

City Council

200 North Lake Street
Cadillac, Michigan 49601
Phone (231) 775-0181
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Mayor
Carla J. Filkins

Mayor Pro-Tem
Tiyi Schippers

Councilmembers
Bryan Elenbaas
Stephen King
Robert J. Engels

ORDINANCE NO. 2020-01

AN ORDINANCE TO AMEND SECTION 10-2 OF CHAPTER 10 OF THE CADILLAC CITY CODE (RECREATIONAL MARIHUANA ESTABLISHMENTS)

Section 1. Amendment of Section 10.2-02(b). Section 10.2-02(b) of Chapter 10 of the Cadillac City Code is hereby amended as follows:

RECREATIONAL MARIHUANA ESTABLISHMENTS

10.2-02 Authorized Establishments.

(b) *Co-location and stacked licenses.*

(1) Co-location. Co-located establishments are permitted in the City, subject to this subsection and to the extent permitted by state law. On a property with co-location, each licensed establishment counts as a separate establishment. Each licensed establishment must operate within its own distinct and identifiable area on the property, and each licensed establishment must have a separate entrance and exit, separate inventory, separate record keeping, and separate point of sale operations (if applicable). Each licensed establishment must meet all other requirements of this Ordinance and the City Zoning Ordinance. A separate application is required for each proposed licensed establishment on a site with co-location. A medical marihuana facility may be co-located with a recreational marihuana establishment, subject to this subsection.

(2) Stacked grower licenses are prohibited in the City.

Section 2. Amendment of Section 10.2-03(b)(4)(E). Section 10.2-03(b)(4)(E) of Chapter 10 of the Cadillac City Code is hereby amended as follows:

(E) If the current property owner is different than the applicant (e.g. where the applicant has a lease, option, land contract, or other future interest in the property), the property owner’s signature is required in addition to the applicant’s signature.

- a. An applicant may submit applications for multiple properties.
- b. Multiple applicants may submit applications for a single property, even if co-location is not proposed. However, unless the

requirements for co-location under Section 10.2-02(b) are met, only one license may be issued for a single property.

- c. For sites with co-location, a separate application is required for each proposed licensed establishment.

Section 3. Amendment of Section 10.2-03(c). Section 10.2-03(c) of Chapter 10 of the Cadillac City Code is hereby amended as follows:

(c) *Initial receipt period*. For any establishment type subject to numerical limitations under Section 10-2.02, the initial receipt period will commence on December 9, 2019, and will end on February 28, 2020, at 4:00 P.M. The City Council may extend this initial receipt period by resolution.

Section 4. Publication and Effective Date. The City Clerk will cause to be published a notice of adoption of this ordinance within 10 days of the date of its adoption. This ordinance will take effect 20 days after its adoption.

YEAS: Council Member(s) Elenbaas, Engels, King, Mayor Filkins
NAYS: Council Member(s) None
ABSTAIN: Council Member(s) None
ABSENT: Council Member(s) Schippers

CERTIFICATION

As the City Clerk of the City of Cadillac, Wexford County, Michigan, I certify this is a true and complete copy of an ordinance adopted by the Cadillac City Council at a meeting held on January 21, 2020.

Date: January 22, 2020

Carla J. Filkins, Mayor

Date: January 22, 2020

Sandra Wasson, City Clerk

Introduced: December 16, 2019
Adopted: January 21, 2020
Published: _____, 2020
Effective: February 10, 2020

City Council

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Mayor
Carla J. Filkins

Mayor Pro-Tem
Shari Spoelman

Councilmembers
Tiyi Schippers
Stephen King
Robert J. Engels

ORDINANCE NO. 2019-12

**AN ORDINANCE TO ADD NEW SECTION 10-2 TO CHAPTER 10 OF THE
CADILLAC CITY CODE TO ALLOW CERTAIN RECREATIONAL MARIHUANA
ESTABLISHMENTS OPERATED IN ACCORDANCE WITH STATE LAW**

Section 1. Amendment. Chapter 10 of the Cadillac City Code is hereby amended to add new Section 10-2, which shall read in its entirety as follows:

RECREATIONAL MARIHUANA ESTABLISHMENTS

10.2-01 Definitions.

