

**CITY OF SCOTTVILLE
MASON COUNTY, MICHIGAN**

ORDINANCE No. 2022- 01

**AN ORDINANCE TO ADD CHAPTER 116 TO TITLE XI BUSINESS REGULATIONS,
OF THE CODE OF ORDINANCES OF THE CITY OF SCOTTVILLE.**

THE CITY OF SCOTTVILLE ORDAINS:

**CHAPTER 116: MEDICAL MARIHUANA ESTABLISHMENTS AND
RECREATIONAL OR ADULT-USE ONLY MARIHUANA FACILITIES**

§ 116.01 PURPOSE.

It is the intent of this ordinance, by exercising the police, regulatory, and land use powers of the City Commission, to authorize the establishment of marihuana operations to the extent permissible under State and Federal laws and regulations and to protect the public health, safety, and welfare of the residents of the City.

The City Commission finds that the activities subject of this ordinance are not inconsistent with state and federal law and its regulation would contribute to the residents health, public safety, security and welfare, by keeping a close scrutiny to activities that otherwise would have gone unregulated. Further, the City Commission finds that regulating these activities would be cost-effective, at the same time that said regulation can serve as an economic development tool benefitting all the residents of the City.

In exercising its powers, privileges and immunities the City Commission does not intend to diminish, abrogate, or restrict the protections for medical use of marihuana found in the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, or restrict the protections of marihuana use under the Michigan Regulation and Taxation of Marihuana Act.

§ 116.02 DEFINITIONS, CONSTRUCTION AND CONFLICTS.

For the purposes of this chapter, any term defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., as amended ("MMMA"), the Medical Marihuana Facilities Licensing Act, MCL 333.2701 et seq. (MMFLA), as amended, the Marihuana Tracking Act ("MTA"), MCL 333.27901 et seq., the Michigan Regulation and Taxation of Marihuana Act (MRTMA), MCL 333.27951 et seq., shall have the definition given in those acts; if the definition of a word or phrase set forth in this chapter conflicts with the definition in the MMMA, MMFLA or MTA, or if a term is not defined but is defined in the MMMA, MMFLA MTA, or MRTMA then the definition in the MMMA, MMFLA, MTA, or MRTMA shall apply.

Any term defined by 21 USC 860(e) referenced in this chapter shall have the definition given by 21 USC 860(e).

This chapter shall not limit an individual or entity's rights under the MMMA, MMFLA, MTA, or MRTMA and these acts supersede this chapter where there is a conflict between them,

and the immunities and protections established in the MMMA and MRTMA unless superseded or preempted by the MMFLA and/or MRTMA.

All activities related to medical marihuana, including those related to a Medical Marihuana Provisioning Center, and a Medical Marihuana Grower Facility, shall be in compliance with the rules of the Marihuana Regulatory Agency, the rules of the Michigan Department of Licensing and Regulatory Affairs, or any successor agency, the rules and regulations of the City, the MMMA, MMFLA and the MTA.

All activities related to recreational or adult-use only marihuana shall be in compliance with the rules of the Michigan Department of Licensing and Regulatory Affairs, or any successor agency, the rules and regulations of the City and MRTMA.

Any use 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 without obtaining the required licensing set forth in this chapter shall be deemed to be an illegally established use and therefore not entitled to legal nonconforming status under the provisions of this chapter, and/or State law. Any license granted pursuant to this chapter shall be exclusive to the licensee and is a revocable privilege. Granting a license does not create or vest any right, title, franchise, or other property right.

The following definitions shall apply unless the context clearly indicates or requires a different meaning.

(a) Agency refers to the Michigan Marijuana Regulatory Agency or MRA, which is the agency within the State of Michigan Department of Licensing and Regulatory Affairs created pursuant to Executive Order 2019-07 to regulate medical and recreational marihuana.

(b) Application/License Application means an application for a license pursuant to the terms and conditions set forth in Sections 116.04, 116.05 and 116.06.

(c) Application for a License Renewal means an application for a license renewal pursuant to the terms and conditions of Section 116.07.

(d) Buffered Use means a use subject to the buffering, dispersion and setback requirements of Sections 116.10 and 116.11.

(e) Building means an independent, enclosed structure having a roof supported by walls, built for permanent use, intended and/or used for shelter or enclosure of persons or chattels. When any portion of a structure is completely separated from every other part by dividing walls from the ground up, and without openings, each portion of such structure shall be deemed a separate structure, regardless of whether the portions of such structure share common pipes, ducts, boilers, tanks, furnaces, or other such systems. This definition refers only to permanent structures, and does not include tents, sheds, greenhouses and private garages on residential property, stables, or other accessory structures not in compliance with MMMA or MRTMA. A building does not include such structures with interior areas not normally accessible for human use, such as gas holders, tanks, smokestacks, grain elevators, coal bunkers, oil cracking towers or similar structures.

