

## Chapter 5.04 – Commercial Marihuana Facilities.

### 5.04.010 – Purpose and intent.

An ordinance to amend Chapter 5.04, Commercial Marihuana Facilities, of the City of Hazel Park’s code of ordinances, to protect the public’s health, safety, and welfare and to implement certain provisions of the Michigan Medical Marihuana Act of 2008, MCL 333.26421 et seq., the Michigan Medical Marihuana Facilities Licensing Act of 2016, MCL 333.26421 et seq., the Marihuana Tracking Act of 2016, MCL 333.27901 et seq., the Michigan Regulation and Taxation of Marihuana Act of 2018, MCL 333.27951 et seq., the Michigan Zoning Enabling Act, MCL 125.3101 et seq., and the State of Michigan Marihuana administrative rules, as amended and future amendments. This ordinance shall authorize and provide for the regulations and licensing of certain commercial marihuana facilities within the City of Hazel Park; to establish the maximum number of licenses and locations where commercial marihuana facilities may be located; to establish procedures for the granting of licenses; to provide for an assessment of fees; and to provide penalties for violations.

This ordinance does not authorize unlicensed marihuana activity, marihuana home occupation, or marihuana accessory use. Any unlicensed marihuana activity, marihuana home occupation, or marihuana accessory use is strictly prohibited by federal, state, and local law. A marihuana facility or activities associated with the licensed growing, processing, testing, transporting, sales, events, or consumption of marihuana shall not be permitted as a home business or accessory use nor shall anything in this ordinance be interpreted to include accessory uses.

Nothing in this ordinance or in any provision adopted in any other provision of a City of Hazel Park ordinance is intended to grant nor shall it be construed as granting immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with Hazel Park municipal code, the acts, and the administrative rules.

Federal law is not affected by the Hazel Park municipal code, the acts, or the administrative rules; nothing in this ordinance or in any regulatory provision adopted in any other provision of a City of Hazel Park ordinance is intended to grant nor shall it be construed as granting immunity from criminal prosecution under federal law. The Hazel Park municipal code, the acts, and the administrative rules do not protect users, primary caregivers, or the owners of properties on which the use of marihuana is occurring from federal prosecution or from having property seized by federal authorities under the Federal Controlled Substances Act.

### 5.04.020 – Definitions.

Unless otherwise indicated, definitions shall have the same meaning as defined under the Michigan Medical Marihuana Act of 2008 (MMMA), MCL 333.26421 et seq., the Michigan Medical Marihuana Facilities Licensing Act of 2016 (MMFLA), MCL 333.26421 et seq., the Marihuana Tracking Act of 2016, MCL 333.27901 et seq., the Michigan Regulation and Taxation of Marihuana Act of 2018 (MRTMA), MCL 333.27951 et seq., the Michigan Zoning Enabling Act, MCL 125.3101 et seq., and the State of Michigan marihuana administrative rules, as amended and future amendments.

- A. “Acts” means the Michigan Medical Marihuana Act (MMMA), MCL 333.26421 et seq., the Michigan Medical Marihuana Facilities Licensing Act (MMFLA), MCL 333.26421 et seq., the Marihuana Tracking Act, MCL 333.27901 et seq., the Michigan Regulation and

Taxation of Marihuana Act (MRTMA), MCL 333.27951 et seq., and the Michigan Zoning Enabling Act, MCL 125.3101 et seq.

- B. “Annual Fee” means an annual non-refundable fee of five thousand (\$5,000.00) dollars per license to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the municipality.
- C. “Applicant” means a named and specific individual who is identified as an owner of a proposed marihuana facility in an application submitted to the city for a city operating license.
- D. “Application” means a form provided by the city for an applicant to complete for submission to the city for a city operating license and/or a form provided by the State of Michigan for an application for state licensing.
- E. “Application fee” means a non-refundable application fee of five thousand (\$5,000.00) dollars per license.
- F. “Business License” means a person authorized by the city of Hazel Park to operate, conduct, maintain, or manage any business, commercial occupancy, trade, occupation, or premises for commercial or business reasons.
- G. “Caregiver” means a person registered by the Department of Licensing and Regulatory Affairs under MMMA to provide medical marihuana to a caregiver’s own designated patient(s).
- H. “City” means the City of Hazel Park.
- I. “City Operating License” means a license issued by the city of Hazel Park that allows a person to operate a marihuana facility.
- J. “Co-location” means separate marihuana licenses that authorize a licensee to operate at a single location/property as a grower and/or processor and/or retailer and/or designed consumption establishment, but with separate business suites, partitions, or addresses.
- K. “Designated consumption establishment” means a commercial space that is licensed and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the license.
- L. “Department” means the Department of Licensing and Regulatory Affairs.
- M. “Equivalent license” means any of the following license types issued under MMFLA and/or MRTMA:
  - 1. Grower of any class
  - 2. Processor
  - 3. Marihuana retailer or provisioning center
  - 4. Secure transporter

