



CITY COUNCIL

August 19, 2019

1. Call to Order - 7:00 P.M. - City Hall Council Chambers
2. Recitation - Pledge of Allegiance to the Flag of the United States of America
3. Roll Call
4. Proclamation – Hear proclamation concerning Farmers Market Week
5. Consent Agenda – Adoption of a proposed resolution that would confirm approval of the following:
 - (a) August 5, 2019 regular session City Council meeting minutes
 - (b) Acknowledge receipt of a report concerning certain administrative transactions since August 5, 2019
6. Miscellaneous Public Comments
7. City Manager Updates
8. Old Business
 - (a) Hear presentation from Mission North representatives concerning Darling Lot redevelopment concepts
 - (b) Second first reading of a proposed ordinance that would amend the Zoning Ordinance allowing Medical Marihuana Provisioning Facilities
 - (c) Second first reading of a proposed ordinance that would amend Chapter 8 of the Code of Ordinances, Businesses and Business Regulations, Creating a New Article IX – Medical Marihuana Facilities
9. New Business
 - (a) Initial discussion regarding a proposed resolution that would set an application fee and annual license/renewal fee for medical marijuana provisioning centers
 - (b) Adoption of a proposed resolution that would authorize execution of two agreements enacting changes to the MERS retirement plan employee contributions for 2019 and 2020 for unionized Public Safety Officers covered under the B-4 Defined Benefit Plan
 - (c) Adoption of a proposed resolution that would confirm designations of a voting representative and an alternate to the September 25 annual meeting of the Michigan Municipal League
10. City Council Comments
11. Adjournment



Farmer's Market Week

WHEREAS City of Petoskey farmers and ranchers provide citizens with access to healthful, locally, and regionally produced foods through farmers markets, which are expanding and evolving to accommodate the demand for a diverse array of agricultural products; and

WHEREAS farmers markets and other agricultural direct marketing outlets provide infrastructure to assist in the distribution of farm and value-added products, thereby contributing approximately \$9 billion each year to the U.S. economy; and

WHEREAS farmers markets serve as significant outlets by which small-to-medium, new and beginning, and veteran agricultural producers market agricultural products, generating revenue that supports the sustainability of family farms and the revitalization of rural communities nationwide; and

WHEREAS the City of Petoskey Mayor recognizes the importance of expanding agricultural marketing opportunities that assist and encourage the next generation of farmers and ranchers; generate farm income to help stimulate business development and job creation; build community connections through rural and urban linkages:

NOW, THEREFORE, to further awareness of farmers markets' contributions to City of Petoskey life, I, Mayor John Murphy, do hereby proclaim the week of August 4-10, 2019, as City of Petoskey Farmers Market Week, in conjunction with the observance of National Farmers Market Week. I call upon Petoskey citizens to celebrate farmers markets with appropriate observance and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of August 2019, the two-hundred forty-third year of the Independence of the United States of America.

Dated this 19th day of August, 2019

Mayor John Murphy



City of Petoskey

Agenda Memo

BOARD: City Council

MEETING DATE: August 19, 2019

PREPARED: August 15, 2019

AGENDA SUBJECT: Consent Agenda Resolution

RECOMMENDATION: That the City Council approve this proposed resolution

The City Council will be asked to adopt a resolution that would approve the following consent agenda items:

- (1) Draft minutes of the August 5, 2019 regular session City Council meeting; and
- (2) Acknowledge receipt of a report from the City Manager concerning all checks that have been issued since August 5, 2019 for contract and vendor claims at \$2,072,717.72, intergovernmental claims at \$782,660.49, and the August 8 payroll at \$232,558.59 for a total of \$3,087,936.80.

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Enclosures



CITY COUNCIL

August 5, 2019

A regular meeting of the City of Petoskey City Council was held in the City Hall Council Chambers, Petoskey, Michigan, on Monday, August 5, 2019. This meeting was called to order at 7:00 P.M.; then, after a recitation of the Pledge of Allegiance to the Flag of the United States of America, a roll call then determined that the following were

Present: John Murphy, Mayor
Kate Marshall, City Councilmember
Suzanne Shumway, City Councilmember
Grant Dittmar, City Councilmember
Lindsey Walker, City Councilmember

Absent: None

Also in attendance were City Manager Robert Straebel, Executive Assistant Sarah Bek, City Planner Amy Tweeten, Public Works Director Michael Robbins, Downtown Director Becky Goodman and City Attorney James Murray.

Consent Agenda - Resolution No. 19317

Following introduction of the consent agenda for this meeting of August 5, 2019, City Councilmember Dittmar moved that, seconded by City Councilmember Marshall adoption of the following resolution:

BE IT RESOLVED that the City Council does and hereby confirms that the draft minutes of the July 15, 2019 regular session City Council meeting be and are hereby approved; and

BE IT RESOLVED that receipt by the City Council of a report concerning all checks that had been issued since July 15, for contract and vendor claims at \$2,110,163.79, intergovernmental claims at \$537,037.71, and the July 25 payroll at \$228,092.45, for a total of \$2,875,293.95 be and is hereby acknowledged.

Said resolution was adopted by the following vote:

AYES: Marshall, Shumway, Dittmar, Walker, Murphy (5)

NAYS: None (0)

Hear Public Comment

Mayor Murphy asked for public comments and there were no comments.

Hear City Manager Updates

The City Manager reported that Executive Assistant Sarah Bek was accepted into the MML 16/50 Program which is a women's leadership program empowering women in municipal management roles and congratulated her on acceptance into the program; that staff has been working with MPPA representatives regarding a potential solar array project at the City landfill and that MPPA recommended working with NTH Consultants; that staff has been working with Groundworks Center representatives on a possible rooftop solar project for both City Hall and the Lake Street Fire Station and initial cost estimates for City Hall is \$140,000 and \$156,000 for Fire Station; that the initial kick-off meeting to explore alternative designs for the Lake Street Dam is scheduled for August 21 at City Hall with a 3:00 P.M. and 7:00 P.M. session and is being funded by a \$50,494 grant from the Great Lakes Fishery Trust in partnership with Tip of the Mitt Watershed Council; that a portion of the City's coastline on Bayfront Park has eroded because of high water levels and that the City is seeking at least three bids from qualified contractors to complete project before further erosion occurs; that by a 5-3 vote, the Planning Commission did not approve the preliminary PUD zoning change for 200 East Lake Street at the July 25 Planning Commission meeting and that height of the proposed hotel and lack of first floor retail/commercial space on Lake and Petoskey Streets were main concerns for some members; that it is unknown if the developer will revise the plans for further discussion at the Planning Commission level; that at the City Manager's request, staff will be meeting with Mr. Berg tomorrow; that ZBA will consider an extension of a reasonable accommodation granted to Harbor Hall at their meeting tomorrow night; reviewed construction updates on Lewis Street and US-31 highway; and that the Washington Street sidewalk project was moving along with an anticipated completion by the week of August 12.

City Councilmembers inquired on what "fatal flaw" is in regards to the solar array projects; heard an inquiry if staff was still working with Ric Evans on solar projects; that the Washington Street sidewalk will be a benefit for school children; and inquired if Mr. Berg requested the meeting with staff.

The City Manager responded that NTH consultants assess the site from a "fatal flaw" perspective which looks at land orientation, if there is enough electricity, transmission lines, etc. and is somewhat of a "deal breaker" study to determine if solar project can be executed; that Ric Evans is still a partner in the project; and that he had called Mr. Berg concerning a meeting on 200 East Lake Street.

Hear Presentation Concerning Darling Lot Redevelopment Concepts

The City Manager reviewed that at its March 4 meeting, City Council authorized staff to move forward with a predevelopment assistance program offered by the Michigan Municipal League (MML) for the Darling Parking Lot, which became an identified priority redevelopment site through the Redevelopment Ready Communities process. Through MML, the Mission North team was selected as the consultant on the project. The City Manager further reviewed that the public provided feedback from the focus groups specifically to preserve or enhance parking, interest in housing and developments have to be within 40-foot height restrictions.

Rob Bacigalupi, Mission North representative, gave a brief presentation on the project; reviewed that the goal is to develop the lot by a private developer; RFQ's will be sent out after a market study is completed; reviewed team members involved in the project; that public engagement meetings were held along with stakeholder surveys; that public feedback indicated that design preferences be more traditional and include green infrastructure; reviewed use preferences such as a grocery store, movie theatre, breakfast restaurant, office space; reviewed pros and cons of parking design and mechanism to pay for parking such as TIF; reviewed 2017 Walker Parking Study report and proposed structure; that a valet service and parking lift station may be a good concept; reviewed communities that have parking lift stations; reviewed three concepts and the number of spaces each concept would provide; that concept one will hold 184 cars; that concept two has 143 spaces, no ramps, less parking, but more private development space; and that concept three will provide 153 spaces with parking underground, no lifts, conventional ramped parking and two full floors of private development.

