

ORDINANCE NO. 2019-_____

MARIHUANA ESTABLISHMENTS ORDINANCE

An ordinance to authorize the operation of and provide regulations for marihuana establishments in the City of Reading pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, as may be amended; to provide for an annual fee; to provide penalties for violation of this ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict herewith; and to provide an effective date.

**THE CITY OF READING
HILLSDALE COUNTY, MICHIGAN
ORDAINS:**

SECTION I
TITLE

This ordinance shall be known as and may be cited as the City of Reading Marihuana Establishments Ordinance.

SECTION II
PURPOSE AND DEFINITIONS

1. It is the intent of this ordinance to authorize the establishment of certain types of marihuana establishments in the City of Reading as permitted by the Michigan Regulation and Taxation of Marihuana Act, and to provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; to retain the character of the neighborhoods; and to mitigate potential impacts on surrounding properties and persons. It is also the intent of this ordinance to help defray administrative and enforcement costs associated with the operation of a marihuana establishment in the City of Reading through imposition of an annual fee of not more than \$5,000.00 on each marihuana establishment licensee. Authority for the enactment of the provisions of this ordinance is set forth in the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951, *et seq.*

a) Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.257591, *et seq.*; the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421, *et seq.*; the Medical Marihuana Facilities Licensing Act, MCL 333.27101, *et seq.*; the Marihuana Tracking Act, MCL 333.27901, *et seq.*; and all other applicable rules or regulations promulgated by the State of Michigan.

b) As of the effective date of this ordinance, marihuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 USC § 801, *et seq.*, which makes it unlawful to manufacture, distribute, or dispense marihuana. Nothing in

this ordinance is intended to grant immunity from any criminal prosecution under federal law.

c) This ordinance shall not limit an individual or entity's rights under the Michigan Regulation and Taxation of Marihuana Act, the Michigan Medical Marihuana Act, or the Medical Marihuana Facilities Licensing Act. The provisions of the Michigan Regulation and Taxation of Marihuana Act, the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and the Marihuana Tracking Act shall supersede the provisions of this ordinance to the extent there is a conflict between the provisions of this ordinance and the provisions of the Acts.

d) Any activity that a licensee is authorized to perform pursuant to this ordinance that was conducted either prior to the enactment of this ordinance, or that is conducted after the enactment of this ordinance but without obtaining the required licensing provided for in this ordinance, shall be deemed to be an unauthorized and illegal use and therefore not entitled to legal nonconforming use status under any applicable provisions of the City's zoning ordinance or other City ordinance.

2. For purposes of this ordinance;

a) Any term defined by the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951, *et seq*, shall have the definition given in the Regulation and Taxation of Marihuana Act, and any amendments thereto.

b) Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421, *et seq*, shall have the definition given in the Medical Marihuana Act, and any amendments thereto.

c) Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101, *et seq*, shall have the definition given in the Medical Marihuana Facilities Licensing Act, and any amendments thereto.

d) Any term defined by the Marihuana Tracking Act, MCL 333.27901, *et seq*, shall have the definition given in the Marihuana Tracking Act, and any amendments thereto.

In the event of a conflict between the definition of any term under the Michigan Regulation and Taxation of Marihuana Act and any other act referenced in this section, for purposes of this ordinance the definition of the term under the Michigan Regulation and Taxation of Marihuana Act, and any amendments thereto, shall be applied.

SECTION III **AUTHORIZED MARIHUANA ESTABLISHMENTS**

1. The following number and types of marihuana establishments may be authorized to operate within the City by the holder of a state operating license, subject to compliance with the Michigan Regulation and Taxation of Marihuana Act, as may be amended, the Rules promulgated thereunder, and this ordinance:

a) An unlimited number of marihuana growers may be authorized in the City.

b) Not more than 5 (five) marihuana processors shall be authorized in the City.

c) Not more than a total of 3 (three) marihuana retailers may be authorized in the City, so long as the total combined number of single locations of marihuana retailers authorized under this ordinance and marihuana provisioning centers authorized under the City's Medical Marihuana Facilities Ordinance does not exceed 3 (three) such authorized locations. By way of example, if 2 (two) marihuana provisioning centers under the Medical Marihuana Facilities Ordinance have been authorized at 2 (two) separate locations within the City, then only 1 (one) marihuana retailer may be authorized at a third (3rd) separate location under this ordinance. However, up to 2 (two) additional marihuana retailers could be authorized under this ordinance, so long as they were co-located with the existing marihuana provisioning centers already authorized. Similarly, if 3 (three) marihuana provisioning centers have already been authorized under the Medical Marihuana Facilities Ordinance at three (3) separate locations, then no marihuana retailers may be authorized under this ordinance unless they are co-located with the existing marihuana provisioning centers.

d) Not more than 5 (five) marihuana safety compliance facilities shall be authorized in the City.

e) Not more than 5 (five) marihuana secure transporter(s) shall be authorized in the City.

f) Not more than 1 (one) marihuana microbusinesses shall be authorized in the City.