5. Safety compliance facility

- N. "Establishment" means a location at which a license holder is licensed to operate as a medical and/or recreational grower, safety compliance facility, processor, microbusiness, retailer, provisioning center, secure transporter, or designated consumption establishment.
- O. "Excess marihuana grower" means a license issued to a person holding 5 class C recreational marihuana grower licenses and licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana facilities.
1. An excess marihuana grower license shall only be issued to an entity that holds 5 stacked class C recreational grower licenses and at least 2 grower class C medical licenses.
- P. "Facility" means a location at which a license holder is licensed to operate as a medical and/or recreational grower, safety compliance facility, processor, microbusiness, retailer, provisioning center, secure transporter, or designated consumption establishment.
- Q. "Grower" means a licensed commercial entity that cultivates, dries, trims, or cures and packages marihuana for sale to licensed marihuana establishments except for a Safety Compliance Facility and a Secure Transporter. There are three (3) levels of a grower license, which are provided below:
1. For medical grower licenses:
    - i. Class A, up to 500 plants
    - ii. Class B, up to 1,000 plants
    - iii. Class C, up to 1,500 plants
  2. For recreational grower licenses:
    - i. Class A, up to 100 plants
    - ii. Class B, up to 500 plants
    - iii. Class C, up to 2,000 plants
- R. "Licensed" or "Licensed Facility" means a marihuana facility where a person holds both a state operating license and a city operating license at a specified location.
- S. "Marihuana" or "Marijuana" means the term as defined in the Public Health Code, MCL 333.7106 et seq. and all future amendments.
- T. "Marihuana event organizer" means a person licensed to apply for a temporary marihuana event license.
- U. "Marihuana-Infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation.
- V. "Marihuana microbusiness" means a licensed commercial entity that can cultivate not more than 150 marihuana plants; process and package marihuana; and sell or transfer

marihuana to individuals who are 21 years of age or older, but not to other licensed marihuana establishments.

- W. "Marihuana retailer" means a licensed commercial entity that purchases or transfers marihuana from a licensed grower and/or processor and sells or transfers to individuals who are 21 years of age or older. A licensed retailer may also sell or transfer to registered patients or registered caregivers with the equivalent medical license.
- X. "MMMA" means Michigan Medical Marihuana Act, MCL 333.26421 et seq.
- Y. "MMFLA" means Michigan Medical Marihuana Facilities Licensing Act, MCL 333.26421 et seq.
- Z. "MRTMA" means Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq.
- AA. "Patient" means an individual registered through the department under the MMMA with a qualified debilitating condition or a patient with a valid card from another state with a medical marihuana program.
- BB. "Person" or "Licensee" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- CC. "Processor" means a licensed commercial entity that extracts resin from the marihuana from a licensed grower and/or processor for sale and/or transfer in packaged form to a licensed retailer or another processor.
- DD. "Provisioning center" means a licensed commercial entity that purchases or transfers marihuana from a licensed grower and/or processor and sells or transfers to registered patients and registered caregivers. A licensed provisioning center may also sell or transfer to individuals who are 21 years of age or older with the equivalent recreational license.
- EE. "Retailer" means a licensed commercial entity that purchases or transfers marihuana from a licensed grower and/or processor and sells or transfers marihuana to a person 21 years of age or older. A licensed retailer may also sell or transfer to individuals who are a registered patient or registered caregiver with the equivalent medical license.
- FF. "Safety compliance facility" means a licensed commercial entity authorized to receive marihuana from, test marihuana for, and return marihuana to a licensed marihuana facility, caregiver or patient.
- GG. "Secure transporter" means a licensed commercial entity that can store and transport marihuana to and from licensed marihuana establishments for a fee.
- HH. "Stacking" means a location licensed to have more than 1 class C license issued to a single licensee at the same location to operate as a grower.

- II. “State Operating License” means a license issued by the department that allows a person to operate a marihuana facility.
- JJ. “Temporary marihuana event license” means a license held by a marihuana event organizer for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the license during the dates and times indicated on the license.

5.04.030 – Location, number and types of licenses.

- A. The City of Hazel Park establishes the type and number of facilities it may authorize within its boundaries and additional regulations pertaining to a facility.
- B. The following chart indicates each facility type and designated zoning districts where a facility can apply to locate:

<u>Zoning District:</u>	<u>LB-M</u>	<u>LB</u>	<u>CB</u>	<u>BC-1</u>	<u>M-1</u>
<b>Zoning Ordinance Section:</b>	17.45.060	17.44.060	17.46.060	17.48.060	17.52.070
<b>License Type:</b>					
<b>Designated Consumption Establishment</b>	X	X	X	X	
Grower	X				X
Microbusiness	X	X		X	
Processor	X	X		X	X
Retail	X	X		X	
Safety Compliance	X	X	X	X	X
Secure Transporter	X	X	X	X	X

- C. Every facility shall meet the requirements of the City of Hazel Park ordinances, the acts, and State of Michigan marihuana administrative rules, as amended and future amendments.
- D. All proposed facilities shall meet the specific zoning district requirements as outlined in the City of Hazel Park’s zoning ordinance.
- E. All facilities must maintain dual licensure of the equivalent license type pursuant to the MMFLA and the MRTMA as defined in section 5.04.020 (m) and under the administrative rules. City council may consider a waiver for a facility licensed under MMFLA that does not wish to maintain licensure under MRTMA.
- F. Applicants currently authorized for a city operating license under the MMFLA shall be given first opportunity and priority for the equivalent license type for a city operating license, at the same location, under the MRTMA.
- G. All applicants granted a city operating license of any type shall be required to be fully operational no later than six (6) months from the date in which the city operating license was granted. A licensee may submit to the Hazel Park city clerk department in writing,

thirty (30) days prior to the date in which the facility is required to be fully operational, a request for up to a six (6) month extension. An extension request will be reviewed for consideration by city administration. Licensees who are not fully operational within the allotted time may result in its city operating license being revoked by the city manager without contention from the licensee.

