

CHAPTER 833 Medical Marihuana Facilities

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833.01 FINDINGS AND PURPOSE.

The City intends to issue permits for and to regulate marihuana facilities to the extent they are permitted under the Michigan Medical Marihuana Facilities Licensing Act. The City does not intend that permitting and regulation under this chapter be construed as a finding that such facilities comply with any law. By requiring a City MMF permit and compliance with the requirements of this chapter, the City intends to protect the public health, safety and welfare by:

(a) Promoting the safe, regulated manufacturing, production, and sale by state-licensed facilities of medical marihuana to adults age twenty-one and over, and to ensure the safe access to medical marihuana to the City's patients;

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833.02 DEFINITIONS.

(a) Words and phrases contained in the Medical Marihuana Facilities Licensing Act ("MMFLA"). This Chapter contains many words and phrases that are defined in the MMFLA. As used in this Chapter, they have the same meaning as provided in the MMFLA, except that if at any time the definition of a word or phrase set forth in this section conflicts with the definition in the MMFLA, then the definition in the MMFLA shall apply. The following words and phrases are, and mean, as follows:

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

(2) "Licensee" means a person holding a state operating license.

(3) "Marihuana" means that term as defined in section 3 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27953~~7106 of the public health code, 1978 PA 368, M.C.L.A. 333.7106.~~

(4) "Marihuana facility" means a location at which a licensee ~~holder~~ is licensed to operate under the MMFLA.

(5) "Marihuana plant" means any plant of the species Cannabis sativa L. Marihuana plant does not include industrial hemp.

(6) "Marihuana-infused product" means that term as defined in section 3 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27953~~a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, M.C.L.A. 289.1101 to 289.8111.~~

(7) "Michigan medical marihuana act" means the Michigan ~~M~~medical ~~M~~marihuana ~~A~~act, 2008 IL 1, MCLM.C.L.A. 333.26421 to 333.26430.

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—(10) "Processor" means a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center or another processor.

(11) "Provisioning center" means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a registered primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center for purposes of this act.

(12) "Rules" means rules promulgated under the administrative procedures act of 1969, 1969 PA 306, M.C.L.A. 24.201 to 24.328, by the ~~department in consultation with the board to implement this act, which shall include but is not limited to Emergency Rules issued by the~~ Marijuana Regulatory Agency to implement this act.

(13) "Safety compliance facility" means a licensee that is a commercial entity that ~~takes~~receives marihuana from a marihuana facility or receives marihuana from a registered primary caregiver, tests the marihuana ~~it~~ for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

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(b) Other words and phrases. The words and phrases in this Chapter, as used in this Chapter, shall have the following meanings:

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(6) "Competing MMF Permit Provisioning Center Applications" means two or more complete provisioning center license applications submitted for properties located less than 1,000 feet from each other when submitted during the same 24 hour period, defined as falling between 3:00 p.m. ~~1~~ to 2:59 p.m. the following business day.

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833.03 MARIHUANA FACILITIES AUTHORIZED.

Pursuant to the MMFLA, the City of Battle Creek authorizes the operation in the City of the following marihuana facilities, provided they possess a state operating license issued under the MMFLA and they comply with the additional requirements of this Chapter, Chapter 1251, Section 23, 26 through 31 related to 99-Medical Marihuana

(Zoning) and all other applicable zoning ordinances, laws, administrative rules, and ordinances:

- (a) Grower, including Class A grower; Class B grower; and Class C grower.
- (b) Processor.
- (c) Provisioning center.
- (d) Secure transporter.
- (e) Safety compliance facility.

833.04 CITY MMF PERMIT REQUIRED.

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(h) The term of the final MMF permit shall not exceed one year (except as provided below for permits issued in the month of December), and fees are not prorated. The permit year shall begin on January 1 in each year, or the date upon which the final MMF permit was approved, whichever occurs later, and shall terminate on December 31 unless earlier terminated as provided in Section 833.11. An annual permit issued between December 1 and December 31 of any year shall expire on December 31 of the next calendar year following issuance thereof, unless terminated sooner under Section 833.11. All permits issued pursuant to this chapter must be renewed on an annual basis. To renew an existing permit the licensee shall submit an application in the same manner as is required to apply for a new permit no sooner than 90 days before the expiration date and no later than 60 days before the expiration date. An application for a permit renewal received after November 1 of each year shall be considered late and will be subject to a late fee.

