

CHAPTER 835

Adult Use Marihuana Establishments

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835.02 DEFINITIONS.

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

- (1) "Department" means the department of licensing and regulatory affairs.
- (2) "Licensee" means a person holding a state license.
- (3) "Marihuana" means any of the following:
 - (i) A plant of the genus Cannabis, whether growing or not.
 - (ii) A parts of the plant of the genus Cannabis, whether growing or not.
 - (iii) the seeds of the plant of the genus Cannabis.
 - (iv) Marihuana concentrate.
 - (v) A compound, manufacture, salt, derivative, mixture, extract, acid, isomer, salt of an isomer, or preparation of any of the following: A plant of the genus Cannabis; A part of a plant of the genus Cannabis; The seeds of a plant of the genus Cannabis; Marihuana concentrate.
 - (vi) A marihuana-infused product.
 - (vii) A product with a THC concentration of more than 0.3% on a dry-weight or per volume basis in the form in which it is intended for sale to a consumer.
 - (viii) A product that is intended for human or animal consumption and that contains, in the form in which it is intended for sale to a consumer, a total amount of THC that is greater than the limit established by the marijuana regulatory agency under section 8(1)(n) of MRTMA.

(3a) Except for marihuana concentrate extracted from any of the following, "marihuana" the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. For purposes of this chapter, marihuana does not include:

A. The mature stalks of the plant of the genus Cannabis; ~~F~~fiber produced from the mature stalks of a plant of the genus Cannabis; ~~O~~oil or cake made from the seeds of the plant of the genus Cannabis; ~~A~~any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks of a plant of the genus Cannabis; ~~except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;~~

B. Industrial hemp; ~~or~~

C. ~~Any other~~ ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products; or

D. A drug for which an application filed in accordance with 21 USC 355 is approved by the Food and Drug Administration.

(4) "Marihuana, Adult Use Establishment" or "Marihuana Establishment" means a marihuana grower, marihuana safety compliance ~~facility~~~~marihuana establishment~~, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed to operate by the ~~cannabis~~~~marihuana~~ regulatory agency as authorized by the Michigan Regulation and Taxation of Marihuana Act (2018).

A. "Marihuana Grower" means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

B. "Marihuana Microbusiness" means a person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are twenty-one years of age or older or to a marihuana safety compliance ~~facility~~~~marihuana establishment~~, but not to other marihuana establishments.

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F. "Marihuana Safety Compliance ~~Facility~~"~~Marihuana establishment~~ means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

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(6) "Marijuana Regulatory Agency," "Cannabis Regulatory Agency," or "Agency" means the marijuana regulatory agency created under Executive Reorganization Order No. 2019-2, MCL 333.27001, renamed as the Cannabis Regulatory Agency pursuant to Executive Reorganization Order (ERO) 2022-1 .a Type I agency within the Department of Licensing and Regulatory Affairs (the "Department") with the powers as set out in MCL 333.27001, including but not limited to, all of the authorities, powers, duties, functions, and responsibilities of the Department, including its Bureau of Marihuana Regulation, under the MRTMA, 2018 IL 1, MCL 333.27951 to 333.27967.

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(9) "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 Agency to implement this act, which shall include, but is not limited to, the Emergency Rules issued under the administrative procedures act on July 3, 2019, by the Marijuana Regulatory Agency under the authority conferred on the executive director of the marijuana regulatory aAgency by section 206 of the MMFLA medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the MRTMA Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

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(11) "State license" or, unless the context requires a different meaning, "license" means a license that is issued by the department under this act that allows the licensee to operate a marihuana establishment.

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

(1) "Applicant" means a person who applies for a state operating license: For purposes of this definition, for purposes of ineligibility for a license under Sec. 402 of the Act, or for purposes of prior Marihuana Regulatory Agency approval of a transfer of interest under section 406 of the Act, an applicant includes a managerial employee of the applicant, a person holding a direct or indirect ownership interest of more than 10% in the applicant, and the following for each type of applicant:

A. For an individual or sole proprietorship: the proprietor and the proprietor's spouse.

B. For a partnership and limited liability partnership: all partners and their spousess.

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H. For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and ~~their~~ spouses of the individuals.

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835.03 MARIHUANA ESTABLISHMENTS AUTHORIZED; SPECIAL LICENSES PROHIBITED.

(a) Marihuana Establishments Permitted. Pursuant to the MRTMA, the City of Battle Creek authorizes the operation in the City of the following marihuana adult use establishments, provided they possess a state operating license issued under the MRTMA and they comply with the additional requirements of this chapter, Chapter 1251, Sections 23 through 3199 related to Adult Use Marihuana Facilities and Establishments (Zoning), and all other applicable ordinances, laws, administrative rules, and ordinances:

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835.05 GENERAL PROVISIONS.

