

**CITY OF EASTPOINTE
COUNTY OF MACOMB
STATE OF MICHIGAN**

ORDINANCE NO. 1184

AN ORDINANCE TO AMEND CHAPTER 10, BUILDINGS AND BUILDING REGULATIONS, OF THE CITY OF EASTPOINTE

The City of Eastpointe ordains:

Section 1. Medical Marijuana Facilities.

Article X, Sections 10-225 through 10-238, of the Codified Ordinances of the City of Eastpointe is hereby created to read as follows:

ARTICLE X. MEDICAL MARIHUANA FACILITIES

Sec. 10-225. Purpose; intent; application of article.

The purpose of this article is to exercise the police regulatory, and licensing powers of the City of Eastpointe by licensing and regulating grower facilities, provisioning centers, safety compliance facilities, processor facilities, and secure transporter facilities to the extent permissible under the Michigan Marihuana Facilities Licensing Act (PA 281 of 2016) and to protect the public health, safety, and welfare of the residents of the City of Eastpointe.

The city finds that the activities described in this article are significantly connected to the public health, safety, security and welfare of its citizens and it is therefore necessary to regulate and enforce safety, security, fire, policing, health and sanitation practices related to such activities and also to provide a method to defray administrative costs incurred by such regulation and enforcement. The city finds that it is necessary to protect the residential neighborhoods by limiting the location and the concentration of the types of medical marihuana facilities to specified areas within the city.

It is not the intent of this article to diminish, reduce, or restrict the rights of a qualified patient or primary caregiver otherwise authorized by the Michigan Medical Marihuana Act.

Sec. 10-226. Definitions.

For the purposes of this article:

(a) All activities related to marihuana, including those related to a provisioning center, secure transporter facility, or a safety compliance facility shall be in compliance with the rules of the medical marihuana licensing board, the Michigan Department of Licensing and Regulatory Affairs or any successor agency, the rules and regulations of the City of Eastpointe, the Michigan Medical Marihuana Act and the Medical Marihuana Facilities Licensing Act.

(b) Any use which purports to have engaged in the cultivation or processing of marihuana into an usable form, or the distribution of marihuana, or the testing of marihuana either prior to or after enactment of this article, but without obtaining the required licensing set forth in this article,

shall be deemed to be an illegally established use and therefore not entitled to legal nonconforming status under the provisions of the city's code of ordinances, the city zoning ordinances or state law.

(c) As of the effective date of this article, marihuana is classified as a schedule 1 controlled substance under federal law, which makes it unlawful to manufacture, distribute, cultivate, produce, possess dispense or transport marihuana. Nothing in this article is intended to grant immunity from any criminal prosecution under federal law.

(d) By accepting a permit issued pursuant to the city's code of ordinances, the permit holder waives and releases the city, its officers, elected officials and employees from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of medical marihuana facility owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

(e) By accepting a permit issued pursuant to this article, all permit holders agree to indemnify, defend and hold harmless the city, its officers, elected officials, employees and insurers, against all liability, claims or demands arising on account of bodily injury, sickness, disease, death, property loss or damage or any other loss of any kind, including, but not limited to, any claim of diminution of property value by a property owner whose property is located in proximity to a permitted operating facility, arising out of a, claimed of have arisen out of, or in any manner connected with the operation of a medical marihuana facility or use of a product cultivated, processed, distributed or sold that is subject to the permit, or any claim based on an alleged injury to business or property by reason of a claimed violation of the federal Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. 1964.

(f) By accepting a permit issued pursuant to this article, a permit holder agrees to indemnify, defend and hold harmless the city, its officers, elected officials, employees and insurers, against all liability, claims, penalties, or demands arising on account of any alleged violation of the federal Controlled Substances Act, 21 U.S.C. 801 et seq. or Article 7 of the Michigan Public Health Code, MCL 333.7101 et seq.

(g) The following terms shall have the definitions given:

Application means an application for a permit under this article and include all supplemental documentation attached or required to be attached thereto; the person filing the application shall be known as the "applicant."

City means the City of Eastpointe, Michigan.

Council means the City Council of Eastpointe, Michigan.

Cultivation or cultivate means (1) all phases of growth of marihuana from seed to harvest, and drying, trimming, and curing; or (2) preparing, packaging or repackaging, labeling or relabeling of any form of marihuana.

Department means the Michigan State Department of Licensing and Regulatory Affairs.

Grower means a licensee that is a commercial entity located in this state that cultivates dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

License means a current and valid license for a commercial medical marihuana facility issued by the State of Michigan.

Licensee means a person holding a state operating license under the MMFLA.

Location means the particular building or buildings within a permitted property on which the permit holder will be authorized to conduct the medical marihuana facility(s) activities pursuant to the permit.

Marihuana means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

Marihuana board means the medical marihuana licensing board created pursuant to Part 3 of the MMFLA.

