

**THE CITY OF EVART ORDINANCE NO. 2019-09**

**AS ADOPTED June 17, 2019**

**“MARIHUANA FACILITIES LICENSING AND  
REGULATIONS”**

**AN ORDINANCE OF THE CITY OF EVART, OSCEOLA COUNTY, MICHIGAN, TO ESTABLISH LAND USE AND ZONING REQUIREMENTS; TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE OF THE CITY OF EVART; TO SET FEES FOR THE PURPOSE OF DEFRAYING THE COSTS ASSOCIATED WITH THE IMPLEMENTATION AND ENFORCEMENT OF THE PROVISIONS OF THE CHAPTER AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THE CHAPTER.**

**THE CITY OF EVART ORDAINS:**

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**SECTION I. LEGISLATIVE INTENT.**

The purpose of this Chapter is to exercise the police regulatory and land use powers of the City of Ewart by licensing and regulating Provisioning Centers, Grower Facilities, Safety Compliance Facilities, Processor Facilities, Secure Transporter, and Marihuana Microbusiness to the extent permissible under State of Michigan and federal laws and regulations; and to protect the public health, safety and welfare of the residents of the City of Ewart; and as such, this Chapter constitutes a public purpose.

The City finds that the activities described in this Chapter are significantly connected to the public health, safety, security, and welfare of its citizens and it is therefore necessary to regulate and enforce safety, security, fire, policing, health, and sanitation practices related to such activities and also to provide a method to defray administrative costs incurred by such regulation and enforcement.

It is not the intent of this Chapter to diminish, abrogate, or restrict the protections for the use of Marihuana found in the Michigan Medical Marihuana Act, Medical Marihuana Facilities Licensing Act, or the Michigan Regulation and Taxation of Marihuana Act.

This Ordinance operates to repeal and replace all prior Marihuana ordinances enacted by the City of Ewart.

**SECTION II. DEFINITIONS, INTERPRETATION, AND CONFLICTS.**

For the purposes of this Chapter:

- (A) Any term defined by the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 *et seq.*, as amended (“MMMA”), the Medical Marihuana Facilities Licensing Act, 2016 PA 281 (“MMFLA”), the Marihuana Tracking Act, MCL 333.27901 *et seq.*, or the Michigan Regulation and Taxation of Marihuana Act, 2018, (“MRTMA”) shall have the definition given in such Act. If the definition of a word or phrase set forth in this Chapter conflicts with the definition in the MMMA, MMFLA, or MRTMA, or if a term is not defined but is defined in the MMMA, MMFLA, or MRTMA, then the definition in those Acts shall apply.
- (B) Any term defined by 21 U.S.C. § 860(E) referenced in this Chapter shall have the definition given by 21 U.S.C. § 860(E).
- (C) This Ordinance shall not limit an individual’s or entity’s rights under the MMMA, MMFLA, or the MRTMA. The MMMA, MMFLA, and MRTMA supersede this Ordinance where there is a conflict between them.
- (D) All activities related to Marihuana, including those related to Marihuana Facilities shall be in compliance with the rules of any State Marihuana licensing councils or agencies, the Michigan

Department of Licensing and Regulatory Affairs or any successor agency, the rules and regulations of the City of Ewart, and the MMMA, MMFLA, and MRTMA.

- (E) Notwithstanding certain provisions of the MMFLA and MRTMA, any activity which purports to have engaged in the cultivation or processing of Marihuana into a usable form, or the distribution of Marihuana, or the testing of Marihuana either prior to or after enactment of this Chapter but without obtaining the required licensing set forth in this Chapter, shall be deemed to not be a legally established use and therefore not entitled to legal nonconforming status under the provisions of this Chapter and/or state law.
- (F) The following terms shall have the definitions given:

“Chapter” means this Chapter.

“City” means the City of Ewart, Michigan.

“Distance” means a measurement will be conducted from the designated main/public entrance door perpendicular to the road that the facility is addressed on. From this perpendicular point along the centerline of the road(s) a distance will be measured to the perpendicular point of the facility. The centerline measurement will be conducted utilizing the shortest centerline route to the facility. From the facility perpendicular point, a measurement will be obtained from the road that the facility is addressed on to the designated main/public entrance. All distances will be added together to determine the required door to door separation distance. In the event the designated main/public entrance of the facility does not front the facilities addressed road, that entrance will be subjected to the perpendicular point requirement/parallel distance alongside of a facility to obtain the shortest perpendicular measurement to the facilities addressed road. Emergency egress doors are not subject to

the measurement requirements and must meet all local and state requirements for emergency egress.