(a) An AUME permit issued under this chapter is valid only for the location of the marihuana establishment and type of marihuana establishment that is listed on the AUME permit application, providing the marihuana establishment remains in compliance with all other requirements in this chapter and Chapter 125199.

(b) An AUME 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 of Battle Creek's Cannabis Coordinator~~City Clerk~~ by the AUME permit holder.

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(f) Acceptance of an AUME permit from the city under this chapter constitutes consent by the permittee, owners, managers and employees to permit the City a~~Administrat~~ion or designee to conduct inspections of the marihuana establishment to ensure compliance with this chapter.

835.06 APPLICATION REQUIREMENTS FOR AND ISSUANCE OF A NEW CITY AUME PERMIT; CONDITIONAL APPROVAL.

(a) Application for New Annual AUME Permit. An application for a new annual AUME permit for a marihuana establishment shall be submitted in person by the applicant or their state licensed attorney to the City's ~~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 the information requested on the application, including but not limited to, the following:

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(7) A City-issued zoning assurance letter, provided with the AUME permit application, signed by the applicant which affirms that the applicant has reviewed all applicable zoning ordinances relative to the proposed use, including Ch. 125~~199~~ and all regulations addressing site development including, but not limited to parking, setbacks, and signage.

(8) State of Michigan Department of Licensing and Regulatory Affairs document indicating approved prequalification status by the Cannabis~~Marihuana~~ Regulatory Agency for the applicant or 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 AUME permit, the City's ~~Clerk~~Cannabis Coordinator shall review and evaluate the application, along with other necessary City departments. In determining whether an AUME permit should be issued, the City shall evaluate whether the application is complete.

(c) The ~~City of Battle Creek's Cannabis Coordinator~~City Clerk shall reject AUME permit marihuana retailer and/or marihuana microbusiness application(s) which selected fewer items in its pick list than a competing AUME permit marihuana retailer and/or marihuana microbusiness application(s) where each was 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. Initial approval of the new annual AUME permit application after review as set out in below Section [835.11](#) will result in the issuance of a ninety-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 marijuana establishment. Within ninety 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's ~~Clerk~~[Cannabis Coordinator](#).

(1) If application for site plan approval and local permits as outlined above were made but are not obtained within ninety days, then the conditional approval permit shall expire and a new permit application shall be submitted pursuant to Section [835.06](#). Extensions may be approved by the City's ~~Clerk~~[Cannabis Coordinator](#) based on substantial work having been completed as determined by the City and at the request of the applicant thirty 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 ninety days, then the conditional approval permit expires, and an applicant will be required to wait thirty days before submitting a new application.

(3) If ~~application for site plan approval and local permits expire without the work having been completed, as outlined above were obtained within ninety days, but the local permits expired without the work having been completed,~~ then the conditional approval permit shall expire, ~~and a~~ new permit application ~~may~~[shall](#) be submitted pursuant to Section [835.06](#).

(4) If ~~application for site plan approval and local permits as outlined above were obtained within ninety days, but if the~~ 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, ~~and a~~ new permit application shall be submitted pursuant to section [835.06](#).

(5) In the event that the facility does not obtain a Final AUME 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 AUME 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.

835.07 ISSUANCE OF FINAL AUME PERMIT AND AUTHORIZATION TO OPERATE MARIHUANA ESTABLISHMENT UNDER PERMIT.

(a) If the AUME 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 all requirements of below subsection (c) and, 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 AUME permit to the applicant, or grant renewal of an existing AUME permit.

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(c) The issuance of a final AUME permit under this chapter authorizes operation of the marihuana establishment 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 ~~C~~ertificate of ~~O~~ccupancy 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 Emergency Rule 35-Admin. Code R. 420.209.

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D. A monitored alarm system consistent with State Administrative Rules, including but not limited to Emergency Admin. Code -R. 420.209~~ule 35~~.

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 with Admin. Code R. 420.212~~Emergency Rule 2738~~.

(3) The applicant has provided the ~~City Clerk~~Cannabis 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 Clerk~~Cannabis 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) Insurance.

(1) The applicant shall provide the City with proof of financial responsibility for liability for bodily injury in an amount not less than one hundred thousand dollars (\$100,000), as well as a copy of an endorsement placed on each policy requiring ten days' notice by mail to the city before the insurer may cancel the policy for any reason:

A. Worker's compensation insurance in accordance with Michigan statutory limits and Employers Liability Insurance with a minimum limit of \$100,000.00 for each accident for any employee.

B. A marihuana secure transporter shall show proof of auto insurance, vehicle registration, and registration as a commercial motor vehicle, as applicable, for any vehicles used to transport marihuana product as required by the Act.

(2) An original certificate of insurance may be provided as an initial indication of the required insurance. ~~applicant~~Applicant shall be required to continue without interruption during the term of the AUME 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 Cannabis Coordinatority Clerk at least ten 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 five business days. Insurance policies shall not contain endorsements or policy conditions which reduce coverage required under the terms of the AUME permit.