Medical marihuana facility(ies) means any facility, establishment and/or center that is required to be licensed under this article including a grower, processor, safety compliance facility, and secure transporter.

MMFLA means the Medical Marihuana Facilities Licensing Act, MCL 333.2701, et seq. as amended from time to time.

MMMA means the Michigan Medical Marihuana Act, MCL 333.26421 et seq. as amended from time to time.

MTA means the Marihuana Tracking Act, MCL 333.27901 et seq. as amended from time to time.

Permit means the formal document of approval issued by the city under this article which shall grant to a permit holder the ability to obtain a license(s) for a commercial medical marihuana facility(s), only for and limited to, a specific location.

Permit application refers to the requirements and procedures set forth in section 10-230.

Permit holder means the person that holds a current and valid permit issued under this article.

Permitted property means the real property comprised of a lot, parcel or other designated unit of real property (i.e. property address) upon which the location is situated.

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

Place of worship means an entire building set apart for purposes of public worship, which is tax exempt under state law, and in which religious services are held, and the entire building structure of which is kept for that use and not put to any other use inconsistent with that use.

Processor or processor facility means a licensed commercial entity that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

Provisioning center means a licensed commercial entity that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the MMMA is not a provisioning center for the purposes of this article.

Safety compliance facility means a licensed commercial entity that receives marihuana from a medical marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the medical marihuana facility.

Secure transporter means a licensed commercial entity that stores marihuana, marihuana infused products and transports marihuana and marihuana infused product between medical marihuana facilities for a fee.

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

State means the State of Michigan.

(h) Any term defined by the MMMA or the Medical Marihuana Facilities Licensing Act and not defined in this article shall have the definition given in the MMMA or the Medical Marihuana Facilities Act.

Sec. 10-227. Locations and permits authorized.

The city shall limit the number of permits and zoning districts upon which medical marihuana facilities are hereby authorized under this article, and per the overlay district requirements of Article XXXIII. In addition, any medical marihuana facility use shall be contained in a freestanding building. Enclosed malls, commercial strip stores, or common wall structures and multiple uses within the same structure, do not constitute freestanding buildings.

Sec. 10-228. Permit Required.

(a) No person shall own or operate a medical marihuana facility within the city without first applying for special land use and site plan review and receiving approval from the Planning Commission and City Council and receiving a permit from the city clerk's office and must also obtain a license from the State of Michigan.

(b) A medical marihuana facility shall operate pursuant to the requirements of this article and shall comply at all times with the MMMA, MMFLA and the general rules of the department, as they may be amended from time to time.

(c) The city shall assess an annual non-refundable permit fee and or renewal fee of \$5,000.00. The annual non-refundable fee shall be due and payable with the application for a permit and upon the application for a renewal of any such permit under this article. Applicant shall also pay any certificate of zoning fees, special land use fees, site plan fees, certificate of occupancy fees and inspection fees to defray the costs incurred by the city for inspection, administration and enforcement of the local regulations regarding the medical marihuana facilities.

(d) A medical marihuana facility must be registered with the building department as part of its certificate of compliance as to be inspected by the zoning, building, electrical, mechanical and plumbing inspectors and the fire department, police department, and law enforcement personnel for compliance with applicable local and state laws and codes. The medical marihuana facility must pass annual safety inspections for compliance with the requirement of this article.

(e) A permit and a renewal permit shall not confer any vested rights or reasonable expectation of subsequent renewal on the applicant or permit holder and shall remain valid only for one year. A permit issued under this article is conditioned on the approval of the applicant by the state pursuant to the MMFLA.

(f) All applicants for a permit or renewal must be current on local, state and federal taxes and any other financial obligation to the city.

(g) Each year, any pending applications for renewal or amendment of existing permits shall be reviewed and granted or denied before application for new permits are considered.

(h) It is the sole and exclusive responsibility of each permit holder or person applying to be a permit holder at all times during the application period and during its operation to immediately provide the city with all material changes in any information submitted on an application and any other changes that may materially affect any license or its permit.

(i) No permit issued under this article may be assigned or transferred to any person unless the assignee or transferee has submitted an application and all required fees under this article and has been granted a permit by the city and approved by the state. No permit issued under this article is transferrable to any other location.

(j) The permit issued under this article, as well as the license shall be prominently displayed at the location in a place where it can be easily viewed by the public, law enforcement, city officials and or agents and marihuana board authorized agents. Failure to maintain or display a current permit and license shall be a violation of this article.

(k) Acceptance by the permit holder of a permit constitutes consent by the permit holder and its owners, officers, managers, agent and employees for any state, federal or local law enforcement to conduct random and unannounced inspections of the facility without a search warrant, and all articles of property in that facility at any time.

(l) No permit shall be granted or renewed for a commercial medical marihuana facility in a residence.

(m) A permit holder may not engage in any other commercial medical marihuana facility at the location or on the permitted property, or in its name at another location within the city, without first obtaining a separate permit.