- H. The City of Hazel Park authorizes the following types of facilities. There shall be no more than a maximum of six (6) physical locations for each type of facility. A facility operating as a grower and/or processor and/or retailer shall be counted as separate physical locations for each city operating license held at that location. There shall be no more than six (6) city operating licenses for each license type permitted in the City of Hazel Park.
  - 1. For medical operations:
    - i. Class A grower; up to 500 plants
    - ii. Class B grower; up to 1,000 plants
    - iii. Class C grower; up to 1,500 plants
    - iv. Processor
    - v. Secure transporter
    - vi. Provisioning center (retailer)
    - vii. Safety compliance facility
  - 2. For recreational operations:
    - i. Class A grower; up to 100 plants
    - ii. Class B grower; up to 500 plants
    - iii. Class C grower; up to 2,000 plants
    - iv. Processor
    - v. Secure transporter
    - vi. Retailer
    - vii. Safety compliance facility
- I. Microbusinesses shall be limited to two (2) city operating licenses within city boundaries.
- J. Designated consumption establishments shall be limited to two (2) city operating licenses within city boundaries.
- K. Excess marihuana grower is prohibited.
- L. No medical or recreational marihuana facilities shall be permitted in certain art, culinary and retail portions of John R Road located within the LB District. Facilities shall be prohibited on John R Road from Elza to Madge, Granet to Woodruff and Tucker to Garfield. This provision shall not apply to any approved or pending application(s) received prior to the adoption of this ordinance on John R from Elza to Madge and Granet to Woodruff.
- M. The foregoing city operating license quantities shall be subject to the availability of locations in areas zoned for facilities and shall be reduced to the extent locations are unavailable in such areas.

- N. Applications for available city operating license(s) shall be accepted for consideration defined by a specific time period. The specific time period for the city to accept new applications shall be recommended by the city manager and codified by a resolution of city council.
- O. An increase in the number of licenses issued to a facility or an increase in the number of facility locations shall only be considered by a resolution of city council.
- P. A co-located facility must meet all facility requirements and zoning requirements for all facility types in which the applicant intends to operate within a co-located facility.
- Q. Operation at the same location that includes a licensed retailer shall have the entrance and exit to the retail portion of the facility clearly marked so that persons can clearly identify the retail entrance and exit.
- R. No medical marihuana patient or primary caregiver registered under and defined by the MMMA may utilize a commercial building in the CB, LB, LB-M, BC-1, M-1 or PUD Zoning Districts for purposes of growing plants for patients under the MMMA. Further, the licensed patient or primary caregiver may not utilize a commercial building in a residential area (RA-1, 2, 3; RB; RC; or RC-1) that has a continuing, existing nonconforming commercial use. A primary caregiver may only utilize a house in a residentially zoned district that they reside in to grow marihuana under the MMMA. In addition, the growing of marihuana in said residence may not constitute a nuisance, affecting the neighbor's quiet enjoyment of their property, and the house utilized for growing marihuana under the MMMA must meet all building, electrical, mechanical and plumbing code standards.

5.04.040 – Facility requirements, and where applicable, temporary marihuana event requirements.

All facilities operating within the city shall be subject to the following additional requirements and restrictions:

- A. The use of marihuana shall comply with the acts, state administrative rules, and the Department of Community Health, as amended and future amendments.
- B. A facility shall obtain, and at all times must maintain, a city business license under the Hazel Park municipal code, Title 5, Chapter 5.03, Licensing and Registering, prior to operating.
- C. Facility surveillance and security camera recordings are subject to inspection for purposes of determining compliance with state and local laws, without a search warrant.
- D. Premises liability and casualty damage insurance in the amount of one million dollars (\$1,000,000.00) shall be maintained and proof shall be submitted to the city when the applicant has been notified that they are ready for final approval. Proof of adequate premises liability and casualty insurance policy in the amount of no less than one-million (\$1,000,000) dollars, 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. Proof of executed insurance shall be provided to the city clerk within thirty (30) days of the issuance of the city operating license as proposed in the application.

