

# CITY OF LINCOLN PARK, MICHIGAN

## CERTIFIED COPY OF RESOLUTION #2020-A253

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE CITY OF LINCOLN PARK, WAYNE COUNTY, MICHIGAN, HELD IN THE JOHN A. ALOISI COUNCIL CHAMBERS, OF THE MUNICIPAL BUILDING.

UNDER THE DATE OF: September 8, 2020

MOVED BY: Councilman Higgins      SUPPORTED BY: Mayor Karnes

BE IT RESOLVED, that "AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF LINCOLN PARK BY REPEALING CHAPTER 853 AND REPLACING IT WITH A NEW CHAPTER 853 ENTITLED, MARIHUANA LICENSES" is given its third and FINAL reading and be ADOPTED by TITLE ONLY said ordinance having been conspicuously posted for 72 hours.

### THE CITY OF LINCOLN PARK ORDAINS:

That Part Eight, Title Two of the Codified Ordinances for the City of Lincoln Park Chapter 853 be amended by repealing and replacing it with a new Chapter 853 entitled "MARIHUANA LICENSES"

#### 853.01 - PURPOSE

The purpose of this Chapter is to exercise the City of Lincoln Park's regulatory authority to locally license and regulate Marihuana Businesses, including Marihuana Retail Establishments, Marihuana Provisioning Centers, Marihuana Grower Facilities, Marihuana Safety Compliance Facilities, Marihuana Secure Transporters, Marihuana Processor Facilities, to the extent permissible under state and federal laws and regulations, and to protect and promote the public health, safety, and welfare of the City and its residents.

#### Sec. 853.02 - DEFINITIONS

Except as expressly defined differently, words and phrases in this Chapter shall have the same meanings ascribed to them as in the Michigan Medical Marihuana Act, Michigan Medical Marihuana Facilities Licensing Act, Marihuana Tracking Act, Michigan Regulation and Taxation of Marihuana Act, and the administrative rules and regulations promulgated by the State of Michigan and the Michigan Department of Licensing and Regulatory Affairs, as amended.

- (a) "Applicant" means an individual, person, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity or other business entity who applies for a license to operate a Marihuana Business in the City.
- (b) "City" means the City of Lincoln Park, Michigan.
- (c) "Cultivate" means to propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.
- (d) "Co-Locate" or "Co-Location" means any combination of growers, processors, and/or marihuana retail establishments that may operate as separate marihuana businesses at the same physical location.
- (e) "Industrial hemp" means a plant of the genus cannabis and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry-weight basis, or per volume or weight of Marihuana-infused product, or the combined percent of delta-9- tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus cannabis regardless of moisture content.
- (f) "LARA" means the Michigan Department of Licensing and Regulatory Affairs, including, without limitation, the Marihuana Regulatory Agency.
- (g) "Marihuana" means 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 **continued.**

of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. Marihuana does not include: (i) 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; (ii) industrial hemp; or (iii) any other ingredient combined with Marihuana to prepare topical or oral administrations, food, drink, or other products.

(h) “Marihuana accessories” means any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.

(i) “Marihuana concentrate” means the resin extracted from any part of the plant of the genus cannabis.

(j) “Marihuana Business” means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana retailer, marihuana provisioning center, marihuana secure transporter, or any other type of marihuana establishment or facility licensed by LARA.

(k) “Marihuana grower” means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

(l) “Marihuana-infused product” means 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 purpose of the food Law, MCL 289.1101 to 289.8111.

(m) “Marihuana Tracking Act” or “MTA” means Public Act 282 of 2016, MCL 333.27901, et seq., as amended and all future amendments.

(n) “Marihuana Processor” means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

(o) “Marihuana Provisioning Center” means a licensee that is a commercial entity located in the city 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 pursuant to the MMFLA.

(p) “Marihuana Retailer” means a licensee that is a commercial entity located in the city that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to the public in accordance with the MRTMA.

(q) “Marihuana Safety Compliance Facility” means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

(r) “Marihuana Secure Transporter” means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

(s) “Michigan Medical Marihuana Act”, or “MMMA” means the initiated law of 2008, MCL 333.2642 1, et seq., as amended and all future amendments.

(t) “Michigan Medical Marihuana Facilities Licensing Act”, or “MMFLA” means Public Act 281 of 2016, MCL 333.26421, et seq., as amended and all future amendments.

(u) “Michigan Regulation and Taxation of Marihuana Act” or “MRTMA” means, Initiated Law 1 of 2018, MCL 333.27951, et. seq., as amended and all future amendments.

(v) “Person” means an individual, partnership, corporation, limited liability company, trust, or other legal entity.