City Councilmembers inquired on how many spaces would be provided if there was no lift in the first concept; heard an inquiry on how long it takes to retrieve cars specifically during rush hour with a lift; if number of parking spaces included the multifamily housing component; if there is only enough space for second or third residences; that workforce housing is not brownstones or condos; if the project in Alpena was completed as part of the RRC program; inquiries on where MEDC funds come from; heard concerns that there is not much parking space gain since all factors haven't been looked into yet; that a commercial component is a positive attribute; heard from those in favor of a valet service vs. a lift; that DMB is working on a potential parking structure at the County lot and recently increased parking fees for future parking needs; inquired on where the respondents were from during focus groups; that future development is part of the City's Master Plan and in the Downtown Design Guidelines; and that Council has ultimate authority on moving forward with project.

Mayor Murphy asked for public comments and heard a comment that the initial goal with the Darling Lot was to increase parking, but now there is an additional meaning other than parking; that parking rates increased with no public conversation about additional infrastructure, so Council should be cautious; and heard inquiries on why this type of plan doesn't get approved by Planning Commission.

The City Manager responded that the project could go to Planning Commission for review and feedback, but that it is a conceptual plan at this point.

City Councilmembers inquired on how much revenue will be generated with the increased spaces; heard concerns that the project is an expensive proposition without gaining a lot; heard from those that want more information and further discussion before seeking public feedback; heard an inquiry if there were certain MEDC deadlines since using grant monies; heard from those in favor of the public process; and inquired if the City had to participate in a certain number of projects since RRC certified.

Mr. Bacigalupi responded that MEDC follows the State's fiscal year which is the end of September, but will ask if it can be extended.

The City Manager responded that the City doesn't have to participate in a certain number of projects, but that the Economic Development Strategy should be updated annually. The Downtown Director also commented that the Darling Lot brings in approximately \$20,000 in revenue with a lot of permit spaces at the old rates, but habits could change with newly implemented rates.

City Councilmembers will discuss matter at the next regular scheduled meeting.

First Reading of a Proposed Ordinance Amending the Zoning Ordinance Allowing Medical Marihuana Provisioning Facilities

The City Manager reviewed that at the July 18 special meeting, by a 7-2 vote, the Planning Commission recommended to City Council to consider a proposed zoning ordinance for medical marihuana provisioning centers. As proposed, the ordinance would allow provisioning centers as a special condition use in the B-3 General Business District and Planned Unit Development (PUD) Districts. The City Manager further reviewed that the ordinance includes a 1,000-foot buffer from K-12 public and private schools; includes a separation of at least 500 feet between provisioning centers; that the Planning Commission also recommended that if City Council wanted to consider other locations that the B-3B Business Industrial District is most appropriate; that the Planning Commission determined that provisioning centers will generate significant vehicle turnover and should be located along commercial corridors at sites that provide sufficient parking and safe access; that the Planning Commission strongly recommended that Council give ample opportunity for public comment and education while soliciting additional public input; that on July 30 he was contacted by Joe Blachy regarding a potential "protest petition" opposing medical marijuana provisioning centers in the community; reviewed State legislation allowing a petition to initiate or prohibit recreational marijuana, but there is no such petition clause in the medical marijuana State legislation; and that Chapter 7 of the City Charter does allow for either a referendum petition that would repeal all or some of an adopted ordinance or an initiative petition that states the ordinance it would enact.

City Councilmembers commented that Planning Commission was tasked to research signage, hours of operation and zoning locations; heard from those in favor of reducing the 1,000-foot buffer from K-12 schools; reviewed comparisons to Corner Grocer and other liquor stores that are close to schools; that medical marijuana will likely include a recreational component in the future; heard an inquiry on why there is a 500-foot buffer between facilities; heard from those in favor of clustering facilities for easier enforcement; that there is a reduction in crime due to required security plans and 24/7 surveillance; that parking needs to be abundant due to traffic; heard an inquiry if the City or owner regulates parking; heard from those in favor of B-3B district and Light Industrial district on Standish Avenue beyond Emmet Street; inquired if the PUD location on Water Street could be removed since located in residential area; that if PUD owners aren't interested in allowing this type of facility, then Council may be interested in other zoning locations; heard an inquiry that this was a first reading, but if there were changes then there will be an additional first reading; and heard from those in favor of a smaller buffer such as 500-feet from schools and include other zoning districts such as B-3B and General and Light Industrial districts to eliminate land grab and real estate issues.

Mayor Murphy asked for public comments and heard from those against medical marijuana provisioning centers and encouraged City Council to opt-out; reviewed statistics from Colorado and other communities after medical marijuana facilities were opened; that residential and commercial real estate will negatively affect community; that this type of business will change the character of Petoskey; reminded Council to keep in mind recreational marijuana when considering allowing medical marijuana provisioning centers; that buffer zones from schools should be increased for alcohol establishments as well; that expansion has been great except for Harbor Hall and vape shops; that friendly competition is good and locations could be close together; that these businesses will attract a new segment of visitors; heard comments that there is no harm with the 1,000-foot buffer from schools and encouraged Council to keep the 1,000-foot buffer; that the real issue is Big Pharma; inquired if Council had talked to PUD owners or tenants to include them in permitted areas; that if allowed throughout the 4th Ward then facilities will be closer to recreation facilities; reviewed that by allowing these facilities it doesn't align with the Charter language of "public safety"; heard from those that think the ordinance is self-serving to some Councilmembers; reviewed statistics and opioid overdoses; that the Petoskey News-Review article titled "pot" was a negative connotation from the beginning; commended Council for considering in such a conservative area; that medical marijuana is pharmaceutical; that medical marijuana was voted in by the people of Michigan; that parking circulation wasn't flushed out in Planning Commission process; that B-3 areas frontage and residential behind can't handle volume of traffic; that Council should specify square footage and parking spaces for transparency; that industrial districts should be avoided since there is hope to eventually develop into residential areas; heard from PUD property owners and investors that are in favor of qualified applicants; that there have been roadblocks for better developments, but Council is bending over backwards for medical marijuana provisioning centers; commended Councilmember Dittmar for surveying constituents; that Council is acting on a personal level and not at as a whole and what is best for the community; reviewed history of cannabis plant to now; that real estate is extremely high in potential districts; heard an inquiry if licenses would be transferable; that transparency needs to happen for the public; heard a recommendation to score applicants vs. a lottery; that these facilities will be an investment to the City by job creation and other factors; that kids push boundaries and are curious, so additional buffer is a good thing; inquiries if NCMC qualifies as a buffer zone; heard concerns with allowing on Standish near skate park; inquiries if a medical marijuana facility was established if it would preclude from ever having a school open in same area; and heard from those that encouraged City Council to deliberate wisely and think about community as a whole.

City Councilmembers further discussed that 1,000-foot buffer is a consideration if decriminalized at federal level; heard from those that still want to see additional maps with a 500-foot buffer from K-12 schools; and that City Council is to create policy and allowing medical marijuana provisioning centers is systemic and economic development for the community.

City Council will conduct an additional reading of the proposed ordinance at the next regular scheduled meeting.

First Reading of a Proposed Ordinance Amending Chapter 8 Creating a New Article IX – Medical Marihuana Facilities

The City Manager reviewed that along with the medical marijuana zoning ordinance, the City needs to adopt a licensing ordinance regarding medical marijuana provisioning centers. The City Manager further reviewed that Planning Commission didn't specifically weigh in on ordinance since it is outside their purview; reviewed the purpose of the ordinance; that all future provisioning centers must abide by all zoning requirements and other applicable building, construction and other codes at time of issuance; that City Council will need to establish the non-refundable initial application fee as well as the yearly license renewal fee for a permit; reviewed lottery process and that a lottery will be held to randomly select the applicants who are prequalified by the State of Michigan for conditional authorization and to establish a waiting list for future conditional authorizations; that City Council will need to determine the number of provisioning centers allowed in the community; that hours of operation including receiving shipments must occur between the hours of 9:00 A.M. to 9:00 P.M. and that the City Clerk is granted the power to implement and administer the permit application process.

City Councilmembers discussed the lottery process and heard comments that a lottery system may not be the best practice; inquired about parking requirements and that City Council should approve prior to going to Planning Commission; heard inquiries if there were other selection models where no lawsuits occurred; discussed number of provisioning centers with a possibility of 3 or 4; heard inquiries on signage regulations; and discussed licensing fees and if they have to be quantified.

The City Attorney responded to avoid lawsuits that a lottery system is a better way to select applicants; reviewed the application process; and that the sign ordinance is already in place and the City can't regulate content.

The City Manager responded that there is standard uniformity with parking requirements and special condition uses which would apply to provisioning centers; that communities that deviated from lottery had more issues; and that the City can charge up to a \$5,000 non-refundable fee for application and up to a \$5,000 fee for the initial license and for a yearly renewal license, but that he would bring back more information regarding fees at the next meeting.