- E. A marihuana event organizer licensee shall file a proof of financial responsibility for liability for bodily injury when applying for a temporary marihuana event license.
- F. Each facility shall be bonded to guarantee that all accounting and taxes are paid in full, according to the law, and that the facility will perform in accordance with all federal, state, and local government standards.
- G. No marihuana facility shall have an entrance or exit which provides direct access to another type of business, residence, or living quarters, except where permitted by the MMFLA, MRTMA, or corresponding administrative rules.
- H. No marihuana facility shall allow the inhalation, use, or the consumption of marihuana, tobacco, or alcohol, except where permitted by the MMFLA, MRTMA, or corresponding administrative rules.
- I. Alcoholic beverages and nicotine products shall not be sold, conveyed, or consumed on the premise of any facility. Nor shall any person be present on the premise of a facility while intoxicated and/or under the influence of alcohol or any other controlled substance.
- J. No marihuana may be smoked, used, or consumed at any marihuana establishment except a designated consumption establishment or a temporary marihuana event that has been approved by the state and city for consumption and/or sales.
- K. The facility shall be subject to inspection by law enforcement, city officials, officials from the department, or the state department of community health during the hours of operation.
- L. Facilities shall have electrical, fire safety, plumbing, filtration, and waste disposal systems, which are compliant, appropriate and consistent with best industry practices, city and state rules and regulations for the business being conducted.
- M. The portion of the facility, such as a grow room, and the storage of any chemicals, such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the City of Hazel Park Fire Chief, or his or her duly authorized representative, to ensure compliance with the applicable Michigan Fire Protection Code.
- N. Facilities greater than 12,000 square feet shall install and have approved a fire suppression system, with all square footage of the facility fire suppressed and covered with overhead sprinkler head fire suppression systems, as dictated by the City of Hazel Park Fire Chief, or his or her duly authorized representative.
- O. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the facility in which electrical wiring, lighting and/or watering devices that support the cultivation, growing, harvesting, or processing of marihuana are located.



- P. No person under the age of 18 years shall be permitted to enter a facility. A person under the age of 18 years who possess a valid medical marihuana card issued by the state or another state, and is accompanied by his/her legal guardian, may enter a licensed medical retailer facility.
- Q. Grow facilities must provide one parking space per employee and add three additional spaces for delivery vehicles.
- R. All litter must be removed from the premises, including the parking lot, sidewalk, and all areas visible to the public at least twice daily.
- S. Each licensee shall be liable for all costs associated with the investigation, prosecution, incarceration, booking, medical treatment, storage and destruction of evidence, and any other unspecified costs, for the failure to comply with the provisions of this chapter which result in the arrest and prosecution of any employee, owner, or patron.
- T. Facility signs shall comply with the city's sign ordinance, chapter 15.44, and facilities shall not use exterior signage or displays with neon, flashing lights, or similarly noxious or obtrusive lighting or effects. Facilities may not use exterior signage or displays that contain an image of a marihuana leaf or other commonly recognized symbol for marihuana or which utilize any of the following words: marijuana, marihuana, weed, cannabis, blunt, doobie, joint, hooch, hash, or other similar slang term for marihuana or marihuana-related products. Only one sign per building shall be allowed. Signage requirements for marihuana facilities shall be as specified herein:
  - 1. Retail facilities: Signage shall be limited to one sign, no larger than 75 square feet on the front of the building and shall not be back lit.
  - 2. All other facilities: Signs shall be limited to one sign located on the front of the building, no larger than 50 square feet and shall be limited to the name of the facility and address only.
  - 3. All other advertisement or signs are prohibited on the premises including, but not limited to, vehicle signs, sandwich board signs, portable signs, flags, banners, or similar advertisement methods.
- U. All marihuana facilities shall have a decorative canopy or awning over the entrance(s) proportionately designed to fit the façade of the building.
- V. Secured transport and grow facilities shall have bay doors in which a secure transport vehicle can enter to deliver or pick up or store marihuana. Ingress and egress lanes to the bay doors shall be clearly marked to allow entry of secure transport vehicles. Unless required by MMFLA, MRTMA, or state administrative rules, other marihuana facilities shall not be required to have bay doors.
- W. Secure transport parking lot shall be paved, and spaces clearly marked for each vehicle. The number of parking spaces required shall be determined by the number of employees and number of transport vehicles. One additional handicapped parking space shall be provided.

- X. Decorative or ornamental lighting shall be required on the exterior of the building and at all ingress and egress doors.
- Y. Parking shall be in accordance with chapter 17.28 of the city's zoning ordinance.
- Z. Parking blocks are prohibited.
- AA. Residential uses within the same structure/building is prohibited.
- BB. Outdoor storage is prohibited.
- CC. All facility operations shall occur indoors and out of public view. Mobile facilities, drive throughs, and exterior walk-up windows are prohibited.
- DD. Discharge of chemical(s), toxic, flammable, corrosive, erosive, poisonous, or hazardous materials, including solid or liquid, residual, soil, or otherwise into city sewer or storm drains or disposal upon the land surrounding the facility is prohibited. **Disposal by onsite burning is prohibited.**
- EE. Facilities shall implement the following security measures:
  - 1. There must be at least one security guard in place on the site during operating hours, subject to increased security requirements, including 24-hour security guard requirement, upon notice by the city manager.
  - 2. Facilities shall install and maintain an alarm system, twenty-four (24) hours per day and seven (7) days a week, and shall have security cameras covering, at a minimum, all parking areas, entrances and exits, points of sale, and all areas where marihuana is stored or handled. Upon the request of the city manager, the licensee shall provide to the city an IP address which provides the city with real-time access to all security camera feeds at the facility, and the facility shall maintain thirty (30) days of historical footage on file. **Proof of security installation shall be provided to the city clerk within thirty (30) days of the issuance of the city operating license.**
  - 3. The proposed plan for secured parking and/or fencing must be aesthetically consistent with the area and must be approved by the city manager for each facility.
  - 4. A safe for all cash, cash equivalents, and marihuana stored in the facility overnight.
  - 5. A Knox Box shall be required, or an equivalent system designed to allow first responders with immediate access into secure buildings. **Proof of Knox Box installation shall be provided to the city clerk within thirty (30) days of the issuance of the city operating license.**
- FF. No equipment or process shall be used in any facility which creates or emits noise, dust, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond the property boundary.