(w) “Primary Caregiver” or “Registered Primary Caregiver” means a person who is at least 21 years old and who has agreed to assist with a registered

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qualifying patient's medical use of Marihuana and who has not been convicted of any felony within the past 10 years and has never been convicted of a felony involving illegal drugs or a felony that is an assaultive crime as defined in Section 9a of Chapter X of the Code of Criminal Procedure, 1927 PA 175, MCL 770.9a.

- (x) "Process" or "Processing" means 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.
- (y) "Qualifying Patient" or "Registered Qualifying Patient" means a person who has been diagnosed by a physician as having a debilitating medical condition and who has a valid registry identification card issued by LARA or an equivalent approval lawfully issued under the laws of another State or other entity of the United States which identifies the person as a registered qualifying patient.
- (z) "School" means and includes buildings and grounds used for school purposes to provide instruction to children and youth in grades pre-kindergarten through 12 by a public, private, denominational, or parochial school.
- (aa) "Stakeholder" means, with respect to a trust, the trustee and beneficiaries; with respect to a limited liability company, all members and managers; with respect to a corporation, whether profit or non-profit, all stockholders, directors, corporate officers or persons with equivalent titles; and with respect to a partnership or limited liability partnership, all partners and investors.
- (bb) "State" means the State of Michigan.
- (cc) "State license" means a license issued by LARA that allows a person to operate a Marihuana Business.

#### 853.03 - LICENSE REQUIRED

A Marihuana Business in the City must be licensed by the State and by the City pursuant to this Chapter. No person shall operate a Marihuana Business in the City without first obtaining a license to do so from the City Clerk and meeting all of the requirements set forth in this Chapter. A Marihuana Business operating without a City license under this Chapter or without a State license is declared to be a public nuisance.

#### 853.04 - CAREGIVER LICENSE REQUIRED

(a) No person shall assume responsibility as a Primary Caregiver for the purpose of the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of Marihuana or Marihuana accessories relating to the administration of Marihuana to treat or alleviate a Qualifying Patient's debilitating medical condition or symptoms, associated with the debilitating medical condition, as defined under the MMMA, without first obtaining a license from the City Clerk.

(b) Before any license required by this Section is issued, the applicant shall first pay to the City Treasurer a non-refundable fee, as set forth from time to time by resolution of the Mayor and Council.

(c) No license required by this Section shall be issued to any person who is required to have a license or registration from the State until such person submits evidence that he or she has secured said State registration. A copy of which shall be filed in the office of the City Clerk along with the required application.

(d) A license issued under this Section shall expire at 12:00 midnight (EST) on the first Tuesday in May following its issuance, unless it expires at an earlier date under the terms thereof.

#### 853.05 - MMFLA AND MRTMA LICENSE APPLICATION

- (a) Applications for a City license shall be submitted to the City Clerk on an application form to be provided by the City Clerk accompanied by a non-refundable fee in the amount of \$1,000.00 per each license sought. The applicant shall submit one printed and one electronic copy of the completed application and supporting information to the City Clerk. For a co-located facility, an applicant may apply for multiple licenses using one application that explicitly details the operation of the co-located facility. Each license

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(b) sought will require an additional application fee of \$1,000.00 per license.  
A complete application shall be made under oath and shall contain all of the following:

1. The applicants' and any stakeholders' names, dates of birth, mailing address, email address, and phone numbers, including emergency contact information, and a copy of a government-issued photo identification card of the applicant and all stakeholders.
2. For a privately held corporation, all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, and all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.
3. For a partnership or limited liability partnership, all partners and their spouses.
4. For a limited partnership and a limited liability limited partnership, all general and limited partners, not including a limited partner holding a direct or indirect ownership interest of 10% or less and who does not exercise control over or participate in the management of the partnership, and their spouses.
5. For a limited liability company, all members and managers, not including a member holding direct or indirect ownership interest of 10% or less and who does not exercise control over or participate in the management of the company, and their spouses.
6. If the applicant is not an individual, the articles of incorporation or organization, Internal Revenue Service SS-4 EN confirmation letter, and the operating agreement or bylaws of the applicant, if a limited liability company or corporation.
7. A copy of the applicant's notice of prequalification status issued by LARA to operate a medical marihuana facility or adult-use marihuana establishment. If the applicant does not have a prequalification from the state, the application will not be processed by the City.
8. The name and address of the proposed Marihuana Business and any additional contact information deemed necessary by the City Clerk.
9. For the applicant and every stakeholder, affirmation that each is at least 21 years of age.
10. Written consent authorizing the City's Public Safety Department to perform a criminal background check to ascertain whether the applicant and stakeholders have any convictions involving dishonesty, theft, fraud, or controlled substances.
11. The name, date of birth, address, copy of photo identification, and email address for any operator, manager, or employee if other than the applicant.
12. A complete list of all Marihuana related business permits and licenses held by applicant.
13. An affirmation whether the applicant or operator has ever had a business license revoked or suspended, and if revoked or suspended, then the reason for such revocation or suspension.
14. For the applicant or for each stakeholder a resume that includes any prior experience with a Marihuana related business.
15. A copy of the proposed business plan for the Marihuana Business, which shall include, without limitation, the following:
  - a. the ownership structure of the business, including percentage ownership of each person or entity; and a written description of the training and education that the applicant will provide to employees of the Marihuana Business; and
  - b. financial structure and financing of the proposed Marihuana Business; and

