

Moved by Mayor Pro Tem Moore, seconded by Council Member Boensch that an ordinance introduced August 10, 2020, be taken up and enacted, entitled and reading as follows:

O-222

AN ORDINANCE TO REPEAL CHAPTER 118 AND REPLACE WITH §§118.01 THROUGH 118.23, TITLED "CHAPTER 118: LICENSING OF MARIHUANA ESTABLISHMENTS," OF TITLE XI, "BUSINESS REGULATIONS," OF THE CITY OF SAGINAW CODE OF ORDINANCES, O-204.

The City of Saginaw Ordains:

Section 1. §§118.01 through 118.23, Titled "Chapter 118: Licensing of Marihuana Establishments," of Title XI, "Business Regulations," of the City of Saginaw Code of Ordinances, O-204, is hereby added to read as follows:

CHAPTER 118: LICENSING OF MARIHUANA ESTABLISHMENTS

§118.01 PURPOSE.

The purpose of this chapter is to license and regulate recreational or adult use marihuana establishments to the extent they are licensed under the Michigan Regulation and Taxation of Marihuana Act, being Initiated Law 1 of 2018, MCL 333.27951 *et seq*, as amended. The City does not intend that licensing and regulation under this chapter be construed as a finding that such businesses are legal under state or federal law. Although some specific uses of medical marihuana are allowed by the Michigan Medical Marihuana Act, marihuana continues to be classified as a schedule 1 controlled substance under federal law and as such, growing, distributing, and possessing marihuana, other than as part of a federally authorized research program, as well as other activities as set forth in federal law, is a violation of federal law. By requiring a license and compliance with requirements as provided in this chapter, the City intends to protect, to the extent possible, the public health, safety, and welfare of the residents of and visitors to the City that may result from the activities of persons who unilaterally, or on the advice of their own attorney, determine that they may legally operate a recreational or adult use marihuana establishment.

The operation of a licensed marihuana establishment is a revocable privilege and not a right in the City. Nothing in this chapter is to be construed to grant a property right for an individual or business entity to apply for, obtain, or have renewed, a City-issued license to engage in the use, distribution, cultivation, production, possession, transportation or sale of recreational or adult use marihuana as a commercial enterprise in the City.

§118.02 DEFINITIONS.

(A) For purposes of this Chapter 118, the following words, terms and phrases shall be defined as follows:

Act shall mean the Michigan Regulation and Taxation of Marihuana Act, being Initiated Law 1 of 2018, MCL 333.27951 *et seq*, as amended, and its corresponding emergency and/or administrative rules.

Chief Inspector shall mean the Chief Inspector of the City of Saginaw or their designee.

City Clerk shall mean the City Clerk of the City of Saginaw or their designee.

Delivery business shall mean a person licensed to delivery marihuana products sold by a licensed retailer on behalf of the licensed retailer, collect payment for the marihuana product, and return payment to the licensed retailer. A delivery business is not subject to the licensing requirements of this chapter, but is subject to the general business licensing requirements of Chapter 110 of this Code.

Excess grower shall mean a person licensed to hold 5 class C grower licenses and licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

Grower shall mean a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

LARA shall mean the Michigan Department of Licensing and Regulatory Affairs or its designee or successor, including the Marijuana Regulatory Agency.

Marihuana establishment or *establishment* shall mean a grower, safety compliance facility, processor, retailer, secure transporter, or excess grower licensed by the state in accordance with the Act. Though contemplated by the Act, as used in this Chapter 118, *marihuana establishment* or *establishment* does not include microbusinesses, designated consumption establishments, marihuana event organizers, temporary marihuana events, marihuana delivery business, or any facility contemplated by the Michigan Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016.

Owner means any person who has equitable or legal title to any portion of property on which a license is being sought under this chapter.

Person shall mean an individual, corporation, limited liability company, partnership of any type, trust, or other legal entity.

Processor shall mean a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

Qualified applicant means an applicant whose application has not been denied as provided in this chapter and the zoning requirements of this Code and has been approved by the City Clerk to be eligible for a license.

Retailer shall mean a person 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.

Secure transporter shall mean a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

Safety compliance facility shall mean a person licensed to test marihuana, including certification for potency and the presence of contaminants.

(B) All other terms and phrases used herein shall be defined consistent with the Act.

§118.03 LICENSE REQUIRED.

(A) No person shall own or operate a marihuana establishment within the City without first obtaining a license as required by this chapter and a valid state operating license.

(1) No establishment purporting to produce, manufacture, test, transfer or transport marihuana prior to the adoption of this chapter shall be considered a lawful use or lawful nonconforming use.

(2) The license requirement in this chapter applies to all marihuana establishments operated for profit or not for profit.

(3) The license requirement in this chapter shall be in addition to any other requirements imposed by any other state or local law.