- GG. Generators shall be in place to ensure that the air filtration system and security system(s) remain operational in the event of an electrical outage. Generators shall be housed in a containment area to prevent noise emanating to areas outside of the containment shelter.
- HH. Access to secure areas of a facility shall be restricted to the licensee and authorized employee of the licensee. Trade services provided by individuals not normally engaged in the operation of a facility must be reasonably monitored, logged in as a visitor, and escorted through any limited access areas.
- II. All disposal areas and dumpsters shall be secure to prevent unauthorized access. All disposal areas and dumpsters shall be enclosed by a decorative masonry or brick wall on three sides and a wrought iron gate, as authorized by city administration, to provide access only to the licensee, authorized employee, waste hauler, or city official.
- JJ. All chemicals used by the facility shall be kept in a separate locked storage area inside the facility. Material Safety Data Sheets for all chemicals shall be predominately displayed in accordance with the Occupational Safety and Health Administration (OSHA).
- KK. All current state operating license(s) and city operating license(s) shall be prominently displayed within the facility in a location where it can be easily viewed by the public.
- LL. All facilities shall comply with all federal, state, and local codes and regulations.
- MM. All facilities shall obtain appropriate utility upgrades to prevent interference with or a drain on neighboring properties.
- NN. Outdoor cultivation is prohibited.
- OO. All facilities hours of operation shall be no earlier than 9:00 a.m. and no later than 9:00 p.m.
- PP. Windows shall be free and clear of all advertising, shelves, inventory or the like which would impair the view to the exterior of the premises.
- QQ. Windows shall be opaque to the exterior; opaque means that the glass transmits light but does not allow a view of objects on the other side.
- RR. Retailer, processors, and growers shall be required to provide a vestibule at the primary point of entrance/exit of the facility with proper ventilation to further deter odor from emitting from the building or present an alternative odor prevention plan to the city manager for approval.
- SS. For all retail facilities and delivery services, a licensee must first acquire the necessary authorization from the department to deliver to a registered patient, registered caregiver, or persons 21 years of age or older.
- TT. Deliveries shall only take place during hours of operation.

- UU. Secure Transporter facilities shall not store marihuana or currency in a secure transport vehicle, nor shall the vehicle bear any markings or identification that it carries marihuana or marihuana-infused products.
- VV. Safety Compliance facilities shall have a secured laboratory space that cannot be accessed by the general public.
- WW. Designated consumption establishments shall provide for all marihuana to be contained within the main building in an enclosed, locked facility, and shall at all times be in compliance with the City of Hazel Park's ordinances, the acts, and State of Michigan marihuana administrative rules, as amended and future amendments.
- XX. Designated consumption establishments shall destroy and dispose of any marihuana product left at the establishment that is considered waste in accordance with the City of Hazel Park's ordinances, the acts, and State of Michigan marihuana administrative rules, as amended and future amendments.
- YY. Designated consumption establishments must employ or otherwise retain onsite security personnel during all business hours.
- ZZ. Designated consumption establishments hours of operation shall be within the hours of 7:00 a.m. to 2:00 a.m.
- AAA. Temporary marihuana events must be held within a specific designated area that may include parking lots and the public right-of-way, with the issuance of all necessary local and state permits.
- BBB. The temporary marihuana event organizer shall provide the proposed dates and times of the requested temporary marihuana event. All dates and times shall be subject to the approval of the city manager. The city reserves the right to set the dates and times and the sale and/or consumption for all marihuana events, regardless of what was proposed on the application.
- CCC. A licensed marihuana event organizer shall maintain a clearly legible sign not less than 7" x 11" in size reading, "No Persons Under 21 Allowed" at or near each public entrance to any area where the sale or consumption of marihuana products is allowed. The lettering of the sign shall be no less than 1 inch in height.
- DDD. The licensed marihuana event organizer shall post signs containing information on the hazards of vaping, the hazards of driving while impaired, and the potential side effects cannabis can have.
- EEE. The marihuana event organizer licensee shall ensure that access to event is restricted to persons 21 years of age or older and ensure that marihuana sales or consumption is not visible from any public place or non-age-restricted area.
- FFF. The marihuana event organizer licensee, who holds the temporary marihuana event license, shall be responsible for ensuring that all rules and requirements for the onsite consumption and/or sales of marihuana products are followed.

**GGG.** A marihuana event organizer may apply to the city to facilitate a temporary marihuana event for no more than seven (7) consecutive days. The city reserves the right to approve the number of days a temporary marihuana event is operational. This number may be less than what the marihuana event organizer applied for.

**HHH.** The marihuana event organizer licensee shall ensure that all debris, garbage, litter, and marihuana waste generated at a temporary marihuana event shall be collected and disposed of from the temporary marihuana event location including the parking lot, sidewalk, and all areas visible to the public, in accordance with the City of Hazel Park's ordinances, the acts, and State of Michigan marihuana administrative rules, as amended and future amendments.