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- c. an estimate of the number and type of jobs that the Marihuana Business is expected to create, the compensation expected to be paid for such jobs, and the projected annual budget and revenue of the Marihuana Business; and
  - d. short and long-term goals and objectives; and
  - e. if co-location of Marihuana Businesses is proposed, provide an explanation of the integration of such businesses, including a drawing showing the relationship between the businesses being co-located, including floor area and the separation provided between such facilities, including identification of any points of entry, ingress or egress, and controls at each location; and
  - f. any community outreach/education plans and strategies; and
  - g. any charitable plans and strategies.
16. One of the following: (a) proof of ownership of the premises wherein the Marihuana Business will be operated; or (b) written consent from the property owner to use the premises for a Marihuana Business requiring licensure under this Chapter, together with a copy of a lease for the premises.
  17. A description of the security plan for the Marihuana Business, including, but not limited to, any lighting, alarms, barriers, recording/monitoring devices, and/or security guard arrangements proposed for the facility and premises. The security plan must contain the specification details of each item of security equipment.
  18. A scaled floor plan of the Marihuana Business, as well as a scale diagram illustrating the property upon which the Marihuana Business will be operated, including all available parking spaces, and specifying which parking spaces, if any, are handicapped-accessible.
  19. Any proposed elevation drawings, and photographs or other depiction of materials to be visible on the exterior of the proposed Marihuana Business.
  20. A sanitation plan designed to protect against any Marihuana being ingested on the premises by any person or animal, indicating how the waste and byproduct will be stored and disposed of, and how any Marihuana will be rendered unusable upon disposal.
  21. An affirmation that neither the applicant nor any stakeholder is in default to the City and that the applicant or stakeholder has not failed to pay any past-due property taxes, special assessments, fines, fee or other financial obligation to the City.
  22. A signed acknowledgment that the applicant is aware and understands that all matters related to Marihuana, growing, cultivation, possession, dispensing, testing, safety compliance, transporting, distribution, and use are currently subject to state and federal laws, rules, and regulations, and that the approval or granting of a license hereunder will not exonerate or excuse the applicant from abiding by the provisions and requirements and penalties associated therewith.
  23. An applicant for a Marihuana Secure Transporter license shall additionally show registration for all commercial motor vehicles that will be used to transport Marihuana product.
  24. Any other information requested by the City Clerk considered to be relevant to the processing or consideration of the application.
- (c) Upon receipt of a completed application and application fee, the City Clerk shall refer a copy of the application to appropriate City Departments for their review.
  - (d) An application shall not be eligible to be considered for approval, until:
    1. The Fire Department and Building Department have inspected the proposed location for compliance with all laws for which they are charged with enforcement and for compliance with the requirements of this Chapter.

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2. The Building Department verifies the proposed location of the Marihuana Business complies with the City's Code of Ordinances.
3. The Building Department confirms the proposed Marihuana Business meets applicable codes and this Chapter.
4. The City Treasurer confirms the applicant and each stakeholder and the proposed location of the Marihuana Businesses are not in default to the City.
5. The Department of Public Safety determines the applicant meets the requirements of this Chapter with respect to the background check and security plan.