835.08 RENEWALS, AMENDMENTS AND RESCISSIONS.

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(b) Amendments.

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(2) Non-substantive changes to approved conditional or final AUME permit:

A. After receiving an approved conditional or final AUME permit, and AUME application may be amended for any circumstance listed under subsection (b)(1)A.2.

B. Prior to receiving an approved final AUME permit, any change which will not increase the project intensity, as solely determined by the Zoning Administrator, including but not limited to: building size, number of marihuana plants, hours of operation, and type of AUME use. The Zoning Administrator's decision as to whether the change shall be permitted as not increasing the project intensity shall be considered a final determination. If the Zoning Administrator determines that such change requires the submittal of a new or amended site plan application or building/trade permits, then these items shall be mandatory and enforceable.

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(3) Substantive changes to an approved conditional or final AUME permits-
~~Substantive changes~~ require the filing of a new application pursuant to Section 835.06. The following changes shall be considered "substantive," as intended by this subsection:

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835.09 CONDUCT OF BUSINESS AT A MARIHUANA ESTABLISHMENT.

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(d) Marihuana establishments 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 ~~9:00 p.m. 12:00 a.m.~~ and 7:00 a.m.

(e) An authorized person shall consent to the entry into a marihuana establishment 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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(h) Access to the marihuana establishment's restricted and limited access areas is restricted to the permittee; employees of the permittee, escorted visitors, City employees and police officers acting within the scope of their duty, and the Agency. A marihuana retailer or a marihuana microbusiness may grant access as provided in below subsection (ii) to customers to a dedicated point of sale area.

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(l) Marihuana establishments shall not allow onsite or as part of the marihuana establishment the sale, consumption, or serving of food or alcohol. However, the establishment may allow the consumption of food by employees or visitors provided the marihuana establishment has a designated area for the consumption of food that includes, but is not limited to, a room with floor to ceiling walls and a door that separates the room from any marihuana product as provided in [Emergency Rule 56-Admin. Code R. 420.203](#).

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835.10 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 125199](#) of these ordinances, and state administrative rules.

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(e) For any AUME 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 unless the permittee has reliable evidence that no more than 30% of the audience or readership for the television program, radio program, internet web site, or print publication is reasonably expected to be under twenty-one years of age. Any marihuana product permitted to be advertised or marketed under this rule shall include the warnings listed in [Admin. Code R. 420.505 and 420.5077](#) ~~State Emergency Rule 49(1)(k)~~.

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(k) No marihuana retailer may sell or otherwise transfer marihuana that is not ~~contained in an opaque, resealable sealable, child-resistant package designed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20 (1995).~~ a container that meets the requirements of Admin. Code R. 420.504.

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835.11 GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF AUME PERMIT; AUME PERMIT FORFEITURE; HEARING.

(a) Grounds for Denial.

(1) The City ~~Clerk~~Cannabis Coordinator shall reject any application that does not meet the requirements of the MRTMA or this chapter. The City ~~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~~City with any other false or misleading information related to the marihuana establishment.

(2) An applicant is ineligible to receive a permit under this chapter if any of the following circumstances exist regarding the applicant or an applicant's affiliate (as defined by the MRTMA):

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D. Is an employee, advisor, or consultant of the agency involved in the implementation, administration, or enforcement of the Act or the Rules, ~~including emergency rules, pursuant to section 7 of the Act, MCL 333.27957.~~

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(3) In determining whether to grant an AUME 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 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) AUME Permit Forfeiture.

-In the event that a marihuana establishment does not commence operations within one year of issuance of a City AUME permit, the AUME permit shall be deemed forfeited; the business may not commence operations and the permit 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.~~

(c) AUME Permit as Revocable Privilege. An AUME permit granted by this chapter is a revocable privilege granted by the City and is not a property right. Granting an AUME permit does not create or vest any right, title, or other property interest. Each AUME permit is exclusive to the permittee, and a permittee or any other person must apply for and receive the City's approval before a permit is transferred, sold, or purchased. An AUME permittee or any other person shall not lease, pledge, or borrow or loan money against an AUME permit. The attempted transfer, sale or other conveyance of an interest in a license without prior agency approval is grounds for suspension or revocation of the AUME permit or for other sanction considered appropriate by the City.

(d) Nonrenewal, Suspension, or Revocation of AUME Permit.

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

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835.12 REVOCATION NOT EXCLUSIVE PENALTY.

Nothing in this chapter shall be deemed to prohibit the City ~~Administrator~~administration or designee from imposing other penalties authorized by the City of Battle Creek ordinances or other ordinance of the city, including filing a public nuisance action or any other legal action in a court of competent jurisdiction.

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