“Council” or “City Council” means the City Council of the City of Ewart, Michigan.

“Enclosed Locked Facility” means a closet, room, structure, or other comparable, stationary, and fully enclosure, equipped with secured locks or other functioning security devices. Marihuana Plants grown outdoors are considered to be in an Enclosed Locked Facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground and as defined in the MMMA.

“Grower” or “Grower Facility” means a commercial entity that cultivates, dries, trims or cures and packages Marihuana for sale to a Processor or Provisioning Center.

“License Application” refers to the requirements and procedures set forth in Sections IV and V.

“Marihuana Plant(s)” means any plant of the species *Cannabis Sativa L.*

“Marihuana” means that term as defined in section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.

“Marihuana Facility(ies)” means any facility, establishment and/or center that is required to be licensed under this Chapter, or licensed under the MMMA, MMFLA, or MRTMA.

“Marihuana Microbusiness” shall have the same meaning so provided in the MRTMA.

“Ordinance” means the Ordinance adopting this Chapter.

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

“Processor” or “Processor Facility” means a commercial entity that purchases Marihuana from a Grower and that extracts resin from the Marihuana or creates a Marihuana-infused product for sale and transfer in packaged form to a Provisioning Center.

“Provisioning Center” means a commercial entity that purchases Marihuana from a Grower or Processor and sells, supplies, or provides Marihuana to registered qualifying patients, directly or through the patients’ registered primary caregivers. Provisioning Center includes any commercial property where Marihuana is sold at retail to registered qualifying patients, registered primary caregivers, or recreational retail customers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department’s Marihuana registration process in accordance with the MMMA is not a Provisioning Center for the purposes of this Ordinance.

“Restricted/Limited Access Area” means a building, room, or other area under the control of the licensee with access governed by applicable state law.

“Safety Compliance Facility” means a commercial entity that receives Marihuana from a Marihuana Facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and

other cannabinoids, returns the test results, and may return the Marihuana to the Marihuana Facility.

“Secure Transporter” means a commercial entity that stores Marihuana and transports Marihuana between Marihuana Facilities for a fee.

“Stakeholder” means with respect to a trust, the beneficiaries, with respect to a limited liability company, the managers or members, with respect to a corporation, whether profit or non-profit, the officers, directors, or shareholders, and with respect to a partnership or limited liability partnership, the partners, both general and limited.

“State” means the State of Michigan.

- (G) Any term defined by the MMMA, MMFLA, or MRTMA and not defined in this Chapter shall have the definition given in such Act.

**SECTION III. LICENSE ALLOCATION AND FEES.**

- (A) No Person shall operate a Marihuana Facility in the City of Ewart without first obtaining a license to do so from the City Manager and the State of Michigan.
- (B) Effective July 2, 2019, the maximum number of each type of Marihuana Facility allowed in the City of Ewart shall be as follows:

<u>Facility</u>	<u>Number</u>
Grower	Two (2)
Processor	Two (2)
Secured Transporter	Two (2)

Provisioning Center / Two (2)  
Marihuana Microbusiness

Safety Compliance Facility Two (2)

- (C) Stacking and co-location shall be allowed pursuant to state law.
- (D) No Person who obtains approval from the City of Ewart to operate a Marihuana Facility shall be permitted by the City to operate a Marihuana Facility of the same type at a different location within the City.
- (E) At least every five (5) years after adoption of this Ordinance, the City of Ewart shall review the maximum number of each type of Marihuana Facility allowed and determine whether this maximum number should be changed. The review of the City's findings shall be recorded in the relevant meeting minutes of the City Council.
- (F) Any Provisioning Center license previously issued by the City shall remain valid and any reduction of these licenses shall be by attrition.
- (G) The term of each license shall be one (1) year.
- (H) A new Marihuana Facility applicant shall pay a one-time, non-refundable, pre-operation fee of \$5,000.00 to the City Treasurer.
- (I) Annually and upon renewal, each license shall pay a licensing fee of \$5,000.00 per Marihuana Facility license to the City Treasurer in order to defray application, administrative, and enforcement costs associated with the operation of the Marihuana Facility in the City.