(B) A marihuana establishment shall meet all conditions of this chapter and other applicable ordinances and laws. Additionally, a marihuana establishment license shall be issued subject to the following conditions:

(1) A marihuana establishment shall be inspected at the time of application; shall be compliant with applicable building, electrical, fire, plumbing and other codes; and shall be inspected yearly by the Chief Inspector.

(2) If the applicant is not the owner of the property upon which the marihuana establishment is to be located, the application shall include the property owner's written consent to the use of the property as a marihuana establishment.

(3) A license issued under this chapter is valid only for the location of the establishment and type of establishment that is listed on the license application and is valid only for the operation of the establishment at that location by the license applicant, provided the establishment remains in compliance with all of the requirements of this chapter.

§118.04 PROCEDURE FOR APPLICATION.

(A) Any person wishing to operate a marihuana establishment in the City shall file a marihuana establishment license application with the City Clerk.

(1) License applications for marihuana establishments shall be received by the City Clerk beginning January 4, 2021.

(2) Except as provided in this section, the City Clerk shall be responsible for establishing the procedure for receiving, reviewing and processing license applications.

(3) Any person desiring to secure a license shall make application to the City Clerk upon a form provided by the City Clerk. All license applicants must be prequalified for a marihuana establishment license by LARA before submitting an application.

(4) A copy of all applications received shall be distributed by the City Clerk to any other necessary City departments for review to determine that the application is complete. If an application is incomplete or missing information, the City Clerk shall notify the applicant of the incomplete or missing information in writing by mail or electronic mail sent to the address provided

by the applicant in the application. The applicant shall have ten (10) business days from the date of mailing of the written notice to provide the incomplete or missing information to the City Clerk. If the applicant shall fail to timely provide such incomplete or missing information, the application shall be deemed withdrawn.

(5) Information requested in the application shall be provided for the applicant, any person who controls, directly or indirectly, the operation of the marihuana establishment, and each stockholder or other person having a ten percent (10%) or greater beneficial interest in the proposed marihuana establishment. The application for a license shall include, at a minimum, the information and documentation listed below:

(a) The name, business address, business telephone number, social security number, and, if applicable, federal tax identification number of the applicant and other persons included in the application.

(b) All residential addresses of the applicant and other persons included in the application.

(c) A copy of the application submitted to LARA for prequalification and documentation evidencing that the applicant has been prequalified for a marihuana establishment license by LARA.

(d) Whether the applicant or other persons included in the application have previously violated this chapter or a substantially similar ordinance in another municipality preceding the date of the application.

(e) A comprehensive operating plan for the marihuana establishment for which the application is being submitted that includes all of the information required for the marihuana establishment plan to be submitted under the Act, the operational standards in this chapter, as applicable, and the following at a minimum:

(i) As required by the Act, the identity of any person who controls, either directly or indirectly, the proposed marihuana establishment;

(ii) Financial and tax information as required by the Act;

(iii) Business organizational documents as required by the Act;

(iv) A description of the type of marihuana establishment applied for and its location.

(v) A diagram of the marihuana establishment including, but not limited to, all of the following: the proposed establishment's size and dimensions, the location of common entryways, doorways, and passageways, means of public entry and exit, limited access areas and restricted access areas, and an indication of the distinct areas or structures for separate marihuana establishments at the same location.

(vi) A detailed floor plan and layout that includes, minimally, all of the following: dimensions of interior and exterior rooms, maximum storage capabilities, number of rooms, dividing structures, fire walls, entrances and exits, locations of hazardous material storage, and quantities of hazardous materials.

(vii) Means of egress, including but not limited to, delivery and transfer points.

(viii) Construction details for structures and fire-rated construction for required walls.

(ix) Building structure information, including, but not limited to, new, pre-existing, freestanding, or fixed.

(x) Building type information, including, but not limited to, commercial, warehouse, industrial, retail, converted property, house, mercantile building, pole barn, greenhouse, laboratory, or center.

(xi) Zoning classification and zoning information.

(xii) If the proposed marihuana establishment is in a location that contains multiple tenants and any applicable occupancy restrictions.

(xiii) A comprehensive security plan for the marihuana establishment for which the application is being submitted that includes all of the information required for the security plan to be submitted under the Act and that addresses the ability to meet all security measures required by the Act.

(xiv) For growers, processors, and safety compliance facilities, a ventilation system plan for the marihuana establishment describing in detail the equipment or systems that will be used to mitigate noxious gasses or other fumes used or created as part of any production process or operation.

(xv) A staffing plan that addresses the number of persons estimated to be employed at the establishment, employee training, and includes an employee training manual that includes, but is not limited to, employee safety procedures, employee guidelines, security protocol, and educational training, including, but not limited to, marihuana product information, dosage and purchasing limits, or educational materials.

(xvi) A marketing plan that, at a minimum, details how the marihuana establishment will comply with all municipal ordinances and state laws regulating signs and advertising; and provides that marihuana products must not be marketed or advertised to minors aged 20 years or younger.