(f) *Chapter* means this Chapter 116.

(g) *Church* means a building used for purposes of religious worship, is tax exempt under the laws of this state based on its religious activities and does not have any other use inconsistent with that purpose.

(h) *City* means the City of Scottville, Michigan.

(i) *City License* means a license issued by the City of Scottville for the operation of a medical marihuana facility or recreational or adult-use only marihuana establishment pursuant to the terms and conditions of this chapter and includes a license, regardless of the facility or establishment, which has been renewed pursuant to Section 116.07.

(j) *City Manager* means the City Manager of Scottville, Michigan.

(k) *Clerk* shall mean the City Clerk of Scottville, Michigan.

(l) *Commission or City Commission* means the City Commission of Scottville, Michigan.

(m) *Employee* means any individual who perform services for an employer in return for the payment of direct or indirect monetary wages, for as long as the type of services and the manner how the services are provided is controlled by the employer.

(n) *Licensee* means a person issued a license for a medical marihuana facility or recreational or adult-use only marihuana establishment pursuant to this chapter.

(o) *Limit* means the number of recreational or adult-use only marihuana establishments allowed within the boundaries of the City or zonings designations, through a competitive application process by which the municipality selects applicants who are best suited to operate in compliance with the Michigan Regulation and Taxation of Marihuana Act and this chapter. The City's established Limit prevents the Department of Licensing and Regulatory Affairs from issuing a State license within the municipality's jurisdiction if the applicant is not selected, in compliance with MCL § 333.27956(1) and MCL § 333.27959(4).

(p) *Marihuana Establishment* means any marihuana operation that is required to be licensed under this chapter and possesses a license or approval to operate under the MRTMA, including a Marihuana Microbusiness, a Marihuana Retailer, a Marihuana Grower, a Marihuana Processor, a Marihuana Secure Transporter, and a Marihuana Safety Compliance Facility.

(q) *Marihuana Grower* means a licensee that is a commercial or business entity located in the City that is licensed or approved to operate by the State pursuant to the MMFLA or MRTMA and is licensed by the City pursuant to terms and conditions of this chapter that cultivates, dries, trims or cures and packages marihuana in accordance with State law.

(r) *Marihuana Microbusiness* means a person or entity licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a Marihuana Safety Compliance Facility, but not to other marihuana establishments, located in the City that is licensed or approved to operate

by the State pursuant to the MRTMA and is licensed by the City pursuant to the terms and conditions of this chapter.

(s) *Marihuana Operation/Operator* means all types of medical and recreational adult-use only marihuana establishments and facilities operating in the City of Scottville that are required to be licensed under this chapter and possess a license or approval to operate under State law.

(t) *Marihuana Processor or Medical Marihuana Processor Facility* means a commercial entity located in the City that is licensed or approved to operate by the State pursuant to the MMFLA or MRTMA and is licensed by the City pursuant to the terms and conditions of this chapter, that extracts resin from the marihuana or creates a marihuana-infused product, processes and packages marihuana, and sells or otherwise transfers marihuana to marihuana operations, to the extent permitted by State law and rules.

(u) *Marihuana Retailer* means a licensee located in the City that is licensed or approved to operate by the State pursuant to the MRTMA and is licensed by the City pursuant to the terms and conditions of this chapter to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to a marihuana establishment and to individuals who are 21 years of age or older.

(v) *Marihuana Safety Compliance Facility or Medical Marihuana Safety Compliance Facility* means a commercial or business entity located in the City that is licensed or approved to operate by the State pursuant to the MMFLA or MRTMA and is licensed by the City pursuant to the terms and conditions of this chapter, that tests marihuana, including certification for potency, the presence of contaminants, and tetrahydrocannabinol and other cannabinoids.

(w) *Medical Marihuana Facility* means any facility or center that is required to be licensed under this chapter and possesses a license or approval to operate from the State under the MMFLA, including: A Medical Marihuana Provisioning Center, a Medical Marihuana Processor, a Medical Marihuana Grower Facility, a Marihuana Secure Transporter, and a Medical Marihuana Safety Compliance Facility.

