contacted at (616)456-4100 or planning@grcity.us for further information.

AN ORDINANCE TO AMEND CHAPTER 61 OF TITLE V OF THE CODE OF THE CITY OF GRAND RAPIDS ENTITLED ZONING ORDINANCE

ORDINANCE NO. 2018-__

THE PEOPLE OF THE CITY OF GRAND RAPIDS DO ORDAIN:

Section 1. That the Office section of the Commercial, Office, Retail Use Category of Table 5.6.06.B. of Section 5.6.06. Uses of Land. of Title V, Chapter 61 of the Code of the City of Grand Rapids be amended as follows:

"**Table 5.6.06.B. Uses: Mixed-Use Commercial Zone Districts**

Table 5.6.06.B. Uses: Mixed-Use Commercial Zone Districts								
Use Category	**Specific Use**	**TN**			**TN MCN MON**	**MCN MON**	**NOS**	**Use or Other Regulations**
		CC*	**TCC**	**TBA**	**TOD****	**C**		
COMMERCIAL, OFFICE, RETAIL								
Office								
	"Marihuana safety compliance facility	X	P	P	P	P	P	5.9.19."

Section 2. That the Industrial section of the Industrial, Transportation, Utilities Use Category of Table 5.7.04.B. of Section 5.7.04. Uses of Land. of Title V, Chapter 61 of the Code of the City of Grand Rapids be amended as follows:

"**Table 5.7.04.B. Special District - Industrial-Transportation (SD-IT).**

Table 5.7.04.B. Uses: Industrial-Transportation District			
Use Category	**Specific Use**	**Approval**	**Use or Other Regulations**
INDUSTRIAL, TRANSPORTATION AND UTILITIES			
Industrial	"Marihuana grower (Class A, B, and C); a provisioning center may be co-located as an office or retail accessory use (not to exceed 25% of GFA)	S	5.9.19.
	Marihuana processor; a provisioning center may be co-located as an office or retail accessory use (not to exceed 25% of GFA)	S	5.9.19.
	Marihuana safety compliance facility	P	5.9.19.
	Marihuana secure transporter	P	5.9.19."

Section 3. That the use row entitled “Marihuana Facilities” in Table 5.9.02. Use Regulations and Approval Process of Section 5.9.02. Applicability. of Title V, Chapter 61 of the Code of the City of Grand Rapids be amended as follows:

“**Table 5.9.02. Use Regulations and Approval Process**

Table 5.9.02. Use Regulations and Approval Process					
Use		**Section**	**Counter Review**	**Director Review**	**Special Land Use**
“Marihuana Facilities	**Grower (Class A, B, and C)**	**5.9.19.**	**—**	**—**	**IT**
	Processor	**5.9.19.**	**—**	**—**	**Infused products <15,000 sq ft: TCC, TBA, TOD, C Infused products > 15,000 sq ft: TCC and C Any: IT**
	Provisioning center	**5.9.19.**	**—**	**—**	**TCC, TBA, TOD, C, NOS, IT**
	Safety compliance facility	**5.9.19.**	**—**	**TCC, TBA, TOD, C, NOS, IT**	**—**
	Secure Transporter	**5.9.19.**	**—**	**IT**	**—”**

Section 4. That Section 5.9.19. Marihuana Facilities of Title V, Chapter 61 of the Code of the City of Grand Rapids be amended to read as follows:

“**Sec. 5.9.19. Marihuana Facilities.**

A. Purpose. The concentration of any one particular use within a geographic area can be burdensome for reasons of excessive parking needs and/or traffic congestion where there is high demand, and can limit the type and variety of businesses that might otherwise exist if there is an oversaturation. The City of Grand Rapids Master Plan describes the desire for mixed-use commercial zone districts and encourages a variety of land uses. Marihuana businesses have demonstrated a strong demand for storefront spaces and other business locations. It has been observed that without separation distances this particular use will concentrate in clusters. In order to limit the intensity and density of this use, and to recognize that separation distances are desired from sensitive uses (e.g. schools, religious institutions, child care centers, publicly owned parks or playgrounds, substance use disorder programs, residential zone districts), special regulations of marihuana facilities have been deemed necessary. It the intent of these provisions to ensure that quality of life is not impaired, neighborhood character is preserved, commercial retail viability and variety is enhanced and encouraged, or the stability of industrial areas is maintained.