833.05 GENERAL PROVISIONS.

(a) An MMF permit issued under this Chapter is valid only for the location of the facility and type of facility that is listed on the MMF permit application and is valid only for the operation of the facility at that location by the MMF permit Applicant, providing the facility remains in compliance with all other requirements in this chapter and Chapter 129951.

(b) An MMF permit issued under this chapter is valid only if the permit holder also holds a valid current state operating license, and a copy of the valid current State license has been provided to the City Cannabis Coordinator by the MMF permit holder.

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(f) Acceptance of an MMF Permit from the city under this chapter constitutes consent by the permittee, owners, managers and employees to permit ~~the~~ City Administration or or its designee to conduct inspections of the facility to ensure compliance with this chapter.

833.06 APPLICATION REQUIREMENTS FOR AND ISSUANCE OF A NEW CITY MMF PERMIT; CONDITIONAL APPROVAL.

(a) Application for new annual MMF Permit. An application for a new annual MMF permit for a marihuana facility shall be submitted in person by the Applicant or their State licensed attorney to the City ~~Clerk~~Cannabis Coordinator on a form provided by the City, which shall fulfill all of the requirements indicated on the form. An Applicant shall truthfully and fully provide all of information requested on the application, including but not limited to, the following:

(1) The name and address of the proposed facility and any other contact information requested on the application form.

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(8) State of Michigan Department of Licensing and Regulatory Affairs document indicating approved prequalification status by the Cannabis Regulatory Agency~~Medical Marihuana Licensing Board~~ for the applicant or ~~applicants~~applicant's entity.

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(12) If the license holder is not the On-site Operator, indicate name and contract information of the On-site Operator.

(b) Upon filing of the application for an MMF Permit, the City ~~Clerk~~Cannabis Coordinator shall review and evaluate the application, along with other necessary City departments. In determining whether an MMF Permit should be issued, the City shall evaluate whether the application is complete.

(c) The City ~~Clerk~~Cannabis Coordinator shall reject MMF permit Provisioning Center application(s) which selected fewer items in its Pick List than a Competing MMF permit Provisioning Center Application(s) where each were submitted and determined to be complete during the same 24 hour period, defined as falling between 3:00 p.m. and 2:59 p.m. the following business day.

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(d) Conditional Approval Permit. Approval of the new annual MMF Permit application after review as set out in below Section 833.11 will result in the issuance of a 90 day Conditional Approval Permit, which authorizes the Applicant to apply for and seek site plan review approval, and building/trade permits. A Conditional Approval Permit does not authorize use of a Facility. Within 90 days of issuance of the Conditional Approval Permit, the Applicant shall submit proof of an approved City site plan review and building/trade permits to the City ~~Clerk~~Cannabis Coordinator.

(1) If application for site plan approval and local permits as outlined above were made but are not obtained within 90 days, the Conditional Approval Permit shall expire and a new permit application shall be submitted pursuant to Section 833.06. Extensions may be approved by the City ~~Clerk~~Cannabis Coordinator based on substantial work having been completed as determined by the City and at the request of the Applicant 30 days prior to the expiration of the Conditional Approval Permit.

(2) If no site plan or building plans have been submitted for permits within the 90 days, the Conditional Approval Permit expires, and an Applicant will be required to wait 30 days before submitting a new application.

___ (3) If local permits expire without the work having been completed, then the conditional approval permit shall expire. A new permit application may be submitted pursuant to Section 833.06.

(4) If local permits expire without the work having been completed and an extension was not timely applied for, or was denied, then the conditional approval permit shall expire. A new permit application shall be submitted pursuant to section 833.06.