The following words and phrases have the meanings ascribed to them when used in this chapter:

- (a) *Co-location or co-located* means the siting and operation of a combination of multiple establishments or establishment types at a single location.
- (b) *Designated consumption establishment* means a commercial space that is licensed by LARA and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license.
- (c) *Emergency Rules* means the emergency rules for adult-use marihuana establishments issued by LARA on or about July 3, 2019.
- (d) *Excess marihuana grower* means a license issued by LARA to a person holding five class C marihuana grower licenses and licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.
- (e) *LARA* means the Department of Licensing and Regulatory Affairs and any successor department or agency within the department, including the Marihuana Regulatory Agency.
- (f) *Licensee* means a person holding a state operating license for a marihuana establishment.
- (g) *Marihuana* means all parts of the plant genus cannabis, growing or not; the seeds of that plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. Marihuana does not include 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. Marihuana does not include industrial hemp.

- (h) *Marihuana establishment* means a marihuana grower, marihuana safety compliance establishment, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by LARA under the MRTMA.
- (i) *Marihuana event organizer* means a person licensed to apply for a temporary marihuana event license under the Emergency Rules.
- (j) *Marihuana grower* means a person licensed by LARA to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.
- (k) *Marihuana microbusiness* means a person licensed by LARA to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance establishment, but not to other marihuana establishments.
- (l) *Marihuana processor* means a person licensed by LARA to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.
- (m) *Marihuana retailer* means a person licensed by LARA 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.
- (n) *Marihuana secure transporter* means a person licensed by LARA to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.
- (o) *Marihuana safety compliance establishment* means a person licensed by LARA to test marihuana, including certification for potency and the presence of contaminants.
- (p) *MMMA* means the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, as amended, MCL 333.26424 *et seq.*
- (q) *MMMFLA* means the Michigan Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended, MCL 333.27102 *et seq.*
- (r) *MRTMA* means the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 *et seq.*

- (s) *MRTMA rules* means rules, including emergency rules, promulgated by LARA to implement the MRTMA.
- (t) *Prequalification step* or *prequalified* means the portion of the application for a state operating license pertaining to the applicant's financial background and the criminal history of the applicant and other associated persons, as provided by Emergency Rule 6.
- (u) *Stacked grower license* means more than 1 state operating license issued to a single licensee to operate as a grower of class C-1,500 marihuana plants as specified in each license at an establishment.
- (v) *State operating license* or, unless the context requires a different meaning, "*license*" means a license that is issued by LARA under the MRTMA that allows the licensee to operate a marihuana establishment.

10.2-02 Authorized Establishments.

- (a) *Authorization and special use permit required.* No person shall operate a marihuana establishment in the City without an authorization issued by the City pursuant to the provisions of this Ordinance and a special use permit pursuant to this Ordinance and the City Zoning Ordinance.
- (b) *Number of establishments eligible for authorization.* The following numbers of marihuana establishments may be authorized to operate in the City, subject to this Ordinance:
 - (1) Not more than one (1) grower operating under Class A licenses;
 - (2) Not more than one (1) grower operating under Class B licenses;
 - (3) Not more than one (1) grower operating under Class C licenses;
 - (4) Not more than two (2) retailers;
 - (5) Not more than one (1) processor;
 - (6) Not more than one (1) secure transporter;
 - (7) Not more than one (1) safety compliance establishment;
 - (8) Not more than one (1) microbusiness;
 - (9) Zero designated consumption establishments (prohibited in the City);
 - (10) Zero excess marihuana growers (prohibited in the City); and

- (11) Zero temporary marihuana events (prohibited in the City).
- (c) *Co-location and stacked licenses.* Co-location and stacked grower licenses are prohibited in the City.
- (d) *Final authorization from City required.* The authorization process described Section 10-2.03 determines the locations in the City at which establishments may operate. A proposed establishment is not eligible to operate until the Clerk grants final authorization pursuant to Section 10-2.03(d) and until the applicant receives a special use permit under the City Zoning Ordinance and all required approvals and licenses from LARA.

10.2-03 Application for Authorization.

- (a) *Timing of Submission.* Beginning on December 9, 2019, a person may apply for authorization to operate an establishment within the City by complying with the requirements of this section.
- (b) *Required Application Materials.* An application is not considered complete until all of the following are received by the City Clerk:
 - (1) A nonrefundable application fee in an amount established by resolution of the City Council.
 - (2) An advance of the annual administrative fee established in Section 10-2.05(d).
 - (3) A photocopy of a valid, unexpired driver's license or state issued identification card for all owners, directors, and officers of the proposed establishment.
 - (4) A signed application (available in the Clerk's office), which must include all of the following information and documents:
 - (A) If the applicant is an individual, the applicant's name; date of birth; Social Security number; physical address, including residential and any business address; copy of government-issued photo identification; email address; one or more phone numbers, including emergency contact information;
 - (B) If the applicant is not an individual, the names; dates of birth; physical addresses, including residential and any business address; copy of government-issued photo identifications; email address; and one or more phone numbers of each stakeholder of the applicant, including designation of the highest ranking representative as an emergency contact person; contact information for the emergency contact person; articles of incorporation or organization; assumed name registration; Internal Revenue Service EIN confirmation letter; copy of the operating agreement of the applicant, if a limited liability company; copy of the partnership

agreement, if a partnership; names and addresses of the beneficiaries, if a trust, or a copy of the bylaws or shareholder agreement, if a corporation;

