

**MARSHALL CITY PLANNING COMMISSION
SPECIAL MEETING
Monday, August 2, 2021 at 5:00 p.m.
City Hall Training Room, 323 W. Michigan Avenue, Marshall, MI**

Call to Order

Roll Call

Approval of Agenda

Special Meeting of the Planning Commission, August 2, 2021

Public Comments on Agenda Items

Public Hearings

1. Zoning Ordinance Amendment to change Marihuana Facilities from a Principal Permitted Use to a Special Land Use

New Business

1. Recommendation on Zoning Ordinance amendment to change Marihuana Facilities from a Principal Permitted Use to a Special Land Use.

Old Business

Public Comment on Non-Agenda Items

Reports

Adjournment

MARSHALL PLANNING COMMISSION

Staff report for August 2, 2021

To: Planning Commissioners
From: Trisha Nelson, Planning and Zoning Administrator
Subject: Zoning Ordinance Amendment to change Marihuana facilities as a Principal Permitted Use to a Special Land Use.

City staff has been working with Attorney Revore regarding some changes to our Marihuana ordinances.

Attached is the proposed Zoning Ordinance Amendment which will change approved Medical and Commercial Marihuana facilities from a Principal Permitted Use to a Special Land Use, allow for reduced site distances, and reasonable odor mitigation. The City feels strongly that having these facilities as a Special Land Use gives us more control in the regulation of such businesses. Attorney Revore will be present to discuss the changes that are proposed in Yellow.

Also, attached, for your information, you will find **EXHIBIT A**, which is a copy of proposed ordinance revisions for our General Law Ordinances for Medical Marihuana and Commercial Marihuana.

Planning Commission is being asked to formulate a recommendation for City Council to consider. The City Council will receive the ordinances at their August 4, 2021 meeting to schedule a public hearing for consideration on August 16, 2021.

**CITY OF MARSHALL
CALHOUN COUNTY, MICHIGAN**

ORDINANCE #2021-___

PREAMBLE

AN ORDINANCE TO AMEND THE CITY OF MARSHALL ZONING CODE, ARTICLE 3.0, ZONING DISTRICTS, SECTION 3.1.12 OF THE "I-1 RESEARCH AND TECHNICAL DISTRICT" AND SECTION 3.1.13 OF THE "I-2 GENERAL INDUSTRIAL DISTRICT"; TO REQUIRE MARIHUANA FACILITIES AND MARIHUANA ESTABLISHMENTS GROWER, PROCESSOR AND SAFETY COMPLIANCE FACILITY BE A SPECIAL LAND USE SUBJECT TO THE ZONING CODE, ARTICLE 6.0 DEVELOPMENT PROCEDURES, SECTION 6.2 SPECIAL LAND USES AND SECTION 6.3 SITE PLAN REVIEW; TO AMEND ARTICLE 6.0, SECTION 6.2 TO ADD OFFENSIVE TO ODORS; THAT MARIHUANA GROWER AND MARIHUANA PROCESSOR FACILITIES AND ESTABLISHMENTS ARE SUBJECT TO LAND SITE DISTANCES AS ESTABLISHED UNDER CITY ORDINANCES, AS AMENDED; REPEAL ANY ORDINANCES IN CONFLICT THEREOF; AND TO PROVIDE AN EFFECTIVE DATE HEREOF.

THE CITY OF MARSHALL, CALHOUN COUNTY, HEREBY ORDAINS:

Section 1. PURPOSE. The purpose of this Ordinance is to amend the City Zoning Code to require Grower, Processor and Safety Compliance Facility licensed under City ordinances and the Medical Marihuana Facilities Licensing Act (MMFLA), PA 281 of 2016, and the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MRTMA), be subject to Zoning Code, Article 3.0 as a special land use and Article 6.0 Development Procedures, Section 6.2 Special Land Uses and Section 6.3 Site Plan Review. It is further the intent of this Ordinance to amend Article 6.0, Section 6.2 to provide that the proposed use shall not involve "unreasonable" or "offensive" odors. It is further the intent of this Ordinance that Marihuana Grower and Marihuana Processor facilities and establishments are subject to land site distances as established under City ordinances, as amended

It is the intent of these provisions to ensure the health, safety and welfare of the citizens of Marshall that quality of life is not impaired, neighborhood character is preserved, commercial activities developed and increased, employment opportunities expanded, and positive planned land use developed.