**III.** The city may require the marihuana event organizer and all participants to cease operations without delay if, in the opinion of the city manager, code department, city officials or law enforcement, it is necessary to protect the public's health, safety or welfare.

5.04.050 – Applications and fee requirements.

- A. Each applicant requesting for authorization to operate a facility within the city shall file an application, under oath, upon forms provided by the city. All applications shall be completed in its entirety and submitted to the city clerk's office. All applications shall be submitted in compliance with the City of Hazel Park's ordinances, the acts, and State of Michigan marihuana administrative rules, as amended and future amendments.
- B. Every application shall include site plans for the proposed facility. In addition to the requirements set forth in this ordinance and in section 17.60.080 of the zoning ordinance, the following shall be provided:
  - 1. Floor plan and layout, including dimensions, maximum storage capabilities, number of rooms, dividing structures, fire walls, entrances and exits, and parking lot plan and layout.
  - 2. Means of egress, including, but not limited to, delivery and transfer points.
  - 3. Construction details for structures and fire-rated construction for walls.
  - 4. Chemical storage shall be identified.
  - 5. Security plan in full compliance with the state administrative rules.
  - 6. Succession plan for the business in the event of death or incapacitation of applicant(s).
- C. Without limitation, the applicant shall fill out the city's application form, provide all documentation and information requested by the city and shall specify the property address of the proposed facility, which must be located within an area zoned for such use and provide proof of ownership or tenancy of said property. In the event an applicant supplies a binding purchase agreement and the applicant is otherwise deemed to qualify for a city operating license, the city may issue a city operating license conditioned on the

applicant submitting a deed to the property within ninety (90) days of issuance of the city operating license.

- D. Every application, including renewals, shall include the following non-refundable fees:
1. Each application submitted to the city requesting to operate a facility within the city shall pay to the city a non-refundable annual fee in the amount of five thousand (\$5,000) dollars per license to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the city.
  2. Each application submitted to the city requesting to operate a facility within the city shall pay to the city, on an annual basis, a non-refundable application fee of five thousand (\$5,000) dollars per license.
  3. Upon approval of a city operating license and before the license will be issued by the city, and at the time of renewal, each licensee shall pay to the city a non-refundable annual inspection fee of four thousand (\$4,000) dollars to defray the cost of city inspections.
    - i. All facilities shall be inspected by the city on at least an annual basis to ensure compliance and that appropriate electrical, fire safety, plumbing, filtration, and waste disposal systems are installed and in proper working order.
    - ii. In addition to the foregoing annual inspections, the city may inspect any facility, at any time, upon reasonable cause to believe that a violation of the City of Hazel Park ordinances, the acts, or State of Michigan administrative rules has occurred.
- E. All applicants must submit a completed application and certify under oath that the information contained therein is true and accurate.
- F. Failure to provide a complete application and/or the required fees may result in a denial of the application and/or renewal application.
- G. Compliance with the application requirements and/or zoning approval does not guarantee a license for any proposed facility.
- H. Applications for a temporary marihuana event must be submitted ninety (90) days prior to the event. The city manager may consider accepting an application for a temporary marihuana event within the ninety (90) days.
- I. Temporary marihuana event applications must include all applicable items as required in 5.04.050 and additionally must provide the following:
1. A diagram of the physical layout of the event identifying all entrances and exits, marihuana consumption area(s), marihuana commercial recreational sales area(s), where marihuana waste will be stored, and all areas where marihuana products

will be stored.

2. A security plan.
3. The responsible operations plan.
4. Product and waste management plan.
5. Marketing plan.
6. Evidence of insurance for the event.

- J. The marihuana event organizer shall provide to the city ten (10) days prior to the event, a list of all vendors including the name, address, telephone number, and a designated point of contact(s) who shall be onsite during the event.

#### 5.04.060 – Application Review.

- A. The city manager shall, consistent with the requirements of this ordinance, report to city council applications for consideration by city council for a city operating license. In evaluating the applications, the following criteria shall be considered:
- a. Compliance with application requirements;
  - b. Compliance with the requirements of this ordinance;
  - c. Qualifications of the applicant;
  - d. Capitalization and means to operate the proposed facility;
  - e. Business history and experience;
  - f. Business history with Hazel Park;
  - g. Prior or current licensure;
  - h. Non-marihuana business interests;
  - i. Regulatory compliance/legal history;
  - j. Strength of business plan;
  - k. Stacked licensure requests;
  - l. Integrity, moral character, and cooperation level with the city;
  - m. Financial benefit to the city;
  - n. Alternative use of building;
  - o. Neighborhood compatibility
    - i. Consideration of the effects of the proposed operation on nearby properties including, but not limited to, anticipated traffic flow, total number of patrons per day, aesthetics of the building, building capacity. The City may require professional studies to be provided and paid for by the applicant should the proposed establishment require further examination on the impact of the public's health, safety, or welfare. Such professional evaluations include, but are not limited to, traffic, engineering, surveyor, environmental, safety, etc.
    - ii. Non-marihuana related business(es) you plan to open and operate within the city of Hazel Park.
    - iii. Total capital investment to be invested, e.g. renovations to the property and surrounding area, equipment, fixtures, and other related items.
    - iv. If the proposed location is vacant, the number of years in which the

property has been vacated.

v. Proximity to surrounding establishments.

vi. Environmentally friendly design.

vii. Improvements to landscaping, parking, lighting, and surrounding area.