- (C) The name, address, tax identification number, and current zoning designations of the property on which the proposed marihuana establishment will be located;
- (D) The name and address of the current property owner of record of the property on which the proposed marihuana establishment will be located;
- (E) If the current property owner is different than the applicant (e.g. where the applicant has a lease, option, land contract, or other future interest in the property), the property owner's signature is required in addition to the applicant's signature.
 - a. An applicant may submit applications for multiple properties.
 - b. However, only one application shall be submitted per proposed marihuana establishment property, unless the applications are for proposed co-located establishments.
- (F) The proposed establishment type;
- (G) A complete list of all marihuana permits and licenses held by the applicant;
- (H) Written consent for the City to inspect the establishment at any time during normal business hours to ensure compliance with applicable laws and regulations;
- (I) A location area map of the marihuana establishment and surrounding area that identifies the relative locations and the distances (closest property line to the subject marihuana establishment's building) to the closest real property comprising a public or private elementary, vocational or secondary school;
- (J) A copy of all documents submitted by the applicant to LARA in connection with the application for a state operating license under the MRTMA (including documents submitted for prequalification);
- (K) A copy of all documents submitted by the applicant to LARA in connection with the application for a state operating license under the MMFLA, if applicable;
- (L) A copy of all documents issued by LARA indicating that the applicant has been prequalified for a state operating license under the MRTMA;

- (M) Any other information reasonably requested by the City relevant to the processing or consideration of the application.
- (c) *Initial receipt period set by resolution.* For any establishment type subject to numerical limitations under Section 10-2.02, the City shall establish an initial receipt period that will commence on December 9, 2019, and will end on January 31, 2020.
- (d) *Clerk action upon receipt.* The Clerk will accept and receive any complete application that includes the information and documents required by Section 10-2.03(b), unless the City has already received an application for the same property from another applicant. Upon receiving a complete application, the Clerk will time- and date-stamp the application and inform the applicant of the following:
- (1) The number of existing establishments of the proposed establishment type currently operating within the City;
 - (2) The number of pending applications for the desired establishment type; and
 - (3) The process by which an applicant will be selected pursuant to subparagraph (e).
- (e) *Conditional authorization and competitive process.* The Clerk will conditionally authorize establishments as follows:
- (1) If, after close of business on the end date of the initial receipt period, the City has received more applications for a given establishment type than would be permitted under Section 10-2.02, the City will decide among competing applications by a competitive process intended to select applicants who are best suited to operate in compliance with the MRTMA in the City. The City will provide applicants with twenty-one (21) calendar days' notice that the applicants must provide supplemental written information and documentation to the City indicating whether the applicant satisfies each of the following criteria:

Scoring category	Available points
Background of the applicant, including past ownership interest in a business or businesses operating in the State of Michigan; past compliance with business licensing requirements, including marihuana business licenses issued by LARA; current medical marihuana facility license status in the City; history of compliance with City and state regulations associated with existing medical marihuana facility licenses held in the City; and residency in the City, county, or region.	Twenty (20) points
Human resources, including the number of full-time equivalent employees; the percent of such employees that are residents of the City; and the proposed minimum rate of pay for all employees.	Twenty (20) points
Physical investment, including the applicant's proposed tangible capital	Twenty (20) points

investment; the current and proposed condition of the proposed location; and the applicant's ownership stake in the physical location of the establishment.	
Area impact, including the proximity of the establishment to properties zoned or used residentially; and plans for litter control, loitering, neighborhood outreach, noise mitigation, odor mitigation, resident safety, and traffic mitigation.	Ten (10) points
Business operations, including a business plan; charitable giving plan; financing plan; marketing and promotion plan, with an emphasis on reducing exposure to minors; and strategic plan.	Ten (10) points
Establishment design, including the provision of glazing, landscaping, and screening above City minimum requirements; the use of durable building materials; compliance with the Americans with Disabilities Act; and implementation of Crime Prevention Through Environmental Design (CPTED) principles.	Ten (10) points
Energy efficiency, including Energy Star certification; Michigan Energy Code compliance; use of energy from carbon-free sources; and use of WaterSense fixtures.	Five (5) points
Infrastructure impact, including the utilization of green infrastructure or low-impact development design principles to manage stormwater; and the provision of non-motorized transportation infrastructure in excess of City requirements.	Five (5) points