(x) *Medical Marihuana Provisioning Center* means a commercial or business entity located in the City that is licensed or approved to operate by the State pursuant to the MMFLA and is licensed by the City pursuant to the terms and conditions of this chapter, that sells, supplies, or provides marihuana to registered qualifying patients only as permitted by State law. Medical Marihuana Provisioning Center, as defined in the MMMA, MMFLA and MTA, includes any commercial property or business where marihuana is sold in conformance with State law and regulation. A noncommercial or nonbusiness location used by a primary caregiver to assist a qualifying patient, as defined in the MMMA, MMFLA or MTA connected to the caregiver through the State's marihuana registration process in accordance with the MMMA, MMFLA or MTA is not a Medical Marihuana Provisioning Center for purposes of this chapter.

(y) *Ordinance* means the ordinance adopting this Chapter 116.

(z) *Park* means an area of land designated by the City as a park on its Master Plan or on a Commission-approved list of City parks.

(aa) *Person* means an individual, partnership, firm, company, corporation, association, sole proprietorship, limited liability company, joint venture, estate, trust, or other legal entity.

(bb) *School* means and includes buildings used for school purposes to provide instruction to children and youth in grades pre-kindergarten through twelve, whether that instruction is provided by a public, private, denominational, or parochial school.

(cc) *Secure Transporter or Medical Marihuana Secure Transporter* means a commercial or business entity that is licensed or approved to operate by the State pursuant to the MMFLA and is licensed to operate by the City pursuant to the terms and conditions of this chapter, that stores marihuana and transports marihuana between medical marihuana facilities or marihuana establishments for a fee and in accordance with State law.

(dd) *Stakeholder* means, with respect to a trust, the trustee and beneficiaries; with respect to a limited liability company, the managers and 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.

(ee) *State* means the State of Michigan.

§ 116.03 OPERATION WITHOUT LICENSE PROHIBITED.

Each marihuana operation in the City shall be licensed pursuant to the terms and provisions set forth in this chapter. No person shall operate a marihuana operation in the City without first obtaining a license from the City Manager. A marihuana operation operating without a license under the provisions of this chapter or without a State license or approval pursuant to the MMFLA or MRTMA, as amended from time to time, is hereby declared to be a public nuisance.

The City does not allow Designated Consumption establishments. Pursuant to MCL § 333.27956(1) and MCL § 333.27959(4) The City's established Limit in §116.02(o), preempts the Department of Licensing and Regulatory Affairs from issuing a State license within the municipality's jurisdiction regarding these prohibited establishments.

The term of each license for a proposed location shall be one year. A license issued under this chapter for a proposed location may be conditioned on the approval of the operator by the State pursuant to the MMFLA and/or MRTMA at the location licensed under this chapter.

The City reserves the right to place a limit on the number of City Licenses available for Marihuana Operations depending on buffering criteria, separation between establishments and general zoning restrictions. As of the time of the passing of this ordinance, no City Licenses shall be issued for a Marihuana Safety Compliance Facility, a Marihuana Secure Transporter, a Designated Consumption Establishment, or a Marihuana Event Organizer. The City Commission reserves the right to expand the availability of City Licenses to said operations in the future.

Any applicant for a Marihuana Retailer or a Marihuana Provisioning Center license shall comply with all relevant provisions of the Zoning Ordinance. The Zoning Ordinance contemplates three areas (A, B, C). Areas A and C, due to its topography and density, are intended specifically to allow for Growers, Microbusiness and Processors businesses.

The Commission may establish, by resolution, an appropriate nonrefundable License Application Fee, not to exceed five thousand dollars (\$5,000.00), to help defray application and administrative costs. Nothing in this chapter shall exempt an applicant from paying additional fees which are required under the Zoning Ordinance or any other applicable ordinance.

§ 116.04 LICENSE APPLICATION SUBMISSION.

(a) Applications for a City License shall be made in writing to the City Manager. All applications submitted to the City Manager in accordance with the provisions of this chapter shall be considered for the issuance of a license. An applicant may apply for multiple licenses under this chapter of the same or different natures simultaneously, as permitted by law.

(b) A complete application for a license or licenses required by this chapter shall be made under oath on forms provided by the City Clerk, and shall contain all of the following:

(1) If the applicant is an individual, the applicant's name, date of birth, physical address, email address, one or more phone numbers, including emergency contact information, and a copy of a government-issued photo identification card of the applicant.

(2) If the applicant is not an individual, the names, dates of birth, physical addresses, email addresses, and one or more phone numbers of each stakeholder of the applicant, including designation of a stakeholder as an emergency contact person and contact information for the emergency contact person, articles of incorporation or organization, internal revenue service SS-4 EIN confirmation letter, and the operating agreement or bylaws of the applicant, if a limited liability company.

(3) The name, date of birth, physical address, copy of photo identification, and email address for any operator or employee if other than the applicant.

(4) The name and address of the proposed marijuana operation and any additional contact information deemed necessary by the City Manager.