853.06 - LICENSE APPLICATION EVALUATION; ACCEPTANCE/DENIAL OF APPLICATION

- (a) The City Clerk will accept applications for a license(s) for a Marihuana Business over a fourteen (14) day period, which time period shall be determined by the City Clerk after the effective date of this Chapter. At the end of the fourteen (14) day period, all properly submitted and complete applications shall be subject to examination and review by the City Clerk.
- (b) The City Clerk shall review all submitted applications for completeness. If an application is found to be incomplete, it will not be further considered until made complete. The City Clerk shall send a letter to the applicant explaining the omitted information or defect in the application. The applicant shall have two (2) weeks from the date of the letter to correct the defect or provide the required information to the City Clerk. If the correction or additional information is not provided within two (2) weeks of the letter, the application will be deemed abandoned and will no longer be considered. The City Clerk shall deny any application for any of the following reasons:
  1. The applicant has not been prequalified for a Marihuana Business state license by LARA.
  2. The applicant did not pay the required application fee at the time of submission of the application.
  3. The applicant has not provided satisfactory proof that the applicant has or will have lawful possession of the premises proposed for the location of the Marihuana Business for the period during which the permit will be issued.
  4. The applicant's proposed location is not located in the General Industrial District, Chapter 1286.
  5. That the applicant's proposed location is located in a Drug Free Zone, as defined in MCL 333.7401, et seq.
  6. The applicant has been granted a commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction concerning medical marihuana or Marihuana that has been denied or not renewed, or is currently restricted suspended or revoked.
  7. The City Clerk determines that the applicant has submitted an application containing false, misleading, or fraudulent information, or who has intentionally omitted pertinent information on the application.
  8. The applicant is delinquent in the payment of any taxes, fees or other charges owed to or collected by the city.
  9. The comprehensive operating plan submitted by the applicant with the application pursuant to this Chapter does not comply with the MMFLA or the MRTMA.
- (d) Notice of denial of an application shall be sent to the applicant in writing by mail or electronic mail to the last known address of the applicant on file with the City.
- (e) An applicant for any license who has been denied may appeal such denial to the City Council by setting forth all the facts in a written petition and filing the same with the City Clerk within five days after such denial. City Council shall grant a hearing to the applicant, upon the same notice as is required **continued.**

- (f) by Section 853.06(d). The decision of Council on such appeal shall be final. All applications that are not denied as provided in subsection (c) above, and comply with all of the requirements for an application in section 853.05 of this Chapter and the zoning provisions shall be accepted by the City Clerk.
- (g) All applications that meet all of the requirements for acceptance of the applications provided in this Chapter will be entered in lottery to determine, at random, which of those applications will be accepted and issued a provisional license and which applications will not. The lottery shall occur at a public meeting to be set by City Council during which time all of the applications that have met the requirements for acceptance have been allocated a place a number, with one (1) being the highest ranking.
- (h) Within thirty (30) days of the lottery, applicants will begin to take all necessary steps required by the City to obtain their certificate of occupancy, including, without limitation, meeting all applicable building department and fire department permits, code requirements, and inspection requirements, and obtaining Site Plan approval from the Building Official.
- (i) Upon receiving a certificate of occupancy from the City and payment of a \$4,000.00 per license, licensing fee, applicants shall receive a permanent Marihuana Business license.
- (j) All Marihuana Business licenses shall be effective for one (1) year following its original issuance date. Annual renewal of the license shall follow the process as outlined within this Chapter.
- (k) The improvements made pursuant to site plan approval by the Building Department shall be commenced after license approval by the City Council and be completed within one year after the license is issued.

#### 853.07 - LICENSE LIMIT

- (a) The City Council finds and determines that it is in the public interest and serves a public purpose to limit the maximum number of licenses that the City may issue as follows:
  - (2) Marihuana Retail establishments;
  - (2) Medical Marihuana Provisioning establishments;
  - (1) Marihuana Secured Transporter establishments;
  - (1) Marihuana Growing facility establishments;
  - (1) Marihuana Processing establishments; and
  - (1) Marihuana Safety Compliance facilities.
- (b) In addition to the licenses issued pursuant to Section 853.07(a), the City may issue up to 4 additional Marihuana Processing establishment licenses and up to 4 additional Class A Marihuana Growing facility establishment licenses provided that those licenses be co-located with a Marihuana Retail establishment and/or Medical Marihuana Provisioning establishment.
- (c) Should a license for a Marihuana Business become available due to expiration, revocation, or non-renewal, the City Clerk shall first contact any previous applicant that submitted a completed applicant in the ranking order established by the lottery. In the event that there are no qualified applicants, the City Clerk shall set an application period and receive new applications for a license(s) for a Marihuana Business over a fourteen (14) day period. At the end of the fourteen (14) day period, all properly submitted and complete applications shall be subject to examination and review by the City Council. The City Council may elect to issue or not issue licenses for any of the permitted uses or issue licenses in any combination thereof, but in no instance shall issue more licenses than are permitted pursuant to the terms of this Chapter.

#### 853.08 - MARIHUANA FACILITY CO-LOCATION

Separate Marihuana Business uses, under common ownership, and with proper licensing issued by LARA for each use, shall be permitted to operate at the same location with license approval from City. Co-locating establishments must have license approval for each Marihuana Business type and use.