**SECTION IV. LICENSE APPLICATIONS SUBMISSION AND RENEWAL.**



- (A) Application for each Marihuana Facility license required by this Chapter shall be made in writing to the City Manager, and must be approved by the City Council, and approved by the State of Michigan, prior to commencing operation.
- (B) An application for a Marihuana Facility license required by this Chapter shall contain the following:
1. The appropriate pre-operation fee and annual licensing fee in the amount per Section III(E) and (F);
  2. If the applicant is an individual, the applicant's name, date of birth, physical address, copy of government issued photo identification, email address, and one or more phone numbers, including emergency contact information;
  3. If the applicant is not an individual, the names, dates of birth, physical addresses, copy of government issued photo identification, email addresses, and one or more phone numbers of each Stakeholder/shareholder/member of the applicant, including designation of the highest ranking Stakeholder/shareholder/member as an emergency contact person and contact information for the emergency contact person, articles of incorporation, assumed name registration documents, Internal Revenue Service SS-4 EIN confirmation letter, and a copy of the operating agreement of the applicant, if a limited liability company, a copy of the partnership agreement, if a partnership, or a copy of the by-laws or shareholder agreement, if a corporation;
  4. The name and address of the proposed Marihuana Facility and the phone and email contact information for the applicant's preferred point of contact. If the business address of the applicant is different than the address of the proposed

Marihuana Facility, then the applicant must indicate where mail is to be sent;

5. For the applicant, for each Stakeholder of the applicant, an affirmation under oath as to whether they are at least eighteen (18) years of age and have never been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning, or had expunged any criminal offense under the laws of any jurisdiction, either felony or controlled substance related misdemeanor not including traffic violations, regardless of whether the offense has been expunged, pardoned, reversed on appeal or otherwise, including the date, name and location of the court, arresting agency, and prosecuting agency, the case caption, the docket number, the offense, the disposition, and the location and length of incarceration;
6. Before hiring a prospective agent or employee of the applicant, and after, the holder of a license shall conduct a background check of the prospective employee. If the background check indicated a pending charge or conviction within the past ten (10) years for a controlled substance related felony, the applicant shall not hire the prospective employee or agent without written permission from the City Manager;
7. A signed release authorizing the City of Evert Police Department to perform a criminal background check to ascertain whether the applicant, each Stakeholder of the applicant, each managerial employee, and employee of the applicant meet the criteria set forth in this Ordinance;
8. The name, date of birth, physical address, copy of photo identification, and email address for any managerial employee of the Marihuana Facility, if other than applicant;

9. An affirmation under oath as to whether the applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction 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;
10. One of the following: (a) proof of ownership of the entire premises wherein the Marihuana Facility is to be operated; or (b) written consent from the property owner for use of the premises in a manner requiring licensure under this Chapter along with a copy of the lease for the premises;
11. Proof of an adequate premise liability and casualty insurance policy in the amount not exceeding the requirements addressed in the MMFLA, MRTMA, or applicable state laws, covering the Marihuana Facility and naming the City as an additional insured party, available for the payment of any damages arising out of an act or omission of the applicant or its Stakeholders, agents, employees or subcontractors;
12. A description of the security plan for the Marihuana Facility, including, but not limited to, any lighting alarms, barriers, recording/monitoring devices and/or security guard arrangements proposed for the facility and premises. The security plan must contain the specification details of each piece of security equipment;
13. A floor plan of the Marihuana Facility, as well as a scale diagram illustrating the property upon which the Marihuana Facility is to be operated, including all available parking

spaces, and specifying which parking spaces, if any, are handicapped accessible;

14. An affidavit that neither the applicant nor any Stakeholder of the applicant is in default to the City. Specifically, that the applicant or Stakeholder of the applicant has not failed to pay any property taxes, special assessments, fines, fee, or other financial obligations to the City;
15. An affidavit that the transfer of Marihuana to and from Marihuana Facilities shall be in compliance with the MMMA, MMFLA, MRTMA, or other applicable state laws;
16. Any proposed text or graphical materials to be shown on the exterior of the proposed Marihuana Facility;
17. A location area map of the Marihuana Facility and surrounding area that identifies the relative locations and the Distances to any place of worship or school;
18. A facility sanitation plan to protect against any Marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any Marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction in the sewerage system is prohibited;
19. An applicant shall provide proof to the City of the capitalization amounts required under the MMFLA and MRTMA validated by CPA-attested financial statements;
20. An affidavit stating that the applicant has not filed for bankruptcy, or been involuntarily forced into bankruptcy, within the last seven (7) years.
21. The applicant may be required to provide a bond, letter of

credit, escrow deposit, or other reasonable performance guarantees or assurances deemed satisfactory by the City in the circumstances and as authorized by law. The amount and form of the performance guarantee shall be determined by the City and may be based upon a recommendation from the City Manager. The necessity for such assurances shall be made by the City prior to approving an application.