- (2) Upon timely receipt of the supplemental information described in subparagraph (1), the City Council or its designees shall assign points for the criteria that are satisfied pursuant to the chart in subparagraph (1) and shall, based on the resulting scores, select applicants who are best suited to operate in compliance with the MRTMA in the City. The City shall notify the selected applicants that they have been granted conditional authorization. In the event of a tie score, the City Council or its designee shall select the applicant who, based on the totality of the circumstances, the City finds is best suited to operate in compliance with the MRTMA.
- (3) If an applicant does not timely submit the supplemental information described in subparagraph (1), then the application shall be discarded and shall not be considered under subparagraph (2).
- (4) For any establishment type not subject to numerical limits under Section 10-2.02, or otherwise not subject to the competitive process described in subsection (e)(1), the Clerk will conditionally authorize establishments in the order in which applications are received.
- (5) Once the Clerk has issued conditional authorizations for all of the establishments of a given establishment type that would be permitted under Section 10-2.02, the Clerk will place subsequent applications at the end of the waiting list for that

establishment type. Applications shall be included on the waiting list in the order designated by the City Council or its designees under subparagraph 10-2.03(h).

- (f) *Final authorization.* The Clerk will grant final authorization for the establishment if the applicant:
 - (1) Submits the paperwork for the establishment-specific step of the application for a state operating license to LARA within 30 days of receiving conditional authorization;
 - (2) Submits an application for special use authorization pursuant to the City Zoning Ordinance within 30 days of receiving conditional authorization;
 - (3) Obtains special use authorization within 6 months of receiving conditional authorization; and
 - (4) Receives all required operating licenses and approvals from LARA within 18 months after conditional authorization is granted.
- (g) *Expiration of conditional authorization.* If the applicant for a conditionally authorized establishment fails to satisfy any of the deadlines established above, the conditional authorization will expire. The City Council may extend any of the deadlines upon a showing of good cause.
- (h) *Waiting list and refund of administrative fee.* The Clerk will keep and maintain the waiting lists established pursuant to subsection (e) until the maximum number of establishments of the type to which the list pertains are operating in the City (at which time the Clerk will discard the waiting list). If a conditional authorization for a proposed establishment of that establishment type expires, the Clerk will conditionally authorize the next application on the waiting list. Upon discarding the waiting list, the Clerk will refund the advance of the annual administrative fee established in section 10-2.05(e) to all applicants remaining on the waiting list.
- (i) *Newly available authorizations.*
 - (1) For establishment types for which the maximum number of establishments specified in Section 10-2.02 are operating in the City, an authorization will become available when:
 - (A) The state operating license for an establishment with final authorization expires or is revoked by LARA; or
 - (B) This chapter is amended to authorize additional establishments of that establishment type.

- (2) When an authorization becomes available as described in subsection (h)(1), the City Clerk will select a date within the next 60 days on which the City will begin accepting applications from interested persons, and will publish notice of the selected date in a newspaper of general circulation.
- (3) On the selected date, the Clerk will begin accepting applications using the same process described in subsections (c) and (d) above. If multiple applications are received on that date, the City Council or its designee will request supplemental information and conduct a competitive selection process as outlined in section 10-2.03(e) above.

10.2-04 Relocation of Establishments, Transfers of Licenses, and Expansion of Grow Operations.

- (a) An existing establishment may be moved to a new location in the City, subject to applicable zoning regulations, prior City Council approval, and approval by LARA. In deciding whether to approve a new location for an existing establishment, the City Council shall consider the following nonexclusive factors:
 - a. The impact of the establishment's new location on traffic, parking, public safety, noise, and aesthetics;
 - b. The impact of the establishment's new location on the community as a whole; and
 - c. The existing establishment's compliance with City ordinances and with state law and administrative rules.
- (b) A license for an existing establishment may be transferred to a new licensee that intends to continue operating at the same location, subject to approval by City Council and LARA.
- (c) A licensee may expand growing operations by upgrading the class of the license (e.g., from class A to class B, or from class B to class C), subject to all the limitations (including limitations on the number of establishment types) set forth in Section 10-2.02. To do so, the licensee must submit a new application to the City satisfying the requirements in 10-2.03(a), which shall include payment of the application fee and an advance of any additional annual administrative fee. The application shall be conditionally approved upon receipt of all required materials and compliance with this Ordinance, the MRTMA, and all requirements imposed by LARA.