#### 853.09 – INSURANCE

- (a) All Marihuana Businesses licensed and permitted to operate in the City shall at all times maintain in full force and effect insurance covering the **continued.**

Marihuana Business in the amount of:

1. Workers' compensation and employer's liability insurance with statutory limits, and any applicable Federal insurance of a similar nature; and
  2. Commercial general liability insurance, including Completed Operations Liability, Independent Contractors Liability, with minimum limits of \$1,000,000.00 per occurrence and a \$2,000,000.00 aggregate limit.
- (b) A Marihuana Grower shall additionally maintain in full force and effect insurance coverage for sudden and accidental environmental contamination with minimum limits of \$500,000.00 and providing coverage for claims discovered within three years after the term of the policy.
- (c) A Marihuana sealer transporter shall additionally maintain automobile liability insurance in an amount not less than \$1,000,000.00.
- (D) The insurance policy underwriter must have a minimum A.M. Best Company insurance ranking of B+, consistent with state law. The policy shall provide that the City shall be notified by the insurance carrier thirty (30) days in advance of any cancellation.

#### 853.10 - LICENSE RENEWAL APPLICATION

- (a) Application for license renewal shall be made in writing to the City Clerk at least thirty (30) days prior to the expiration of an existing license.
- (b) An application for a license renewal shall be made under oath on forms provided by the City Clerk.
- (c) An application for a license renewal shall be accompanied by a renewal fee in an amount of five Thousand Dollars (\$5,000), of which half will be returned if the license is not renewed. The renewal fee is established to defray the costs of the administration of this Chapter.
- (d) Upon receipt of a completed application for a License Renewal meeting the requirements of this Chapter and the license renewal fee, the City Clerk shall refer a copy of the renewal application to appropriate City departments and officials for review.
- (e) An application for a license renewal shall be not be considered for approval unless:
  1. The Fire Inspector has inspected the proposed location for compliance with all laws for which they are charged with enforcement within the past calendar year;
  2. The Building Department has confirmed that the location complies with the Zoning Code and this Chapter, at the time a license is granted and that the Marihuana Business meets the City building code requirements;
  3. The Building Department has verified that the location remains in compliance with its Site Plan approval.
  4. The City Treasurer has confirmed that the applicant and each stakeholder of the applicant and the location of the Marihuana Business are not currently in default to the City;
  5. The Department of Public Safety has reviewed the application and determined that the applicant has satisfied the requirements of this Chapter with respect to the background check and security plan;
  6. The applicant possesses the necessary state licenses or approvals, including those issued pursuant to the MMFLA and MRTMA
  7. The applicant has operated the Marihuana Business in accordance with the conditions and requirements of this Chapter;
  8. The Marihuana Business has not been determined to be a public nuisance; and
  9. The applicant is operating the Marihuana Business in accordance with applicable federal, state, and local laws and regulations.
- (f) If written approval is given by each individual, department, or entity identified in Subsection (e), and the renewal application is found to be compliant with this, the City Clerk shall issue a license renewal to the applicant. If no renewal license is issued, half of the renewal fee shall be **continued.**



(g) returned. The renewal shall be deemed approved if the City Clerk has not issued formal notice of denial within sixty (60) days of the filing date of the application, unless the applicant is advised of non-compliance with this Chapter or incompleteness of information or any required inspection during such period.

#### 853.11 - TRANSFER OF OWNERSHIP, LICENSES GENERALLY

- (a) Licensees shall report any change in the required information to the City Clerk within ten (10) business days of the change. Failure to do so may result in suspension or revocation of the license.
- (b) A license approval shall not be effective, and no Marihuana Business may operate, unless the Marihuana Business has obtained a State License and the site of the proposed use and proposed structure for the Marihuana Business is properly zoned for such use, and the proposed site plan has received Site Plan approval and approved by LARA to the extent necessary.
- (c) Licensees may not transfer a license issued under this Chapter to a different location.
- (d) Licensees may transfer a license issued under this Chapter to a different individual or entity upon receiving written approval from the City and LARA. In order to request City approval to transfer a permit to a different individual or entity, the licensee must make a written request by submitting a transfer application to the City Clerk, indicating the current licensee, the proposed licensee, and all required information needed to demonstrate proper qualifications as determined by the City. The City shall grant the request so long as LARA authorizes the transfer pursuant to the MRTMA, MMFLA, MMMA, and rules promulgated by LARA, and the proposed licensee meets all requirements outlined in this Chapter. The City reserves the right to decline any transfer of license.
- (e) With submission of a complete transfer application, the proposed licensee shall pay a nonrefundable application fee of Two Thousand Five Hundred Dollars (\$2,500.00) for ownership transfer, as a means to offset costs associated with review of the proposed licensee's qualifications for marihuana business operation.

