

Medical Marihuana Facilities Licensing Act – Draft Ordinance Overview



City of Flint
Special Legislative Committee
Meeting
February 28th, 2018

- 1) Short History of Medical Marihuana in Michigan
- 2) Overview of Medical Marihuana Facilities Licensing Act (MMFLA)
- 3) Overview of City of Flint Draft MMFLA Ordinance
- 4) Council -> City Staff Discussion

November 2008: Michigan voters approve Medical Marihuana Act. Act (MMMA) does not reference dispensaries or commercial sale of marihuana to qualifying patients or caregivers.

February 2013: Mich. Supreme Court decides People v. McQueen, which makes commercial sale of marihuana legally untenable, creating uncertainty surrounding commercial dispensary operations.

February 2014: Mich. Supreme Court (Ter Beek v. Wyoming) strikes down ordinance prohibiting any use contrary to federal or state law as being pre-empted by MMMA.

Medical Marihuana Timeline

September 2016: Adopting by State Legislature of three bills addressing the commercialization of medical marihuana and medibles (edible products) signed into law by Governor.

Public Act 281: Medical Marihuana Facilities Licensing Act

Public Act 282: Marihuana Tracking Act

Public Act 283: Amended MMMA to provide for medibles, prohibits resin extraction process in residential areas.

Acts took effect December 20, 2016, but application for state-issued operating licenses for the various types of marihuana facilities begins **December 15, 2017.**

Medical Marihuana Timeline

Public Act 281 “MMFLA”: Creates 5 types of Medical Marihuana Facilities:

Grower:

Class A – 500 plants

Class B – 1,000 plants

Class C – 1,500 plants

Processor: extracts resin from plant/creates marihuana-infused products

Secure Transporter: transports marihuana & cash between facilities; can also store marihuana

Safety Compliance Facility: tests samples of marihuana for contaminants and its active ingredients

Provisioning Center: sells marihuana/marihuana products only to registered patients and caregivers

Overview of Public Act 281

State Licensing Process:

Applicant for State License must:

1. Not have a controlled-substance felony within past 10 years
2. Not have a controlled-substance misdemeanor within past 5 years
3. Not be an elected official or governmental employee
4. Be a Michigan resident for 2 years, until 6/30/2018

Nature of License:

1. Revocable privilege, not a property right
2. Subject to examination at any time by law enforcement
3. Must do background checks on any potential employee

Revenue

1. Nonrefundable State application fee
2. State regulatory assessment
3. 3% tax on retail sales at provisioning centers

Overview of Public Act 281

Capitalization Requirements:

1. Grower – Class A - \$150,000
2. Grower – Class B - \$300,000
3. Grower – Class C - \$500,000
4. Processor – \$300,000
5. Provisioning Center – \$300,000
6. Secure Transporter - \$200,000
7. Safety Compliance Facility - \$200,000

* At least 25% is liquid assets convertible to cash

“Stacked License” – A Class C Grower may apply to stack multiple licenses at one facility; separate application fees apply to each license.

Growing Facilities are only permitted in Industrial or Agricultural zoned areas.

Overview of Public Act 281

Operation at same Location (Co-Location):

Any combination of growers, processors, or provisioning centers may operate at the same location if:

1. Authorized by LARA
2. Authorized by local ordinance
 - if conditions are met, operations must:
 1. Pay fee for each license
 2. Have distinct and identifiable areas with designated structures that are contiguous and specific to the license
 3. Have separate entrances and exits, inventory, record keeping, and point of sale operations.

Overview of Public Act 281

City of Flint Response:

April 2015: Provisioning Center Ordinance enacted by the Emergency Manager, allows commercial sale of medical marihuana.

Dec. 2016: Staff begins revising Provisioning Center ordinance, in response to Public Acts approved by Governor.

May 2017: Staff requests 180-day moratorium on new Provisioning Center applications. Motion denied by council.

Mar. 2017- Feb. 2018: Revisions continue on draft MMFLA ordinance.

Oct. 24th 2018: Planning Commission holds public hearing on draft

Feb. 28th, 2018: Planning Commission approves draft for recommendation to City council

Medical Marihuana Timeline

City of Flint Draft MMFLA Ordinance: Limitation of Marihuana Facilities

<u>Type of Facility</u>	<u>Permitted Number</u>
Grower (All Classes)	No Limit
Processor	No Limit
Secure Transporter	Limit of 5 Licenses
Safety Compliance Center	Limit of 5 Licenses
Provisioning Center	Limit of 20 Licenses

(minus the current # of licensed Provisioning Centers)

City of Flint Draft MMFLA Ordinance: Proposed Zoning Regulation of Marihuana Provisioning Centers