- p. Community involvement;
  - q. Whether applicant is proposing to replace an existing business;
  - r. Whether applicant and its stakeholders have made or plan to make significant capital improvements to the proposed facility, the surrounding neighborhood, and/or the city. This includes, but is not limited to:
    - i. The total overall capital investment in funds to be invested in the renovations to the property and surrounding area including the overall investment in equipment, fixtures, and other related items.
    - ii. The total number of years that a property or site, to be renovated by the applicant, has been vacant.
    - iii. How significant the upgrades or renovations to the property and surrounding area are, such as, but not limited to: the extent of renovations to an existing building or buildings; the extent of new construction of a building or buildings; and the extent of renovation(s).
    - iv. Whether or not the property to be improved has an environmentally friendly design and environmentally friendly production and waste management design and plan.
    - v. The extent of upgrades and renovations to the landscaping, parking, lighting and to the site and surrounding area.
  - s. Status of State of Michigan licensure;
  - t. Security plan;
    - i. The extent of, and additions to or extra security measures taken above the minimum-security measures required under state law; the extent of, and additions to or other extra measures taken above the state minimum requirements for growing, processing, testing, transporting or selling medical marihuana.
  - u. Any other consideration relevant to the public's health, safety, or welfare.
- B. Upon the receipt of the report from the city manager, the report for a city operating license shall be reviewed by city council. City council shall complete its review of the report in a public forum via city council meetings, special meetings, work or study sessions. City council shall review and evaluate each report received from the city manager. Any application as reported to the city council by the city manager, approved by a simple majority vote of the city council, at a city council meeting, shall be issued a city operating license, not to exceed the number of city operating licenses allowed for in section 5.04.030 of this ordinance.
- C. City operating licenses are non-transferable and non-assignable and shall be specific to the licensee and the location authorized. A transfer of more than 50.0% ownership interest in a business entity operating a facility shall be deemed to be a transfer hereunder and is prohibited for licensure.
- D. No person may operate a facility in the city without a city operating license.



5.04.070 – Violations, penalties, revocation.

- A. If an applicant or licensee fails to comply with this ordinance, if a licensee no longer meets the eligibility requirements for a license under this ordinance, or if an applicant or licensee fails to provide information the city requests to assist in any investigation or inquiry, the city manager may deny, suspend, or revoke a license
- B. Should marihuana cultivation, processing, testing, selling, extracting, or transporting cause property damage, personal injury, or other injury through explosion, fire, release of harmful substances, or any other event reasonably related to the cultivating, processing, testing, selling, extracting, or transporting marihuana, all people involved in or responsible for the marihuana cultivating, processing, testing, selling, extracting, or transporting are jointly and severally liable for all resulting damages. This includes, but is not limited to, expenses associated with the emergency response, property repair, remediation, medical expenses, marihuana disposal, and expenses related to discontinued use, and prosecution.
- C. The city manager may suspend a license without notice or hearing upon a determination by the city manager that the public health, safety or welfare, or the safety or health of patrons or employees, is jeopardized by continuing a facility's operation. If the license is suspended without notice or hearing, a prompt post-suspension hearing must be held to determine if the suspension should remain in effect. The suspension may remain in effect until the city manager determines that the cause for suspension has been abated. The city manager may revoke the license upon a determination that the licensee has not made satisfactory progress toward abating the hazard. A license will automatically be revoked upon revocation or denial of a state operating license from the State of Michigan.
- D. Any party aggrieved by an action of the city manager suspending or revoking a license shall be given a hearing before the city council upon request. A request for a hearing must be made to the city clerk's office, in writing, no later than twenty-one (21) days after service of notice of the action of the city manager by first-class mail. Service of notice begins on the date of mailing by first-class mail.
- E. The city may conduct investigative and contested case hearings; issue subpoenas for the attendance of witnesses; issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents; and administer oaths and affirmations to witnesses as appropriate to exercise and discharge the powers and duties of the state and/or city under the acts and this chapter.
- F. In addition to the remedies provided herein, the city may file for injunctive relief to abate any violation hereof.
- G. Compliance with laws: All facilities must be operated in compliance with the acts, all regulations promulgated under the acts, and all other applicable federal, state, and local laws, regulations, and ordinances.
- H. No temporary certificates of occupancy. No Facility may operate under a temporary certificate of occupancy. Facilities must be in full compliance with all applicable legal requirements in order to operate.

- I. Termination of authorization. If a facility is operated in violation of the acts or any applicable ordinance, or if the licensee is found to have submitted false or misleading information in its license application, the city may revoke the license for such facility to operate within the city. The city retains the right to alter the number and type of facilities authorized hereunder at any time. Any license granted hereunder is a revocable privilege granted by the city and is not a property or other legal right.
- J. Penalties. With respect to any facility that is in violation of any requirement or restriction set forth in this chapter, the licensee of a facility, all persons identified pursuant to MCL 333.27401(1)(b), and any on-site manager shall be subject to the following penalties:
  - 1. Any violation shall be a misdemeanor and punishable by up to ninety (90) days incarceration and/or a fine up to \$1500, plus court costs and expenses.
  - 2. The penalties set forth herein are non-exclusive and cumulative, and nothing herein shall be deemed to prevent city from enforcing any other applicable ordinance.
  - 3. Uncorrected violations may be ticketed every twenty-four hours.
  - 4. In addition to the remedies provided herein, the city may file for injunctive relief to abate any violation hereof.