(5) Applicant or licensee shall keep records of the results of the criminal history background checks performed pursuant to MMFLA and/or MRTMA requirements and shall provide copies for every applicant, licensee, stakeholder, and employee to the City Clerk within five business days of receipt.

(6) An affirmation under oath as to whether the applicant or operator has had a business license revoked or suspended, and if revoked or suspended, then the reason for such revocation or suspension.

(7) A copy of the proposed business plan for the marijuana operation, including, but not limited to, the following:

i. the proposed ownership structure of the marijuana operation, including percentage ownership of each person; and

ii. a current organization chart that includes position descriptions and the names of each person holding each position.

(8) One of the following:

(i) proof of ownership of the entire premises wherein the marihuana operation is to be operated; or

(ii) written consent from the property owner for use of the premises in a manner requiring licensure under this chapter along with a copy of any lease for the premises.

(9) Verify compliance with State-mandated security measures as outlined in Emergency Rule 35 of the Department of Licensing and Regulatory Affairs: Adult-Use Marihuana Establishments Emergency Rules of July 3, 2019, as may be updated or amended from time to time.

(10) A floor plan of the marihuana operation, as well as a scale diagram illustrating the property including all available parking spaces, all available handicapped accessible parking, and noting storage spaces for any flammable or combustible substances.

(11) Verify compliance with State-mandated marketing and advertising restrictions as outlined in Emergency Rule 52 of the Department of Licensing and Regulatory Affairs: Adult-Use Marihuana Establishments Emergency Rules of July 3, 2019, as may be updated or amended from time to time.

(12) A location area map, as measured pursuant to this Ordinance, of the marihuana operation and surrounding area that identifies the relative locations and the distances, as measured pursuant to Section 116.11, to the buffered uses set forth in Section 116.10, and noting any residentially-zoned property within one hundred feet of the marihuana operation.

(13) 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 obligation to the City.

(14) A signed acknowledgment that the applicant is aware and understands that all matters related to marihuana, growing, cultivation, possession, dispensing, testing, safety compliance, transporting, distribution, and use are currently subject to State and Federal laws, rules, and regulations, and that the approval or granting of a license hereunder does not exonerate or exculpate the applicant from abiding by the provisions and requirements and penalties associated with those laws, rules and regulations or exposure to any penalties associated therewith; and further the applicant waives and forever releases any claim, demand, action, legal redress, or recourse against the City, its elected and appointed officials and its employees and agents for any claims, damages, liabilities, causes of action, damages, and attorney fees the applicant may occur as a result of the violation by applicant, its officials, members, partners, shareholders, employees and agent of those laws, rules, and regulations and hereby waives, and assumes the risk of, any such claims and damages, and lack of recourse against the City, its elected and appointed officials, employees, attorneys, and agents.

(15) Proof of an insurance policy covering each license and naming the City, its elected and appointed officials, employees, and agents, as additional insured parties, available for the payment of any damages arising out of an act or omission of the applicant or its stakeholders, agents, employees, or subcontractors, in the amount of (a) at least \$1,000,000.00 for property damage; (b) at least \$1,000,000.00 for injury to one person; and (c) at least \$2,000,000.00 for injury to two or more persons resulting from the same occurrence. The insurance policy underwriter must have a minimum A.M. Best Company insurance ranking of B+, consistent with State law. The policy shall provide that the City shall be notified by the insurance carrier 30 days in advance of any cancellation. The insurer must be licensed in the State of Michigan.

(16) i. proof of a surety bond in the amount of \$50,000.00 with the City listed as the obligee to guarantee performance by applicant of the terms, conditions and obligations of this chapter in a manner and surety approved by the City Attorney; or, in the alternative,

ii. creation of an escrow account as follows:

a. The account must be provided by a State or federally regulated financial institution or other financial institution; and

b. The account must be for the benefit of the City to guarantee performance by licensee in compliance with this chapter and applicable law; and

c. The account must be in the amount of \$20,000.00 and in a form prescribed by the City Attorney.

(17) Projected or actual annual budget and revenue based upon accepted accounting principles (GAAP standards) demonstrating sufficient financial resources to fund and execute the submitted business plans and building plans.

(18) An estimate of the number and type of full-time equivalent jobs that the marijuana operation expects to create and the amount and type of compensation for each position, including, but not limited to healthcare, retirement, and paid time off.

(19) Submission of an odor plan to address any potential odors stemming from the use, storage, growing, or processing of marijuana.

(20) Execution of the Financial Resources Litigation History form made available by the City Clerk.

(21) Execution of the Morals, Good Order and General Welfare Litigation History form made available by the City Clerk.