<u>Separation Distances</u>	<u>Distance Amount</u>
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Schools (includes early-childhood)	1,000'
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Public Parks	1,000'
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Residential Zoning District	300'
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Place of Worship	1,000'
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Other Provisioning Centers/ Adult Entertainment	No more than 4 within 2,000' of each other
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Zoning District	D-5, D-6, E, F, G
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City of Flint Draft MMFLA Ordinance: Proposed Zoning Regulation of Marihuana Provisioning Centers

1. Operating hours limited between 8:00am – 7:00pm (M-Sat.); 12:00 noon – 6:00pm (Sun.)
2. Co-Location of Center with a Grow or Processes facility is permitted. If co-located, the facility must be a min. of 30,000 sq. ft.
3. Drive-through windows are not permitted
4. No consumption of marihuana, alcohol, or tobacco is permitted on the premises.
5. Premises open at all times to inspection.
6. Security cameras are required and must meet Flint Project C.A.T.T. EYE specs.

City of Flint Draft Ordinance

City of Flint Draft MMFLA Ordinance: Proposed Zoning Regulation of Marihuana Growing/Processing Centers

<u>Separation Distances</u>	<u>Distance Amount</u>
Schools (includes early-childhood)	500'
Public Parks	500'
Residential Zoning District	300'
Place of Worship	500'
Other Marihuana Centers	No restriction
Zoning District	E, F, G

Regulation of Marihuana Growing/Processing Centers

Growing Center Size Requirements:

1. If 1 Growing Center License (Class A,B,C) exists on site, the building must be a minimum of 10,000 sq. ft.
2. If 2 or more Growing Center Licenses (Class A,B,C) exists on site, the building must be a minimum of 30,000 sq. ft.

Processing Center Size Requirements:

1. Any Processing Center License must be located in a facility that is at least 10,000 sq. ft.
2. If co-located, must be a min. 30,000 sq. ft. facility

City of Flint Draft MMFLA Ordinance: Proposed Zoning Regulation of Marihuana Growing/Processing Centers

1. Facility, at no time, is open to the general public.
2. Co-Location of a Provisioning Center is permitted.
3. All Marihuana must be contained in an enclosed, locked facility.
4. No consumption of marihuana, alcohol, or tobacco is permitted on the premises.
5. The Dispensing/selling of Marihuana is prohibited
6. Premises open at all times to inspection.
7. Security cameras are required and must meet Flint Project C.A.T.T. EYE specs.

City of Flint Draft Ordinance

City of Flint Draft MMFLA Ordinance: Proposed Zoning Regulation of Marihuana Testing/Transporting Facilities

<u>Separation Distances</u>	<u>Distance Amount</u>
Schools (includes early-childhood)	500'
Public Parks	500'
Residential Zoning District	300'
Place of Worship	500'
Other Marihuana Centers	No restriction
Zoning District	E, F, G

City of Flint Draft MMFLA Ordinance: Grandfathered Locations

Grandfathered Locations:

1. Any previously permitted and lawfully operating Provisioning Center, granted approval under the City's "Provisioning Center Ordinance" and upon successful LARA approval, will retain legal, non-conforming rights (if applicable).
2. Failure to become compliant within 6 months, will result in revocation of the grandfathered location.
3. No previously approved Cultivation Facility will be eligible to be "grandfathered" in.

City of Flint Draft MMFLA Ordinance: Transferring of Licenses

Transferring of Licenses:

Permits are granted to an individual, not the location. Any changes to the permit, including a change of ownership, requires approval as follows:

1. If the original applicant retains partial ownership and no modifications occur with the building, the new owner is administratively added to the permit.
2. If ownership will be transferred completely and no modifications occur to the site, a Public Hearing will be held before the Planning Commission.
3. Any transfer that results with modifications to the site/operation, will be treated as a new applicant and required to follow the full process of approval.

City of Flint Draft MMFLA Ordinance: Appeal of the MMFLA Location Map

An individual may appeal a location not listed on the Marihuana Facilities Licensing Map developed by the Planning & Zoning Division.

1. A \$5,000 (non-refundable) fee is required.
2. The case will be heard by the Flint Planning Commission
3. An individual must clearly demonstrate an “undue hardship” and “prove that special and unique conditions pertaining to the piece of property in question are warranted: for a variance to be granted.

City of Flint Draft Ordinance

City of Flint Draft MMFLA Ordinance: Proposed Local Revenue

<u>Type</u>	<u>Amount</u>
Local Application Fee (non-refundable)	\$1,500
Annual Licensing Fee	\$5,000
Site Plan Review Fee	\$1,002
Annual Inspections (Fire/BS&I)	TBD
Location Appeals Fee	\$5,000
Annual State Revenue	TBD

City of Flint Draft Ordinance

Discussion