Sec. 10-229. Other laws and ordinances.

In addition to the terms of this article, any commercial medical marihuana facility shall comply with all city ordinances, including without limitation the city zoning ordinance, and with all other applicable federal, state and local ordinances, laws, codes and regulations. To the extent that the terms of this article are in conflict with the terms of any other applicable federal, state or local ordinances, laws codes or regulations, the terms of the most restrictive ordinance, law, code or regulation shall control.

Sec. 10-230. Application for and renewal of permits.

(a) Application. An application for a permit for a facility shall be submitted to the clerk, and shall contain the following information:

- (1) The name, address, phone number and email address of the permit holder and the proposed commercial medical marihuana facility;
- (2) The names, home addresses and personal phone numbers for all owners, directors, officers and managers of the permit holder and the commercial medical marihuana facility;
- (3) One copy of all of the following is required for the application and renewal of permits:
 - (A) All documentation showing the proposed permit holder's valid tenancy, ownership or other legal interest in the proposed location and permitted premises. If the applicant is not the owner of the proposed location and permitted premises, a notarized statement from the owner of such location

authorizing the use of the location for a commercial medical marihuana facility.

- (B) If the proposed permit holder is a corporation, non-profit organization, limited liability company, or any other entity other than a natural person, indicate its legal status, attach a copy of all company formation documents (including amendments), proof of registration with the State of Michigan, and a certificate of good standing.
- (C) A valid, unexpired driver's license or state issued ID for all owners, directors, officers and managers of the proposed facility.
- (D) Evidence of a valid sales tax license if such a license is required by state law or local regulations.
- (E) Non-refundable application fee/renewal fee of \$5,000.
- (F) Business and operations plan, showing in detail the commercial medical marihuana facility's proposed plan of operation, including without limitation the following:
 - (1) A description of the type of facility proposed and the anticipated or actual number of employees. The name of the proposed manager of the medical marihuana facility. The days and hours the facility will be open and or in operation.
 - (2) A security plan meeting the requirements of this ordinance which shall include a general description of the security systems(s) and lighting plan showing the lighting outside of the medical marihuana facility for security purposes in compliance with city requirements, current centrally alarmed and monitored security system service agreement for the proposed location, and confirmation that those systems will meet state requirements and be approved by the state prior to commencing operations.

Security plans require review and approval by the Chief of Police. The Chief of Police may require review and recommendation of a proposed security plan by an independent consultant with credentialed expertise in the field of site/facility security measures. The cost of an independent review by an independent security consultant shall be paid by the applicant.
 - (3) A description and plan of all equipment and methods that will be employed to stop any impact to adjacent uses, including enforceable assurances that no odor will be detected from outside the location.

- (4) A plan for the disposal of marihuana and related byproducts that will be used at the facility which includes at a minimum how the plan will protect against any marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction to the sewage system is prohibited.
- (5) A description of any proposed signs including a detailed depiction of sign language or displays, dimensions, locations, quantity, configuration and illumination. Signs shall comply with applicable provisions of the city's Sign Ordinance and any marketing/advertising restrictions for marijuana products and facilities adopted pursuant to Section 206 of the Act.
- (G) An identification of any business that is directly or indirectly involved in the processing, testing, transporting or sale of marihuana for the facility.
- (H) Whether any applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken and the reason for each action.
- (I) **Special Land Use Application.**
Use of any property or structure as a Marijuana Facility requires Special Land Use Review, in conformance with Article V of the city's Zoning Ordinance, Chapter 50, which includes a public hearing, and a recommendation by the Planning Commission to the City Council for final approval. Special land use application must be made with the Community Development Department.
- (J) **Site Plan Application.**
A site plan of the location, building and the permitted property must be submitted for review and approval by the Planning Commission, in conformance with Article V of the city's Zoning Ordinance, Chapter 50. The site plan shall also include an interior floor plan as well as a scale diagram illustrating the location upon which the facility(s) is to be operated, including all available parking spaces and specifying required ADA parking spaces. Consult Article XIX of the city's Zoning Ordinance, Chapter 50 regarding compliance with the requirements of off-street parking, loading and layout standards.

An application for site plan approval of a Marijuana Facility that is materially incomplete or would result in a violation of state or local law shall be denied. Approval of a site plan for a Marijuana Facility does not guarantee, represent or imply approval of a Marijuana Facility Operating License or any other permit or local approval that may be required by city codes or ordinances for the proposed facility.