(22) Any other information requested by the City Manager to assist in the review of the application. Failure to provide required or requested information may result in an incomplete application determination and may result in denial or revocation of licensure.

(23) There is an ongoing obligation to provide updated information to the City Manager. Should there be a change to any portion of an application, the applicant must advise the City Manager within seven days from date of change and provide any documentation to support

the change in application. Failure to provide documentation shall result in an incomplete application determination and is subject to denial of licensure.

(c) Each application shall be accompanied by a license application fee in an amount of \$5,000.00.

(d) Upon receipt of a completed application meeting the requirements of this section and the appropriate license application fee, the City Manager shall refer a copy of the application to each of the following for their approval: the City Attorney, the Scottville Police Department, the Zoning Administrator, and the City Treasurer.

(e) No application shall be approved unless:

(1) The Scottville Police Department has inspected the proposed location and the Zoning Administrator has approved proposed site plans for compliance with all laws for which they are charged with enforcement and for compliance with the requirements of this chapter.

(2) The Zoning Administrator has confirmed that the proposed location complies with the Zoning Code and this chapter.

(3) The City Treasurer has confirmed that the applicant and each stakeholder of the applicant are not in default to the City, including, but not limited to, non-payment of property taxes.

(4) The Scottville Police Department has reviewed the criminal history background checks for each applicant, stakeholder, and employees provided by the applicant.

(5) The City Attorney's office has reviewed and approved as to form the insurance and either the surety bond or escrow account documentation for compliance with State and local laws.

§ 116.05 LICENSE APPLICATION EVALUATION

(a) The City Manager may open a 30-day enrollment period at his or her discretion for any license type.

(b) The City Manager shall assess, evaluate, score and rank all complete Medical Marihuana Provisioning Center, Marihuana Retailer, Marihuana Grower, Marihuana Processor and Marihuana Microbusiness, applications submitted according to the provisions of this chapter. Assessment, evaluation, scoring, and ranking shall be completed for each license type. Additionally, the City Manager shall assess, evaluate, score and rank marihuana microbusiness applications based upon buffeted location. No application will be evaluated, scored, or ranked unless such application contains the approvals required by Section 116.04 (17) and the application contains all required information outlined in Section 116.04 (b). All other types of marihuana operation licenses shall be assessed for completeness and compliance with the terms of this chapter.

(c) The City Manager's assessment, evaluation, score, and rank of each application that requires scoring shall be based upon a scoring criterion created by the City Manager consistent

with the requirements and conditions of this chapter. Scoring shall fall under the following broad categories: content and sufficiency, consistency with surrounding land use and resident safety, demonstration of sufficient financial resources, and promotion of local business. The City Manager shall award conditional approval or licenses to the top scoring complete applications for the number of licenses available during each enrollment period. Scoring and ranking renews with each enrollment period. Overall scoring and ranking shall be conducted and applied by the City Manager on the basis of assigned points from zero points to one hundred points with the lowest overall total score as zero points and the highest possible total score being one hundred points. The City Manager retains the right to award fewer licenses than the number available if the remaining license application scores fall below 75/100, however, no license shall be awarded to an applicant whose score falls below 60/100.

(d) In the assessment, evaluation, score, and ranking of license applications the City Manager may give preference to locations that improve access to medical marijuana patients, are consistent with surrounding and nearby land use, and limit potential exposure or disturbance of neighborhoods.

(e) In the event of an evaluation scoring tie during an enrollment period which causes there to be more applicants than licenses or locations available, the scoring-tied applicants will be entered into a random draw using procedures set by the City Manager. Those applications randomly selected shall be eligible to receive the license applied for consistent with this chapter. All license applications must be submitted during the open enrollment periods set by the City Manager.

(f) Nothing in this section is intended to confer a property or other right, duty, privilege or interest in a license of any kind or nature whatsoever including, but not limited to, any claim of entitlement.

(g) The City Manager may engage professional expert assistance in performing the City Manager's duties and responsibilities under this chapter.

(h) If the applicant applies for a State license, the applicant must notify the City Manager of the pending State application within seven days in writing by certified mail.

(i) If the applicant has not applied for a State license, the applicant must apply for a State license within 28 days of submitting an application to the City Manager.

§ 116.06 LIMITS ON LICENSES AND LOCATIONS

(a) Based upon investigation, recommendations, review, and consideration from the public, relevant boards and committees, Planning Commission review, maps, historical data, Commission committees, and public hearings and meetings, the City Commission finds and determines that it is in the public interest and serves a public purpose to limit, as defined, the following licenses:

(1) The maximum number of locations for both Medical Marijuana Provisioning Centers and Marijuana Retailers shall be determined in Zone B by the required dispersion between locations of a distance of 350 feet, as per §116.10(b). An individual location

may serve as both a Medical Marihuana Provisioning Center and a Marihuana Retailer. For purposes of this paragraph, Medical Marihuana Provisioning Centers and Marihuana Retailers operating out of a single location are exempt from the dispersion distance herein, whether the licensees are one or two separate individuals or business entities.