Section 2. That Article 3.0 ZONING DISTRICTS, SECTION 3.1.12 I-1 OF THE RESEARCH AND TECHNICAL DISTRICT of the Marshall City Zoning Code, is hereby amended as follows:

B. Principal Permitted USES (continued)

~~xxiii. Any use allowed in such district as provided in the City Medical Marihuana Ordinance~~

C. Special Land Use

xvii. Marihuana Grower, Marihuana Processor, and Safety Compliance Facility under the City Medical Marihuana Ordinance and the Medical Marihuana Facilities Licensing Act (MMFLA), PA 281 of 2016, are a special land use subject to Article 6.0, Sections 6.2 and 6.3.

xviii. Marihuana Grower, Marihuana Processor, and Safety Compliance Facility under the City Commercial Marihuana Ordinance and the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MRTMA), are a special land use subject to Article 6.0, Sections 6.2 and 6.3.

Section 3. That Article 3.0 ZONING DISTRICTS, SECTION 3.1.13 I-1 OF THE "I-2 GENERAL INDUSTRIAL DISTRICT of the Marshall City Zoning Code, is hereby amended as follows:

B. Principal Permitted USES (continued)

~~xxiii. Any use allowed in such district as provided in the City Medical Marihuana Ordinance~~

C. Special Land Use

xxii. Marihuana Grower, Marihuana Processor, and Safety Compliance Facility under the City Medical Marihuana Ordinance and the Medical Marihuana Facilities Licensing Act (MMFLA), PA 281 of 2016, are a special land use subject to Article 6.0, Sections 6.2 and 6.3.

xxiii. Marihuana Grower, Marihuana Processor, and Safety Compliance Facility under the City Commercial Marihuana Ordinance and the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MRTMA), are a special land use subject to Article 6.0, Sections 6.2 and 6.3.

Section 4. That Ordinance #2017-05, Sections Grower, Processor and Safety Compliance Facility, are hereby amended to require Grower, Processor and Safety Compliance facility be subject to special land use in the following zoning districts: I-1 and I-2 and subject to 6.0 Development Procedures, Section 6.2 Special Land Uses and Section 6.3 Site Plan Review.

Section 5. That under Ordinance No. 2019-06 section LOCATION AND ELIGIBILITY, subsection (D)(1)(a) and (f)(7) Marihuana Grower License, shall be amended from a permitted use to a special land use subject to the Zoning Code § 3.19-20 and Article 6.0, sections 6.2 and 6.3.

Section 6. That under Ordinance No. 2019-06 section LOCATION AND ELIGIBILITY, subsection (D)(2)(a) Marihuana Processor License, shall be amended from a permitted use to a special land use subject to the Zoning Code § 3.19-20 and Article 6.0, sections 6.2 and 6.3.

Section 7. That Ordinance No. 2019-06 section LOCATION AND ELIGIBILITY, subsection (D)(4)(a) Marihuana Safety Compliance Facility License, shall be amended from a permitted use to a special land use subject to the Zoning Code § 3.19-20 and Article 6.0, sections 6.2 and 6.3.

Section 8. That Article 6.0 Development Procedures, Section 6.2, of the Marshall City Zoning Code, is hereby amended as follows:

10. Standards for Special Use Approval.

G. The proposed use shall not involve activities, processes, materials and equipment or conditions of operation that will be detrimental to public health, safety and welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or **unreasonable or offensive** odors.

Section 9. Marihuana Grower and Marihuana Processor facilities and establishments are subject to land site distances as established under City ordinances, as amended.

Section 10. That the editors of the Marshall Zoning Code are hereby authorized to update and revise the Zoning Ordinance and its Code to effectuate the provisions of this Ordinance.