B. Applicability. Any land use that requires a license from the Department of Licensing and Regulatory Affairs (LARA) in the administration of Michigan Medical Marihuana Facilities Licensing Act (MMFLA) or other state law providing for the sale, transport, testing, growing, distribution, and processing of marihuana or any other activity involving a marihuana-related use shall require review and approval as specified in Table 5.9.19.D. Any facility not specifically authorized in Table 5.9.19.D is prohibited. Provisions of this section do not apply to the medical use of marihuana in compliance with the Michigan Medical Marihuana Act (MMMA).

C. The Planning Commission is prohibited from waiving any portion of this Section. The Director may submit any Director Review application to the Planning Commission for SLU approval.

D. Approval Procedures for Marihuana Facilities

Table 5.9.19.D. Approval Procedures for Marihuana Facilities

Use	Description	Criteria	Review Procedure
Grower	New or Major Expansion	20% increase or more in square footage	Special Land Use
	Class change and/or license stacking for same use	Less than 20% increase in square footage of the use	Director Review, after initial SLU granted and GNP updated
Processor	New	-	Special Land Use
	Expansion - minor	Less than 20% increase in square footage of the use	Director Review, after initial SLU approval and GNP updated
	Expansion - major	Expansion of a non-food related processor and/or 20% increase or more in square footage	Special Land Use
Provisioning Center	New or expansion	-	Special Land Use
Secure Transporter	New or expansion	-	Director Review
Safety Compliance Facility	New or expansion in IT Zone	-	Director Review
	New or major expansion in TCC, C, or NOS	20% increase or more in square footage	Director Review
	Expansion – minor in TCC, C, or NOS	Less than 20% increase in square footage of the use	Director Review, after GNP updated

E. Authorized Facilities. A marihuana facility is not eligible for a state operating license until the Planning Commission grants approval using the Special Land Use process, as described in Article 12, Section 5.12.09, or the Planning Director grants approval

where the Planning Director is authorized to grant administrative approval through Director Review. The City Clerk will grant final authorization for the facility upon receipt of the signed resolution of approval. The location and co-location of authorized facilities shall be determined as follows:

1. Separation Distances. The distances described in this subsection shall be computed by measuring a straight line from the nearest property line of the parcel used for the purposes stated in this subsection to the nearest property line of the parcel used as a marihuana facility.

    a. The following minimum-distancing regulations shall apply to marihuana provisioning centers, other than provisioning centers co-located in an IT-District, pursuant to 5.9.19.E.3.c. A provisioning center shall not be located within:
        i. 1,000 feet of a child care center, or a school;
        ii. 1,000 feet of a publicly owned park or playground;
        iii. 1,000 feet of a religious institution;
        iv. 1,000 feet of a Substance Use Disorder Program licensed by the State of Michigan;
        v. 1,000 feet of a Residential Zone District, as defined in this Chapter, as measured along the primary street frontage on which the use is located;
        vi. 2,000 feet of another provisioning center location; and
        vii. 1,000 feet of another marihuana facility location, other than a provisioning center.

    b. The following minimum-distancing regulations shall apply to marihuana processors, marihuana growers, and marihuana provisioning centers co-located in an IT-District pursuant to 5.9.19.E.3.c.. A facility shall not be located within:
        i. 1,000 feet of a child care center, or a school;
        ii. 1,000 feet of a publicly owned park or playground;
        iii. 1,000 feet of a religious institution;
        iv. 1,000 feet of a Substance Use Disorder Program licensed by the State of Michigan;
        v. 1,000 feet of a Residential Zone District, as defined in this Chapter, as measured along the primary street frontage on which the use is located; and
        vi. 1,000 feet of another facility location (see 5.9.19.E.3.).

    c. For the purpose of determining a separation distance described in this section the following definitions shall apply:
        i. A marihuana facility is defined as a location at which Special Land Use has been approved pursuant to this section.
        ii. School is defined as any building, playing field, or property used for school purposes to impart instruction to children in grades kindergarten

through 12, when provided by a public, private, denominational, or parochial school, except those buildings used primarily for adult education or college extension courses.

d. An application seeking Special Land Use approval at a location does not foreclose the filing or consideration of an application for another location located within a minimum distance requirement outlined in this section. However, once Special Land Use approval has been granted to a marihuana facility no other application within the applicable minimum distance requirement shall be considered.