- (K) Information regarding any other commercial medical marijuana facility that the licensee is authorized to operate in any other jurisdiction within the state, or another state, and the applicant's involvement in each facility.
 - (L) Proof of insurance. A licensee shall at all times maintain full force and effect for duration of the license, worker's compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000 per occurrence and a \$2,000,000 aggregate limit issued from a company licensed to do business in Michigan having an AM Best rating of at least A-. A licensee shall provide proof of insurance to the city clerk in the form of a certificate of insurance evidencing the existence of a valid and effective policy which discloses the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, the policy number and the names of the additional insureds. The policy shall name the City of Eastpointe and its officials and employees as additional insureds to the limits required by this section. Should the policy expire or be canceled before the expiration date thereof, the licensee shall mail written notice of the expiration or cancellation to the City of Eastpointe within 30 days. The licensee or permit holder shall forthwith obtain and submit proof of substitute insurance to the city clerk within five business days in the event of expiration or cancellation of coverage.
- (4) Any other information reasonably requested by the city to be relevant to the processing or consideration of the Application.
 - (5) A signed release authorizing the police department and/or ICHAT, to perform a criminal background check to ascertain whether the applicant, each stakeholder and employee of the applicant meet the criteria set forth in this article.
 - (6) Information obtained from the applicant or proposed permit holder related to the licensure under this article and the MMFLA is exempt from disclosure under the Freedom of Information Act.
- (b) Renewal application. The same requirements that apply to all new applications for a permit apply to all renewal applications. Renewal applications shall be submitted to and received by the clerk not less than 45 days prior to the expiration of the annual permit, except that an application requesting a change in the location shall be submitted and received not less than 90 days prior to the expiration of the permit. No late applications shall be accepted. A permit holder whose permit expires and for which a complete

renewal application has not been received in accordance with the time frame set forth in this section and approved by the expiration date shall be deemed to have forfeited the permit under this article.

- (c) Approval, issuance, denial and appeal. All inspections, review and processing of the application shall be completed within 90 days of receipt of a complete application and all required fees.

An application shall not be approved unless:

- (1) The fire department and the building department has inspected the proposed location and permitted premises for compliance with all laws for which they are charged with enforcement and for compliance with the requirements of this article.
- (2) The city planner has confirmed the proposed location complies with the zoning ordinance and this article.
- (3) The city finance director has confirmed that the applicant/and or any stakeholder is not in default to the city.
- (4) Factors considered for granting a permit:
 - (A) In determining whether to grant a permit to an applicant, the committee, as hereinafter provided, shall consider all of the following:
 - (1) The integrity, moral character, and reputation; personal and business probity; financial ability and business experience; and responsibility or means to operate or maintain a marihuana facility of the applicant.
 - (2) The financial ability of the applicant to purchase and maintain the required liability and insurance.
 - (3) The sources and total amount of the applicant=s capitalization to fund, operate and maintain the proposed marihuana facility.
 - (4) Whether the applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, any criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violations.
 - (5) Whether the applicant has filed, or had filed against it, a proceeding for bankruptcy within the past seven years.
 - (6) Whether the applicant has been served with a complaint or other notice filed with any public body regarding payment of any tax required under federal, state, or local law that has been delinquent for one or more years.

- (7) Whether the applicant has a history of noncompliance with any regulatory requirements in this state or any other jurisdiction.
 - (8) Whether at the time of application the applicant is a defendant in litigation involving its business practices.
 - (9) The security proposed for the Facility and safety compliance plan.
 - (10) Whether the applicant has made, or plans to make, significant physical and capital improvements to the building housing the medical marihuana facility.
 - (11) The applicant's business plan, considering the applicant's business experience within the past ten years, history of performance and profit and loss statements for each business.
 - (12) Community involvement, residency, and business operations in the City of Eastpointe.
 - (13) Consideration of the effects of the proposed facility and/or growing operation on neighboring properties.
 - (14) Written acknowledgment that the premises and surveillance and security camera recordings for protection of the public safety are subject to inspection for purposes of determining compliance with state and local laws, without a search warrant.
- (d) Personal and financial interests. City officials and employees shall not participate in the permit application process, appeals involving a final denial of a permit, or proceedings to reduce buffer district regulations and separation standards in which the city official or employee has a financial or personal interest.
- (e) A committee, consisting of the city manager or designee, the director of public safety, and the building official or economic development manager, shall approve or deny the permit application within 90 days of receipt of the completed application and fees. The processing time may be extended upon written notice by the city for good cause, and any failure to meet the required processing time shall not result in the automatic grant of an approved application. Any denial must be in writing and must state the reason(s) for denial. Any final denial of a permit may be appealed to the city council, provided that, the pendency of an appeal shall not stay or extend the expiration of any permit. The city has no obligation to process or approve any incomplete application; and any times provided under this article shall not begin to run until the city receives a complete application, as determined by the committee. A determination of a complete application shall not prohibit the city from requiring supplemental information.