#### 853.12 - MINIMUM OPERATIONAL STANDARDS OF MARIHUANA BUSINESS

Except as may conflict with State law or regulation the following minimum standards apply to all Marihuana Businesses:

- (a) The entire parcel where the Marihuana Business will be located must be properly zoned for that type of use, and the Marihuana Business operations must be entirely contained within the building.
- (b) The Marihuana Business shall be operated in compliance with the MMMA, the MMFLA, the MTA, MRTMA, and the State's administrative rules. Any violation of such laws or rules shall be deemed a violation of this Chapter.
- (c) On-premises consumption of Marihuana shall be prohibited at any Marihuana Business except testing standards as outlined by LARA.
- (d) In addition to security requirements pursuant to State laws and regulations and any other applicable City Ordinances, the Marihuana Business shall continuously monitor the entire premises, interior and exterior, with surveillance systems that include security cameras operating twenty-four (24) hours a day, seven (7) days a week. The video recordings shall be maintained in a secure, off-site location for a period of one hundred eighty (180) days.
- (e) The Marihuana Business shall be contained within a lockable Facility, including all interior doors, all windows and points of entry and exits with commercial grade non-residential locks and with an alarm system monitored. Marihuana shall not be permitted to be stored in trailers or sheds or other accessory structures to the principal building. Storage shall further be in accordance with the MRTMA, MMMA, MMFLA, MTA, and promulgated rules as amended.
- (f) A locking safe or secure locking cabinet system permanently affixed to the permitted premises that shall store any Marihuana and all cash remaining in the Facility overnight shall be used. For Marihuana-infused products that must be kept refrigerated or frozen, the Facility may lock the refrigerated **continued.**

- (g) container or freezer in a manner authorized by the MRTMA and promulgated rules as amended in place of the use of a safe so long as the container is affixed to the building structure.
- (h) No Marihuana Business shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the property where the Marihuana Business is operated; or any other nuisance adverse to the public health, safety and welfare of the residents of the City.
- (i) All activity related to the provisioning, transferring, testing, or transportation of all Marihuana shall be done indoors and fully compliant with State law so that it is not visible to the public.
- (j) All Marihuana Businesses shall maintain an inventory and record keeping system and/or database identifying the amount of Marihuana on the premises in accordance with the MRTMA, the MIA and the rules and regulations, as amended from time to time. This log shall be available to law enforcement personnel at any time.
- (k) All Marihuana located on premise shall be inventoried and tagged with unique RFID tag as required by MTA and promulgated rules as amended from time to time.
- (l) The State License and the City license required by this Chapter shall be conspicuously displayed on the premises of a Marihuana Business.
- (m) All Marihuana facilities shall apply for and obtain from the City, or other applicable government authority, all necessary planning and zoning approvals as well as building, mechanical, electrical, plumbing, sign, fence, and soil erosion permits.
- (n) Floors, walls, and ceilings shall be constructed in such a manner that they may be kept adequately cleaned and in good repair.
- (o) There shall be adequate screening or other protection against the entry of pests. Waste shall be disposed of so as to minimize the development of odor and minimize the potential for waste development and minimize the potential for waste becoming an attractant, harborage or breeding place for pests. Marihuana Businesses shall be free from infestation by insects, rodents, birds, or vermin or any kind.
- (p) Venting of Marihuana odors into the areas surrounding the Marihuana Business is prohibited and deemed and declared to be a public nuisance. All facility ventilation methods shall comply with the MRTMA and administrative rules promulgated, as amended from time to time.
- (q) Waste shall be properly removed and the operating systems for waste disposal shall be maintained in an adequate manner so that they do not constitute a source of contamination in areas where Marihuana is exposed. Disposal systems for spent water and spent soil shall be approved by the City and by-product materials, soils, plant materials, and other materials shall be stored indoors until pickup for disposal and shall not be left outdoors for disposal pickup for longer than six (6) hours. Disposal of marihuana or marihuana waste or byproducts by on-site burning or introduction into the sewer system is prohibited.
- (r) The interior and exterior of all buildings, fixtures and other accessories shall be maintained in a presentable and sanitary condition.
- (s) Marihuana Businesses shall provide its occupants with adequate and accessible restroom facilities that are maintained in a sanitary condition and good repair.
- (t) Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
- (u) All Marihuana shall be packaged and labeled as provided by MRTMA, MMFLA, MTA, and promulgated rules as amended.
- (v) The premises shall be open for inspection during hours of operation and as such other times as anyone is present on the premises.
- (w) No other accessory uses are permitted within the same facility other than those associated with the retailing of Marihuana.