(2) Same rule as above applies to determining the maximum number of locations for a medical or retailer marihuana growers and processors establishments and the maximum number of locations for marihuana microbusinesses in Zones A and C .

§ 116.07 LICENSE RENEWAL APPLICATIONS

(a) Application for a license renewal required by this chapter shall be made in writing to the City Clerk at least 28 days prior to the expiration of an existing license.

(b) An application for a license renewal required by this chapter shall be made under oath on forms provided by the City and shall contain all of the information required by Section 116.04 (b).

(c) An application for a license renewal shall be accompanied by a renewal fee in an amount of \$5,000.00. The renewal fee is established to defray the costs of the administration and enforcement of this chapter expended by the City Clerk's Office, Scottville Police Department, City Attorney's Office, City Treasurer, Zoning Administrator, and other relevant City departments.

(d) Upon receipt of a completed application for a license renewal meeting the requirements of this chapter and the license renewal fee, the City Clerk shall refer a copy of the renewal application to each of the following for their approval: The City Attorney's Office, the Scottville Police Department, the Zoning Administrator, and the City Treasurer.

(e) No application for a license renewal shall be approved unless:

(1) The Scottville Police department has inspected the proposed location and the Zoning Administrator has approved proposed site plans for compliance with all laws for which they are charged with enforcement within the past calendar year.

(2) The Zoning Administrator has confirmed that the location complies with the Zoning Code and this chapter.

(3) The City Treasurer has confirmed that the applicant and each stakeholder of the applicant and the location of the marihuana operation are not currently in default to the City, including, but not limited to property taxes.

(4) The Scottville Police Department has reviewed the criminal history background checks for each applicant, stakeholder, and employee, as provided by the applicant.

(5) The City Attorney's Office has reviewed and approved as to form the insurance and either the surety bond or escrow account documentation for compliance with State and local laws.

- (6) The applicant possesses the necessary State licenses or approvals.
- (7) The applicant has operated the marihuana operation in accordance with the conditions and requirements of this chapter as well as Federal and State laws and regulations.
- (8) The marihuana operation has not been declared a public nuisance.

(f) If written approval is given by each individual, department, or entity identified in subsection (e), the City Manager confirms compliance with subsection (b) and receipt of the renewal fee, the City Manager shall issue a license renewal to the applicant. The renewal shall be deemed approved if the City has not issued formal notice of denial within 60 days of the filing date of the application unless the applicant is advised of non-compliance under Section 116.04 (b) during such period.

§ 116.08 LICENSES GENERALLY

(a) To the extent permissible under law, all information submitted in conjunction with an application for a license or license renewal required by this chapter may or may not be confidential and exempt from disclosure under the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231 et seq., including the trade secrets or commercial or financial information unless exempted as per Section 13(f) of the Michigan Freedom of Information Act. Furthermore, no personal or medical information concerning the applicant shall be submitted to the City.

(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 their approval: The City Attorney's Office, the Scottville Police Department, the Zoning Administrator, and the City Treasurer. No license transfer shall be approved unless each department and entity gives written approval that the licensee and the proposed license location meet the standards identified in this chapter, including but not limited to Section 1604 (b) and 1604 (17), and the City Manager has determined that the proposed location meets the requirements of Sections 1602(e), 1604.10, and 1604.11. Applicants may not change locations during the application review period.

(c) A licensee may transfer a license issued under this chapter to a different individual or entity upon receiving written approval by the City Manager. In order to request approval to transfer a license to a different individual or entity, the licensee must make a written request to the City Manager, indicating the current licensee and the proposed licensee. Upon receiving the written request, the City Manager shall review the application for conformity with Sections 1604, 1605 and 1606 including submission of the license application fee. Application fees are non-transferable.

(d) A licensee shall report any other change in the information required by this chapter to the City Clerk within seven business days of the change. Failure to do so may result in suspension or revocation of the license.

§ 116.09 **MINIMUM OPERATIONAL STANDARDS OF A MARIHUANA
OPERATION**

Except as may be preempted by State law or regulation:

(a) Every Medical Marihuana Provisioning Center, and Marihuana Retailer, must be located in a building, as defined under Section 1602(e).

(b) No Medical Marihuana Provisioning Center, Marihuana Retailer, or Marihuana Microbusiness, shall be open between the hours of 10:00 p.m. and 9:00 a.m.