22. Based on the size of the proposed Marihuana Facility, the applicant may be required to enter into a development agreement with the City. The extent of the development agreement shall be determined by the City and the applicant and ultimately be approved by the City Counsel. The necessity of a development agreement shall be made by the City, on a case by case basis, prior to approving an application.
23. As it relates to a Grower Facility, the following additional items shall be provided:
  - a. A Grower Plan that includes at a minimum a description of the Grower methods to be used, including plans for the growing mediums, treatments, and/or additives;
  - b. A production testing plan that includes at a minimum a description of how and when samples for laboratory testing by a state approved Safety Compliance Facility will be selected, what type of testing will be required, and how the test results will be used;
  - c. An affidavit that all operations will be conducted in conformance with the MMMA, MMFLA, MRTMA, or other applicable state laws and such operations shall not be cultivated on the premises at any one time more than the permitted number of Marihuana Plants;

- d. A chemical and pesticide storage plan that states the names of pesticides to be used in Growers and where and how pesticides and chemicals will be stored in the facility, along with a plan for the disposal of unused pesticides.
  - e. A waste water plan that describes how waste water will be prevented from entering the local storm sewers, creeks, streams, rivers, and other wetlands in violation of Michigan Department of Environment, Great Lakes and Energy standards. The applicant shall also provide a map of the Marihuana Facility and surrounding area that identifies the relative locations and the Distances to any storm sewers, creeks, streams, rivers, and other wetlands.
  - f. A National Pollutant Discharge Elimination System (NPDES) permit from the State of Michigan for the appropriate size of the facility and the amount of discharge per day.
24. When applying for a license, the applicant shall submit all the information required above in subparts (1) – (21) to the City Manager in a three-ring binder, that is clearly marked on the front with the applicant's name and contact information. The first item in the three-ring binder shall be the City's Marihuana Facilities Licensee Application Checklist ("Checklist"). The second item in the three-ring binder shall be the City of Ewart Marihuana Facility License Application. The remaining contents of the three-ring binder shall be arranged according to the Checklist and tabbed by individual section for easy reference.
- (C) Upon receipt of a completed Marihuana Facility application meeting the requirements of this Chapter and confirmation that the number of existing licenses does not exceed the maximum number

established by resolution pursuant to Section III, the City Manager shall refer a copy of the application to each of the following for their review and approval: the City Attorney or his designee, the City Police Department or their designee, the Zoning Administrator or similar City official, and the City Treasurer or their designee. Once applications are verified by each department to be sufficiently complete and comprehensive, and no sooner, the City Manager shall forward the applications to the City Council.

(D) No application shall be approved unless:

1. The Fire Department or a designee has inspected the proposed location for compliance with all laws for which they are charged with enforcement;
2. The applicant, each Stakeholder of the applicant, and the managerial employees and employees of the applicant, have passed a criminal background check conducted by the City's Police Department;
3. The Zoning Administrator, or similar City official, has confirmed that the proposed location complies with the Zoning Code;
4. The City Treasurer or their designee has confirmed that the applicant and each Stakeholder of the applicant are not in default to the City;
5. The City Attorney or his designee has completed a detailed review of the Marijuana Facility application for compliance with the applicable state laws and City Ordinances.

(E) If written approval is given by each individual or department identified in Subsection (D)(1)-(5), the City Manager shall submit the application to the City Council for the issuing of a license to the

applicant. All licenses issued are contingent upon the State of Michigan issuing a license for the operation under state law.

- (F) Licensees shall report any other change in the information required by Subsection (B) to the City Manager within fourteen (14) days of the change. Additional fees shall be assessed by the City Manager for any Stakeholder added after the original Application is submitted.
- (G) Each Marihuana Facility license issued by the City of Ewart shall be for a period of one (1) year and shall be set to expire on the date of issuance in the following year.
- (H) Upon the expiration of an existing license, a license will be automatically renewed by the City of Ewart for an additional one (1) year period if:
  - 1. There are no uncured administrative violations in the prior year;
  - 2. The applicant has paid the annual licensing fee for the renewal period at least fourteen (14) days prior to the date the license is set to expire;
  - 3. Any Stakeholder changes have been fully disclosed to the City of Ewart in accordance with the procedures included herein;
  - 4. Any applicant who was granted a Marihuana Facility license prior to the enactment of this Ordinance who did not have to submit materials in accordance with Section IV(B)(1) – (24), must supplement such application with the information requested therein and provide a three-ring binder to the City Manager containing such information by at least fourteen (14) days prior to the date the license is set to expire; and



5. The applicant must have taken necessary measures to maintain its state license and provide evidence to the City Manager that it has paid for its state license in relation to the renewal period.
6. Annually, and as a condition of license renewal, each Marihuana Facility licensee must provide a third-party effluent test to the City Manager that details the aggregate toxic effect from all pollutants contained in a facility's wastewater runoff.
7. Annually, and as a condition of license renewal, each Marihuana Facility licensee must provide third-party stormwater runoff and air quality reports that detail the facility's aggregate toxic effect on the surrounding air and water resources.