Mayor Murphy asked for public comments and heard comments that a lottery system will be contentious and a merit system would be better; that there are marijuana real estate sharks; heard an inquiry on how long applicant has to fulfill license; that transferable licenses are not in the communities interest; heard an inquiry on what the revenue stream is and what the financial benefit to the City is beyond licensing; that Michigan voters voted to decriminalize medical marijuana, but not for allowing provisioning centers; that the City needs to retain control for economic development; and heard a comment that sales tax and excise tax is prorated between all recreation facilities, but not medical marijuana facilities.

Council Comments

Mayor Murphy asked for Council comments and Councilmember Walker reported that she attended an Enbridge meeting and would also be attending a national Great Lakes meeting in Traverse City.

There being no further business to come before the City Council, this August 5, 2019, meeting of the City Council adjourned at 10:17 P.M.

John Murphy, Mayor

Sarah Bek, Recording Clerk

GL Period	Check Issue Date	Check Number	Payee	Invoice GL Account	Check Amount
08/19	08/07/2019	85839	5H Irrigation & Maintenance	101-528-802.000	3,626.95
08/19	08/07/2019	85840	ACH-CHILD SUPPORT	701-000-230.160	160.23
08/19	08/07/2019	85841	ACH-EFTPS	701-000-230.100	21,821.34
08/19	08/07/2019	85841	ACH-EFTPS	701-000-230.200	13,902.71
08/19	08/07/2019	85841	ACH-EFTPS	701-000-230.200	13,902.71
08/19	08/07/2019	85841	ACH-EFTPS	701-000-230.200	3,251.41
08/19	08/07/2019	85841	ACH-EFTPS	701-000-230.200	3,251.41
08/19	08/07/2019	85842	ACH-ICMA 457	701-000-230.700	2,009.55
08/19	08/07/2019	85842	ACH-ICMA 457	701-000-230.700	5,439.23
08/19	08/07/2019	85843	All-Phase Electric Supply	101-789-775.000	1.79
08/19	08/07/2019	85843	All-Phase Electric Supply	101-773-775.000	.75
08/19	08/07/2019	85843	All-Phase Electric Supply	101-770-775.000	37.03
08/19	08/07/2019	85843	All-Phase Electric Supply	582-010-111.000	55.98
08/19	08/07/2019	85843	All-Phase Electric Supply	101-770-775.000	73.92
08/19	08/07/2019	85843	All-Phase Electric Supply	582-586-775.000	8.06
08/19	08/07/2019	85843	All-Phase Electric Supply	582-010-111.000	25.66
08/19	08/07/2019	85843	All-Phase Electric Supply	101-268-775.000	17.47
08/19	08/07/2019	85843	All-Phase Electric Supply	582-586-775.000	28.77
08/19	08/07/2019	85843	All-Phase Electric Supply	582-590-775.000	77.77
08/19	08/07/2019	85843	All-Phase Electric Supply	101-265-775.000	8.28
08/19	08/07/2019	85843	All-Phase Electric Supply	582-010-111.000	69.98
08/19	08/07/2019	85844	APEX SOFTWARE	101-257-802.000	235.00
08/19	08/07/2019	85845	AT&T	101-172-850.000	504.86
08/19	08/07/2019	85845	AT&T	101-201-850.000	269.27
08/19	08/07/2019	85845	AT&T	101-208-850.000	168.30
08/19	08/07/2019	85845	AT&T	101-257-850.000	168.30
08/19	08/07/2019	85845	AT&T	101-215-850.000	134.64
08/19	08/07/2019	85845	AT&T	101-345-850.000	370.25
08/19	08/07/2019	85845	AT&T	101-400-850.000	168.30
08/19	08/07/2019	85845	AT&T	101-756-850.000	201.96
08/19	08/07/2019	85845	AT&T	101-441-850.000	302.93
08/19	08/07/2019	85845	AT&T	204-481-850.000	100.98
08/19	08/07/2019	85845	AT&T	204-481-850.000	100.98
08/19	08/07/2019	85845	AT&T	582-588-850.000	336.59
08/19	08/07/2019	85845	AT&T	582-593-850.000	134.64
08/19	08/07/2019	85845	AT&T	592-549-850.000	201.96
08/19	08/07/2019	85845	AT&T	592-560-850.000	201.96
08/19	08/07/2019	85845	AT&T	592-560-850.000	222.70
08/19	08/07/2019	85845	AT&T	592-560-850.000	141.50
08/19	08/07/2019	85845	AT&T	592-558-920.000	226.33
08/19	08/07/2019	85845	AT&T	592-538-850.000	222.70
08/19	08/07/2019	85845	AT&T	592-538-850.000	222.70
08/19	08/07/2019	85846	Blarney Castle Oil Co.	101-789-772.000	9,523.44
08/19	08/07/2019	85846	Blarney Castle Oil Co.	101-789-772.000	4,655.81
08/19	08/07/2019	85846	Blarney Castle Oil Co.	101-789-772.000	3,086.41
08/19	08/07/2019	85846	Blarney Castle Oil Co.	101-789-772.000	8,208.70
08/19	08/07/2019	85846	Blarney Castle Oil Co.	101-789-772.000	6,503.09
08/19	08/07/2019	85846	Blarney Castle Oil Co.	101-789-772.000	3,689.21
08/19	08/07/2019	85846	Blarney Castle Oil Co.	101-789-772.000	1,699.54
08/19	08/07/2019	85846	Blarney Castle Oil Co.	101-789-772.000	3,770.95
08/19	08/07/2019	85846	Blarney Castle Oil Co.	101-789-772.000	2,532.20
08/19	08/07/2019	85846	Blarney Castle Oil Co.	101-789-772.000	3,770.95
08/19	08/07/2019	85846	Blarney Castle Oil Co.	101-789-772.000	3,476.02
08/19	08/07/2019	85846	Blarney Castle Oil Co.	101-789-772.000	2,744.48
08/19	08/07/2019	85846	Blarney Castle Oil Co.	101-789-772.000	3,222.80
08/19	08/07/2019	85846	Blarney Castle Oil Co.	101-789-772.000	1,617.40