(f) Proof that the applicant or other persons included in the application have or will have lawful possession of the property proposed for the marihuana establishment for the period during which the license will be issued, which proof may consist of a deed, a lease, a real estate contract contingent upon successful licensing, or a letter of intent by the owner of the property indicating an intent to lease the property to the applicant contingent upon the applicant successfully obtaining a state operating license and local license.

(g) The mailing address and electronic address at which the applicant desires to receive notices required under this chapter, and phone numbers at which the applicant desires to be contacted.

(h) Whether the applicant or other persons included in the application have ever applied for or have been granted any commercial license or certificate issued by LARA or any other jurisdiction concerning medical or adult use marihuana that has been denied, restricted, suspended, revoked or not renewed, and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.

(i) Whether the applicant or other persons included in the application have an interest in any other application for a license or approved license under this chapter at the time of application.

(j) Whether the applicant or other persons included in the application have an interest in any other marihuana facility or establishment under the Act or the Michigan Medical Marihuana Facilities Licensing Act, and if so the type of facility or establishment, its name, and the location of the facility or establishment the applicant or other person has an interest in.

(k) A statement that the applicant and other persons included in the application will not violate any of the laws of the State of Michigan or the ordinances of the City in conducting the business in which the license will be used, and that such a violation may be cause for nonrenewal of a license issued under this section or for revocation of the license.

(l) A statement that the applicant and other persons included in the application understand that the issuance of a license under this section is not intended to grant, nor shall be construed as granting, immunity from criminal prosecution for the growing, sale, consumption, use, distribution, or possession of marihuana in any form or manner.

(m) A statement that the applicant and other persons included in the application understand and agree to be bound by the indemnification provision of this chapter.

(n) A statement by the applicant and other persons included in the application indicating acceptance of a license from the City under this chapter constitutes consent by the licensee, and its owners, managers and employees, for the City to conduct inspections of the establishment as provided in §118.14.

(o) A statement by the applicant and other persons included in the application acknowledging that all marihuana establishments licensed to operate in the City shall at all times maintain in full force and effect insurance and/or bonds in an amount and coverage type as required by the Act.

(p) A statement as to whether the applicant or other persons included in the application have been served with a complaint or other notice filed with any public body regarding the payment of any tax required under federal, state, or local law that has been delinquent for one or more years.

(q) Any other information as required by LARA.

(5) Applicants have a continuing duty to provide the City with up-to-date information and shall notify the City Clerk in writing of any material changes to any of the information contained in the application, including mailing addresses, phone numbers, electronic mail addresses or other contact information, within 10 days of any such change occurring.

(6) The City Clerk shall issue a license to an applicant within 90 days after receipt of the application, unless the City Clerk finds and notifies the applicant that the applicant is not in compliance with this Code or the Act.

(7) The City Clerk may from time to time establish other requirements for the application process, which shall then be provided in writing to prospective applicants with the application form.

(8) The annual license fee shall be established by Council and on file in the Office of the City Clerk. This fee shall be in addition to, and not in lieu of, any other fees for licensing or licensing requirements, including but not limited to site plan review, zoning, or building licenses.

§118.05 ACCEPTANCE OR DENIAL OF APPLICATION.

(A) Applications received may be denied by the City Clerk if the applicant, upon written notice, fails to provide missing or incomplete information within the time specified in this section.

(B) The City Clerk may deny an application for any of the following reasons:

(1) The applicant has not been prequalified for a marihuana establishment 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 property proposed for the location of the marihuana establishment for the period during which the license will be issued.

(4) The applicant's proposed location does not comply with the City's zoning requirements as set forth in this Code.

(5) The applicant has not satisfactorily complied with all of the application requirements in this chapter.

(6) The applicant has a suspended or revoked state or local medical or adult use marihuana license in another jurisdiction.

(7) The City Clerk determines that the applicant has submitted an application containing false, misleading, or fraudulent information, or 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 operating plan submitted by the applicant with the application does not comply with the requirements for a marihuana establishment plan as required by the requirements of this chapter or the Act.

(10) It is a duplicative application.

(C) 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. If a license is denied by the City Clerk, the applicant may appeal as set forth in §118.12.

(D) All applications for establishments that are not denied as provided herein, and comply with all of the requirements for an application in this chapter and the zoning requirements of this Code, shall be accepted by the City Clerk as a qualified applicant.

§118.06 PROVISIONAL LICENSE.

(A) Provisional licenses will be issued by the City Clerk to qualified applicants whose applications have been accepted.

(B) A provisional license does not authorize the applicant to operate a marihuana establishment without first obtaining a state operating license for the establishment, and obtaining all other licenses, inspections, and approvals required by this chapter and all other applicable provisions of this Code. Issuance of a provisional license only means that the applicant has submitted a valid application for an establishment license and is eligible to receive the appropriate license from LARA.