- (f) Applications for new permits where no building is as yet in existence. Any applicant for a commercial medical marihuana facility permit whose buildings are not yet in existence at the time of the city's initial permit approval shall have one year immediately following the date of the city's initial approval to complete construction of the building, in accordance with applicable zoning ordinances, building codes and any other applicable state or local laws, rules or regulations, and to commence business operations. The committee has the authority to extend the approval for a permit for an additional one-year period.
- (g) Duty to supplement.
- (1) If, at any time before or after a permit is issued pursuant hereto, any information required in the permit application, the MMFLA, or any rule or regulation promulgated thereunder, changes in any way from that which is stated in the application, the applicant, permit holder or licensee shall supplement such information in writing within ten days from the date upon which the such change occurs.
 - (2) An applicant, permit holder or licensee has a duty to notify the city clerk in writing of any pending criminal charge, and any criminal conviction of a felony or other offense involving a crime of moral turpitude by the applicant, any owner, principal officer, director, manager, or employee within ten days of the charge.
 - (3) An applicant, permit holder or licensee has a duty to notify the city clerk in writing of any pending criminal charge, and any criminal conviction, whether a felony, misdemeanor, petty offense, or any violation of a local law related to the cultivation processing, manufacture, storage, sale, distribution testing or consumption of any form of marihuana, the MMMA, the MMFLA, any building, fire, health or zoning statute, code or ordinance related to the cultivation, processing, manufacture, storage, sale, distribution testing or consumption of any form of marihuana by the permit holder/licensee, any owner, principal officer, director, manager, or employee within ten days of the event.
- (h) Permit forfeiture. In the event that a medical marihuana facility does not commence operations within one year of issuance of a permit, or extension thereof, the permit shall be deemed forfeited; the business may not commence operations and the license is not eligible for renewal.

Sec. 10-231. General operational requirements.

Except as may be pre-empted by state law or regulation, the following general requirements for medical marihuana facilities apply:

- (a) A medical marihuana facility must obtain a state license before they can open their facility for business.

(b) No person shall reside in or permit any person to reside in the medical marihuana facility or permitted property.

(c) No person under the age of 18 shall be allowed to enter into the medical marihuana facility without a parent or legal guardian.

(d) There shall be posted in a conspicuous location within each medical marihuana facility a legible sign containing the following warning language:

(1) The possession, use, or distribution of marihuana is a violation of federal law.

(2) It is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by, marihuana;

(3) No one under the age of 18 years is permitted on the premises,

(4) No smoking outside is permitted on the premises, and

(5) No one without a valid medical marihuana card is permitted on the premises.

(e) Outdoor storage is strictly prohibited.

(f) Discharge of toxic, flammable or hazardous materials into the city sewer is prohibited.

(g) A copy of premises liability and casualty damage insurance in the amount described herein shall be submitted to the city when the applicant has been notified that they have been approved for a permit.

(h) Medical marihuana facilities shall at all times maintain a security system that meets state law requirements and regulations. A description of the security plan shall be submitted with the application for a permit. A separate security system is required for each facility. The security plan must include, at a minimum the following:

(1) Security surveillance cameras installed to monitor and record all entrances, along with the interior and exterior of the permitted premises and all areas of the premises where persons may gain or attempt to gain access to marihuana or cash maintained by the medical marihuana facility.

(2) Robbery and burglary alarm systems which are professionally monitored and operated 24 hours a day/seven days a week. The security plan submitted to the city shall identify the company monitoring alarm, including contact information, and updated within 72 hours of any change of monitoring company.

(3) A locking safe permanently affixed to the location that shall store any processed marihuana and all cash remaining in the facility overnight. For medical marihuana infused products that must be kept refrigerated or frozen, the medical

marihuana facility may lock the refrigerated container or freezer in a manner authorized by the city in place of use of a safe, so long as the container is affixed to the building structure.

- (4) All marihuana in whatever form stored at the medical marihuana facility shall be kept in a secure manner and shall not be visible from outside the location, nor shall it be grown, processed, exchanged, displayed or dispensed outside the location.
- (5) All security recordings and documentation shall be preserved for at least 30 days by the permit holder/licensee and made available to any law enforcement upon request for inspection.

(i) The amount of marihuana at the medical marihuana facility and under the control of the permit holder/licensee, owner or operator of the facility shall not exceed that amount permitted by the state license or the city's permit.

(j) Smoking or consumption of controlled substances, including Marihuana, within the medical marihuana facility is prohibited.

(k) All activities of medical marihuana facilities must occur indoors.

(l) The facility's operation and design shall minimize any impact to adjacent uses so as not to interfere with the reasonable and comfortable use and enjoyment of another's property, including the control of any odor by maintaining and operating an air filtration system so that no odor is detectable outside the location. Whether or not a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of another's property shall be measured against the objective standards of a reasonable person. No marihuana shall be cultivated, grown, manufactured or processed in any manner that would emit odors beyond the interior of the premises or which is otherwise discernable to another person. The odor must be prevented by the installation of an operable filtration to ventilation and exhaust system. Odors must otherwise be effectively confined to the interior of the location in which the odor is generated. Venting of marihuana odors into the areas surrounding the location is deemed and declared to be a public nuisance. In the event that any odors, debris, dust, fluids or other substances exit a location, the owner of the location and the permit holder/licensee shall be jointly and severally responsible for immediate full clean-up and correction of such condition.