GL Period	Check Issue Date	Check Number	Payee	Invoice GL Account	Check Amount
08/19	08/07/2019	85846	Blarney Castle Oil Co.	101-789-772.000	5,093.42
08/19	08/07/2019	85847	Brown Motors Inc.	661-598-932.000	134.63
08/19	08/07/2019	85847	Brown Motors Inc.	661-598-932.000	118.72
08/19	08/07/2019	85848	Char-Em United Way	701-000-230.800	81.75
08/19	08/07/2019	85849	Cintas Corp #729	582-593-802.000	31.27
08/19	08/07/2019	85849	Cintas Corp #729	204-481-767.000	60.04
08/19	08/07/2019	85849	Cintas Corp #729	582-588-767.000	214.24
08/19	08/07/2019	85849	Cintas Corp #729	592-560-767.000	30.90
08/19	08/07/2019	85849	Cintas Corp #729	592-549-767.000	30.89
08/19	08/07/2019	85849	Cintas Corp #729	101-268-802.000	15.54
08/19	08/07/2019	85849	Cintas Corp #729	592-554-802.000	45.45
08/19	08/07/2019	85849	Cintas Corp #729	204-481-767.000	60.04
08/19	08/07/2019	85849	Cintas Corp #729	582-588-767.000	60.24
08/19	08/07/2019	85849	Cintas Corp #729	592-560-767.000	30.90
08/19	08/07/2019	85849	Cintas Corp #729	592-549-767.000	30.89
08/19	08/07/2019	85850	CITY TREAS. FOR UTILITY BILLS	101-265-920.000	1,602.46
08/19	08/07/2019	85850	CITY TREAS. FOR UTILITY BILLS	101-268-920.000	1,802.96
08/19	08/07/2019	85850	CITY TREAS. FOR UTILITY BILLS	101-345-920.000	3,161.09
08/19	08/07/2019	85850	CITY TREAS. FOR UTILITY BILLS	101-345-920.100	672.95
08/19	08/07/2019	85850	CITY TREAS. FOR UTILITY BILLS	101-754-920.000	376.19
08/19	08/07/2019	85850	CITY TREAS. FOR UTILITY BILLS	101-770-920.000	6,019.53
08/19	08/07/2019	85850	CITY TREAS. FOR UTILITY BILLS	101-773-920.000	4,034.33
08/19	08/07/2019	85850	CITY TREAS. FOR UTILITY BILLS	101-789-920.000	2,069.40
08/19	08/07/2019	85850	CITY TREAS. FOR UTILITY BILLS	202-160-920.000	357.00
08/19	08/07/2019	85850	CITY TREAS. FOR UTILITY BILLS	204-448-920.000	2,700.00
08/19	08/07/2019	85850	CITY TREAS. FOR UTILITY BILLS	271-790-920.000	2,916.34
08/19	08/07/2019	85850	CITY TREAS. FOR UTILITY BILLS	514-587-802.100	48.36
08/19	08/07/2019	85850	CITY TREAS. FOR UTILITY BILLS	514-587-920.000	187.32
08/19	08/07/2019	85850	CITY TREAS. FOR UTILITY BILLS	582-586-920.000	32.46
08/19	08/07/2019	85850	CITY TREAS. FOR UTILITY BILLS	582-593-920.000	1,341.01
08/19	08/07/2019	85850	CITY TREAS. FOR UTILITY BILLS	592-538-920.000	10,709.01
08/19	08/07/2019	85850	CITY TREAS. FOR UTILITY BILLS	592-542-920.000	32.44
08/19	08/07/2019	85850	CITY TREAS. FOR UTILITY BILLS	592-551-920.000	19,250.66
08/19	08/07/2019	85850	CITY TREAS. FOR UTILITY BILLS	592-555-920.000	1,369.25
08/19	08/07/2019	85851	Clemens, Tom	101-756-808.120	80.00
08/19	08/07/2019	85852	Contractors Supply Inc.	101-268-775.000	44.31
08/19	08/07/2019	85852	Contractors Supply Inc.	101-268-775.000	68.70
08/19	08/07/2019	85853	Cook, Jerald P	101-756-808.120	280.00
08/19	08/07/2019	85854	Cowell, Donald A	248-540-882.140	325.00
08/19	08/07/2019	85855	David L Hoffman Landscaping & Nursery	582-586-802.000	3,565.50
08/19	08/07/2019	85856	Derrer Oil Co.	661-598-759.000	2,266.75
08/19	08/07/2019	85856	Derrer Oil Co.	514-587-802.200	524.74
08/19	08/07/2019	85857	Dinon Law PLLC	101-266-802.000	892.50
08/19	08/07/2019	85858	Dunn's Business Solutions	204-481-751.000	17.26
08/19	08/07/2019	85858	Dunn's Business Solutions	582-593-751.000	17.26
08/19	08/07/2019	85858	Dunn's Business Solutions	582-588-751.000	17.27
08/19	08/07/2019	85858	Dunn's Business Solutions	592-549-751.000	17.27
08/19	08/07/2019	85858	Dunn's Business Solutions	592-560-751.000	17.27
08/19	08/07/2019	85858	Dunn's Business Solutions	661-598-751.000	17.27
08/19	08/07/2019	85859	Emmet Brick & Block Co.	101-770-775.000	500.00
08/19	08/07/2019	85859	Emmet Brick & Block Co.	582-593-785.000	37.50
08/19	08/07/2019	85859	Emmet Brick & Block Co.	101-770-775.000	50.00-
08/19	08/07/2019	85860	Emmet County Treasurer	703-040-222.219	277,782.05
08/19	08/07/2019	85860	Emmet County Treasurer	703-040-228.219	368,449.94
08/19	08/07/2019	85861	Empiric Solutions Inc.	101-228-802.000	8,654.00
08/19	08/07/2019	85862	Englebrecht, Robert	101-257-802.100	3,750.00

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08/19	08/07/2019	85863	Erlewine, May	248-540-882.140	1,500.00
08/19	08/07/2019	85864	Factor Systems Inc.	101-208-803.000	3,284.97
08/19	08/07/2019	85865	Fettig's Landscaping Inc.	101-265-802.000	1,050.34
08/19	08/07/2019	85866	Fraternal Order of Police	701-000-230.400	971.00
08/19	08/07/2019	85867	Fredrickson Supply LLC	661-598-932.000	2,148.50
08/19	08/07/2019	85868	Gordon Food Service	101-756-808.010	58.80
08/19	08/07/2019	85869	Grangood, Daniel Wilhelm	101-756-808.120	280.00
08/19	08/07/2019	85870	Great Lakes Pipe & Supply	101-770-775.000	3.21
08/19	08/07/2019	85870	Great Lakes Pipe & Supply	101-770-775.000	7.34
08/19	08/07/2019	85870	Great Lakes Pipe & Supply	101-268-775.000	9.62
08/19	08/07/2019	85870	Great Lakes Pipe & Supply	101-770-775.000	4.84
08/19	08/07/2019	85870	Great Lakes Pipe & Supply	592-556-775.000	15.01
08/19	08/07/2019	85870	Great Lakes Pipe & Supply	101-770-775.000	81.22
08/19	08/07/2019	85870	Great Lakes Pipe & Supply	592-558-775.000	2.14
08/19	08/07/2019	85870	Great Lakes Pipe & Supply	101-770-775.000	244.12
08/19	08/07/2019	85870	Great Lakes Pipe & Supply	101-770-775.000	11.55
08/19	08/07/2019	85871	Hamlin, Wilce S	101-756-808.120	280.00
08/19	08/07/2019	85872	ICMA-ROTH	701-000-230.900	460.00
08/19	08/07/2019	85873	Kolinske, Chrissy	101-756-808.010	4.99
08/19	08/07/2019	85874	Kring Chevrolet Cadillac, Dave	661-598-932.000	1,161.88
08/19	08/07/2019	85875	Land Information Access Association	101-400-802.000	6,973.49
08/19	08/07/2019	85876	LATITUDE 45	101-789-775.000	16.99
08/19	08/07/2019	85877	Lowery Underground Service	582-586-802.000	4,482.50
08/19	08/07/2019	85877	Lowery Underground Service	582-020-360.000	17,552.25
08/19	08/07/2019	85877	Lowery Underground Service	582-598-802.000	5,198.75
08/19	08/07/2019	85878	Malec, Steve	101-756-808.120	120.00
08/19	08/07/2019	85879	McCardel Culligan	101-770-802.000	53.50
08/19	08/07/2019	85880	North Central Mich. College	101-101-860.000	25.00
08/19	08/07/2019	85881	Northern Copy Express Inc.	202-451-802.000	125.00
08/19	08/07/2019	85882	Nye Uniform	101-345-775.000	139.00
08/19	08/07/2019	85883	OHM Advisors	202-473-802.000	186.75
08/19	08/07/2019	85884	Ott, Charles Barry	101-266-802.000	3,403.13
08/19	08/07/2019	85885	P.C. LAWN CARE	582-593-802.000	625.00
08/19	08/07/2019	85886	PARKER, MICHAEL	101-345-913.000	592.94
08/19	08/07/2019	85887	Performance Painting	203-475-802.000	1,000.00
08/19	08/07/2019	85887	Performance Painting	202-475-802.000	2,000.00
08/19	08/07/2019	85888	Petoskey Public Schools	703-040-236.219	735,819.10
08/19	08/07/2019	85888	Petoskey Public Schools	703-040-237.219	57,180.31
08/19	08/07/2019	85888	Petoskey Public Schools	703-040-237.219	91,288.07
08/19	08/07/2019	85888	Petoskey Public Schools	703-040-237.219	41,194.05
08/19	08/07/2019	85889	Play Environments Design LLC	101-770-775.000	374.00
08/19	08/07/2019	85890	Playtown Sound & Video	248-540-882.140	1,350.00
08/19	08/07/2019	85891	POLICE AND FIREMEN'S INSURANCE	701-000-230.185	366.13
08/19	08/07/2019	85892	Power Line Supply	582-593-785.000	384.71
08/19	08/07/2019	85893	Pro-Vision Video Systems	101-345-985.000	349.00
08/19	08/13/2019	85893	Pro-Vision Video Systems	101-345-985.000	349.00- V
08/19	08/07/2019	85894	R.W. MERCER CO INC.	101-789-802.000	585.00
08/19	08/07/2019	85895	Rieth-Riley Construction Co	592-556-775.000	483.96
08/19	08/07/2019	85895	Rieth-Riley Construction Co	592-544-775.000	312.28
08/19	08/07/2019	85896	Royal Tire	661-598-931.000	179.40
08/19	08/07/2019	85896	Royal Tire	661-598-931.000	20.00
08/19	08/07/2019	85896	Royal Tire	661-598-931.000	157.64
08/19	08/07/2019	85896	Royal Tire	661-598-932.000	317.42
08/19	08/07/2019	85897	Scholastic Inc.	271-790-760.100	192.82
08/19	08/07/2019	85897	Scholastic Inc.	271-790-760.100	222.36
08/19	08/07/2019	85897	Scholastic Inc.	271-790-760.100	290.91