(C) Upon issuance of a provisional license, the City Clerk is authorized to execute an affirmation to accompany an application for an establishment license that discloses that the City has adopted an ordinance pursuant to the Act, a description of the City zoning regulations that apply, and any other information that may be required by the Act for such an attestation.

(D) A provisional license will lapse and be void one year from the date it has been issued if a state operating license, and/or all inspections and other licenses and approvals required by this Code, are not obtained, or if an applicant is denied a state operating license. The City Clerk shall notify LARA of all applicants whose provisional licenses have lapsed or become void. A provisional license may be extended, in the sole discretion of the City Clerk, upon a showing of good cause that any delay is not the fault of the applicant, for an additional period not to exceed six months.

(E) A provisional licensee has a continuing duty to provide the City Clerk with up-to-date information including contact information or material changes to any other information it has submitted with its license application and shall notify the City Clerk in writing of any changes to the mailing addresses, phone numbers, electronic mail addresses, or other information the provisional licensee provided to the City within 10 days of any such change occurring.

(F) A provisional license may be revoked by the City Clerk, in writing, for any of the following reasons:

(1) The provisional licensee is denied a state operating license;

- (2) The marihuana establishment is substantially different from the comprehensive operating plan or other representations contained in the application;
- (3) Officers, employees, or agents of the City are unable to access the proposed establishment for inspection or are otherwise denied access by the provisional licensee;
- (4) The provisional licensee fails, refuses, or becomes unable to obtain special approval, site plan approval, a certificate of occupancy, or other necessary zoning or building approvals as required by this Code; or
- (5) Noncompliance with the Act or this chapter.

(G) If a provisional license is revoked, the City Clerk will notify both the licensee and property owner, in writing, by mail or electronic mail at the last known address on file with the City, as well as LARA, of the revocation of the license and the reasons therefore.

(H) The holder of a provisional license that is revoked may appeal the revocation to the City Manager as set forth in §118.12.

§118.07 MARIHUANA ESTABLISHMENT LICENSE.

(A) Marihuana establishment licenses will be issued by the City Clerk. In order to be issued a marihuana establishment license an applicant who holds a valid provisional license shall:

- (1) Submit proof to the City Clerk it has been issued a state operating license;
- (2) Successfully complete any inspections required by this Code;
- (3) Submit proof to the City Clerk of obtaining all licenses and approvals required by this Code, including but not limited to an approved site plan; and
- (4) Submit proof of insurance or financial responsibility as required by the Act.

(B) Before issuance of a marihuana establishment license the City shall conduct a final inspection of the proposed marihuana establishment to verify that the establishment is constructed and can be operated in accordance with the application submitted, the approved site plan, the requirements of this Code and any other applicable law, rule, or regulation. No marihuana establishment license may be issued, and no marihuana establishment may conduct any business or operations, until the inspection is completed, and it is determined that the establishment is constructed and can be operated in accordance with the application and the comprehensive operating plan submitted with the application.

(C) A marihuana establishment license issued under this section is a revocable privilege granted by the City and is not a property right. Granting the license does not create or vest any right, title, franchise or other property interest.

(D) Each license is exclusive to the person who is issued the license and that person must apply for and receive approval of the City Clerk pursuant to this chapter before a license is transferred, sold, purchased, or otherwise assigned.

(E) The marihuana establishment license and state operating license shall be displayed in a conspicuous public place in the establishment.

(F) A licensee has a continuing duty to provide the City with up-to-date information including contact information or material changes to any other information it has submitted with its license application and shall notify the City Clerk in writing of any changes to its mailing address, phone

numbers, electronic mail address, or other information the licensee is required to provide to the City within 10 days of any such change occurring.

§118.08 TYPES OF LICENSES.

(A) The types of marihuana establishments allowed and eligible to be licensed in the City are:

- (1) Growers;
 - (a) Class A – Allows cultivation of not more than 100 plants;
 - (b) Class B – Allows cultivation of not more than 500 plants;
 - (c) Class C – Allows cultivation of not more than 2,000 plants;
- (2) Excess growers;
- (3) Processors;
- (4) Retailers;
- (5) Secure transporters; and
- (6) Safety compliance facilities.

(B) Microbusinesses, designated consumption establishments, marihuana event organizers, and temporary marihuana events are prohibited in the City.

§118.09 RENEWALS AND AMENDMENTS OF EXISTING LICENSES.

(A) Renewal or amendment of existing licenses.

(1) The same application procedures, including the non-refundable fee, that apply to the submittal of a new license application shall apply to renewal or amendment of existing licenses.

(2) An application for renewal of an existing license shall be submitted no sooner than 90 days before the existing license expires and no later than 30 days before the existing license expires.

(B) Amended applications.

(1) An amended application shall be submitted under either or both of the following circumstances:

(a) When there is a material change in any information the license applicant was required to provide in the most recent application on file with the City Clerk, including but not limited to any change in location or any change of ownership; and/or

(b) When there is a material change in any information the license applicant was required to provide in the most recent application for a state operating license on file with the state, including but not limited to any change in location or any change of ownership.