2. Waiver. The required separation distances between a proposed marihuana facility location and sensitive uses cannot be waived except as allowed in this Section.

   a. Sensitive uses that may be considered eligible for a separation distance waiver are only as follows: publicly owned park or playground, religious institution, or a licensed Substance Use Disorder Program.
   b. The application shall provide evidence that all eligible sensitive uses within 1,000 feet of the proposed marihuana facility location have been notified by the applicant of the intent to seek a waiver from the separation distance requirements. Failure to satisfy this requirement may be grounds to deny a proposed separation distance waiver.
   c. If an eligible sensitive land use files a written objection with the Planning Department, the Planning Commission may waive the required separation distance, but shall consider the objection at a public hearing, in addition to the standards provided in subsection (e).
   d. If an objection is not filed by an eligible sensitive land use, the Planning Commission may waive the required separation distance in accordance with the standards provided in subsection (e).
   e. The Planning Commission shall consider whether the proposed distance waiver, if granted, will impair quality of life, damage neighborhood character, discourage commercial retail viability and variety, harm the stability of industrial areas, or have any particularly detrimental effects on the sensitive land use at issue, and whether one or more of the following conditions exist which will reduce potential detrimental impacts if the waiver is granted.
      i. Exceptional topographic or environmental conditions such as steep slope(s) or a significant amount of mature vegetation; or a fixed and unmovable natural or unnatural barrier, such as a river or similar environmental body, freeway or similar roadway, or extensive berm or wall that cannot be crossed; or
      ii. The orientation of the sensitive use and/or location of its primary entrance(s) that increases the practical distance of the sensitive use from the proposed facility.

3. Co-Location and Stacked Licenses. There may be only one state operating license per parcel, except co-location and stacked grower licenses are permitted in certain circumstances:

    a. A facility with a stacked grower license counts as a single grower for the purposes of facility separation distance requirements.
    b. In Mixed-Use Commercial Zone Districts, as shown in Table 5.6.06.B., a provisioning center and processor of infused products may be allowed in combination. Each request for a facility use must be considered separately.
    c. In the Industrial-Transportation District, co-location on the same parcel for growers, processors, and provisioning centers is allowed if each license is for a separate use (other than stacked grower licenses), subject to all applicable state laws, rules and regulations concerning co-location, including but not limited to, LARA requirements for the separation of facilities and GFA requirements in this Chapter. Each request for a facility use must be considered separately.

F. Application Requirements. Each application shall be accompanied by a detailed site plan and any information necessary to describe the proposed use or change of use. Each request shall be considered a new application, including those for class change, stacking, expansion, transfers or other modifications that require Director or Special Land Use review. If more than one use is being requested for a parcel at the same time (e.g. co-location) only one application shall be processed. Only one application shall be processed per parcel; competing applications for the same parcel will be rejected. The following shall be submitted as part of an application in addition to the requirements of Section 5.12.09. All items must be satisfactorily completed for an application to be considered eligible for review.

    1. Verification. A signed statement by the applicant indicating the proposed facility type, including if the proposed facility type involves stacked licenses or co-location and the number of licenses.

    2. Consent. A notarized statement by the property owner that acknowledges use of the property for a marihuana facility and agreement to indemnify, defend and hold harmless the City, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising out of, or in connection to, the operation of a marihuana facility. Written consent shall also include approval of the owner and operator for the City to inspect the facility at any time during normal business hours to ensure compliance with applicable laws and regulations.

    3. LARA. A copy of official paperwork issued by LARA as follows:

        a. For grower, processor, and provisioning center applications: paperwork indicating that the applicant has successfully completed the prequalification step of the application for a state operating license.

b. For secure transporter and safety compliance facility applications: paperwork indicating that the applicant has successfully completed the prequalification step of the application for a state operating license or proof that the applicant has filed an application for the prequalification step with LARA, including all necessary application fees.
c. For all marihuana facility applications: the required LARA marihuana facility plan and security plan shall be submitted. Copies of all documents submitted to LARA in connection with the initial license application, subsequent renewal applications, or investigations conducted by LARA shall be made available upon request when such information is necessary and reasonably related to the application review.

4. Proof of Insurance. Evidence of a valid and effective policy for general liability insurance within minimum limits of $1,000,000 per occurrence and a $2,000,000 aggregate limit issued from a company licensed to do business in Michigan having an AM Best rating of at least B++ 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 business days of the event.