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08/19	08/07/2019	85898	Sign & Design	101-770-802.000	875.00
08/19	08/07/2019	85898	Sign & Design	101-770-802.000	820.00
08/19	08/07/2019	85898	Sign & Design	101-770-802.000	350.00
08/19	08/07/2019	85898	Sign & Design	101-770-802.000	245.00
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-770-775.000	423.67
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-754-775.000	43.40
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-756-775.000	451.16
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-754-775.000	206.40
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-770-775.000	17.14
08/19	08/07/2019	85899	SiteOne Landscape Supply	514-587-970.000	58.00
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-770-775.000	3.03
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-770-775.000	2.08
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-770-775.000	38.18
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-770-775.000	581.43
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-770-775.000	31.69
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-770-775.000	322.58
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-770-775.000	581.43
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-770-775.000	223.85
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-770-775.000	175.28
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-754-775.000	43.40
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-770-775.000	91.88
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-770-775.000	63.22
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-770-775.000	9.05
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-770-775.000	132.66
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-770-775.000	319.85
08/19	08/07/2019	85899	SiteOne Landscape Supply	101-770-775.000	27.48
08/19	08/07/2019	85900	Smith, Edward J	101-756-808.120	120.00
08/19	08/07/2019	85901	Snider, Steven J	101-756-808.120	70.00
08/19	08/07/2019	85902	Standard Electric Company	582-590-775.000	220.84
08/19	08/07/2019	85902	Standard Electric Company	582-590-775.000	15.84
08/19	08/07/2019	85903	TEAMSTERS LOCAL #214	701-000-230.400	1,114.00
08/19	08/07/2019	85904	Thompson, Brenda	101-756-808.120	80.00
08/19	08/07/2019	85905	T-Mobile	271-790-850.000	235.20
08/19	08/07/2019	85906	Trace Analytical Laboratories LLC	101-526-801.000	1,385.00
08/19	08/07/2019	85907	USA BLUE BOOK	592-551-775.000	126.13
08/19	08/07/2019	85908	Voss Lighting	582-590-775.000	175.20
08/19	08/07/2019	85909	Wcisel, David	101-756-808.120	350.00
08/19	08/09/2019	85910	Complete Paint & Supplies	101-773-775.000	209.98
08/19	08/09/2019	85910	Complete Paint & Supplies	101-773-775.000	136.28
08/19	08/09/2019	85911	Preston Feather	101-789-775.000	15.48
08/19	08/09/2019	85911	Preston Feather	101-770-775.000	442.50
08/19	08/09/2019	85911	Preston Feather	592-556-775.000	17.00
08/19	08/09/2019	85911	Preston Feather	204-010-111.000	310.18
08/19	08/09/2019	85911	Preston Feather	204-010-111.000	25.00-
08/19	08/09/2019	85911	Preston Feather	101-770-775.000	6.79
08/19	08/09/2019	85911	Preston Feather	101-789-775.000	1.55-
08/19	08/09/2019	85911	Preston Feather	101-770-775.000	44.25-
08/19	08/09/2019	85911	Preston Feather	204-010-111.000	30.90-
08/19	08/09/2019	85911	Preston Feather	582-593-785.000	1.60-
08/19	08/09/2019	85911	Preston Feather	101-773-931.000	11.94-
08/19	08/09/2019	85911	Preston Feather	101-789-775.000	26.22-
08/19	08/09/2019	85911	Preston Feather	101-789-775.000	12.64-
08/19	08/09/2019	85911	Preston Feather	101-789-775.000	18.34-
08/19	08/09/2019	85911	Preston Feather	101-789-775.000	6.63-
08/19	08/09/2019	85911	Preston Feather	202-467-775.000	6.50-
08/19	08/09/2019	85911	Preston Feather	101-754-775.000	2.72-

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08/19	08/09/2019	85911	Preston Feather	101-770-775.000	11.01-
08/19	08/09/2019	85911	Preston Feather	101-773-931.000	2.18-
08/19	08/09/2019	85911	Preston Feather	101-773-931.000	1.04-
08/19	08/09/2019	85911	Preston Feather	101-770-775.000	1.40-
08/19	08/09/2019	85911	Preston Feather	101-770-775.000	5.95-
08/19	08/09/2019	85911	Preston Feather	101-770-775.000	.49-
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-932.000	155.43
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-931.000	14.50
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-010-111.000	31.03
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-932.000	167.91
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-010-111.000	65.71
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-932.000	155.43-
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-931.000	54.12
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-932.000	175.59
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-932.000	27.00-
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-932.000	19.57
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-932.000	7.06
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	101-345-775.000	79.98
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	101-345-775.000	18.08
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-932.000	123.49
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-932.000	82.63
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-932.000	35.72
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-010-111.000	4.71
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-759.000	66.64
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-932.000	35.72
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	101-770-775.000	28.68
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-932.000	399.98
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-932.000	195.34
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-785.000	12.04
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-932.000	25.60
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-010-111.000	32.69
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-785.000	23.88
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	592-556-775.000	32.14
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-932.000	21.14
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-010-111.000	19.66
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-931.000	8.74
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-932.000	18.00-
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	101-770-775.000	10.77
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-932.000	20.91
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-932.000	26.94
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-932.000	56.55
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	101-345-775.000	9.07
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	661-598-931.000	118.20
08/19	08/09/2019	85912	Lynn Auto Parts Inc.	592-549-785.000	27.85
08/19	08/14/2019	85918	24/7 Sewer & Drain Cleaning	271-790-930.000	285.00
08/19	08/14/2019	85918	24/7 Sewer & Drain Cleaning	271-790-930.000	155.00
08/19	08/14/2019	85919	All Scapes LLC	592-537-802.000	960.00
08/19	08/14/2019	85919	All Scapes LLC	592-554-802.000	580.00
08/19	08/14/2019	85919	All Scapes LLC	592-543-802.000	240.00
08/19	08/14/2019	85919	All Scapes LLC	592-558-802.000	1,140.00
08/19	08/14/2019	85920	AT&T	582-593-850.000	126.64
08/19	08/14/2019	85920	AT&T	592-560-850.000	413.70
08/19	08/14/2019	85920	AT&T	592-558-920.000	203.16
08/19	08/14/2019	85921	Beckett & Raeder Inc.	582-588-802.000	7,395.00
08/19	08/14/2019	85921	Beckett & Raeder Inc.	204-481-802.000	1,740.00
08/19	08/14/2019	85921	Beckett & Raeder Inc.	247-751-802.000	1,898.00

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08/19	08/14/2019	85921	Beckett & Raeder Inc.	204-481-802.000	1,500.00
08/19	08/14/2019	85921	Beckett & Raeder Inc.	247-751-802.000	1,800.00
08/19	08/14/2019	85921	Beckett & Raeder Inc.	101-770-802.000	1,080.00
08/19	08/14/2019	85922	Bradford Master Dry Cleaners	101-345-775.000	320.30
08/19	08/14/2019	85923	Carter's Imagewear & Awards	101-789-775.000	55.00
08/19	08/14/2019	85924	Chemco Products Inc.	592-551-783.000	12,660.04
08/19	08/14/2019	85925	Collias-Glaser, Hellene Kay	271-790-802.000	930.00
08/19	08/14/2019	85926	Drost Landscape	101-770-802.000	166.00
08/19	08/14/2019	85927	Ducastel, Barbara	271-790-802.000	390.00
08/19	08/14/2019	85928	Dunkel Excavating Services Inc.	582-586-802.000	350.00
08/19	08/14/2019	85928	Dunkel Excavating Services Inc.	582-586-802.000	240.00
08/19	08/14/2019	85928	Dunkel Excavating Services Inc.	204-444-802.000	1,188.00
08/19	08/14/2019	85929	EMERGENCY MEDICAL PRODUCTS	101-345-775.000	114.22
08/19	08/14/2019	85930	Emmet Co. Dept of Public Works	101-529-802.000	6,277.30
08/19	08/14/2019	85931	Environmental Resource Assoc.	592-553-802.000	153.35
08/19	08/14/2019	85931	Environmental Resource Assoc.	592-553-775.000	113.07
08/19	08/14/2019	85932	Etna Supply	592-010-111.000	2,225.00
08/19	08/14/2019	85932	Etna Supply	592-546-775.000	1,280.00
08/19	08/14/2019	85932	Etna Supply	582-010-111.000	8,010.00
08/19	08/14/2019	85932	Etna Supply	592-010-111.000	3,265.00
08/19	08/14/2019	85932	Etna Supply	592-010-111.000	530.00
08/19	08/14/2019	85932	Etna Supply	592-546-802.000	3,000.00
08/19	08/14/2019	85932	Etna Supply	202-469-775.000	231.00
08/19	08/14/2019	85932	Etna Supply	592-010-111.000	12,950.00
08/19	08/14/2019	85932	Etna Supply	592-010-111.000	398.00
08/19	08/14/2019	85932	Etna Supply	592-010-111.000	12.50
08/19	08/14/2019	85933	Ever-Green Lawn Care	202-467-802.000	113.75
08/19	08/14/2019	85933	Ever-Green Lawn Care	514-587-802.000	10.75
08/19	08/14/2019	85933	Ever-Green Lawn Care	101-770-802.000	187.50
08/19	08/14/2019	85934	Fastenal Company	202-475-775.000	16.20
08/19	08/14/2019	85934	Fastenal Company	203-475-775.000	16.20
08/19	08/14/2019	85935	Gordon Food Service	592-551-775.000	72.11
08/19	08/14/2019	85935	Gordon Food Service	101-789-775.000	27.95
08/19	08/14/2019	85935	Gordon Food Service	101-756-808.010	37.95
08/19	08/14/2019	85935	Gordon Food Service	101-345-783.000	165.45
08/19	08/14/2019	85936	Hansen, Carol Margaret	271-790-802.000	450.00
08/19	08/14/2019	85937	Himebauch, Kelly L	271-790-802.000	570.00
08/19	08/14/2019	85938	Infogeographics, Inc.	592-549-802.000	3,780.00
08/19	08/14/2019	85939	Ingram Library Services	271-790-760.000	1,782.29
08/19	08/14/2019	85939	Ingram Library Services	271-790-760.100	1,007.44
08/19	08/14/2019	85939	Ingram Library Services	271-790-760.200	473.14
08/19	08/14/2019	85939	Ingram Library Services	271-790-958.100	146.59
08/19	08/14/2019	85940	IR Electric Motor Service	592-537-802.000	411.10
08/19	08/14/2019	85940	IR Electric Motor Service	592-554-802.000	391.00
08/19	08/14/2019	85941	John E. Green Co.	271-790-930.000	255.00
08/19	08/14/2019	85942	K & J Septic Service LLC	101-770-802.000	190.00
08/19	08/14/2019	85942	K & J Septic Service LLC	101-770-802.000	220.00
08/19	08/14/2019	85943	K & L Plumbing and Heating LLC	101-770-802.000	840.00
08/19	08/14/2019	85943	K & L Plumbing and Heating LLC	101-770-802.000	1,384.92
08/19	08/14/2019	85943	K & L Plumbing and Heating LLC	101-770-802.000	1,675.18
08/19	08/14/2019	85944	Kolinske, Chrissy	101-756-808.010	13.40
08/19	08/14/2019	85945	Lakeshore Learning	271-790-958.100	356.92
08/19	08/14/2019	85946	LexisNexis Risk Data Management Inc.	514-587-802.000	150.00
08/19	08/14/2019	85947	LIBRARY JOURNAL	271-790-760.400	157.99
08/19	08/14/2019	85948	MacDonald Garber Broadcasting	248-540-882.120	1,200.00
08/19	08/14/2019	85948	MacDonald Garber Broadcasting	248-540-882.140	2,040.00