(C) It shall be unlawful for any person to make changes or allow any changes to be made in the operation of the marihuana establishment as represented in the license application without first obtaining an amended license from the City Clerk.

(D) A marihuana establishment license shall run concurrent with the state operating license issued for the establishment and shall be renewed annually unless revoked as provided by law or this chapter.

(E) Renewal of licenses issued in connection with stacked licenses will require only a single application form for the original license and all stacked licenses issued to the applicant. The

renewal application shall indicate that the application is for the renewal of licenses issued in connection with stacked licenses and the license(s) the applicant is seeking to renew.

(F) The City Clerk may deny an application for renewal as set forth in §118.05. Notice of denial of a renewal 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 Clerk. An applicant whose renewal application is denied may appeal the denial to the City Manager as set forth in §118.12.

(G) The City Clerk shall inform LARA in writing by mail or electronic mail of all licensees whose licenses are renewed, if a licensee fails to renew a license, or if the licensee's renewal application is denied and the reasons therefore.

§118.10 COMPLAINTS.

(A) If a written complaint is filed alleging that the owner, operator, or person occupying the marihuana establishment has violated any provisions of this chapter, the City Clerk shall promptly send a copy of the written complaint to the property owner, together with a notice that an investigation will be made as to the truth of the complaint. The property owner shall be invited to respond to the complaint and present evidence and respond to evidence produced by the investigation within 21 days from the date of notice. If the City Clerk, in consultation with other appropriate City staff, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified, and the City Clerk shall consider revocation of the license as provided herein.

(B) Complaints alleging a violation of the Act or other state law, rule, or regulation shall be forwarded to LARA by the City Clerk.

§118.11 REVOCATION OF LICENSE.

(A) A marihuana establishment license shall automatically terminate and become void if the state license for the establishment is revoked, suspended, or restricted, or otherwise becomes void.

(1) The revocation, suspension, or placement of restrictions by the state on a state operating license shall apply equally to a license issued by the City.

(B) A marihuana establishment license may be revoked by the City Clerk upon the occurrence of any of the following:

(1) Operation of the licensed use is not commenced within one year of the date of issuance of the marihuana establishment license.

(2) If the licensed use ceases or is discontinued for 90 days or more, including during a change of ownership of the marihuana establishment.

(3) Any change has occurred for which an amendment to the license is required, without the licensee having obtained an amendment to the license as required by this chapter.

(4) Any noncompliance with any of the provisions of this Code, the Act, or any state or federal law, rule or regulation.

(5) The conducting of the marihuana establishment in an unlawful manner, or in such a way as to constitute a public nuisance, that negatively impacts the health, safety, or general welfare of surrounding property or the public. Evidence to support such a finding may include, but is not limited to, a continuing pattern of disorderly or criminal conduct upon or in the immediate vicinity of the establishment, continuing pattern of criminal conduct directly related to or arising

from the operation of the establishment, or an ongoing nuisance condition emanating from or caused by the establishment.

(6) The applicant has made a false material statement in the application.

(C) Prior to such revocation becoming effective, written notice of the basis for revocation shall be given by the City Clerk to both the property owner and licensee in person or by certified mail addressed to their place of business or residence as set forth in the application.

(1) The holder of a marihuana establishment license that is revoked under this section may appeal the revocation to the City Manager as set forth in §118.12. If a timely appeal is not sought by the holder of the marihuana establishment license, the revocation shall become effective 14 days from the date of the written notice of the revocation.

(2) If a marihuana establishment license is revoked, the City Clerk will notify LARA of the revocation of the license and the reasons therefore in writing by mail or electronic mail. In the event the license is revoked as a result of the licensee's state license being revoked, suspended, or restricted, the notification requirement of this subsection does not apply.

§118.12 APPEALS.

(A) If either a provisional license or marihuana establishment license, or a renewal or amendment of either, is denied or revoked by the City Clerk, the applicant or licensee may appeal to the City Manager within 21 days from the date of the written notice of the denial or revocation.

(B) If the applicant or licensee timely submits an appeal, the City Manager or their designee shall issue a written notice of hearing stating the date, hour, place, and nature of the hearing. The City Manager shall appoint a Hearing Officer to conduct a public hearing at which the applicant or licensee will be provided the opportunity to present testimony and evidence to establish the applicant's or licensee's suitability for a license. The Hearing Officer shall make a written determination, after presentation by the applicant or licensee and the City Clerk, as to whether or not the grounds for denial or revocation are true. If the Hearing Officer determines that such grounds are supported by a preponderance of the evidence, the action of the City Clerk shall be sustained.

(1) In any proceedings under this section, the Hearing Officer has the power to administer oaths and affirmations and to certify official acts. The Hearing Officer shall proceed with reasonable dispatch to conclude any matter before them. Due regard shall be shown for the convenience and necessity of the parties and their representatives.