5. Building Elevations. Existing and proposed building elevations shall be provided, including building materials, window calculations, descriptions of glass to be used, and other pertinent information that describes building construction or structural alterations.

6. Site Plan. Existing and proposed site changes must be submitted that demonstrate compliance with this Chapter.

7. Sign and Lighting Plan. A sign plan for the exterior of the building and any interior signs that will be visible to the general public from the public right-of-way shall be submitted. All lighting fixtures visible to the public shall be identified.

8. Radius. A map, drawn to scale, containing all child care centers, schools, publicly owned parks or playgrounds, religious institutions, Substance Use Disorder Programs, and any marihuana facilities within 1,000 feet of the proposed location. If the application is for a provisioning center, the map shall also contain any provisioning centers within 2,000 feet of the proposed location.

9. Crime Prevention Through Environmental Design (CPTED) Plan. The plan shall address surveillance methods, access control strategies, territorial reinforcement, maintenance, and target hardening; including the experience of customers, employees, and neighbors (residents, offices, businesses, etc.). The GRPD shall review and approve the CPTED Plan prior to the Planning Commission public hearing.

10. Operations and Management Plan. An operations and management plan shall be submitted. The O&M plan should describe security measures in the facility; this may include the movement of the product, methods of storage, cash handling, etc. See also Section 5.9.19.G.

11. Good Neighbor Plan (GNP). Refer to Section 5.12.06.D. for requirements. An updated GNP is required for a major expansion request and applications for Director Review.

12. Marihuana Industry Voluntary Equitable Development Agreement (MIVEDA). A MIVEDA may be voluntarily offered and submitted as part of the application. If submitted as part of an application, the terms offered in the MIVEDA will be required and implemented into the final approval of the project. The contents of the agreement shall be developed within the framework of City Commission policy. .

G. Operations. Marihuana facilities must be operated in compliance with all applicable state laws, LARA rules, all conditions of the facility's state operating licenses, and all applicable city ordinances. In addition, such facilities shall comply with the following regulations:

1. Use. Where located in a Mixed-Use Commercial Zone District, the use shall contribute to the vibrancy and walkability of the district. Uses shall be presented as being for retail purposes, unless ground-floor office use is permitted with administrative approval.

2. Facility Exterior. The exterior appearance of a facility must be compatible with surrounding businesses and any descriptions of desired future character, as described in the Master Plan or an Area-Specific Plan.
   a. No marihuana or equipment used in the growing, production, sale, processing, or transport of marihuana can be placed or stored outside of an enclosed building. This section does not prohibit the placement or storage of motor vehicles outside of an enclosed building so long as money or marihuana is not left in an unattended vehicle.
   b. Site and building lighting shall be sufficient for safety and security, but not cause excessive glare or be designed so as to be construed as advertising with the intent to attract attention. Outdoor lighting will comply with Section 5.2.19.
   c. Drive-through facilities and mobile facilities are prohibited.

3. Interior of Facility. A facility will not be designed to attract attention, limit the life of the structure the facility is located in, or create a nuisance.
   a. Interior construction and design of a facility will not impede the future use of a building for other uses as permitted in the assigned zone district.

b. Neither marihuana nor marihuana-infused products may be directly visible from the exterior of the facility.
c. Interior security measures shall not be visible from the public right-of-way (e.g. security shutters, bars, or other methods) during operating business hours.
d. Interior walls between waiting rooms and display areas shall be forty (40) percent clear glass if the separation wall is thirty (30) feet or less away from the inside of the exterior building wall for the purposes of maintaining an active storefront.
e. Interior lighting shall not be so bright so as to create a nuisance to neighboring property owners or passersby.
f. Provisioning centers may not be open to customers between the hours of 9:00 p.m. and 9:00 a.m. The main entry of the business establishment will be wheel-chair accessible.
g. The separation of plant resin by butane extraction or another method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit shall only be allowed in the IT Industrial-Transportation zone district.
h. Ventilation, by-product and waste disposal, and water management (supply and disposal) for the facility will not produce contamination of air, water, or soil; or reduce the expected life of the building due to heat and mold; or create other hazards that may negatively impact the structure and/or surrounding properties.
i. Air contaminants must be controlled and eliminated by the following methods:
    i. The building must be equipped with an activated air scrubbing and carbon filtration system that eliminates all air contaminants prior to leaving the building. Fan(s) must be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
    ii. Air scrubbing and filtration system must be maintained in working order and must be in use at all times. Filters must be changed per manufacturers' recommendation to ensure optimal performance.
    iii. Negative air pressure must be maintained inside the building.
    iv. Doors and windows must remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
    v. An Administrative Departure may be granted for an alternative odor control system, in accordance with the Michigan Mechanical Code, if a mechanical engineer licensed in the State of Michigan submits a report that sufficiently demonstrates the alternative system will be equal to or better than the air scrubbing and carbon filtration system otherwise required.
    vi. For purposes of this section, "air contaminants" means stationary local sources producing air-borne particulates, heat, odors, fumes, spray, vapors, smoke or gases in such quantities as to be irritating or injurious to health.