(m) All persons working in direct contact with medical 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 hand may have become soiled or contaminated; and

- (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.
- (n) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where medical marihuana is exposed.
- (o) Floors, walls and ceilings shall be constructed and or maintained in such a manner that they may be adequately cleaned and kept in good repair.
- (p) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for waste development and minimize the potential for waste becoming an attractant, harborage or breeding place for pests.
- (q) Medical marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
- (r) There shall be no residential uses permitted within the same location and/or upon the same parcel as a medical marihuana facility.
- (s) There shall be no other accessory uses permitted within the same location other than those associated with cultivating, processing or testing medical marihuana. Multi-tenant industrial buildings may permit accessory uses in suites segregated from each medical marihuana facilities.
- (t) All necessary building, electrical, plumbing, and mechanical and fire suppression permits shall be obtained from the City for any portion of the medical marihuana facility in which electrical wiring; lighting and/or watering devices that support the cultivation, growing, harvesting, processing or secure transporting of the marihuana are located.
- (u) The dispensing of medical marihuana at the medical marihuana facilities shall be prohibited. No free samples of medical marihuana shall be distributed from any medical marihuana facility.
- (v) Medical marihuana facilities shall be free from infestation by insects, rodents, birds, or vermin, of any kind.
- (w) Medical marihuana facilities shall be open for inspection during the stated hours of operation and as such other times as anyone is present at the facility. No person shall refuse entry to, or in any manner interfere with the inspection of any medical marihuana facility.
- (x) A list of material safety data sheets for all nutrients, pesticides, and other chemicals proposed for use in the commercial medical marihuana facility shall be maintained. A copy of a procedural plans for testing of contaminants, including mold and pesticides.

(y) Any failure by a permit holder/licensee to comply with the provisions of MMMA, MMFLA, the MTA and the general rules of the department of licensing and regulatory affairs or their successors, as they may be amended from time to time, or this article is a violation of this article and is sufficient grounds for suspension and revocation of the permit issued under this article.

Sec. 10-232. Minimum operational standards of provisioning centers.

The following minimum standards for Provisioning Centers shall apply:

- (a) No Provisioning Center shall be open between the hours of 8:00 p.m., and 10:00 a.m.
- (b) Consumption of Marihuana shall be prohibited on the premises of a Provisioning Center, and a sign shall be posted on the premises of each Provisioning Center indicating that consumption is prohibited upon the premises.
- (c) Provisioning Centers shall continuously monitor the entire premise on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site locations for a minimum period of 90 days.
- (d) Unless permitted by the MMMA and Medical Facilities Licensing Act or applicable state law, public or common areas of the Provisioning Center must be separated from restricted or non-public areas of the provisioning center by a permanent and locked barrier. Unless permitted by the MMMA and Medical Marihuana Facilities Licensing Act or applicable state law, no Marihuana is permitted to be stored, displayed, or transferred in an area accessible to the general public.
- (e) All Marihuana storage areas within Provisioning Center must be separated from any customer/patient areas by a permanent and locked barrier. Unless permitted by the MMMA and Medical Marihuana Facilities Licensing Act applicable state law, no Marihuana is permitted to be stored in any area accessible by the general public or registered customer/patients. Marihuana may be displayed in sales area only if permitted by the MMMA or required by the Medical Marihuana Facilities Licensing Act and if required all displays to be in compliance with all federal, state and local laws and regulations.
- (f) Any usable Marihuana remaining on the premises of the Provisioning Center while the Provisioning Center is not in operation shall be secured in a safe that is permanently affixed to the premises.
- (g) Drive-through window on the premises of a Provisioning Center shall not be permitted;
- (h) Provisioning Center shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises.

(i) No Provisioning Center shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the building on which the Provisioning Center is operated.

(j) Permit and State License required by this ordinance shall be prominently displayed on the premises of a Provisioning Center.

(k) Disposal of Marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in non-conformance with local and state laws.

(l) All Marihuana delivered to a patient shall be packaged and labeled as provided by state laws.

(m) All registered patients must present both their Michigan Marihuana Patient/Caregiver Identification Card and a government issued photo identification prior to entering restricted/limited areas or non-public areas of the Provisioning Center, and if no restricted/limited area is required, the promptly upon entering the Provisioning Center.

(n) The premises shall be open, at all times to any Michigan Medical Marihuana Licensing Board investigators, agents, auditors, local or state police, without a warrant and without notice to the holder of a license, if evidence of compliance or noncompliance with the MMMA and Medical Marihuana Facilities Licensing Act or applicable state laws is likely to be found and consistent with constitutional limitations, for the following purposes:

- (1) To inspect and examine all premises of Medical marihuana Facility.
- (2) To inspect, examine, and audit relevant records of the licensee and, if the holder of the license or any of the managerial employees or employees fails to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored.
- (3) To inspect the person, and inspect or examine personal effects present in a Medical Marihuana Facility, of any holder of state operating license while that person is present in a Medical Marihuana Facility.
- (4) To investigate alleged violations of the MMMA and Medical Marihuana Facilities Licensing Act or applicable state laws.