## **SECTION V. LICENSE APPLICATIONS EVALUATION.**

- (A) The City Manager shall conduct an initial review of each application. If discrepancies are identified, then the applicant shall be provided at least fourteen (14) days to correct such issues. Once the City Manager is satisfied that the application meets the *prima facie* requirements of this Ordinance, then the application shall be submitted to City Counsel for review.
- (B) The City Council or its designee will assess all applications. The applicant shall assess each application in each of the following categories:
  1. The applicant's experience in operating other similarly licensed businesses.
  2. The applicant's general business management experience and the likelihood of success for the proposed Marihuana Facility.

3. The applicant's general business reputation.
4. The integrity, moral character, and reputation; personal and business probity; financial ability and experience; and responsibility or means to operate or maintain a Marihuana Facility of the applicant.
5. The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.
6. The sources and total amount of the applicant's capitalization to operate and maintain the proposed Marihuana Facility.
7. Whether the applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning, or had expunged any relevant criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violation, regardless of whether the offense has been expunged, pardoned, or reversed as appealed or otherwise.
8. Whether the applicant has filed, or had filed against it, a proceeding for bankruptcy within the past seven (7) years;
9. Whether the applicant has been served with a complaint or other notice filed with any public body regarding payment of any tax required under federal, state or local law that has been delinquent for one (1) or more years;
10. Whether the applicant has a history of noncompliance with any regulatory requirements in this State or any other jurisdiction;
11. As it related to operation of a Provisioning Center, the applicant's type of service and product that will be offered and

the overall theme and atmosphere of the proposed Provisioning Center.

(C) The City Council or its designee shall assess each application in the context of Section V(B)(1) through (11) and issue a license to the applicant most qualified.

1. On and after July 2, 2019, the City shall accept applications for authorization to operate a marihuana facility within the City. Application shall be made on a City form and must be submitted to the City Manager and/or other designee of the City. Once the City Manager receives a complete application including the pre-operation fee and annual licensing fee, the application shall be time and date stamped.
2. Upon consideration, if the facility type authorization is available within the number specified above, then the applicant may receive conditional authorization to operate such marihuana facility within the City. Once the limit on the number of an authorized facility is conditionally reached, then any additional complete applications shall be held for future review. Any applicant awaiting review may withdraw their submission by written notice to the City Manager at any time.
3. Within thirty (30) days from conditional authorization from the City, the conditionally authorized applicant must submit proof to the City Manager that the applicant has applied for prequalification from the State for a state operating license or has submitted full application for such license. If the applicant fails to submit such proof, then such conditional authorization shall be canceled by the City Manager.
4. If a conditionally authorized applicant is denied prequalification for a state operating license or is denied on full application for a state operating license, then such

conditional authorization will be canceled by the City Manager and other applicants may be considered for conditional authorization.

5. **A conditionally authorized applicant shall receive full authorization from the City to operate the marihuana facility within the City upon the applicant providing to the City Manager proof that the applicant has received a State operating license for the Marihuana Facility in the City and the applicant has met all other requirements of this Ordinance.**
6. The City may, in its own judgment, permit temporary operation of a Marihuana Facility upon an applicant receiving conditional authorization, so long as such temporary operation is permitted by state law.
7. If a conditionally authorized applicant fails to obtain full authorization from the City within one (1) year from the date of conditional authorization, then such conditional authorization shall be canceled by the City Manager. The City shall have the authority to extend the deadline to obtain full authorization for an additional six (6) month period or whatever longer period the City in its discretion deems adequate, upon written request of the applicant, within thirty (30) days prior to cancellation, and upon the City finding good cause for the extension. Additional fees, if any, shall be assessed by the City Manager in relation to any request for extension of conditional authorization.