(2) The Hearing Officer shall cause a record of the entire proceeding to be made by tape recording or by other means of permanent recording determined appropriate by the Hearing Officer. A transcript of the proceedings shall be made available to all parties upon request and upon payment of a fee prescribed by the court reporter.

(3) The hearing need not be conducted according to the technical rules of evidence adopted for the courts of record in the state.

(4) The Hearing Officer shall take testimony from the applicant or licensee and any person having knowledge relevant to the denial or revocation of a license. Oral evidence shall be taken only upon oath or affirmation of the party offering the testimony.

(5) Hearsay evidence may be used under the following guidelines:

(a) Hearsay evidence may be used to explain other direct evidence;

(b) Hearsay evidence may be used to support other direct evidence; and

(c) Hearsay evidence shall not be used in itself to support a finding, unless it would be admissible in civil actions in courts of competent jurisdiction.

(6) Any relevant evidence not otherwise excluded herein shall be admitted. Relevant evidence shall be defined, for the purpose of this section, as the type of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs. Such relevant evidence shall be admitted regardless of whether or not it may be admissible in civil actions in courts of competent jurisdiction.

(7) Irrelevant and unduly repetitious evidence shall be excluded.

(8) Each party shall additionally have these rights:

- (a) To call and examine witnesses on any matter relevant to the issues of the hearing;
- (b) To introduce documentary and physical evidence;
- (c) To cross-examine opposing witnesses on any matter relevant to the witness to testify;
- (d) To impeach any witness regardless of which party first called the witness to testify;
- (e) To refute the evidence;
- (f) To represent themselves or to be represented by anyone of their choice who is lawfully permitted to do so; and
- (g) To make a closing statement at the conclusion of the evidentiary portion of the hearing.

(9) Failure of the applicant or licensee to appear at the hearing may be deemed to be an admission by the applicant or licensee of the facts set forth in the City Clerk's notice.

(10) The Hearing Officer shall make written findings of fact based upon a preponderance of the evidence and testimony admitted during the hearing.

(11) The Hearing Officer shall make written findings whether or not the license shall remain denied or revoked. The Hearing Officer's findings will be reduced to writing and served upon the applicant or licensee and City Clerk within a reasonable time.

(a) If the Hearing Officer sustains the City Clerk's decision to deny or revoke a marihuana establishment license, the City Clerk will notify LARA of the denial or revocation of the license and the reasons therefore in writing by mail or electronic mail.

(12) The hearing officer's decision may be appealed to and reviewed by a court of competent jurisdiction as provided by state statutes and court rules.

§118.13 INDEMNIFICATION OF CITY.

By accepting a license issued pursuant to this chapter, the applicant and licensee agree to indemnify, defend and hold harmless the City, its officers, elected and appointed officials, employees, and insurers, against all liability, claims or demands arising out of, or in connection to, the operation of a marihuana establishment in the City.

§118.14 MINIMUM OPERATIONAL STANDARDS FOR ALL MARIHUANA ESTABLISHMENTS.

(A) Marihuana establishments shall be open for inspection upon request by the Chief Inspector, the Fire Chief, or the Chief of Police, or their designees, for determination of compliance with all applicable laws, rules, and regulations during the stated hours of operation/use and at such other times as anyone is present on the premises. City employees or officials shall have the same rights of inspection as are authorized the employees or officials of LARA under the Act.

(B) Marihuana establishments shall conduct the activities of the establishment, including, without limitation, the cultivating, growing, processing, displaying, manufacturing, selling, storage of marihuana and marihuana-infused products, and storage of all materials used in connection with the cultivating, growing, processing, displaying, manufacturing, and selling of marihuana and marihuana-infused products, indoors in a building and out of public view, except where cultivation

may occur outdoors as allowed under the Act, and such outdoor cultivation shall occur in compliance with the Act.

(C) Marihuana establishments shall install a fire alarm and a burglar alarm system in compliance with the Act.

(D) Marihuana establishments shall have such security measures, including video surveillance systems, in place as are required by the Act.

(1) Surveillance recordings of marihuana establishments shall be subject to inspection and review by the City upon request. City employees or officials shall have the same rights of inspection as are authorized the employees or officials of LARA under the Act.

(E) Marihuana establishments shall utilize sufficient measures and means to prevent smoke, odor, debris, dust, fluids and other substances from exiting the establishment at any time. In the event that any smoke, odor, debris, dust, fluids or other substances exit the marihuana establishment in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property, or that causes damage to property, the licensee for the establishment and the owner of the property shall be jointly and severally liable for such conditions and shall be responsible for immediate, full cleanup and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary, and secure manner in compliance with all federal and state laws and regulations, and this Code.

