

CITY OF KALAMAZOO, MICHIGAN

DRAFT ORDINANCE FOR ADULT USE MARIHUANA ESTABLISHMENTS

February 28, 2020

The information below is a draft outline of the Adult Use Marihuana Establishment License Types and applicable standards. Please note:

- 1. State Regulations. Additional regulations within the Michigan Regulation and Taxation of Marihuana Act (Initiated Law 1 of 2018) and emergency rules approved by Michigan Marihuana Regulatory Agency (MMRA) are applicable to the adult-use marihuana business license types referenced in this document.**
- 2. Draft Status. The following is a set of draft zoning standards for adult use marihuana. These are subject to change before being reviewed by the Planning Commission on April 2, 2020. Further, the City of Kalamazoo is in the process of updating its Zoning Code and Map in 2020 – all existing zoning districts are subject to change during this process.**

The following Adult-Use Marihuana Establishments are permitted. Each Establishment is subject to specific use standards, noted below, and each establishment is also subject to the following.

1. General Provisions.
 - a) The location criteria contained is applicable to any proposed change in the location of an existing marihuana establishment.
 - b) A licensee must not operate a marihuana establishment at any place in the City other than the address provided in the application on file with the City Clerk.
 - c) A licensee must operate the licensed establishment in compliance with all applicable State and City regulations for that type of establishment.
2. Location Criteria. All establishment types must meet the following location criteria, except Safety Compliance Establishments.
 - a) Required Distance.
 - 1) A licensee shall not operate a marihuana establishment within one thousand (1,000) feet of a pre-existing private or public school, providing education in kindergarten or grades 1 through 12.
 - 2) A licensee must not operate a marihuana establishment within five hundred (500) feet of any pre-existing State-licensed childcare center.
 - 3) These separation distances are applicable to marihuana establishments and similar protected uses located in adjacent governmental jurisdictions.

- b) Measuring the Required Distance. The required distance is measured in a straight line from the nearest property line of a land use to the nearest portion of the building or unit in which the marihuana establishment is located.
3. Residential Districts and Use Restrictions. A licensee must not operate a marihuana establishment in any residential zoning district or in a residential unit.

The following Adult Use Marihuana Establishments are permitted with the noted standards.

1. Grower Establishments. Growers are licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments The three (3) grower license types are Class A (authorized to grow up to 100 plants); Class B (authorized to grow up to 500 plants); and Class C authorized to grow up to 2000 plants)
 - a) Class A Grower Establishments are permitted as follows.
 - 1) Class A is permitted in Zones Community Commercial (CC), Limited Manufacturing (M-1), and General Manufacturing (M-2).
 - 2) In Zone CC, all grow operations must be conducted within an enclosed building.
 - b) Class B and Class C Grower licenses are permitted in in Limited Manufacturing (M-1), and General Manufacturing (M-2).
2. Processor Establishments. Processors are licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.
 - a) Processor Establishments are permitted in Limited Manufacturing (M-1), and General Manufacturing (M-2).
 - b) All processing operations must be conducted within an enclosed building.
3. Safety Compliance Establishment. Safety Compliance Establishments are licensed to test marihuana, including certification for potency and the presence of contaminants.
 - a) Safety Compliance establishments are permitted in in Zones Community Commercial (CC), Live Work 1 (LW-1), Live Work 2 (LW-2), Business Technology, and Research (BTR), Limited Manufacturing (M-1), and General Manufacturing (M-2).
4. Secure Transporter Establishment. Secure Transporter Establishments are licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.
 - a) Secure Transport establishments are permitted in Zones Community Commercial (CC), Limited Manufacturing (M-1), and General Manufacturing (M-2).
 - b) In Zone CC warehousing activity is only permitted as an accessory use to the principal permitted Secure Transporter use.
5. Retailer Establishment. Retailer Establishments are licensed to obtain marihuana from

marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

- a) Retailer Establishments are permitted in Zones Live Work 1 (LW-1), Community Commercial (CC), and Commercial Central Business District (CCBD).
- b) All Retailer activities must be conducted within an enclosed building.
- c) A separation distance of one thousand (1000) feet is required from any other Retailer or Provisioning Center with the following exception
 - 1) Exception. A separation distance of five hundred (500) feet is permitted when an applicant or a group of applicant-owners has or have been a City resident within the following *zip codes/census tracts (City reviewing for inclusion)* for the past three (3) years and has 51% or more ownership in the business for which the license is being applied

6. Microbusiness Establishment. Microbusiness Establishments are licensed to cultivate not more than one hundred and fifty (150) marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance establishment, but not to other marihuana establishments.

- a) Microbusiness Establishments are permitted in Zones Community Commercial (CC), Live Work 2 (LW-2), Limited Manufacturing (M-1), and General Manufacturing (M-2).
- b) In Zones CC and LV-2 the following apply.
 - 1) All activities must be conducted within an enclosed building.
 - 2) Microbusiness Establishments are prohibited from using any substances with a flashpoint below one hundred (100) degrees Fahrenheit for processing.
 - 3) A separation distance of five hundred (500) feet is required from another Microbusiness Establishment with the following exception.
 - i. Exception. A separation distance of two hundred fifty (250) feet is permitted when an applicant or a group of applicant-owners has or have been a City resident within the following *zip codes/census tracts (City reviewing for inclusion)* for the past three (3) years and has 51% or more ownership in the business for which the license is being applied.

7. Excess Grower Establishment. An Excess Grower license is issued to licensees holding five (5) Class C Adult Use Marihuana Grower & at least two (2) Class C Medical Marihuana Grower licenses to allow additional marihuana plant grow capacity.

- a) Excess Grower Establishments are permitted in Zone General Manufacturing (M-2).

8. Designated Consumption Establishment. A designated Consumption Establishment is a commercial space for the consumption of marihuana products by persons 21 and older.

- a) Designated Consumption Establishment are permitted in Zones Community Commercial (CC) and Commercial Central Business District (CCBD).

Adult Use Marihuana Definitions:

CULTIVATE. To propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.

MARIHUANA or MARIJUANA. The term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marihuana Tracking Act, MCL 333.27901 and the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq.

-OR- City to review to determine which definition will be kept

MARIHUANA. All parts of the plant of the genus cannabis, growing or not; the seeds of the plant; 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 act, marihuana does not include:

- (1) the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;
- (2) industrial hemp; or
- (3) any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

MARIHUANA ESTABLISHMENT. Refers to marihuana grower, safety compliance, processor, microbusiness, retailer, secure transporter, or any other type of adult-use marihuana-related business licensed pursuant to the MRTMA.

MARIHUANA -INFUSED PRODUCTS. A topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.

MRTMA. The acronym for the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27051 et seq.

PROCESS or PROCESSING. The activity to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

ADULT-USE STATE LICENSE. The license issued by the Michigan Marihuana Regulatory Agency that allows a person to operate an adult use marihuana establishment.