Signs shall comply with the City's Code of Ordinances. No sign shall contain the words "marihuana", "marijuana", "weed", "cannabis", "dank",  
**continued.**

- (x) "420", "pot", "grass", "ganga", "mary jane", or any other term referencing marijuana, nor shall any sign contain marijuana leaves, marijuana related imagery, or other words or images intended to evoke the presence of marijuana. Additional advertising, including, but not limited to, vehicle signs, sandwich boards, portable signs, temporary signs, or banners are prohibited on the premises.
- (y) Advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors is prohibited.

#### 853.13 - ADDITIONAL OPERATIONAL STANDARDS FOR MARIHUANA RETAIL ESTABLISHMENTS

Except as may conflict with state law or regulation, the following minimum standards for Marijuana Retail establishments shall apply:

- (a) Marijuana Retail and Medical Marijuana Provisioning Center establishments may be open to the public only between 9:00 AM to 10:00 PM.
- (b) Unless permitted by the MRTMA, public or common areas of the Marijuana Retail establishment must be separated from restricted or non-public areas of the retail establishment by a permanent barrier. Unless permitted by the MMMA, MMFLA, or the MRTMA, no Marijuana may be stored, displayed, or transferred in an area accessible to the general public.
- (c) All Marijuana storage areas within Marijuana Retail and Medical Marijuana Provisioning Center establishments must be separated from any customer/patient areas by a permanent barrier. Unless permitted by the MMMA, MMFLA, or MRTMA, no Marijuana is permitted to be stored in an area accessible by the general public or registered customers/patients. Marijuana may be displayed in a sales area only if permitted by the MRTMA.
- (d) Drive-thru windows on the premises of a Marijuana business establishment shall not be permitted.

#### 853.14 - LICENSE REVOCATION, SUSPENSION AND DENIAL; BASIS FOR ACTION; APPEAL

- (a) Any City license issued under this Chapter may be revoked or suspended by the City after written notice and an administrative hearing if the City finds and determines that grounds for revocation or suspension exist. Any grounds for revocation or suspension must be provided to the licensee at least ten (10) days prior to the date of the hearing by first class mail to the address given on the License Application or any address provided to the City Clerk in writing subsequent to the filing of an application.
- (b) A license applied for or issued may be denied, revoked or suspended on any of the following grounds:
  1. A violation of any provision of this Chapter, including, but not limited to, the failure to provide the information required by this Chapter;
  2. Any conviction of a felony or any misdemeanor involving controlled substances, theft or dishonesty by the licensee, stakeholder, or any person holding an ownership interest in the license;
  3. Commission of fraud or misrepresentation or the making of a false statement by the applicant, licensee, or any stakeholder of the applicant or licensee while engaging in any activity for which this Chapter requires a license;
  4. Failure to obtain a certificate of occupancy from the Building Department
  5. Failure to obtain or maintain a license or renewed license from the City Clerk pursuant to this Chapter;
  6. Failure of the licensee or the Marijuana Business to obtain or maintain a State license or approval pursuant to the MRTMA, MMMA, or MMFLA;
  7. The Marijuana Business is determined by the City to have become a public nuisance as defined in this Chapter or in Chapter \_\_\_\_\_ or otherwise is operating in a manner detrimental to the public health, safety or welfare;

**continued.**

8. Any default in the payment of any charges, taxes, or fees, to the City if not cured upon forty-five (45) days following notice sent by electronic means or mail to the address of the Marihuana Business; or
  9. Violation of any State law applicable to Marihuana Businesses; or
  10. A finding by the Building Superintendent that the facility is in substantial violation of its approved Site Plan.
- (c) The City Clerk shall notify a licensee of the reason(s) for denial of a certificate of occupancy, a denial of a license renewal or for revocation or suspension of a license or any adverse decision under this Chapter and provide the applicant with the opportunity to be heard. Any applicant aggrieved by the denial or revocation or suspension of a license or adverse decision under this Chapter may appeal to the City Council, who shall appoint a hearing officer to hear and evaluate the appeal and make a report and recommendation to the City Council. Such appeal shall be taken by filing with the City Clerk, within fourteen (14) days after notice of the action complained of has been mailed to the applicant's last known address on the records of the City Clerk, a written statement setting forth fully the grounds for the appeal. The City Council shall review the report and recommendation of the hearing officer and make a decision on the matter.
- (d) Following the denial of a license and any subsequent appeal during the recommendation and issuance process, the City may move to recommend the application next in line as determined in the application process.