(c) Consumption and/or use of marihuana shall be prohibited on the premises of a marihuana operation.

(d) No marihuana operation 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 marihuana operation is operated; or any other nuisance that hinders the public health, safety and welfare of the residents of the City.

(e) The license required by this chapter shall be prominently displayed on the premises of a marihuana operation.

(f) The premises shall be open for inspection during the stated hours of operation and as such other times as anyone is present on the premises. Refusal to permit inspection may result in revocation or suspension of licensure.

(g) It shall be prohibited to display any signs that are inconsistent with local laws or regulations or State law.

(h) No other accessory uses are permitted within the same establishment or facility unless expressly permitted by State or local law.

(i) All processing activity shall be performed indoors in a building.

(j) 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 medical 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.

(k) Marihuana operations must be kept clean and in good repair, including proper disposal of all waste and litter.

(l) No Medical Marihuana Provisioning Center, Marihuana Retailer, or Marihuana Microbusiness shall permit the sale, consumption and/or use, or serving of alcohol.

§ 116.10 LOCATION, BUFFERING, DISPERSION, AND ZONING REQUIREMENTS FOR MEDICAL MARIHUANA PROVISIONING CENTERS AND MARIHUANA RETAILERS

(a) No Medical Marihuana Provisioning Center or Marihuana Retailer shall be located within:

(1) Five-hundred feet of an operational school, including pre-kindergarten that is located within a school; or

(2) Three-hundred-Fifty feet, of the following buffered uses: Public parks; a commercial child care organization (non-home occupation) that is required to be licensed or registered with the Michigan Department of Health and Human Services, or its successor agency; a church; a facility at which substance use disorder prevention services or substance use disorder treatment and rehabilitation services and those terms are defined in the Mental Health Code, PA 258 of 1974, MCL 330.1001 et seq. or another Medical Marihuana Provisioning Center or Marihuana Retailer.

(b) Medical Marihuana Provisioning Centers and Marihuana Retailers shall be separated by a 350 feet distance between them in Area B as described and designated and provided in the Zoning Ordinance provisions.

(c) No Medical Marihuana Provisioning Center or Marihuana Retailer shall be located within another business except as permitted by the Marijuana Regulatory Agency.

(d) For the purpose of calculating the buffering and dispersion requirements of this section, the distance shall be measured along the center line of the street or streets of address between two fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the buffered use nearest to the contemplated location of the marihuana operation and from the part of the contemplated location nearest to the buffered use. The distances from the marihuana operation to the point on the centerline and from the buffered use to the point on the centerline shall be included in the calculation. For Medical Marihuana Provisioning Centers and Marihuana Retailers located within a commercial strip mall or retail center, the measurement shall be from the property line of the Medical Marihuana Provisioning Center and Marihuana Retailer to the property line of a buffered use.

(e) No marihuana operation shall be located in a no-zoned area or in an area subject to an agreement entered into pursuant to Public Act 425 of 1984.

§ 116.11 LOCATION OF MARIHUANA GROWERS, MARIHUANA PROCESSORS, AND MARIHUANA MICROBUSINESSES

(a) All Marihuana Growers, Marihuana Processors, and Marihuana Microbusinesses shall be limited to H-Light Industrial and I-Heavy Industrial zoning districts as identified in this Code (Areas A and C of the map) .

(b) No marihuana operation shall be located in a no-zoned area or in an area subject to an agreement entered into pursuant to Public Act 425 of 1984.

§ 116.12 APPLICATION DENIAL OR LICENSE REVOCATION; BASES FOR REVOCATION; APPEAL OF LICENSE DENIAL OR REVOCATION

(a) Any license issued under this chapter may be revoked by the City Manager after an administrative hearing if the City Manager finds and determines that grounds for revocation exist. Any grounds for revocation must be provided to the licensee at least ten days prior to the date of the hearing by first class mail to the address given on the license application or any address provided to the City Manager in writing subsequent to the filing of an application.

(b) A license applied for or issued under this chapter may be denied or revoked, including but not limited to any of the following bases:

(1) A material violation of any provision of this chapter, including, but not limited to, the failure to provide the information required by this chapter, or a material violation of the MMFLA, MRTMA, or the corresponding rules promulgated by the MRA; or

(2) Any conviction of a disqualifying felony by the licensee, stakeholder, or any person holding an ownership interest in the license; or

(3) Commission of fraud or misrepresentation or the making of a false statement by the applicant, licensee, or any stakeholder of the applicant or licensee while engaging in any activity for which this chapter requires a license; or

(4) Failure to obtain or maintain a license or renewed license from the City Manager pursuant to this chapter; or

(5) Failure of the licensee or the medical marihuana establishment to obtain or maintain a license or approval from the State pursuant to the MMFLA or MRTMA; or

(6) The medical marihuana establishment is determined by the City to have become a public nuisance or otherwise is operating in a manner detrimental to the public health, safety or welfare.