(o) Certified laboratory testing results that meets the MMMA and Medical Marihuana Licensing Act or applicable state laws must be available to all Provisioning Center patients/customers upon request.

(p) All Provisioning Centers shall comply with all applicable requirements of the city's zoning ordinance, including special land use conditions and site plan conditions.

Sec. 10-233. Minimum operational standards of a safety compliance facility.

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

(a) The Safety Compliance Facility shall comply at all times and in all circumstances with the MMMA and Medical Marihuana Facilities Licensing Act or applicable State Laws, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time. It is the responsibility of the owner to be aware of changes in the MMFLA. The city bears no responsibility for failure of the owner to be unaware of the changes in this act.

(b) Consumption and/or use of Marihuana shall be prohibited on the premises of a Safety Compliance Facility, and a sign shall be posted on the premises indicating that consumption is prohibited upon the premises.

(c) The premises shall be open, at all times to any Michigan Medical Marihuana Licensing Board investigators, agents auditors, local or state police, without a warrant and without notice to the holder of a license, if evidence of compliance or noncompliance with the MMMA and Medical Marihuana Facilities Licensing Act or applicable state laws is likely to be found and consistent with constitutional limitations, for the following purposes:

- (1) To inspect and examine all premises of Medical marihuana Facility.
- (2) To inspect, examine, and audit relevant records of the licensee and, if the holder of the license or any of the managerial employees or employees fails to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored.
- (3) To inspect the person, and inspect or examine personal effects present in a Medical Marihuana Facility, of any holder of state operating license while that person is present in a Medical Marihuana Facility.
- (4) To investigate alleged violations of the MMMA and Medical Marihuana Facilities Licensing Act or applicable state laws.

(d) Any Safety Compliance Center shall maintain a log book and/or database which complies with the MMMA and Medical Marihuana Facilities Licensing Act or applicable state laws.

(e) All Marihuana shall be contained within the building in an enclosed, locked facility in accordance with the MMMA, as amended, and Medical Marihuana Facilities Licensing Act or applicable state laws.

(f) There shall be no other accessory uses permitted within the same facility other than those associated with testing Marihuana.

(g) 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, and
- (3) Refrain from direct contact with Marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.

(h) Litter and waste shall be properly removed and the operating systems for waste disposal shall be maintained in an adequate manner so that they do not constitute a source of contamination in areas where Marihuana is exposed.

(i) Floors, walls and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.

(j) Marihuana that can support the rapid growth of undesirable microorganisms, including but not limited to mold shall be held in a manner that prevents the growth of these microorganisms.

(k) The dispensing, consumption and/or use of Marihuana at the Safety Compliance Facility shall be prohibited.

(l) Exterior signage or advertising identifying the facility as a Safety Compliance Facility shall be prohibited.

Sec. 10-234. Minimum operational standards of a secure transporter.

The following minimum standards for a Secure Transporter shall apply:

(a) The Secure Transporter shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.

(b) Consumption and/or use of Marihuana shall be prohibited at a storage facility of a Secure Transporter.

(c) A Secure Transporter licensee and each stakeholder shall not have interest in a Grower, Processor, Provisioning Center or State Compliance Facility, and shall not be a registered qualifying patient or registered primary caregiver.

(d) A Secure Transporter shall also comply with the following:

- (1) Each driver transporting marihuana must have a chauffeur=s license issued by the state.
- (2) Each employee who has custody of marihuana money that is related to a marihuana transaction shall not have been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past five (5) years or have been convicted of a misdemeanor involving a controlled substance within the past five (5) years.
- (3) Each vehicle shall be operated with a two-person crew with at least one individual remaining in the vehicle at all times during the transportation of marihuana.
- (4) A route plan and manifest shall be entered into a statewide monitoring system, and a copy shall be carried in the transporting vehicle and presented to a law enforcement officer upon request.
- (5) The marihuana shall be transported in one or more sealed containers and not be accessible while in transit.
- (6) A secure Transporting vehicle shall not bear markings or other indication that it is carrying marihuana or marihuana infused product.

Sec. 10-235. Revocation and review.

A Permit granted under this article may be revoked by the city council after an administrative hearing if the city council finds and determines that grounds for revocation exist. Any grounds for revocation must be provided to the Permit Holder/Licensee at least ten (10) days prior to the date of the hearing by first class mail to the address given on the Permit Application or any address provided to the city clerk in writing subsequent to the filing of an Application. A Permit applied for and issued under this article may be denied or revoked for the following reasons:

- (1) Any fraud or misrepresentation contained in the Permit application.
- (2) Any knowing violation of this article or any code of ordinance violation or zoning ordinance violation.
- (3) Loss of the Permit Holder/Licensee's State Medical Marihuana Facility License.
- (4) Failure of the Applicant to obtain a State Medical Marihuana Facility License within a reasonable time after obtaining a Permit under this Ordinance.