H. Annual fee. A licensee must pay a registration fee of $5,000, for each license used within the city in order to help defray administrative, compliance monitoring and enforcement costs. The holder of a stacked grower license must pay a separate fee in the amount of $5,000 for each license. The initial annual registration fee(s) must be paid when the application for City approval is submitted. In each subsequent year, registration fees are due on the effective date of the land use approval. The annual registration fee is in addition to, not in lieu of, any other licensing and permitting requirements imposed by any law, state regulatory agency, or by City ordinance.

I. Consumption. No smoking, inhalation, or other consumption of marihuana shall take place on or within the premises of any facility. It shall be a violation of this Chapter to engage in such behavior, or for a person to knowingly allow such behavior to occur. All of the following will give rise to the rebuttable presumption that a person allowed the consumption of marihuana on or within the premises:

1. The person had control over the premises or the portion of the premises where the marihuana was consumed;
2. The person knew or reasonably should have known that the marihuana was consumed; and
3. The person failed to take corrective action.

J. Violations. Failure to comply with the requirements of this Section shall be considered a violation and may jeopardize the Director or Special Land Use approval and license.

1. Request for revocation of state operating license. If at any time an authorized facility violates this Chapter or any other applicable city ordinance, the City Commission may request that LARA revoke or refrain from renewing the facility's state operating license.
2. Revocation of Special Land Use approval. Any approval granted for a facility may be revoked or suspended for any of the following reasons:
   a. Revocation or suspension of the licensee's authorization to operate by LARA.
   b. A finding by LARA that a rule or regulation has been violated by the licensee.

   After revocation of a Special Land Use approval, a new Special Land Use application shall be required for a facility to commence operation at the same location.
3. Civil infraction. It is unlawful to disobey, neglect, or refuse to comply with any provision of this Chapter. A violation is a municipal civil infraction. Each day the violation continues shall be a separate offense. Notwithstanding any other provision of this ordinance to the contrary, violators shall be subject to fines as determined by the City Commission.
4. Failure to obtain state license. In addition to the requirements stated in 5.12.09.H(2) or 5.12.16.B(6), whichever is applicable, if the applicant fails to

obtain the necessary license from LARA within the one (1) year approval period or any extension, the Director or Special Land Use approval shall expire.

5. Cessation of operations. Cessation of operations, including failure to maintain state licenses necessary to engage in the approved land use is cause for revocation of the Director or Special Land Use approval.

K. Rights. The operation of a licensed marihuana facility is a revocable privilege and not a right, in conformance with applicable state law. Nothing in this Chapter is to be construed to grant a property right for an individual or business entity to engage in the use, distribution, cultivation, production, possession, transportation or sale of marihuana as a commercial enterprise. Any individual or business entity which purports to have engaged in such activities either prior to or after the enactment of this amendment without obtaining the required authorization is deemed to be an illegally established use and is not entitled to legal nonconforming status. Nothing in this Chapter may be held or construed to grant a vested right, license, permit or privilege to continued operations within the City.

L. State Law. Nothing in this Chapter shall be construed in such a manner as to conflict with the MMMA, MMFLA, or other applicable state marihuana law or rules.

M. Federal Law. Nothing in this Chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act and the General Rules. Also, since Federal law is not affected by that Act or the General Rules, nothing in this Chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under Federal law. The Michigan Acts do not protect users, caregivers or the owners of properties on which the use of marihuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act.