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08/19	08/14/2019	85949	MACKINAW AREA PUBLIC LIBRARY	271-790-955.000	27.98
08/19	08/14/2019	85950	McCardel Culligan	514-587-802.100	8.00
08/19	08/14/2019	85951	Meyer Ace Hardware	514-587-802.100	13.83
08/19	08/14/2019	85951	Meyer Ace Hardware	514-587-802.100	2.69
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08/19	08/14/2019	85972	Snedden, Rilla Joann	271-790-802.000	420.00
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08/19	08/14/2019	85976	State of Michigan-Department of LARA	582-081-642.200	169.26
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08/19	08/14/2019	85981	Traffic & Safety Control Systems Inc.	514-587-775.000	81.00
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08/19	08/14/2019	85983	UPS Store, The	592-549-785.000	11.93
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85916	08/14/2019	J.W. Filmore's Inc.	703040233000	9.00
85917	08/14/2019	Maslin, Debbie	101087653000	140.00
Grand Totals:				1,755.56



City of Petoskey

Agenda Memo

BOARD: City Council

MEETING DATE: August 19, 2019

DATE PREPARED: August 15, 2019

AGENDA SUBJECT: Discussion of Darling Lot Redevelopment Concepts

RECOMMENDATION: That City Council discuss concepts and provide direction to staff

Background At its August 5 meeting, City Council heard a presentation from Rob Bacigalupi, Mission North, on three concepts for the Darling Lot. The information provided for that meeting is enclosed. At that meeting, City Council raised concerns about the mechanized parking and number of parking spaces resulting in the three concepts. The concepts were also posted at City Hall, on the City website, and links on social media for additional public input. The input received is enclosed.

City Council had questioned the parking demand for development on the site. At this conceptual stage, only an estimate of parking needs for potential residential development can be provided. According to Mr. Bacigalupi, based on the experience of Traverse City for this type of walkable multiple family development, each unit would need one (1) parking space. If one assumes each unit to be 1,250 square feet, potentially Concept 1 could have up to 35 residential units, Concept 2 – 37 residential units, Concept 3 – 34 residential units and 5,500 square feet of commercial space. But again, this level of analysis for unit numbers and demand has yet to be completed, pending Council concept selection.

To summarize the resulting parking numbers in the various concepts:

	Estimated Total Spaces¹ Using Lift System	Estimated Net Gain or Loss	Estimated Total Spaces Without Lifts	Estimated Net Gain or Loss
Existing Lot	103	-	-	-
Concept 1	184	81	110	7
Concept 2	143	40	83	-20
Concept 3	153	50	153	50
Parking Structure only (Walker Garage)	256	153	256	153

¹ Numbers do not include the 27 spaces adjacent to the alley

Action It is understood that parking is needed for downtown. The object of the predevelopment assistance is to evaluate whether the municipally-owned parking lot could be developed in a manner that will provide parking as well as other community needs.

The Mission North team will again present the three options at the August 19 meeting and is looking for direction on which concept to develop more fully so that City Council can have better information to make a decision on whether to proceed toward development of the site, or to keep the property as a surface parking lot.

at
Enclosures



Phone: (231) 883-7266 • E-Mail: rob@missionnorthmi.com • Web: www.MissionNorthMI.com

TO: Amy Tweeten, City Planner

FROM: Rob Bacigalupi, Mission North, LLC

DATE: July 30, 2019

SUBJECT: Consideration of Concepts for Darling Lot

As part of the Michigan Economic Development Corporation's Redevelopment Ready Predevelopment Services, Mission North and our team developed three concepts for the Darling Lot at Michigan and Petoskey Street. The purpose of this memorandum is to summarize these concepts to assist the City of Petoskey in selecting one to pursue with a developer.

These concepts were developed after seeking public input as well as stakeholder feedback at meetings held on June 6th, and conducting an online survey. A summary of input gathered at these meetings and through the survey is attached. The major themes heard during the engagement process could be summarized as preserving parking, adding housing, and staying within the zoning height. Each of these three concepts incorporate these three elements in different ways, but are similar in that they all have three floors above ground.

In order to fit the desired increased parking and other uses into a limited three dimensional space, we investigated the idea of utilizing space saving mechanical lifts that allow cars to be stacked above each other. The first two of the three concepts, incorporate additional vertical space for these lifts, but also can be easily adjusted to do without lifts if that is not the chosen direction.

Attached following the *Darling Lot Development Project Summary*, and the *Summary of Stakeholder and Public Feedback, Downtown Stakeholder Summary*, is a chart summarizing some of the aspects of each concept, followed by site plans for each concept. I look forward to discussing these further at the City Council meeting on August 5.

Darling Lot Development Project Summary

The Michigan Municipal League has received funding through the Michigan Economic Development Corporation to support several Certified Redevelopment Ready Communities (RRC), focused on priority sites identified during the RRC Certification process. These funds are intended for predevelopment technical assistance in promoting real estate redevelopment projects intended for commercial sale. The City of Petoskey's Darling Lot is one such project.

Through the RRC program, the MML hired the consulting team of Mission North (Rob Bacigalupi), Parallel Solutions (Megan Olds), and Influence Design Forum (Nate Elkins) to perform the following scope of services and prepare the following deliverables for the City of Petoskey:

- Conduct a market analysis and/or demographic study related to the Darling Lot, including rental demand and pricing studies, potential residential absorption rates, and commercial leakage rates, etc. (May 2019)
- Plan and facilitate hands-on, interactive workshops to engage the general public and key stakeholders on the development of a conceptual vision for the site's development (May – August 2019)
- Create conceptual site plan renderings for the development of the Darling Lot which may include volumes and elevations compliant with the community's existing code and master plan or stated vision and values (June 2019)
- Develop a site development pro forma in MEDC's approved format including estimated construction or rehabilitation costs (July – August 2019)
- Develop a Request for Qualifications (RFQ) document for use in marketing the priority site, based on the best practices guidelines set forth by the League and MEDC (August 2019)
- Develop draft reports to share with City, MML and MEDC (August 2019)

Consultant Team Contact Information

Rob Bacigalupi, Mission North, rob@missionnorthmi.com, (231) 883-7266

Role: Project manager, market analysis, pro-forma development, report development

Megan Olds, Parallel Solutions, megan@parallelnmi.com, 231-409-7885, www.parallelnmi.com

Role: Community and stakeholder engagement, report and marketing development

Nate Elkins, Influence Design Forum, nate@influencedesignforum.com, (231) 944-4114