___ (5) In the event that the facility does not obtain a Final MMF Permit within 90 days of issuance of a Certificate of Occupancy, the 90-Day Conditional Approval Permit shall expire. A new permit application may be submitted pursuant to Section 833.06. The City Cannabis Coordinator may grant one extension for up to 90 days to obtain a Final MMF Permit and commence operations upon the receipt of a written request, submitted not later than seven days prior to the expiration date, but only upon the condition that the Applicant submitted its Step Two Final application request to the Agency for a state license within thirty (30) days after having been granted a Certificate of Occupancy by the City, and the cause for delay rests solely with the Agency.

833.07 ISSUANCE OF FINAL MMF PERMIT AND AUTHORIZATION TO OPERATE FACILITY UNDER PERMIT.

(a) If the MMF permit Applicant has successfully demonstrated compliance with all requirements included within the Conditional Approval Permit for issuance of a Permit, including but not limited to, the location conforming to all standards of the zoning district in which it is located, then the City ~~Clerk~~Cannabis Coordinator shall issue a Final MMF permit to the Applicant, or grant renewal of an existing MMF permit.

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(c) The issuance of a final MMF permit under this chapter authorizes operation of the facility only after the following additional requirements are met:

(1) The Applicant has provided the City ~~Clerk~~Cannabis Coordinator with copies of the Applicant's state operating license and the Certificate of Occupancy for the premises.

(2) The Applicant has provided the City ~~Clerk~~Cannabis Coordinator a copy of the State approved premises security plan. The said security measures on the premises are subject to inspection and must be approved by the Battle Creek Police Department and comply with the following:

(A) Fully operational security cameras shall monitor all areas of the premises as required by State Administrative Rules, including but not limited to [Admin. Code R. 420.209.Emergency Rule 27.](#)

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(D) A monitored alarm system consistent with State Administrative Rules, including but not limited to [Admin. Code R. 420.209.Emergency Rule 27.](#)

(E) A storage room for overnight storage of any marihuana product and cash on the premises [consistent with State Administrative Rules, including but not limited to Admin. Code R. 420.212.](#) ~~The storage room shall have only one door for entry and no other potential means of entry, lawful or unlawful, such as a window or crawl space. The door shall be equipped with a locking mechanism that is different from other locks on any door within the facility.~~

(3) The Applicant has provided the City [ClerkCannabis Coordinator](#) proof that all City taxes and assessments owed by the applicant have been paid and any assessments, taxes, or liens on the real property to comprise the licensed premises and personal property located on the licensed premises are also paid.

(4) The Applicant has provided the City [ClerkCannabis Coordinator](#) proof that the applicant is not in violation of any City ordinances on any other property under the applicant's ownership or control located within the City.

(d) The Applicant shall provide the City with a certificate signed by a qualified agent of an insurance company evidencing the existence of valid and effective policies of the following types of insurance, as well as a copy of an endorsement placed on each policy requiring 10 days' notice by mail to the city before the insurer may cancel the policy for any reason:

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An original certificate of insurance may be provided as an initial indication of the required insurance. Applicant shall be required to continue without interruption during the term of the MMF permit the above named insurance coverages. If any of the above coverages expire by their terms during the term of a permit, the Applicant shall deliver proof of renewal and/or new policies to the City's [ClerkCannabis Coordinator](#) at least 10 days prior to the expiration date. Insurance companies, named insured and policy forms shall be subject to the approval of the City Insurance Loss Control Specialist or designee, within 5 business days. Insurance policies shall not contain endorsements or policy conditions which reduce coverage required under the terms of the MMF permit.

833.08 RENEWALS, AMENDMENTS AND RESCISSIONS.

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(b) Amendments.

(1) Amendment of MMF Application without Conditional or Final MMF Permit approval.

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(3) Substantive changes to an approved Conditional or Final MMF Permits.

(A) Substantive changes ~~to an approved Conditional or Final MMF Permits.~~
~~Substantive changes~~ require the filing of a new application pursuant to Section 833.06.
The following changes shall be considered “substantive,” as intended by this subsection:

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833.09 CONDUCT OF BUSINESS AT A MEDICAL MARIHUANA FACILITY.

(a) A medical marihuana facility shall be conducted in compliance with the MMFLA, the rules promulgated pursuant to the MMFLA, including but not limited to the Emergency-Administrative Rules, the MMMA, and all other laws, rules, and regulations of the state of Michigan and the City of Battle Creek.