10.2-05 General Regulations.

- (a) *Submission of supplementary information to the City.* Applicants for City authorization and persons operating existing establishments in the City must provide the City Clerk with copies of all documents submitted to LARA in connection with the initial license application, subsequent renewal applications, or investigations conducted by LARA. The

documents must be provided to the Clerk within 7 days of submission to LARA, and may be submitted electronically to the City unless otherwise requested by the Clerk.

- (b) *Compliance with applicable laws and regulations.* Adult-use marihuana establishments must be operated in compliance with the MRTMA, MRTMA rules, all conditions of the establishment's state operating licenses, and all applicable City ordinances. Compliance with the foregoing does not create immunity from prosecution by federal authorities or other authorities of competent jurisdiction.
- (c) *No consumption on premises.* No smoking, inhalation, or other consumption of marihuana shall take place on or within the premises of any establishment. It shall be a violation of this chapter to engage in such behavior, or for a person to knowingly allow such behavior to occur. Evidence of all of the following gives rise to a rebuttable presumption that a person allowed the consumption of marihuana on or within a premises in violation of this section:
 - (1) The person had control over the premises or the portion of the premises where the marihuana was consumed;
 - (2) The person knew or reasonably should have known that the marihuana was consumed; and
 - (3) The person failed to take corrective action.
- (d) *Annual fee.* A licensee must pay a fee of \$5,000, for each license used within the City in order to help defray administrative and enforcement costs. The initial annual fee(s) must be paid to the City Clerk when the application for City approval is submitted. In each subsequent year, fees are due on the date on which the licensee submits an application to LARA for renewal of the state operating license. The amount of the annual fee may be reduced by resolution of City Council, without an amendment to this Ordinance.

10.2-06 Violations.

- (a) *Request for revocation of state operating license.* If at any time an authorized establishment violates this chapter or any other applicable City ordinance, the City Council may request that LARA revoke or refrain from renewing the establishment's state operating license.
- (b) *Civil infraction.* It is unlawful to disobey, neglect, or refuse to comply with any provision of this chapter. A violation of this chapter is a municipal civil infraction. Each day the violation continues shall be a separate offense. Notwithstanding any other provision of this ordinance to the contrary, violators shall be subject to the following fines:
 - (1) First violation = \$500
 - (2) Second offense = \$2,500

(3) Each subsequent offense = \$5,000

(c) *Other remedies.* The foregoing sanctions are in addition to the City’s right to seek other appropriate and proper remedies, including actions in law or equity.

10.2-07 Policy Review in 2020.

On or before December 31, 2020, City staff shall submit a report to the City Council regarding the administration of this ordinance and the provisions of the zoning ordinance pertaining to adult-use marihuana, and regarding any other pertinent information relating to the operation of adult-use marihuana establishments in the City. The report may include proposed ordinance amendments or other proposed policy changes.

10.2-08. Application to Certain Transferred Area.

Notwithstanding the foregoing provisions of this Ordinance, the following provisions shall apply to the real property (“Transferred Area”) that is the subject of the Agreement for the Conditional Transfer of Property dated August 19, 2019 (“Act 425 Agreement”), and recorded with the Wexford County Register of Deeds, and that is also the subject of a Consent Judgment entered by the Wexford County Circuit Court on September 23, 2019, in Case Nos. 13-24803-CH and 17-27610-CZ:

Marihuana establishments shall be permitted on the Transferred Area only in accordance with the Act 425 Agreement, Consent Judgment, and related documents and exhibits. The terms of the Act 425 Agreement and Consent Judgment supersede any conflicting provisions of this Ordinance with respect to the Transferred Area.

Section 2. Publication and Effective Date. The City Clerk will cause to be published a notice of adoption of this ordinance within 10 days of the date of its adoption. This ordinance will take effect 30 days after its adoption.

YEAS: Council Member(s) Spelman, Schippers, Engels, King, Mayor Filkins

NAYS: Council Member(s) None

ABSTAIN: Council Member(s) None

ABSENT: Council Member(s) None

CERTIFICATION

As the City Clerk of the City of Cadillac, Wexford County, Michigan, I certify this is a true and complete copy of an ordinance adopted by the Cadillac City Council at a regular meeting held on September 3, 2019.

Date: _____, 2019

Carla Filkins, Mayor

Date: _____, 2019

Sandra Wasson, City Clerk

Introduced: August 19, 2019

Adopted: September 3, 2019

Published: September 6, 2019

Effective: October 3, 2019