(1) Marihuana establishments shall install and maintain in operable condition a system to preclude marihuana odors from emanating from the property of the marihuana establishment in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property as determined by the objective standards of a reasonable person of normal sensitivity.

(F) Access to the marihuana establishment is restricted to the licensee, employees of the licensee, and, as applicable, LARA through its investigators, agents, auditors or the state police, and local law and code enforcement officers or any other designee(s) of the City Manager.

(1) Retailers may additionally be accessed by legitimate customers 21 years of age and older.

(G) All marihuana establishments must be at a fixed location. Mobile marihuana establishments and drive through operations are prohibited. Unless otherwise allowed by state law, sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products by marihuana establishments as otherwise expressly authorized by the Act.

(H) All marihuana establishments shall comply with all provisions of the Act and this Code regulating signs and advertising.

(I) The business, operations, marketing and advertising of all marihuana establishments and marihuana products shall comply at all times with the Act and this Code.

(J) Unless otherwise allowed by state law, marihuana products not identified and recorded in the statewide monitoring system pursuant to the Act are prohibited from being on the premises of any marihuana establishment and shall not be sold or transferred by any licensee.

- (K) Unless otherwise allowed by state law, any marihuana product without a batch number or identification tag pursuant to the Act is prohibited from being at or on the premises of any marihuana establishment.
- (L) Marihuana establishments shall, at all times, comply with all applicable building and fire safety provisions of state law, and the corresponding administrative rules.
- (M) Marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form, disposed of, and recorded as required by the Act.
- (N) All inventory of marihuana products must be stored in a secured, limited-access area or restricted-access area and identified and tracked consistent with the Act.
- (O) All containers used to store marihuana products for transfer or sale between marihuana establishments shall meet the requirements of the Act.
- (P) All chemicals or solvents must be stored separately from marihuana products and kept in locked storage areas.
- (Q) Marihuana-infused products, edible marihuana products, or materials used in direct contact with such products, must have separate storage areas from toxic or flammable materials.
- (R) Licensees shall immediately report to local law enforcement any unlawful act, conduct, or disturbance committed at the establishment. Immediately shall mean within 24 hours of becoming aware of any criminal activity at the establishment.
- (S) The licensee is required to respond by phone or email within 3 business days of contact, at the phone number or email address provided to the City as the contact for the business, by any City official or officer concerning its marihuana establishment.

§118.15 MINIMUM OPERATIONAL STANDARDS FOR RETAILERS.

- (A) Retailers shall open no earlier than 9:00 a.m. and close no later than 9:00 p.m.
- (B) No food, alcohol or tobacco products may be sold, served, or consumed on the premises, unless the establishment has the appropriate authorizations from other federal, state, or local agencies, as applicable.
- (C) No marihuana or marihuana-infused products may be used, consumed, or inhaled on the premises.
- (D) No marihuana plants shall be allowed on the premises, unless otherwise allowed by the Act.
- (E) During times when the retailer is not open to the public, cash and currency shall be stored in a safe or security vault that is incorporated into the building structure or securely attached to the building structure or a safe room with a security vault or other secure door.
- (F) A retailer shall purchase marihuana and marihuana-infused products only from a licensed grower or processor.

(G) Except as otherwise allowed by the Act, all transfers of marihuana to a retailer from a separate marihuana establishment, or from a retailer to a licensed safety compliance facility, shall be by means of a licensed secure transporter.

(H) A retailer shall sell marihuana and marihuana-infused products only to individuals 21 years of age and older. Before any such sale occurs, the retailer shall require the customer produce a driver's license or other government-issued photographic identification evidencing the customer's age.

(I) Sales of marihuana or marihuana-infused products shall only occur after it has been tested and bears the label required for retail sale by the Act. A retailer shall comply with all packaging and labeling requirements required the Act before selling or transferring marihuana or marihuana-infused products.

(J) A retailer shall ensure that the sale or transfer of marihuana or marihuana-infused products shall not exceed the single transaction limits established by the Act.

(K) All transactions, current inventory, and other information shall be entered into the statewide monitoring system as required by the Act.

§118.16 MINIMUM OPERATIONAL STANDARDS FOR GROWERS.

(A) All transfers, transactions, current inventory, and other information shall be entered into the statewide monitoring system as required by the Act.

(B) Compressed gases, such as butane, propane, and carbon dioxide, shall be used in accordance with the Act or any other of state law or administrative rule or regulation adopted by the state for such processes.

(C) Any pesticides, herbicides, or other chemicals used in the cultivation of marihuana shall be used in accordance with the Act or any other of state law or administrative rule or regulation adopted by the state for such processes.

(D) Except as otherwise allowed by the Act, the sale or transfer of marihuana to a grower, or from a grower to a licensed retailer or processor, shall be by means of a licensed secure transporter.

§118.17 MINIMUM OPERATIONAL STANDARDS FOR PROCESSORS.

(A) A processor shall purchase marihuana only from a licensed grower or another licensed processor and shall sell marihuana-infused products or marihuana only to a licensed retailer or another licensed processor.