Role: Conceptual site plan design

Darling Lot: Summary of Stakeholder and Public Feedback

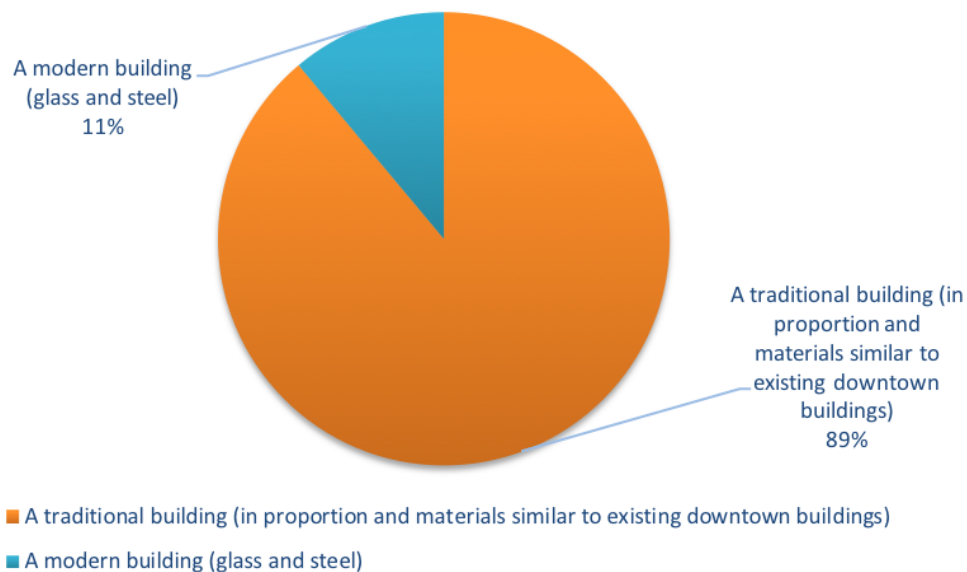
	Stakeholder Group #1 5 participants	Stakeholder Group #2 6 participants	Public 14 responses
Design Preferences	Fit with existing building character (historic, not contemporary) Do not get rid of parking, but use for more than parking Follow ordinance regarding height Walking paths and outdoor space	Fit with existing building character “Green” space or courtyard Walking path Stay within zoning for height “Not monolithic” Maintain and include parking	Fit with existing building character and designs Stay within zoning for height Keep as parking lot
Gaps + Needs in Market	Parking (“critical”) Grocery, pharmacy Movie theater Conference facilities Breakfast place Office space Retail space	Affordable and middle-income rental housing Parking for customers and employees Local breakfast restaurant Movie theater Convenience store, pharmacy	Parking Affordable or workforce housing Retail space Professional offices
Use Preferences	Parking Housing	Parking Housing	Parking Housing Retail Offices
What Makes the Property Attractive for Development	Centrally located downtown Flat View of Bay Underutilized as a surface parking lot Connected to greenway corridor	Centrally located downtown Parking alone is not “highest use” of site	Centrally located downtown
Biggest Challenges	Cost to develop Continued demand for parking	Cost to develop Getting it approved Blocking views Lack of alignment: community preferences and support, city/political support, developer expectations/needs Converting a public parcel to private ownership	Need and demand for parking Concerns about what happens to parking if/when site is under construction (and impacts on neighborhood) Cost and financing to develop Finding a developer willing to develop site Anti-development sentiment
Other Comments	As community, need to discuss retail mix – “Who does downtown serve?”		“City should not sell this property”

DOWNTOWN STAKEHOLDERS SURVEY SUMMARY

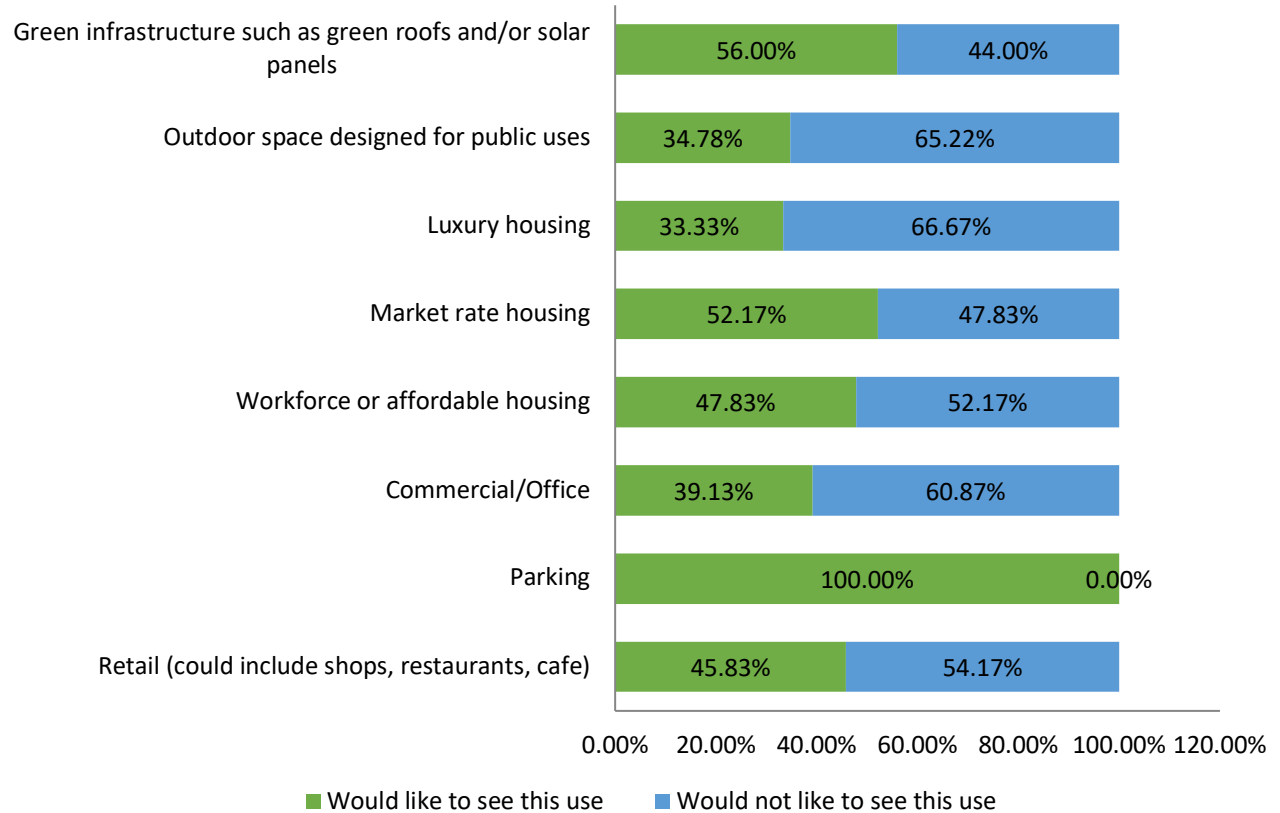
The City of Petoskey sought public input on the potential uses and possible redevelopment options for City-owned property known as the “Darling Lot,” located at the corner of Michigan and Petoskey Streets in downtown Petoskey. To complement feedback received at community meetings held on June 6, the City invited downtown property owners and business owners to complete a short on-line questionnaire to input on the same issues discussed at the community meetings. The questionnaire was available from Thursday, June 20 through Friday, June 28, 2019. Thirty people completed the survey. Raw data are available by request.

Summary: Respondents want parking to remain at the site. They prefer a traditionally-styled building. There is moderate support for workforce housing, market rate housing, and green infrastructure, and less support for other uses.

If the property were to be developed, what are your preferences regarding the design or style of the building? (Please select the option that most closely matches your design preference.)