## **SECTION VI. LICENSES GENERALLY.**

- (A) To the extent permissible, all information submitted in conjunction with an application for a license or license renewal required by this Chapter is confidential and exempt from disclosure under the

Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231  
*et seq.*

- (B) Licensees may transfer a license issued under this Chapter to a different location upon receiving written approval from the City Manager. In order to request approval to transfer a license location, the licensee must make a written request to the City Manager indicating the current license location and the proposed license location. Upon receiving the written request, the City Manager shall refer a copy of the written request to each of the following for approval: the City Attorney or his designee, the City Police Department or their designee, the Zoning Administrator or similar City official, and the City Treasurer or their designee. Once applications are verified by each department to be sufficiently complete and comprehensive, and no sooner, the City Manager shall forward the applications to the City Council.
- (C) Licensees may transfer a license issued under this Chapter to a different individual or entity upon receiving written approval from the state.
- (D) Licensees shall report any other change in the information required by this Chapter to the City Manager within fourteen (14) business days of the change. Failure to do so may result in suspension or revocation of the license.

**SECTION VII. MINIMUM OPERATIONAL STANDARDS  
OF PROVISIONING CENTERS.**

The following minimum standards for a Provisioning Center shall apply.

- (A) No Provisioning Center shall be open between the hours of 11:00 p.m. and 7:00 a.m.

- (B) Consumption of Marihuana shall be prohibited on the premises of a Provisioning Center and a sign shall be posted on the premises of each Provisioning Center indicating that consumption is prohibited on the premises.
- (C) Provisioning Centers shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site location for a period of fourteen (14) days.
- (D) Unless permitted by the MMMA, MMFLA, MRTMA, or applicable state law, public or common areas of the Provisioning Center must be separated from restricted or non-public areas of the provisioning center by a permanent barrier.
- (E) A drive-through window on the premises of a Provisioning Center shall not be permitted.
- (F) The Provisioning Center shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises.
- (G) No Provisioning Center shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the property on which the Provisioning Center is operated.
- (H) The license required by this Chapter shall be prominently displayed on the premises of a Provision Center.
- (I) Disposal of Marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in conformance with State law.
- (J) All Marihuana delivered to a customer/patient shall be packaged and labeled as provided by state laws.

- (K) The premises shall be open at all times during normal business hours to any State investigators, agents, auditors, or the State Police, Osceola County Sheriff Department, or City Police Department without a warrant and without notice to the holder of the license, to enter the premises, offices, facilities, or other places of business of a licensee, if evidence of compliance or noncompliance with the MMMA, MMFLA, MRTMA, or applicable state laws is likely to be found and consistent with constitutional limitations for the following purposes:
1. To inspect and examine all premises of the Marihuana Facility;
  2. To inspect, examine, and audit relevant records of the licensee and, if the holder of the license or any of the managerial employees or employees fails to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored;
  3. To investigate alleged violations of the MMMA, MMFLA, MRTMA, or applicable state laws.
- (L) It shall be prohibited to display any signs that are inconsistent with local laws or regulations or state law.
- (M) It shall be prohibited to use advertising material that are misleading, deceptive, or false, or that is designed to appeal to minors.
- (N) It shall be prohibited to use the symbol or image of a Marihuana leaf in any exterior building signage.

- (O) All Provisioning Center advertising shall be located on the premises of the Provisioning Center and no other forms of off-premises advertising shall be permitted.
- (P) Certified laboratory testing results that meet the MMMA, MMFLA, MRTMA, or applicable state laws must be available to all Provisioning Center customers/patients upon request.

**SECTION VIII. MINIMUM OPERATIONAL STANDARDS OF GROWER FACILITY.**

The following minimum standards for a Grower Facility shall apply:

- (A) The Grower Facility shall comply at all times and in all circumstances with the MMMA, MMFLA, MRTMA, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.
- (B) The premises shall be open for inspection upon probable cause that a violation of this Chapter has occurred during the stated hours of operation and at such other times as anyone is present on the premises.
- (C) Any Grower Facility shall maintain a log book and/or database indicating the number of Marihuana Plants. Each Marihuana Plant will be tagged as required by the MMMA, MMFLA, and MRTMA.
- (D) All Marihuana shall be contained within an Enclosed Locked Facility.
- (E) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring, lighting, and/or watering devices that support the Grower, growing, or harvesting of Marihuana are located.



- (F) That portion of the structure where the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the City's Fire Department to ensure compliance with the Michigan Fire Protection Code.
- (G) The dispensing of Marihuana at the Grower Facility shall be prohibited.
- (H) All persons working in direct contact with Marihuana shall conform to hygienic practices while on duty, including but not limited to:
  - 1. Maintaining adequate personal cleanliness;
  - 2. Washing hands thoroughly in adequate hand washing areas before starting work and at any other time when the hands may have become soiled or contaminated;
  - 3. Refraining from having direct contact with Marihuana if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.
- (I) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Marihuana is exposed.
- (J) Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
- (K) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste development of odor and minimize the potential for waste becoming an attractant, harborage, or breeding places for pests.