(B) Except as otherwise allowed by the Act, a processor shall transfer marihuana only by means of a licensed secure transporter.

(C) All transactions, current inventory, and other information shall be entered into the statewide monitoring system as required by the Act.

(D) Compressed gases, such as butane, propane, and carbon dioxide, shall be used in accordance with the Act or any other of state law or administrative rule or regulation adopted by the state for such processes.

§118.18 MINIMUM OPERATIONAL STANDARDS FOR SECURE TRANSPORTERS.

(A) A secure transporter may take physical custody of marihuana or money, but legal custody belongs to the transferor or transferee.

(B) A secure transporter may not sell or purchase marihuana or marihuana-infused products.

(C) A secure transporter may store and transport marihuana, and money associated with the purchase or sale of marihuana, between licensed marihuana establishments for a fee.

(D) Marihuana product may only be transported in a sealed container that is not accessible while in transit. Money associated with the purchase or sale of marihuana or marihuana-infused products shall be transported in a sealed container kept separate from the marihuana product and only accessible to the secure transporter and its employees.

(E) Each driver transporting marihuana must have a chauffeur's license issued by the state.

(F) Each vehicle shall be operated with a two-person crew with at least one individual remaining with the vehicle at all times during the transportation of marihuana.

(G) A route plan and manifest shall be entered into the statewide monitoring system, and a copy shall be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(H) A vehicle shall not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

(I) A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with the Act and this chapter.

(J) All transactions, current inventory, and other information of the secure transporter shall be entered into the statewide monitoring system as required by the Act.

§118.19 MINIMUM OPERATIONAL STANDARDS FOR SAFETY COMPLIANCE FACILITIES.

(A) A safety compliance facility is authorized to only receive marihuana from, test marihuana for, and return marihuana to another licensed marihuana establishment.

(B) A safety compliance facility must be accredited by an entity approved by LARA by one year after the date the license is issued or have previously provided drug testing services to the state or the state's court system and be a vendor in good standing in regard to those services, unless a variance from this requirement is granted by LARA as provided in the Act.

(C) A safety compliance facility shall:

- (1) Perform tests to certify that marihuana is reasonably free of known contaminants in compliance with standards established by LARA.
- (2) Use validated test methods to perform all safety tests and to determine tetrahydrocannabinol, tetrahydrocannabinol acid, cannabidiol, and cannabidiol acid concentrations.
- (3) Perform other tests necessary to determine compliance with any other good manufacturing practices as prescribed by the Act.
- (4) Enter all transactions, current inventory, and other information into the statewide monitoring system as required by the Act.
- (5) Have a secured laboratory space that cannot be accessed by the general public.
- (6) Retain and employ at least one laboratory manager with a relevant advanced degree in a medical or laboratory science.

§118.20 CONFLICTS; FUTURE LAWS AND REGULATIONS.

Should the state in the future adopt additional or stricter laws or regulations governing the production, processing, transporting, testing, sale or distribution of marihuana, the additional or stricter laws and regulations shall control the establishment or operation of any marihuana establishment in the City, as well as the issuance, denial, or revocation of any license under this chapter.

§118.21 PENALTY AND REMEDIES.

A person who violates any provision of this chapter is responsible for a Class E municipal civil infraction, subject to payment of a civil fine as set forth in Ch. 37 of this code of ordinances, plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to increased fines as provided by Ch. 37. Each violation and each day of failure to comply with any provision of the chapter shall constitute a separate violation.

§118.22 EFFECT TIE-BARRED.

This chapter shall only take effect if the City's zoning code is simultaneously amended as needed to zone for the activities contemplated in this chapter. If amendments to the zoning code are not adopted by the City Council, marihuana establishments shall be deemed prohibited from developing within the City.

§118.23 RESERVATION OF RIGHTS.

The City Council reserves the right to amend or repeal this chapter in any manner, including, but not limited to the complete elimination of any type of marihuana establishments authorized to operate in the City.

This ordinance shall become effective September 24, 2020.

Enacted: September 14, 2020.

Yeas: Forbes, Boensch, Moore, Scherzer, Balls, Ostash, Williams, Kloc
Nays: Milne
Absent: None

Floyd Kloc
Mayor

Janet Santos MiPMC/MMC
City Clerk

ORDINANCE DECLARED ADOPTED

I, Janet Santos, City Clerk of the City of Saginaw, Michigan, do hereby certify that the foregoing is a true and complete copy of the ordinance adopted by the City of Saginaw, Saginaw County, State of Michigan, at a public meeting held on September 14, 2020; the original thereof is on file in the records of my office; the meeting was conducted and public notice of said meeting was given pursuant to Act No. 267, Public Acts of Michigan, 1976, as amended, and minutes of this meeting were kept and will be made available as required.

Janet Santos, MiPMC/MMC
City Clerk