2. At least every five years after adoption of this ordinance, the City Council shall review the maximum number of each type of marihuana establishment allowed and determine whether this maximum number should be changed. The review and its findings shall be recorded in the minutes of the relevant meeting of the Council.

3. On and after November 1, 2019, the City shall accept applications for licenses to operate a marihuana establishment within the City. Application shall be made on a City form and must be submitted to the City Clerk and/or other designee of the City Council (hereinafter referred to as the "Clerk"). In order for the application to be eligible for review under this ordinance, the applicant must submit with the application proof that the applicant has applied for and received prequalification from the state for a state operating license. Once the Clerk receives a complete application including the initial annual marihuana establishment fee and proof of prequalification for a state operating license, the application shall be time and date stamped. If at the time of application a license is available for the type of marihuana establishment referenced in the application, then the completed application shall be considered for authorization as provided in this ordinance. Upon the consideration and approval of the application by the City Council as provided in this ordinance, the applicant shall receive a conditional license to operate such marihuana establishment within the City. If at the time an application is submitted for a type of marihuana establishment as to which no licenses are currently available pursuant to this ordinance,

the completed application shall be held for future consideration, in the event a license for the type of marihuana establishment that is the subject of the application becomes available. Any such application waiting for future consideration and authorization may be withdrawn by the submission of a written notice to the Clerk at any time, and upon the submission of such written notice the applicant shall receive a refund of the initial annual marihuana establishment fee submitted with the application.

4. A conditional license means only that the applicant has submitted a valid application for a marihuana establishment license that has been considered and approved by the City Council, and the applicant shall not locate or operate a marihuana establishment without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the City of Reading. A conditional license will lapse and be void if such permits and approvals are not diligently pursued to completion.

5. Within thirty days from the issuance of a conditional license from the City or from December 6, 2019, whichever is later, the conditionally licensed applicant must submit proof to the Clerk that the applicant has submitted a full application to the State of Michigan for the issuance of a state operating license. If the applicant fails to submit such proof, then such conditional license shall be canceled by the Clerk and the conditional license shall be available to the next applicant in consecutive time and date-stamped order as provided for in Subsection 3 herein.

6. If a conditionally licensed applicant is denied on full application for a state operating license, then such conditional authorization will be canceled by the Clerk and the conditional authorization shall be available to the next applicant in consecutive time and date-stamped order as provided for in Subsection 3 herein.

7. A conditionally licensed applicant shall receive a full license from the City to operate the marihuana establishment within the City upon the applicant providing to the Clerk proof that the applicant has received a state operating license for the marihuana establishment in the City and the applicant has met all other requirements of this ordinance for operation including, but not limited to, any zoning approval for the location of the facility within the City.

8. If a conditionally licensed applicant fails to obtain a full license from the City within one year from the date of conditional licensing, then such conditional license shall be canceled by the Clerk and the conditional license shall be available to the next applicant in consecutive time and date-stamped order as provided for in Subsection 3 herein. The City Council shall have authority to extend the deadline to obtain full authorization for up to an additional six months on written request of the applicant, within thirty days prior to cancellation, upon the reasonable discretion of the City Council finding good cause for the extension.

SECTION IV
GENERAL REGULATIONS REGARDING
AUTHORIZED MARIHUANA ESTABLISHMENTS

1. No person shall operate a marihuana establishment in the City of Reading without a valid marihuana establishment license issued by the City pursuant to the provisions of this ordinance.