#### 853.15 - PENALTIES; TEMPORARY SUSPENSION OF A LICENSE

- (a) The City may require an applicant or licensee of a Marihuana Business to produce documents, records, or any other material pertinent to the investigation of an application or alleged violation of this Chapter. Failure to provide the required material may be grounds for application denial, or license revocation.
- (b) Any person in violation of any provision of this Chapter, including the operation of a Marihuana Business without a license, shall be responsible for a misdemeanor and shall be subject to a civil fine and costs. Increased civil fines may be imposed for a repeat violation. As used in this Section "repeat violation" shall mean a second or any subsequent infraction of the same requirement or provision committed by a person or Facility within any twenty-four (24) month period. Unless otherwise specifically provided in this Chapter, the penalty schedule is as follows:
1. Seven Hundred Fifty Dollars (\$750), plus costs, for the first violation;
  2. One Thousand Dollars (\$1,000), plus costs, for a repeat violation;
  3. Three Thousand Dollars (\$3,000), plus costs per day, plus costs for any violation that continues for more than one day.
- (c) The City may temporarily suspend a Marihuana Business license without a prior hearing if the City finds that public safety or welfare requires emergency action affecting the public health, safety, or welfare. The City shall cause the temporary suspension by issuing a suspension notice in connection with institution of proceedings for notice and a hearing.
- (d) If the City temporarily suspends a license without a prior hearing, the licensee is entitled to a hearing within thirty (30) days after the suspension notice has been served on the licensee or posted on the licensed premises. The hearing shall be limited to the issues cited in the suspension notice.
- (e) If the City does not hold a hearing within thirty (30) days after the date the suspension was served on the licensee or posted on the licensed premises, then the suspended license shall be automatically reinstated and the suspension vacated.
- (f) The penalty provisions herein are not intended to foreclose any other remedy or sanction that might be available to, or imposed by the City, including criminal prosecution.

#### 853.16 LICENSE FEE; TERM; TRANSFERABILITY; RENEWALS

- (a) The fee for a license required by this chapter shall be twenty dollars (\$20.00) per year or fraction thereof for each separate Marihuana Business.

**continued.**

- (b) All licenses shall expire on the May 1 following their issuance, unless revoked, and shall not be transferable or assignable except as otherwise provided in this Chapter. All applications for license renewal shall be made at least thirty days before the license expires.

853.17 - DISCLAIMER

- (a) Nothing in this Chapter shall be construed to authorize any person to engage in conduct that endangers others or causes a public nuisance, or to allow use, possession or control of marihuana for unlawful purposes or allow any other activity relating to cultivation, growing, distribution or consumption of marihuana that is otherwise illegal.

- (b) Except as may be required by law or regulation, it is not the intent of this Chapter to diminish, abrogate, or restrict the protections for individual use of marihuana found in the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, the Marihuana Tracking Act and the Michigan Regulation and Taxation of Marihuana Act.

853.18– INDEMNIFICATION OF THE CITY

- (a) By accepting a license issued pursuant to this Chapter, the holder waives and releases the City, its officers, elected officials, and employees from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of Marihuana Business owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

- (b) By accepting a license issued pursuant to this Chapter, the holder agrees to indemnify, defend and hold harmless the City, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising on account of any claim of diminution of property value by a property owner whose property is located in proximity to a Marihuana Business, arising out of, claimed to have arisen out of, or in any manner connected with the operation of a Marihuana Business or any claim based on an alleged injury to business or property by reason of a claimed violation of the federal Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §1964(c).

853.19 - SEVERABILITY CLAUSE

Should any word, phrase, sentence, paragraph, or section of this Ordinance be held invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

853.20 - EFFECTIVE DATE

This Ordinance shall become effective 30 days following the date of adoption.

853.21 - PUBLICATION

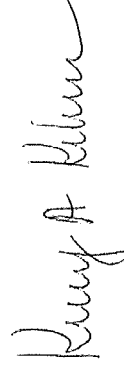
The City Council directs the City Clerk to publish a summary of this ordinance in compliance with Public Act 182 of 1991, as amended, and Chapter V, Section 20 of the Lincoln Park City Charter.

Motion carried.

NO: Councilpersons Breeding & Ross

ADOPTED: September 8, 2020  
PUBLISH: September 16, 2020  
EFFECTIVE: September 16, 2020

**I, Kerry A. Kehrer, duly authorized City Clerk of Lincoln Park; do hereby certify that the foregoing is a true and complete copy of the resolution adopted by the Mayor and Council on September 8, 2020 said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meeting Act, being Act 267, Public Acts of Michigan, 1976.**



Kerry A. Kehrer  
City Clerk