- (5) The Medical Marihuana Facility is determined by the city council to have become a public nuisance or otherwise is operating in an unlawful manner or in such a way as to constitute a menace or hazard to the health, safety, or general welfare of the public.

Sec. 10-236. Permit and license as revocable privilege.

A Permit issued pursuant to this article is a revocable privilege granted by the city and is not a property right. Granting a permit does not create or vest any right, title, franchise, or other property interest. Each license is exclusive to the licensee and a licensee or any other person must apply for and receive the city's approval before a license is transferred, sold, or purchased. A licensee or any other person shall not lease, ledge or borrow or loan money against a license. The attempted transfer, sale, or to the conveyance of an interest in a license without the prior approval of the Michigan Medical Marihuana Licensing Board is grounds for suspension or revocation of the Permit or for other sanction considered appropriate by the city.

Sec. 10-237. City requirements.

The city clerk shall provide the following information to the Department within ninety (90) days after the city receives notification from the applicant that the applicant has applied for a License under the MMFLA:

- (1) A copy of the local ordinance that authorizes the medical marihuana facility.
- (2) A copy of any zoning regulations that apply to the proposed marihuana facility within the City.
- (3) A description of any violation of the local ordinance or zoning regulations included under subdivision (a) or (b) committed by the Applicant, but only those violations related to activities licensed under the MMFLA and MMMA.
- (4) The City's failure to provide information to the State Licensing Board shall not be used against the Applicant.
- (5) Information the City receives from the Applicant related to licensure under this article is exempt from disclosure under the Freedom of Information Act, 1976 PA 442, MCL 15.231 et seq.

Sec. 10-238. Violations and penalties.

(a) Any person, including but not limited to, any licensee, stakeholder, or employee of a marihuana commercial operation, or any customer of such business, who violates any of the provisions of this ordinance, shall be responsible for a municipal civil infraction punishable by a civil fine of \$500.00, plus court imposed costs, and any other relief that may be imposed by the

court for the first violation; and \$1,000.00 plus court imposed costs and any other relief that may be imposed by the court for a subsequent violation committed within one (1) year of any previous offense.

(b) In addition to any civil fine imposed for a municipal civil infraction violation, a violation of this ordinance shall also be sufficient grounds for the suspension, revocation or non-renewal of the facility's city operating permit.

(c) In addition to the possible denial, suspension, revocation or non-renewal of a license under the provisions of this article, the city attorney is authorized to seek such other relief that may be available and provided by law or equity, including filing a public nuisance action or seeking injunctive relief against a person or persons alleged to be in violation of this article or the city's zoning ordinance.

Section 2. Severability. If any section, clause, or provision of this Ordinance shall be declared to be unconstitutional, void, illegal, or ineffective by any Court of competent jurisdiction, such section, clause, or provision declared to be unconstitutional, void, or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

Section 3. Repealer. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 4. Publication. The Clerk shall publish this Ordinance within ten days in a newspaper printed and circulating within the City of general circulation.

Section 5. Effective Date. This Ordinance shall become effective ten days after date of adoption by the City Council.

CERTIFICATION

We, Monique Owens, Mayor, and Elke Doom, City Clerk, for the City of Eastpointe, Macomb County, Michigan, do hereby certify that the foregoing Ordinance 1184 was duly adopted by the City Council after a second reading thereof at a regular meeting of said Council held on Tuesday, June 16, 2020, in the City Hall.



Monique Owens, Mayor



Elke Doom, City Clerk

ORDINANCE NO. 1185**AN ORDINANCE TO AMEND SECTION 20-19 ADOPTION BY REFERENCE THE INTERNATIONAL FIRE CODE.****The City of Eastpointe Ordains:****20.19 ADOPTION BY REFERENCE OF INTERNATIONAL FIRE CODE.**

Pursuant to Section 3(k) of Act 279 of the Public Acts of 1909, as amended, it is hereby adopted by and for the city, the 2015 International Fire Code as published by the International Code Council. All applicable codes as referenced, including the appendix chapters, by the 2015 International Fire Code are also adopted. These codes are adopted for the purpose of safeguarding life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices and from conditions hazardous to life or property in the use or occupancy of buildings or premises.

CERTIFICATION

We, Monique Owens, Mayor and Elke Doom, City Clerk, for the City of Eastpointe, Macomb County, Michigan, do hereby certify that the foregoing Ordinance No. 1185 was duly adopted by the City Council after a second reading thereof at a regular meeting of said Council held on Tuesday, April 7, 2020, in the City Hall.



Monique Owens, Mayor

Elke Doom, City Clerk