

CITY OF MARSHALL, MICHIGAN

Ordinance No. 2021-_____

PREAMBLE

AN ORDINANCE TO AMEND ORDINANCE NO. 2019-06, AS AMENDED, TO REPEAL THE CULTIVATION OF MARIHUANA IN HOOP HOUSES; TO AMEND SECTIONS “DEFINITIONS”, “LOCATION AND ELIGIBILITY”, AND “MARIHUANA CULTIVATION”; TO AMEND ANY SECTIONS INCONSISTENT WITH ORDINANCE NO. 2019-06, AS AMENDED; AND TO ESTABLISH AN EFFECTIVE DATE AS PROVIDED BY LAW.

The City of Marshall, Michigan Ordains:

§ 1. PURPOSE. The purpose of this Ordinance is to amend City Ordinance 2019-06, as amended, and the Code of Ordinances of the City of Marshall, Title XI Business Regulations, Chapter 121, Commercial Marihuana, as amended, to repeal “Hoop Houses” and delete all such use reference thereto, and to prohibit such “Hoop House” use within the City limits of the City of Marshall and on any property that the City controls under an interlocal governmental agreement. 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.

§ 2. “HOOP HOUSES” REPEALED AND PROHIBITED. That all sections of Ordinance # 2019-06, as amended, and the Code of Ordinances of the City of Marshall, Title XI Business Regulations, Chapter 121, Commercial Marihuana, as amended, shall repeal “Hoop Houses” and all such “Hoop House” cultivation use and reference to, and to prohibit such “Hoop House” cultivation use within the City limits of the City of Marshall and on any property that the City controls under an interlocal governmental agreement.

§ 3. DEFINITIONS. That Ordinance # 2019-06, as amended, Section “DEFINITIONS” and the Code of Ordinances of the City of Marshall, Title XI Business Regulations, Chapter 121, Commercial Marihuana, as amended, is hereby amended to repeal “Hoop Houses” and such use to read as follows:

§ **DEFINITIONS.** Section “DEFINITIONS” is hereby amended and shall repeal and delete “Hoop Houses” as follows:

HOOP HOUSE. A temporary structure used exclusively for the production and storage of live plants, with no permanent anchoring system or foundation; no storage, temporary or otherwise, of solvents, fertilizers, gases or other chemicals or flammable materials; built according to manufacturer recommendations; no more than 18 feet maximum height. **Notwithstanding this definition, Hoop Houses and such use are prohibited within the City limits of the City of Marshall and prohibited on any property that the City controls under an interlocal governmental agreement.**

§ 4. **LOCATION AND ELIGIBILITY.** Section “LOCATION AND ELIGIBILITY” is hereby amended and shall repeal and delete “Hoop Houses” as follows:

(D) Marihuana Establishment licenses permitted under this Ordinance are governed by type and location requirements, as follows:

(1) Marihuana Grower License:

b. All grower establishments and operations must be within an enclosed, secured structure, and cultivation of marihuana may occur in an outdoor area confined to a “commercial greenhouse” ~~or “hoop house”~~ that must meet all the following conditions:

- i. Comply with applicable state law, rules and regulations, and City ordinances and City Zoning Ordinance.
- ii. Cultivation of marihuana in a commercial greenhouse ~~or hoop house~~ is only permitted and subject to a Special Land Use for special conditions (special land uses) in the identified Industrial District subject to the provisions of the City’s Zoning Ordinance. A Special land Use permit may be revoked or rescinded by the City Council for violation of the Special Land Use permit, City ordinance, Zoning

Ordinance, or state law and regulations, after notice to the permit holder and hearing.

- iii. Cultivation of marihuana in a commercial greenhouse ~~or hoop house~~ must be concealed from public view and must be completely confined and enclosed in a commercial greenhouse ~~or hoop house~~ ~~made of durable translucent material on all sides and top of a hoop house, or~~ constructed of commercial grade building construction materials, that may include glass, glass-like or translucent material (**but not plastic**) on all sides and top of a commercial greenhouse, **as required under applicable building and construction codes.** ~~Hoop houses and~~ Commercial greenhouses may not exceed 18 feet maximum height.
- iv. Commercial greenhouses ~~and hoop houses~~ must be located on the parcel of the licensed grower facility/establishment, fully enclosed by security fencing and barriers that block outside visibility of the commercial greenhouse, ~~hoop house,~~ and marihuana plants from the public view to accomplish complete screening from the road right-of-way and adjacent property. No marihuana plants may grow outside the top of the commercial greenhouse ~~or hoop house~~ and must not be visible above the fence and barrier that is visible to public view. Fencing must comply with the applicable security measures and fencing requirements under city ordinance and LARA/MRA rules, including but not limited to, locked entries only accessible to authorized persons or emergency personnel. Security fencing must be at a minimum of eight (8) feet in height.
- v. After the marihuana is harvested, all drying, trimming, curing, or packaging of marihuana must occur inside a permanent building meeting all the requirements of City ordinance, state statute, codes and LARA/MRA rules and regulations.
- vi. **Commercial** Greenhouses ~~and hoop houses~~ must meet the security requirements and pass the inspections in this ordinance and

LARA/MRA rules and any required building and electrical permit pursuant to City ordinance, state statute and LARA/MRA rules.

- vii. Commercial greenhouses ~~and hoop houses~~ shall meet setback requirements of the City's Zoning Ordinance.
- viii. Odor Control. A grower or a processor shall install and maintain in operable condition a system which precludes the emission of unreasonable marihuana odor from the property.

- i. All buildings, commercial greenhouses, ~~hoop houses~~, and structures shall be subject to inspection at any time by the City Fire Department to insure compliance with all applicable statutes, codes and ordinances.

§ 5. MARIHUANA CULTIVATION. Section "MARIHUANA CULTIVATION" is hereby amended and shall repeal and delete "Hoop Houses" as follows:

(A) Cultivation, generally.

- (1) Marihuana cultivation shall be conducted consistent with this Ordinance, the MRTMA, including but not limited to MCL 333.27961, and any LARA rules, within an enclosed, secured structure, and as permitted in a commercial greenhouse ~~or hoop house~~ under city ordinances and **subject to a Special Land Use permit**; and

§ 6. 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 thereof.

§ 7. 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, and all other provisions of the Marshall Ordinances shall remain in full force and effect.

§ 8. **SAVINGS.** All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

§ 9. **PUBLICATION.** 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.

§ 10. **CODE EDITS.** That the editors of the Marshall Zoning Code are hereby authorized to update and revise the Marshall Zoning Code to effectuate the provisions of this Ordinance.

§ 11. **EFFECTIVE DATE.** 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