Section 11. Severability. It is the legislative intent of the City adopting this Ordinance that all provisions hereof shall be liberally construed to protect the public health, safety and general welfare of the inhabitants of the City and all other persons affected by this Ordinance. Consequently, should any provision of this Ordinance be held to be unconstitutional, invalid or of no effect, such holding shall not be construed as affecting the validity of any of the remaining provisions of this Ordinance or Zoning Code, it being the intent of the City Council that this Ordinance shall stand and remain in effect, notwithstanding the invalidity of any provision hereof.

Section 12. Conflicting Ordinance and Code Provisions Repealed. Any City of Marshall Ordinance, parts of Ordinances, or any Marshall Code provision in conflict or inconsistent with any of the provisions of this Ordinance shall be and is hereby repealed.

Section 13. This Ordinance [or a summary thereof as permitted by MCL 125.3401] shall be published in the *Marshall Advisor*, a newspaper of general circulation in the City of Marshall qualified under state law to publish legal notices. This Ordinance shall be recorded in the Ordinance Book and such recording shall be authenticated by the signatures of the Mayor and the City Clerk.

Section 14. This Ordinance is declared to be effective seven (7) days after publication or as provided by law.

Adopted and signed this _____ day of _____, 2021.

Joe Caron, MAYOR

Trisha Nelson, CITY CLERK

I, Trisha Nelson, being duly sworn as the City Clerk for the City of Marshall, hereby certify that the foregoing is a true and complete copy of an ordinance approved by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on _____, 2021, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available by said Act.

Trisha Nelson, CITY CLERK

CITY OF MARSHALL
CALHOUN COUNTY, MICHIGAN

ORDINANCE #2021-__

PREAMBLE

AN ORDINANCE TO AMEND THE CITY OF MARSHALL MEDICAL MARIHUANA FACILITIES LICENSING ACT (MMFLA), ORDINANCE No. 2017-06, AND COMMERCIAL MARIHUANA (MRTMA) ORDINANCE NO. 2019-06, TO ALLOW FOR REDUCED SITE DISTANCES FOR CERTAIN SIZE BUILDING FACILITIES, AND REASONABLE ODOR MITIGATION; TO REQUIRE ALL MARIHUANA FACILITIES AND MARIHUANA ESTABLISHMENTS BE SUBJECT TO THE ZONING CODE, ARTICLE 6.0 DEVELOPMENT PROCEDURES, SECTION 6.2 SPECIAL LAND USES AND SECTION 6.3 SITE PLAN REVIEW; REPEAL ANY ORDINANCES IN CONFLICT THEREOF; AND TO PROVIDE AN EFFECTIVE DATE HEREOF.

THE CITY OF MARSHALL, CALHOUN COUNTY, HEREBY ORDAINS:

Section 1. PURPOSE. The purpose of this Ordinance is to amend City ordinances to allow for site distance reduction for certain large size marihuana grower and processor buildings and facilities from other marihuana grower and processor buildings and facilities, and for reasonable odor mitigation, and to require all commercial marihuana facilities licensed under City ordinances and the Medical Marihuana Facilities Licensing Act (MMFLA), PA 281 of 2016, and the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MRTMA), be subject to the Marshall Zoning Code, Article 6.0 Development Procedures, Section 6.2 Special Land Uses and Section 6.3 Site Plan Review.

It is the intent of these provisions to provide for the health, safety and welfare of the citizens of Marshall that quality of life is not impaired, neighborhood character is preserved, commercial activities developed and increased, employment opportunities expanded, and positive planned land use developed.

Section 2. That Ordinance # 2017-06, Section Grower subsection (2) is hereby amended to the following:

The facility must not be within 2,640-foot of another grow or processing facility,
except as follows:

100,000 square foot or larger building with at least 12 total acres are not restricted as to site distances from another marihuana grow or processing facility.