K. Penalties for violation of 5.04.030(K). Any violation of 5.04.030(K) by a primary caregiver or medical marihuana patient as defined by the MMMA shall be subject to the following penalties:

- 1. Any violation shall be a misdemeanor and punishable by up to ninety (90) days incarceration and/or a fine up to \$1500, plus court costs and expenses.
- 2. The penalties set forth herein are non-exclusive and cumulative, and nothing herein shall be deemed to prevent city from enforcing any other applicable ordinance.
- 3. Uncorrected violations may be ticketed every twenty-four hours.
- 4. In addition to the remedies provided herein, the city may file for injunctive relief to abate any violation hereof.

#### 5.04.080 – City responsibility.

- A. Information a municipality obtains from an applicant related to licensure under this ordinance is exempt from disclosure under the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246.

## 5.04.090 – Miscellaneous provisions

### Part I – RIGHTS

The operation of a licensed marihuana facility is a revocable privilege and not a right, in conformance with applicable state law. Nothing in this ordinance is to be construed to grant a property right for an individual or business entity to engage in the use, distribution, cultivation, production, possession, transportation, or sale of marihuana as a commercial enterprise. Any individual or business entity which purports to have engaged in such activities either prior to or after the enactment of this amendment without obtaining the required authorization is deemed to be an illegally established use and is not entitled to legal nonconforming status. Nothing in this ordinance may be held or construed to grant a vested right, license, permit, or privilege to continued operations within the city.

### Part II – PROFITEERING BY CITY OPERATING LICENSE HOLDERS

The city council has determined that profiteering by a city operating license holder is contrary to the best interests of the city. Accordingly, in order to prevent profiteering, to the full extent authorized by law, the city council shall not approve the transfer of a city operating license within three (3) years of the date of the original issuance of the license. An agreement between the applicant and the city, following recommendation by the city manager shall be prepared and agreed upon to give effect to this provision prior to final action being taken by the city council on an application. The city council may, but is not required to, excuse the above anti-profiteering limitation for any of the following reasons:

1. If the license holder has had their state operating license revoked and can no longer operate a marihuana establishment under the laws of this state.
2. If the license holder is a natural person, he or she dies or becomes incapacitated.
3. If the license holder is a corporation, the majority shareholder dies or becomes incapacitated, or the corporation dissolves for reasons other than to transfer the license.
4. If the license holder is a business entity and not a natural person, the entity dissolves for reasons other than to transfer the license.
5. The application of this anti-profiteering limitation will subject the applicant to financial hardship due to no fault of the applicant, such as a change in the business climate, illness or death, labor or supply problems, and/or other factors outside the applicant's control.

### Part III – STATE LAW

Nothing in this chapter shall be construed in such a manner as to conflict with the MMMA, MMFLA, or other applicable state marihuana law or rules.

### Part IV – FEDERAL LAW

Nothing in this ordinance, or in any companion regulatory provision adopted in any other provision of this code, is intended to grant, nor shall it be construed as granting, immunity from criminal

prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with the acts and the administrative rules. Also, since Federal law is not affected by the acts or the administrative rules and, nothing in this ordinance, or in any companion regulatory provision adopted in any other provision of this code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under Federal law. The Michigan acts do not protect users, caregivers, or the owners of properties on which the use of marihuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act.

PART V. SEVERABILITY.

If any section, subsection, paragraph, sentence, or word of this ordinance is deemed to be invalid by the courts, the invalidity of such provision shall not affect the validity of any other sections, subsections, paragraphs, sentences, or words of this ordinance or the application thereof; and to that end, the sections, subsection, paragraphs, sentences, and other words of this ordinance shall be deemed severable.

PART VI. REPEALER

The adoption of this ordinance repeals the previously adopted 5.04 medical marihuana ordinance and chapter 17.21 of the zoning ordinance. To the extent that any other ordinance, or section or portion thereof, conflicts with or is inconsistent with this ordinance, that ordinance, or section or portion thereof, is hereby repealed.

PART VII. EFFECTIVE DATE; PUBLICATION.

The provisions of this ordinance shall become effective ten (10) days following date of publication and shall be published within ten days of its adoption by publication of a brief notice in the newspaper circulated in the city stating the date of the enactment and the effective date of the ordinance, a brief statement as to the subject matter of this ordinance and such other facts as the clerk deems pertinent, and that a copy of the ordinance is available for purchase and/or inspection at the office of the city clerk.

MADE, PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF HAZEL PARK, OAKLAND COUNTY, MICHIGAN ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.

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MICHAEL WEBB, MAYOR

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JAMES FINKLEY, CITY CLERK

Date of Adoption:  
Date of Publication:  
Effective date:

CERTIFICATE OF ADOPTION

It is hereby certified that the foregoing is a true and complete copy of an Ordinance passed at a regular meeting of the city council of the City of Hazel Park, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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JAMES FINKLEY, CITY CLERK