N. Receipt of Applications. The Planning Department shall accept applications for any land use that requires a license from LARA in the administration of the MMFLA as follows:

   a. For applications requiring Director Review only: beginning on January 22, 2019.
   b. For applications requiring Special Land Use approval: beginning on March 4, 2019.”

Section 5. That Subsection D. of Section. 5.12.06. Neighborhood Meeting. of Title V, Chapter 61 of the Code of the City of Grand Rapids be amended as follows:

“**Sec. 5.12.06. Neighborhood Meeting.**

D. The Good Neighbor Plan

1. Applicability. Any establishment requiring a land use permit, as determined by Article 9, Section 5.9.19. Marihuana Facilities, will be required to submit a Good Neighbor Plan (GNP).

2. Purpose. The purpose of the GNP is to reduce potential negative impacts on nearby residents and businesses by specific uses. The coordination and collaboration of owners or operators with interested parties both before and after the development or licensing process allows for a proactive approach to create a positive working relationship between the community and the applicant by requiring the formulation of a written implementation program. This section provides a consistent method of addressing issues and likely areas of concern.

3. Additional Special Land Use information. In addition to the Use Regulations of Article 9, the application must include all of the following:
   a. Good neighbor plan. A written implementation program containing all of the items listed below.
      i. Crime prevention and awareness training.
      ii. Training in the handling of State-regulated substances, where applicable.
      iii. Litter control.
      iv. Loitering control.
      v. Trespass enforcement.
      vi. Landscape maintenance.
      vii. Neighborhood communication.
      viii. Documentation of compliance with the City's anti-discrimination policies and ordinances related to hiring, housing, and public accommodation practices, as applicable.
      ix. Marihuana Industry Voluntary Equitable Development Agreement (MIVEDA), if offered and incorporated into the application as required by Article 9 Use Regulations, Section 5.9.19 Marihuana Facilities.

   b. Mitigation. Some uses by the nature of the activities occurring within, on, or around the property on which they are located may have a deleterious impact on the neighborhood, business, or industrial district, or any area in which the facility is situated. Potential impacts associated with operations, and opportunities to mitigate those impacts, shall be taken into consideration in the development of a Good Neighbor Plan and Special Land Use request. Considerations shall include:
      i. The adverse effects, if any, that the hours of operation of the proposed establishment will have upon neighboring properties, with particular attention to the effects of noise, odors, litter, loitering, parking, and glare from exterior lighting or headlights on nearby residential properties.
      ii. The amount and degree of law enforcement activities which could reasonably be anticipated to be generated by the proposed establishment, both outside and inside, with particular emphasis upon

noise, calls for service, trespass enforcement, parking, vehicular use by patrons, and vandalism.

iii. Whether the proposed use makes adequate provisions to eliminate the potential for adverse impacts upon the stability of adjacent areas by depreciating the desirability of the property or nearby properties by the placement of the use; or, conversely, the exacerbation of price escalation in rents or values that would result in the displacement of residents or businesses and how the requested use might reasonably protect the surrounding area so as not to have an adverse impact.

iv. How the proposed use balances mobility options so as insure increased access and opportunity for those who might not own or be able to operate a vehicle, and to avoid an excessive parking burden or increased congestion in the general area.

c. Record of good faith. The Special Land Use application must be accompanied by written verification that the owner, operator, manager, or a representative of the parent company met with or attempted in good faith to meet with the local recognized organization(s), adjacent property owners, and the Planning Department. The written verification must include all of the following:

i. A copy of the notice and the names and addresses of those notified of the applicant's desire to meet;

ii. A copy of the time, date, and location of the meeting(s), and the names, addresses, and phone numbers of those who participated in the meeting(s);

iii. A copy of the draft good neighbor plan and, if applicable, site plan sent to the neighborhood association and as presented at the meeting(s), if different; and

iv. Identification of those components of the GNP which were agreed upon and those which were unresolved, plus any additional items discussed during the meeting(s).”

Section 6. That the following definition in Subsection P, Section 5.16.02. - Definitions. of Title V, Chapter 61 of the Code of the City of Grand Rapids be added:

“P. Definitions—P.

PLAYGROUND
An any outdoor facility intended for recreation, open to the public, and with any portion thereof containing apparatus intended for the recreation of children.”

Prepared by Elizabeth Zeller and Landon Bartley

CORRECT IN FORM
DEPARTMENT OF LAW