Section 3. That Ordinance # 2017-06, Section Processor subsection (3) is hereby amended to the following:

The facility must not be within 2,640-foot of another grow or processing facility **excepts as follows:**

100,000 square foot or larger building with at least 12 total acres are not restricted as to site distances from another marihuana grow or processing facility.

Section 4. That Ordinance No. 2019-06 section LOCATION AND ELIGIBILITY, subsection (D)(1)(a) and (f)(7) Marihuana Grower License, shall be amended as follows:

(1) Marihuana Grower License:

a. The location at which a grower establishment cultivates marihuana is a ~~permitted~~ **special land** use in the following zoning districts: I-1 and I-2, as provided by and subject to the requirements of this Ordinance and the Zoning Ordinance **Code § 3.19-20 and Article 6.0, sections 6.2 and 6.3.** The City will restrict locations and entity but shall not restrict number of licenses managed by that entity. Grower establishment, as measured from the property lot line, shall not be within 2,640 feet of another grow establishment or processing establishment licensed under the MRTMA, or grow or processing facility licensed under the MMFLA, **except 100,000 square foot or larger marihuana grow or process building facilities with at least 12 total acres are not restricted as to site distances from another grow or processing facility.**

f. A Grower shall comply with all of the provisions of the MRTMA and shall:

7) **Odor control - No Person, tenant, occupant, or property owner shall permit the emission of unreasonable or offensive Marihuana odor from any source to result in such detectable odors that leave the premises upon which they originated. Odor emission shall be measured by a reasonable person of normal sensitivity standard. A grower shall install and maintain in operable condition a system which precludes the emission of unreasonable or offensive Marihuana odor from the marijuana facilities and premises. A marihuana establishment shall be so that the odor of marihuana cannot be detected by a person with a normal sense of smell at the exterior of the marihuana establishment property line or at any adjoining use or property. Odor must be**

managed at the establishment site and by the installation of an operable filtration to ventilation and exhaust equipment and odors must otherwise be effectively confined to the interior of the building or dwelling from which the odor is generated.

Section 5. That Ordinance No. 2019-06 section LOCATION AND ELIGIBILITY, subsection (D)(2)(a) Marihuana Processor License, shall be amended as follows:

(2) Marihuana Processor License:

a. The location at which a Processor establishment extracts resin from the marihuana or creates a marihuana-infused product is a ~~permitted~~ **special land** use in the following zoning districts: I-1 and I-2, as provided by and subject to the requirements of this Ordinance and the Zoning Ordinance **Code § 3.19-20 and Article 6.0, sections 6.2 and 6.3.** The City will restrict locations and only one Marihuana Processor establishment license shall be permitted per parcel or lot. Processor establishment, as measured from the property lot line, shall not be within 2,640 feet of another grow establishment or processing establishment licensed under the MRTMA, or grow or processing facility licensed under the MMFLA, **except 100,000 square foot or larger grower or processor buildings with at least 12 total acres are not restricted as to site distances from another marihuana grow or processing facility.**

f. 6) Odor control - No Person, tenant, occupant, or property owner shall permit the emission of unreasonable or offensive Marihuana odor from any source to result in such detectable odors that leave the premises upon which they originated. Odor emission shall be measured by a reasonable person of normal sensitivity standard. A grower shall install and maintain in operable condition a system which precludes the emission of unreasonable or offensive Marihuana odor from the marijuana facilities and premises. Odor must be managed at the establishment site and by the installation of an operable filtration to ventilation and exhaust equipment and odors must otherwise be effectively confined to the interior of the building or dwelling from which the odor is generated.

Section 6. That Ordinance No. 2019-06 section LOCATION AND ELIGIBILITY, subsection (D)(4)(a) Marihuana Processor License, shall be amended as follows:

(4) Marihuana Safety Compliance Facility License:

a. The location at which a safety compliance facility tests marihuana and marihuana-infused products is a ~~permitted~~ **special land** use in the following

zoning districts: I-1 and I-2, as provided by and subject to the requirements of **this Ordinance and the Zoning Code § 3.19-20 and Article 6.0, sections 6.2 and 6.3.** The City will allow up to a total of two (2) state-approved and licensed safety compliance facilities in zoning districts: I-1 and I-2, combined.