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(c) Marihuana facilities shall be closed for business, and no sale or any distribution, delivery or receipt of marihuana in any form shall occur upon the premises between the hours of ~~9~~12:00 ~~ap~~.m. and 7:00 a.m.

(d) An authorized person shall consent to the entry into a marihuana facility by the Building Official and Zoning Inspectors or their designee for the purpose of inspection to determine compliance with this chapter and Ch. 125199, pursuant to a notice posted in a conspicuous place on the premises two or more days before the date of the inspection or sent by first class mail to the address of the premises four or more calendar days before the date of the inspection.

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(j) MMF Permittees shall notify the agency and local law enforcement authorities within 24 hours of becoming aware of or within 24 hours of when the applicant should have been aware of the theft or loss of any marihuana product or criminal activity at the marihuana business.

833.10 PROHIBITED ACTS.

It shall be unlawful:

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(c) For any person to produce, distribute or possess marihuana in violation of this chapter or any other applicable state or local law, including but not limited to applicable zoning ordinances, Chapter 1230 of these ordinances, and state administrative rules, ~~including Emergency Rules.~~

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(e) For any MMF permittee to advertise or market marihuana product where the advertisement is visible to members of the public from any street, sidewalk, park, or other public place.

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833.11 GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF MMF PERMIT; MMF PERMIT FORFEITURE; HEARING.

(a) Grounds for Denial.

(1) The City's ~~Clerk~~ Cannabis Coordinator shall reject any application that does not meet the requirements of the MMFLA or this Chapter. The City's ~~Clerk~~ Cannabis Coordinator shall reject any application that contains any misrepresentation or omission of any material fact (materiality as determined by the City), or false or misleading information, or the Applicant has provided the ~~City~~ with any other false or misleading information related to the facility.

(2) An Applicant is ineligible to receive a license under this Chapter if any of the following circumstances exist regarding the Applicant or an Applicant's Affiliate (as defined by the MMFLA):

(A) Conviction of or release from incarceration for a felony under the laws of this state, any other state, or the United States within the past ten years or conviction of a controlled substance-related felony within the past ten years. This subsection does not apply to a felony for the manufacturer, processing, or distribution of marihuana, or possession with the intent to manufacturer, process, or distribute marihuana, unless the felony involved the distribution of marihuana to a minor.

(B) Within the past five years, conviction of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state. This subsection does not apply to a misdemeanor or ordinance violation for the possession or use of marihuana.

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~~(H) The Applicant, if an individual, has been a resident of this state for less than a continuous two-year period immediately preceding the date of filing the application. This requirement does not apply after June 30, 2018.~~

~~—(H)—~~ The Applicant fails to meet other criteria established by State-issued rule.

(3) In determining whether to grant MMF permit to an applicant, the City may also consider all of the following:

A. Whether the applicant or anyone who will have ownership in the marihuana establishment ~~within the past 5 years~~ has a pattern of convictions involving dishonesty, theft, or fraud that indicate the proposed marihuana establishment is unlikely to be operated with honesty and integrity.

B. Whether the applicant has a history of noncompliance with any regulatory requirements, all legal judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, against the applicant, that are related to business operations, including, but not limited to fraud, environmental, food

safety, labor, employment, worker's compensation, discrimination, and tax laws and regulations, in this state or any other jurisdiction.

C. Whether the applicant meets the other standards in rules applicable to the state license category and standards, requirements in this chapter, as well as compliance with other applicable city ordinances.

(b) MMF Permit Forfeiture.

- i. -In the event that a medical marihuana facility does not commence operations within one year of issuance of a City MMF Permit, the MMF Permit shall be deemed forfeited; the business may not commence operations and the license is not eligible for renewal.

~~— In the event that a medical marihuana facility does not commence operations within 90 days of issuance of a Certificate of Occupancy, the Fulfillment of the 90 Conditional Approval Permit will expire, the application is revoked and the applicant will need to reapply.~~

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(d) Nonrenewal, suspension, or revocation of MMF Permit.

- (1) The City's ~~Clerk~~Cannabis Coordinator may, after notice and hearing, suspend, revoke or refuse to renew an MMF Permit for any of the following reasons:

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