- (L) Any buildings, fixtures, and other facilities shall be maintained in a sanitary condition.
- (M) Each Grower Facility shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.
- (N) Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
- (O) The Grower Facility shall be free from infestation by insects, rodents, birds, or vermin of any kind.
- (P) Exterior signage or advertising identifying the facility as a Grower Facility shall be prohibited.
- (Q) Odor Control – No person, tenant, occupant, or property owner shall permit the emission of marihuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another’s property. Whether or not a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity. A grower or processor shall install and maintain in operable condition a system which precludes the emission of marihuana odor from the premises.

**SECTION IX. MINIMUM OPERATIONAL STANDARDS OF SAFETY COMPLIANCE FACILITY.**

The following minimum standards for the Safety Compliance Facility shall apply:

- (A) The Safety Compliance Facility shall comply at all times and in all circumstances with the MMMA, MMFLA, MRTMA, or applicable state laws and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.
- (B) Consumption and/or use of Marihuana shall be prohibited at the facility.
- (C) The premises shall be open at all times during normal business hours to any State investigators, agents, auditors, or the State Police, without a warrant and without notice to the licensee, to enter the premises, offices, facilities, or other places of business of a licensee, if evidence of compliance or noncompliance with the MMMA, MMFLA, MRTMA, or applicable state laws is likely to be found and consistent with constitutional limitations for the following purposes:
  - 1. To inspect and examine all premises of Marihuana Facilities;
  - 2. To inspect, examine and audit relevant records of the licensee and, if the licensee or any managerial employees or employees fail to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored;
  - 3. To investigate alleged violations of the MMMA, MMFLA, MRTMA, or applicable state laws.
- (D) All Marihuana shall be contained within the building in an Enclosed Locked Facility in accordance with applicable state laws.

- (E) There shall be no other accessory uses permitted within the same facility other than those associated with testing Marihuana.
- (F) All persons working in direct contact with Marihuana shall conform to hygienic practices while on duty.
- (G) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Marihuana is exposed.
- (H) Any buildings, fixtures, and other facilities shall be maintained in a sanitary condition.
- (I) Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
- (J) Exterior signage or advertising identifying the facility as a Safety Compliance Facility shall be prohibited.

**SECTION X.                   MINIMUM OPERATIONAL STANDARDS  
OF PROCESSOR FACILITY.**

The following minimum standards for the Processor Facility shall apply:

- (A) The Processor Facility shall comply at all times and in all circumstances with the MMMA, MMFLA, MRTMA, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.
- (B) Consumption and/or use of Marihuana shall be prohibited at the Processor Facility.
- (C) All activity related to the Processor Facility shall be done indoors.

- (D) The premises shall be open at all times during normal business hours to any State investigators, agents auditors, or the State Police, without a warrant and without notice to the licensee, to enter the premises, offices, facilities or other places of business of a licensee, if evidence of compliance or noncompliance with the MMMA, MMFLA, MRTMA, or applicable state laws is likely to be found and consistent with constitutional limitations for the following purposes:
1. To inspect and examine all premises of Marihuana Facilities;
  2. To inspect, examine, and audit relevant records of the licensee and, if the licensee or any managerial employees or employees fail to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored;
  3. To investigate alleged violations of the MMMA, MMFLA, MRTMA, or applicable state laws.
- (E) All necessary building, electrical, plumbing, and mechanical permits shall be obtained for any portion of the structure in which electrical wiring for devices that support the processing of Marihuana are located.
- (F) That portion of the structure where the storage of any chemicals shall be subject to inspection and approval by the City's Police Department to insure compliance with the Michigan Fire Protection Code.

- (G) The dispensing of Marihuana at the Processor Facility shall be prohibited.
- (H) All persons working in direct contact with Marihuana shall conform to hygienic practices while on duty.
- (I) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Marihuana is exposed.
- (J) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste development of odor and minimize the potential for waste becoming an attractant, harborage, or breeding places for pests.
- (K) Any buildings, fixtures, and other facilities shall be maintained in a sanitary condition.
- (L) Each Processor Facility shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.
- (M) Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
- (N) The Processor Facility shall be free from infestation by insects, rodents, birds, or vermin of any kind.
- (O) The Processor Facility shall produce no products other than usable Marihuana intended for human consumption.