Section 7. That Ordinance No. 2019-06 section GENERAL LICENSE APPLICATION REQUIREMENTS, subsection (B)(8)(e), shall be amended as follows:

e. A plan for ventilation of the marihuana establishment that describes the ventilation systems that will be used to prevent any **unreasonable or offensive** odor of marihuana off the premises of the business. For marihuana establishments that grow **and/or process** marihuana plants **and/or marihuana infused products**, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any **unreasonable or offensive** odors from leaving the premises. For marihuana businesses that produce marihuana-infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.

Section 8. That Ordinance No. 2019-06 section VISIBILITY OF ACTIVITIES; CONTROL OF EMISSIONS subsection (C), shall be amended as follows:

(C) Sufficient measures and means of preventing smoke, **unreasonable or offensive** odors, debris, dust, fluids and other substances from exiting a marihuana establishment and commercial entity must be provided at all times. In the event that any **unreasonable or offensive** odors, debris, dust, fluids or other substances exit a marihuana establishment and/or commercial entity, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

Section 9. That Ordinance No. 2019-06 section **MARIHUANA CULTIVATION** subsection (D), shall be amended as follows:

(D) No marihuana cultivation activity shall result in the emission of any gas, vapors, **unreasonable or offensive** odor, smoke, dust, heat or glare that is noticeable at or beyond the property line of the dwelling at which the cultivation occurs. Sufficient measures and means of preventing the escape of such substances from a dwelling must be provided at all times. In the event that any gas, vapors, **unreasonable or offensive** odor, smoke, dust, heat or glare or other substances exit a dwelling, the owner of the subject premises shall be liable for such conditions and shall be responsible for immediate, full clean-up and

correction of such condition. The owner shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. In the event there is a lessee of the subject premises, the owner and the lessee shall be jointly and severally liable for such conditions.

Section 10. That Ordinance No. 2019-06 section **ODOR CONTROL** subsections (A) and (C), shall be amended as follows:

(A) No person, tenant, occupant, or property owner shall permit the emission of marihuana odor from any source to result in ~~detectable~~ **unreasonable or offensive** odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.

(B) Whether or not a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.

(C) A grower or a processor shall install and maintain in operable condition a system which precludes the emission of **unreasonable or offensive** marihuana odor from the premises

Section 11. Severability. It is the legislative intent of the City adopting this Ordinance that all provisions hereof shall be liberally construed to protect the public health, safety and general welfare of the inhabitants of the City and all other persons affected by this Ordinance. Consequently, should any provision of this Ordinance be held to be unconstitutional, invalid or of no effect, such holding shall not be construed as affecting the validity of any of the remaining provisions of this Ordinance or Zoning Code, it being the intent of the City Council that this Ordinance shall stand and remain in effect, notwithstanding the invalidity of any provision hereof.

Section 12. Conflicting Ordinance and Code Provisions Repealed. Any City of Marshall Ordinance, parts of Ordinances, or any Marshall Code provision in conflict or inconsistent with any of the provisions of this Ordinance shall be and is hereby repealed.

Section 13. This Ordinance [or a summary thereof as permitted by MCL 125.3401] shall be published in the *Marshall Advisor*, a newspaper of general circulation in the City of Marshall qualified under state law to publish legal notices. This Ordinance shall be recorded in the Ordinance Book and such recording shall be authenticated by the signatures of the Mayor and the City Clerk.

Section 14. This Ordinance is declared to be effective seven (7) days after publication or as provided by law.

Adopted and signed this _____ day of _____, 2021.

Joe Caron, MAYOR

Trisha Nelson, CITY CLERK

I, Trisha Nelson, being duly sworn as the City Clerk for the City of Marshall, hereby certify that the foregoing is a true and complete copy of an ordinance approved by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on _____, 2021, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available by said Act.

Trisha Nelson, CITY CLERK