(7) Cultivation, processing, sale, or display of marihuana or marihuana accessories that are visible from a public place.

(c) Appeal of denial of an application or revocation of a license: The City Manager shall notify an applicant of the reason(s) for denial of an application for a license or license renewal or for revocation of a license or any adverse decision under this chapter and provide the applicant with the opportunity to request reconsideration. An appeal of denial of application for licensure shall be a paper hearing. Any applicant aggrieved by the denial or revocation of a license or adverse decision under this chapter may appeal to the City Manager. Such appeal shall be taken by filing with the City Manager, within seven days after notice of the action complained of has been mailed to the applicant's last known address on the records of the City Manager, a written statement setting forth fully the grounds for the appeal. The City Manager shall review the appeal and make a

decision on the matter. Any decision by the City Manager shall be final for purposes of judicial review. The City Manager may engage professional experts to assist with the proceedings under this Section.

§ 116.13 PENALTIES; TEMPORARY SUSPENSION OF A LICENSE

(a) The City may require an applicant or licensee of a marihuana operation 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 or license revocation.

(b) Any person in violation of any provision of this chapter, including the operation of a marihuana operation without a license issued pursuant to this chapter, shall be subject to a civil fine of \$500.00, plus costs, per day of violation. The City Manager or his or her designee is hereby designated as the authorized city official to issue municipal civil infraction citations directing alleged violators to appear in court or pay a fine. Consumption/and or use in public places are subject to the penalty stated in Section 116.14 below.

(c) All fines imposed under this chapter shall be paid within 45 days after the effective date of the order imposing the fine or as otherwise specified in the order.

(d) The City Manager may temporarily suspend a license without a prior hearing if the Mayor finds that public safety or welfare requires emergency action affecting the public health, safety, or welfare. The City Manager shall cause the temporary suspension by issuing a suspension notice in connection with institution of proceedings for notice and a hearing.

(e) If the City Manager temporarily suspends a license without a prior hearing, the licensee is entitled to a hearing within 30 days after the suspension notice has been served on the licensee or posted on the licensed premises. In the case of a license issued for a Marihuana Grower, the hearing shall be held within seven days after the notice has been served on the licensee or posted on the premises of the licensed facility. The hearing shall be limited to the issues cited in the suspension notice.

(f) If the City Manager does not hold a hearing within 30 days after the date the suspension was served on the licensee or posted on the licensed premises, or in the case of a Marihuana Grower seven days, then the suspended license shall be automatically reinstated, and the suspension vacated.

(g) The penalty provisions of this chapter are not intended to foreclose any other remedy or sanction that might be available to, or imposed by the City, including criminal prosecution.

§ 116.14 CONSUMPTION AND/OR USE IN A PUBLIC PLACE

Consumption and/or use of marihuana in any public place within the City of Scottville is prohibited except as provided by State law. Consumption of marihuana in any public place constitutes a misdemeanor which carries a fine not exceeding \$500.00, plus costs of prosecution, or imprisonment not exceeding 90 days, or both the fine, plus costs, and imprisonment in the discretion of the court, unless another maximum fine or term of imprisonment is otherwise

specifically provided for the violation by this code or other city ordinance or authorized by state law. Its responsibility and penalty is determined by Title I, Sections 10.25 and 10.99 of the City of Scottville Code of Ordinances.

§ 116.15 NO VESTED RIGHTS

A property owner lessor, license applicant, or licensee shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this chapter or any amendment of this chapter.

§ 116.16 EFFECTIVE DATE

This ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect fifteen days from and after the date of its final passage and adoption.

§ 116.17 PUBLICATION

The City Clerk is hereby ordered and directed to cause this ordinance to be published pursuant to Section 7.13 of the City Charter.

§ 116.18 SEVERABILITY

If any portion of this ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portion or application of the ordinance which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperative, and to this end this ordinance is declared to be severable.

INTRODUCED: 3/14/2022

ADOPTED: 4/25/2022

EFFECTIVE DATE: 5/16/2022

It was moved by Commissioner Alway to adopt Ordinance No. 2022- 01.
Seconded by Commissioner Graham.

Vote: Yes: 7

No: 0

Absent: 0

Attested by order of the City of Scottville.

Kelse R. Lester
Kelse Lester, City Clerk

Marcy M. Spencer
Marcy M. Spencer, Mayor