- (P) Exterior signage or advertising identifying the facility as a Processor Facility shall be prohibited.
- (Q) Odor Control – No person, tenant, occupant, or property owner shall permit the emission of marihuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another’s property. Whether or not a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity. A grower or processor shall install and maintain in operable condition a system which precludes the emission of marihuana odor from the premises.

**SECTION XI. LOCATION OF GROWER FACILITY, SAFETY COMPLIANCE FACILITY, PROCESSOR FACILITY SECURED TRANSPORTER.**

- (A) No Grower Facility, Safety Compliance Facility, Processor Facility or Secure Transporter shall be located within one thousand (1000) feet Distance from real property comprising a church or religious institution, public or private elementary, licensed child care facility, vocational, or secondary school.
- (B) All Grower Facilities shall be limited to the General Industrial "I-2" Zoning Districts.
- (C) All Safety Compliance Facilities, Processor Facilities, and secured Transporter Facilities shall be limited to the General Industrial "I-2" or General Business "C-2" Zoning Districts.

**SECTION XII. LOCATION OF PROVISIONING CENTERS.**

- (A) No Provisioning Center shall be located within:

1. One thousand (1,000) feet Distance from real property comprising a public or private elementary, vocational, or secondary school; or
  2. One thousand (1000) feet Distance from a church or religious institution defined as exempt by the City Assessor or County Assessor's office or a licensed child care facility.
- (B) All Provisioning Centers or Marihuana Microbusinesses shall be limited to the General Industrial "I-2" or General Business "C-2" Zoning Districts.

### **SECTION XIII. DENIAL AND REVOCATION.**

- (A) A license issued under this Chapter may be revoked after an administrative hearing at which the City Manager determines that any grounds for revocation under Subsection (B) exists. Notice of the time and place of the hearing and the grounds for revocation must be given to the holder of the license at least fourteen (14) days prior to the hearing, by first class mail to the address given on the License Application or any address provided pursuant to this Ordinance.
- (B) A license applied for or issued under this Chapter may be denied or revoked on any of the following basis:
1. Violation of this Chapter;
  2. Any conviction of or release from incarceration for a felony under the laws of this State, or any other state, or the United States, within the past five (5) years by the applicant or any Stakeholder of the applicant as measured from the date of the application or the date of becoming a Stakeholder, whichever occurs later, or while licensed under this Chapter; or any



conviction of a substance-related felony by the applicant or any Stakeholder of the applicant whenever or while licensed under this Chapter;

3. Commission of fraud or misrepresentation or the making of a false statement by the applicant or any Stakeholder of the applicant while engaging in any activity for which this Chapter requires a license;
4. Sufficient evidence that the applicant(s) lack, or have failed to demonstrate the requisite professionalism and/or business experience required to assure strict adherence to this Chapter and the rules and regulations governing the Marihuana Program in the State of Michigan;
5. The Marihuana Facility is determined by the City of Ewart to have become a public nuisance;
6. The Michigan Marihuana Licensing council or any similar state agency has denied, revoked, or suspended the applicant's State License.

#### **SECTION XIV. PENALTIES AND DISCIPLINE.**

- (A) The City of Ewart may require an applicant or holder of license of a Marihuana Facility to produce documents, records, or any other material pertinent to the investigation of an application or alleged violation of this Chapter. Failure to provide the required material may be grounds for application denial, license revocation, or discipline.
- (B) Any Person in violation of any provision of this Chapter or any provision of a license issued under this Chapter is responsible for civil fine, punishable by a fine of up to \$1,000.00 plus cost of prosecution, for each violation. This section is not intended to

prevent enforcement of any provision of the state law by the City's Police Department.

- (C) All fines imposed under this Chapter shall be paid within forty-five (45) days after receipt of the citation imposing the fine or as otherwise specified by court order.
- (D) The City Manager may temporarily suspend the Marihuana Facility license without a hearing if the City Manager finds that public safety or welfare requires emergency action. The City Manager shall cause the temporary suspension by issuing a Suspension Notice in connection with institution of proceedings for a hearing.
- (E) If the City Manager temporarily suspends a license without a hearing, the holder of the license is entitled to a hearing within thirty (30) days after the Suspension Notice has been issued. The hearing shall be limited to the issues cited in the Suspension Notice and the licensee must provide proof that such issues have been corrected.
- (F) If the City Manager does not hold a hearing within thirty (30) days after the date of suspension was issued, then the suspended license shall be automatically reinstated and the suspension vacated.