2. An authorized marihuana establishment shall only be operated within the City by the holder of a state operating license issued pursuant to the Michigan Regulation and Taxation of Marihuana Act, as may be amended, and the Rules promulgated thereunder. The facility shall only be operated as long as the state operating license remains in effect.
3. No authorized marihuana establishment shall be located within an area zoned exclusively for residential use, and no authorized marihuana establishment shall be located within 300 feet of a pre-existing public or private school providing education in **preschool**, kindergarten or any of grades 1 through 12.
4. An authorized marihuana establishment that is a marihuana grower, a marihuana processor, or a marihuana retailer may be located in the same facility with one or more other authorized marihuana establishments that are also a marihuana grower, marihuana processor, or marihuana retailer, and an authorized marihuana establishment that is a marihuana grower, marihuana processor, or a marihuana retailer may be located at a location shared with a medical marihuana facility authorized under the City's Medical Marihuana Facilities Ordinance and under the Michigan Medical Marihuana Facilities Licensing Act.
5. Prior to operating an authorized marihuana establishment within the City pursuant to a state operating license, the establishment must comply with all City zoning ordinance regulations. The establishment shall only be operated as long as it remains in compliance with all City zoning ordinance regulations.
6. Prior to operating an authorized marihuana establishment within the City pursuant to a state operating license, the establishment must comply with all City and County construction and building ordinances, all other City ordinances specifically regulating marihuana establishments, and generally applicable City police power ordinances. The establishment shall only be operated as long as it remains in compliance with all such ordinances now in force or which hereinafter may be established or amended.
7. An authorized marihuana establishment shall consent to inspection of the facility by City officials and/or by the City Police Department, upon reasonable notice, to verify compliance with this ordinance.
8. If at any time a licensed marihuana establishment violates this ordinance, the City Council may request that the state revoke or refrain from renewing the establishment's state operating license. Once such state operating license is revoked or fails to be renewed, the Clerk shall cancel the City license and the license shall be available to the next applicant in consecutive time and date-stamped order as provided for in Subsection 3 of Section III of this ordinance.
9. It is hereby expressly declared that nothing in this ordinance be held or construed to give or grant to any licensed marihuana establishment a vested right, license, privilege, or permit to continued authorization from the City for operations within the City.

10. A marihuana establishment license issued under this ordinance is not transferrable or assignable.

11. The City expressly reserves the right to amend or repeal this ordinance in any way including but not limited to complete elimination of or reduction in the type and/or number of authorized marihuana establishments authorized to operate within the City.

12. This ordinance does not restrict the transportation of marihuana through the City of Reading.

SECTION V
MARIHUANA ESTABLISHMENT FEE AND LICENSE RENEWAL

1. There is hereby established an initial nonrefundable City marihuana establishment fee in the amount of \$4,000 for each application submitted for a marihuana establishment license within the City, to help defray administrative and enforcement costs associated therewith. In the event that a license is granted, the licensee shall thereafter pay an annual marihuana establishment fee of \$3,600, payable each year upon the renewal of the license as provided in this ordinance, said fee to help defray administrative and enforcement costs associated therewith.

2. A marihuana establishment license issued under this ordinance shall be valid for one year from the date of issuance of full authorization by the City, unless earlier revoked as provided by law.

3. A valid marihuana establishment license may be renewed on an annual basis by submitting a renewal application upon a form provided by the City and payment of the annual marihuana establishment fee provided for in Section V of this ordinance. The application to renew the license shall be filed at least thirty (30) days prior to the date of its expiration.

4. Applications for a marihuana establishment license under this ordinance shall be subject to the following:

a) After submission to the Clerk of a fully-completed initial application for the issuance of a new license, and departmental verification as provided for in subsection c) below, the application shall be reviewed and evaluated by the Planning Commission, which shall make a recommendation for or against approval of the application to the City Council, and the City Council shall thereafter consider and either approve or reject the application. Approval of the application by the City Council shall result in a conditional authorization in favor of the applicant, pursuant to Section III of this ordinance. Upon the submission to the Clerk of a fully-completed application for the renewal of an existing marihuana establishment license, the license will be submitted to and automatically renewed by City Council for one (1) year upon verification that:

- 1). there are no uncured administrative violations in the prior year;
- 2). the applicant has paid the annual licensing fee for the renewal period;
- 3). any Stakeholder changes have been fully disclosed to City;

- 4). the applicant has paid and received the renewal of its state license; and
- 5). at the time of renewal the licensed establishment is in material compliance with all applicable state and local statutes, ordinances, codes, and regulations.

b) An application for a marihuana establishment license pursuant to this ordinance shall contain the following:

- 1). The required application fee;
- 2). If the applicant is an individual, the applicant's name, date of birth, physical address, copy of government-issued photo identification, email address, and one or more phone numbers, including emergency contact information;
- 3). If the applicant is not an individual, the names, dates of birth, physical addresses, copy of government issued photo identification, email addresses, and one or more phone numbers for each partner/shareholder/member or other individual with an ownership or equity interest in the applicant organization (each being a "Stakeholder"), including designation of the highest ranking Stakeholder as an emergency contact person along with emergency contact information for the emergency contact person. The organization shall also provide copies of its formation documents (including, but not limited to, its articles of association/organization, partnership agreement, corporate by-laws, operating agreement, etc.), any assumed name registration documents, Internal Revenue Service SS-4 EIN confirmation letter, or such other documents relating to the ownership, management, structure, and operation of the organization as may be deemed relevant to the application in the City's reasonable discretion.
- 4). The name and address of the proposed marihuana establishment and any additional contact information deemed necessary by the Clerk;
- 5). For an individual applicant, or for each Stakeholder of an organizational applicant, an affirmation under oath as to whether they are at least eighteen (18) years of age and have never been indicted for, charged with, arrested for, convicted of, pled guilty or nolo contendere to, forfeited bail concerning, or had expunged, any criminal offense under the laws of any jurisdiction for either a felony involving a controlled substance or a related misdemeanor, not including traffic violations, regardless of whether the offense has been expunged, pardoned, reversed on appeal or otherwise (a "Disclosable Event"). For any such Disclosable Event, the applicant shall include: the date of the event; the name and location of the court, arresting agency, and prosecuting agency; the case caption, docket number, citation number, or file number, if any; the nature of the offense; and the disposition, including the location and length of any incarceration.
- 6). A signed release authorizing the City of Reading Police Department to perform a criminal background check on the applicant, each Stakeholder of the applicant, and each employee of the applicant;

- 7). The name, date of birth, physical address, copy of photo identification, and email address for any current or prospective employee of the proposed marihuana establishment, if other than the applicant or a Stakeholder;
- 8). An affirmation under oath as to whether the 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;
- 9). One of the following: (a) proof of ownership of the entire premises wherein the proposed marihuana establishment is to be operated; or (b) written consent from the property owner for use of the premises in a manner requiring licensure under this ordinance along with a copy of the lease for the premises;
- 10). A description of the security plan for the marihuana establishment, including, but not limited to, any lighting, alarms, barriers, recording/monitoring devices, and/or security guard arrangements proposed for the establishment and premises. The security plan must contain the specification details of each piece of security equipment;
- 11). A floor plan of the proposed marihuana establishment, as well as a scale diagram illustrating the property upon which the marihuana establishment is to be operated, including all available parking spaces, and specifying which parking spaces, if any, are handicapped accessible;
- 12). An affidavit that neither the applicant nor any Stakeholder of the applicant is in default to the City. The affidavit shall specifically state that the individual applicant or each Stakeholder of an organizational applicant has not failed to pay any property taxes, special assessments, fines, fees, or other financial obligations owed to the City;
- 13). An affidavit that the transfer of marihuana to and from the proposed marihuana facilities shall be in compliance with the Michigan Regulation and Taxation of Marihuana Act and all other applicable state and local statutes, ordinances, codes, rules, and regulations.
- 14). A staffing plan for the proposed marihuana establishment;
- 15). Any proposed text or graphical materials to be shown on the exterior of the proposed marihuana establishment;
- 16). A business plan for the proposed marihuana establishment;
- 17). A location area map of the proposed marihuana establishment and surrounding area that identifies the relative locations and the distances (closest property line to

the subject marihuana establishment's building) of the proposed marihuana establishment to the closest real property comprising a public or private elementary, vocational, or secondary school; or library;

18). A facility sanitation plan to 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 in the sewerage system is prohibited;

19). Verification, with copies of actual bank statements, showing that the applicant has liquid funds in the applicant's name in the amount needed to complete the marihuana establishment, but in no event less than the amount required by the State of Michigan for the issuance of a state marihuana establishment license;

20) Copies of any liability and casualty insurance obtained by the applicant with regard to the operation of the proposed marihuana establishment;

22). If the application is for a grower establishment, the following additional items shall be provided:

i. A grower plan that includes at a minimum a description of the grower methods to be used, including plans for the growing mediums, treatments and/or additives;

ii. A production testing plan that includes at a minimum a description of how and when samples for laboratory testing by a state approved Safety Compliance Facility will be selected, what type of testing will be required, and how the test results will be used;

iii. An affidavit that all operations will be conducted in conformance with the Michigan Regulation and Taxation of Marihuana Act and all other applicable state and local statutes, ordinances, codes, rules, and regulations, and that the applicant shall not cultivate on the premises of the proposed grower establishment at any one time more than the permitted number of marihuana plants for the class of establishment licensed; and

iv. A chemical and pesticide storage plan that states the names of pesticides and chemicals to be used in the growing operations and where and how any such pesticides and chemicals will be stored in the facility, along with a plan for the disposal of any unused pesticides and chemicals.

c) Upon receipt by the Clerk of a completed application meeting the requirements of this ordinance and confirmation by the Clerk that the number of existing licenses does not exceed the maximum number permitted by this ordinance, the Clerk shall provide a copy of the application to each of the following for their review and approval: the City of Reading Police Department; the Reading Fire Department; the City Code Enforcement Officer or their designee; the City Zoning Administrator or similar City official; and the

City Treasurer or their designee, which shall each determine whether the application appears sufficiently complete and comprehensive, and for review and approval as provided in subsection d) below. Upon verification by each such official that the application appears to be sufficiently complete and comprehensive and upon the written approval of compliance required by subsection d) below, and no sooner, the Clerk shall forward the applications to the Planning Commission for review and recommendation to the City Council.

d) No application for an initial marihuana establishment license shall be approved unless:

- 1). The Reading Fire Department and the Code Enforcement Officer or their designee, have each inspected the plans of the proposed marihuana establishment location for compliance with all laws for which they are charged with enforcement;
- 2). An individual applicant, or each Stakeholder of an organizational applicant, and all employees of the applicant, have passed a criminal background check conducted by the City of Reading Police Department;
- 3). The Zoning Administrator, or similar City official, has confirmed that the proposed location complies with the City's Zoning Ordinance; and
- 4). The City Treasurer or their designee has confirmed that the applicant and each Stakeholder of the applicant are not in default to the City.

e) If an applicant for a new or renewal license becomes aware of a material change in any information provided in an application, the applicant shall report the change in the information to the Clerk within ten (10) days of becoming aware of the change.

5. Applications for a license for a marihuana establishment pursuant to this ordinance shall be evaluated consistent with the following:

a) Each application shall be reviewed and assessed with regard to each of the following categories:

- 1). The applicant's experience in operating other similarly-licensed businesses.
- 2). The applicant's general business management experience.
- 3). The applicant's general business reputation.
- 4). The applicant or Stakeholders' integrity, moral character, and reputation; personal and business probity; financial ability and experience; and responsibility or means to operate or maintain a marihuana facility.
- 5). The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.
- 6). The sources and total amount of the applicant's capitalization to operate and maintain the proposed marihuana facility.

7). Whether the applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning, or had expunged any relevant criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violations, regardless of whether the offense has been expunged, pardoned, or reversed on appeal or otherwise.

8). Past convictions of the applicant or any Stakeholder involving any of the following, but limited to:

- i. gambling;
- ii. prostitution;
- iii. weapons;
- iv. violence;
- v. tax evasion;
- vi. fraudulent activity; and
- vii. serious moral turpitude.

9). A felony or misdemeanor of such a nature that it may impair the ability of the applicant to operate a licensed business in a safe and competent manner;

10). Whether the applicant or any Stakeholder has filed, or had filed against it, a proceeding for bankruptcy or insolvency within the past seven (7) years;

11). 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 (1) or more years;

12). Whether the applicant has a history of noncompliance with any regulatory requirements in this State or any other jurisdiction;

13). As it relates to operation of a proposed marihuana retail establishment, the applicant's type of service and product that will be offered and the overall theme and atmosphere of the proposed retail establishment.

b) The City Council shall assess each application with regard to the criteria provided for in this ordinance and approve the issuance of a license to an applicant it believes is properly qualified. In the event that applications are received for a type of facility that exceed the total number of licenses available under this ordinance or under applicable state law for that type of facility, the City Council will assess each application and approve the issuance of a license to the applicant(s) that it deems to be the most qualified of the competing applicants pursuant to the criteria set forth in this ordinance.

SECTION VI
VIOLATIONS AND PENALTIES

1. Any person who disobeys, neglects, or refuses to comply with any provision of this ordinance or who causes, allows, or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.
2. A violation of this ordinance shall be a civil infraction, for which the punishment for a first violation shall be a fine of not less than \$100.00 and not more than \$500.00, in the discretion of the court. The punishment for a second or subsequent violation shall be a fine of not less than \$250.00 and not more than \$500.00, in the discretion of the court. For purposes of this section, “second or subsequent violation” means a violation of the provisions of this ordinance committed by the same person within 12 (twelve) months of a previous violation of the same provision of this ordinance for which said person pled or was adjudicated guilty. The foregoing penalties shall be in addition to the rights of the City to proceed at law or in equity with other appropriate and proper remedies.
3. Each day during which any violation continues shall be deemed a separate offense.
4. In addition, the City may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.
5. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the City or by such other person(s) as designated by the City Council from time to time.

SECTION VII
SEVERABILITY

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect. The provisions herein shall be construed as not interfering or conflicting with the statutory regulations for licensing marihuana establishments pursuant to the Michigan Regulation and Taxation of Marihuana Act, as may be amended.

SECTION VIII
EFFECTIVE DATE

This ordinance shall take effect 10 days after publication as provided by the City Charter.