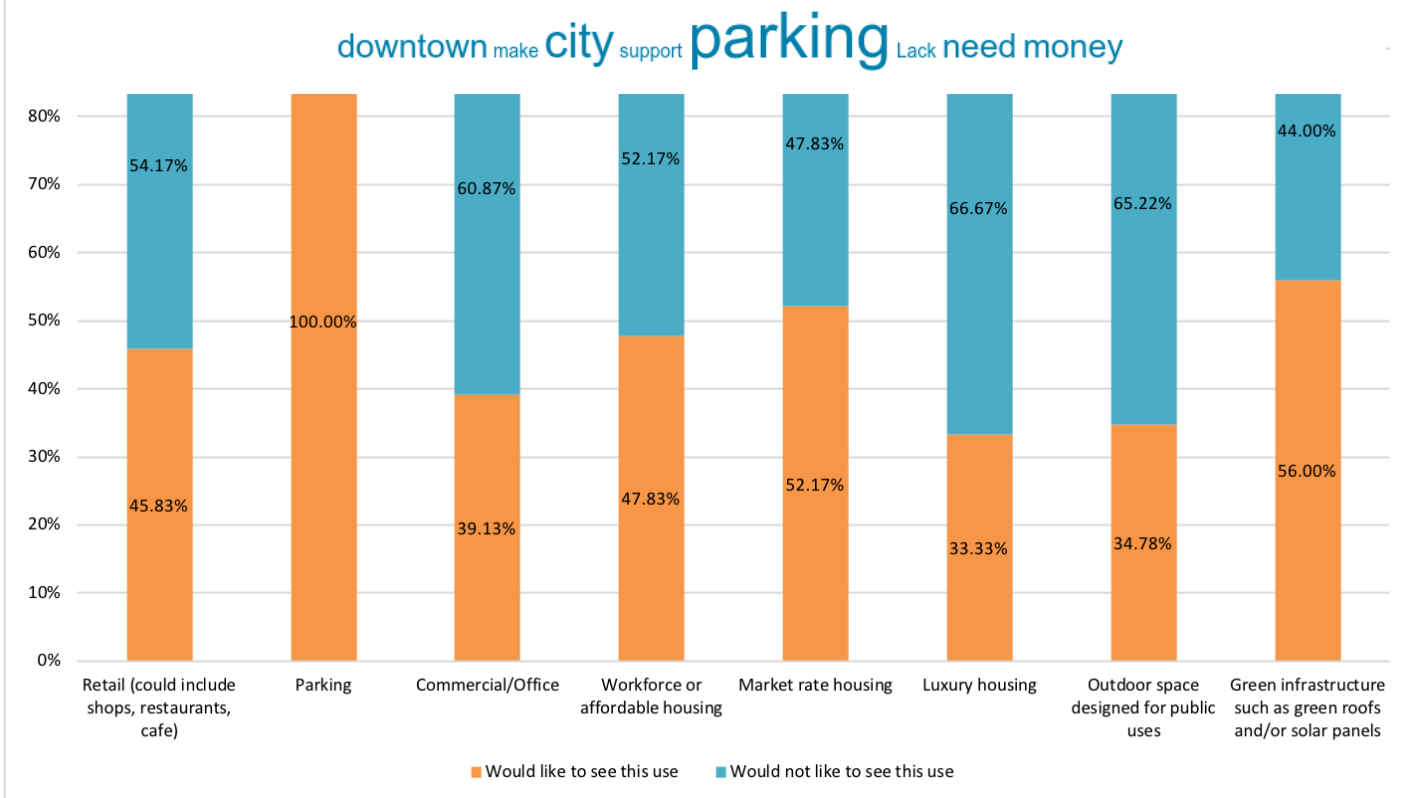
Q2. What are your preferences regarding the types of uses for the property?



Q3 What do you think makes this an attractive site for the uses you have identified as preferences?

shops housing needs currently downtown available
parking lot location property use

Q4 What do you see as the biggest barriers or obstacles to potentially developing the site?



Q5 What are your proposed solutions to those barriers?

needed level **development** City **parking** public
parking structure

Q6 What else would you like to share about your vision for how the property could be used or developed in the future?

need parking community **downtown** years **parking** buildings
development

Darling Lot Concepts

Concept	Theme	Layout	Considerations
1	Parking/Development Balance	<ul style="list-style-type: none"> • Bottom level public parking • Level 2 public parking • Stacked parking on certain areas of level 2 operated by valet • Mixed use on exterior of level 2 and upper levels • About 184 parking spaces, net increase of approximately 82 public spaces 	<u>Ownership/Management</u> <ul style="list-style-type: none"> • Likely would have to be a condominium where the City would share space with a private owner • Would use mechanical parking system for some spaces. • Would offer valet during heavy parking periods to operate mechanical spaces <u>Cost Considerations</u> <ul style="list-style-type: none"> • Conceptual parking cost of \$4,775,000 • Approximately two half floors of private development
2	Most Hidden Parking	<ul style="list-style-type: none"> • Bottom level public parking • Level 1 exterior spaces public, stacked parking on interior portions • About 143 spaces or a net gain of 41 	<u>Ownership/Management</u> <ul style="list-style-type: none"> • Likely would have to be a condominium where the City would share space with a private owner • Would use mechanical parking system for some spaces. • Would offer valet during heavy parking periods to operate mechanical spaces <u>Cost Considerations</u> <ul style="list-style-type: none"> • Conceptual parking cost of \$3,650,000 • Approximately two half floors of private development
3	Walker Garage Upside-down	<ul style="list-style-type: none"> • Construct two full floors of Walker garage design starting at lower ground level and going down. • About 153 spaces or a net increase of 51 public spaces 	<u>Ownership/Management</u> <ul style="list-style-type: none"> • Likely would have to be a condominium where the City would share space with a private owner <u>Cost Considerations</u> <ul style="list-style-type: none"> • Conceptual parking cost of \$7,125,000 • Up to three floors fo private development

set number

www.influencedesignforum.com

— — —

CITY OF DETROIT

PRINCIPAL	NGE
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DESIGNED BY: _____ NGE

DRAWN BY:

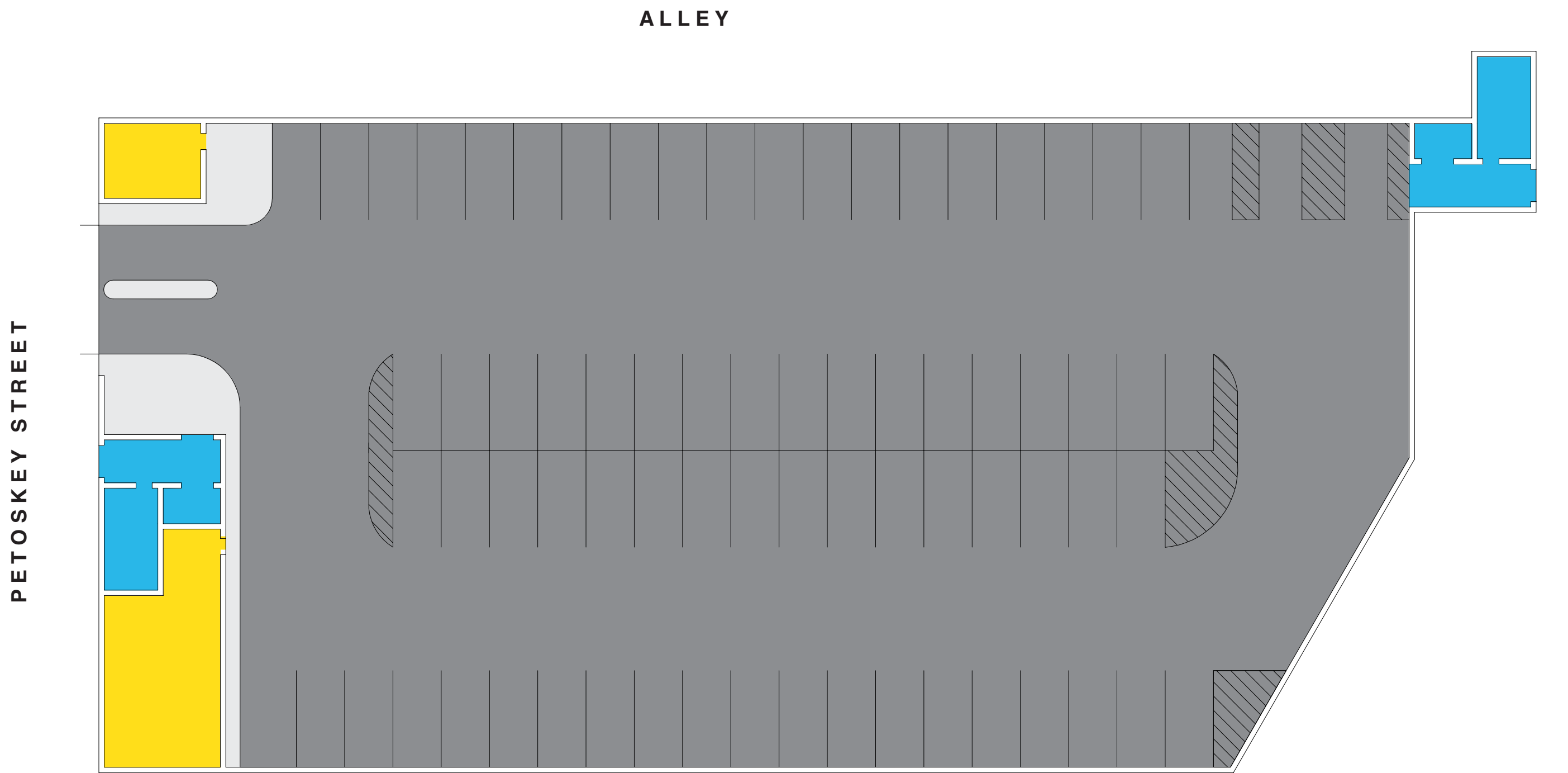
COMMISSION / JOB NO.: 2019102.01

100% 90% 80% 70% 60% 50% 40% 30% 20% 10% 0%





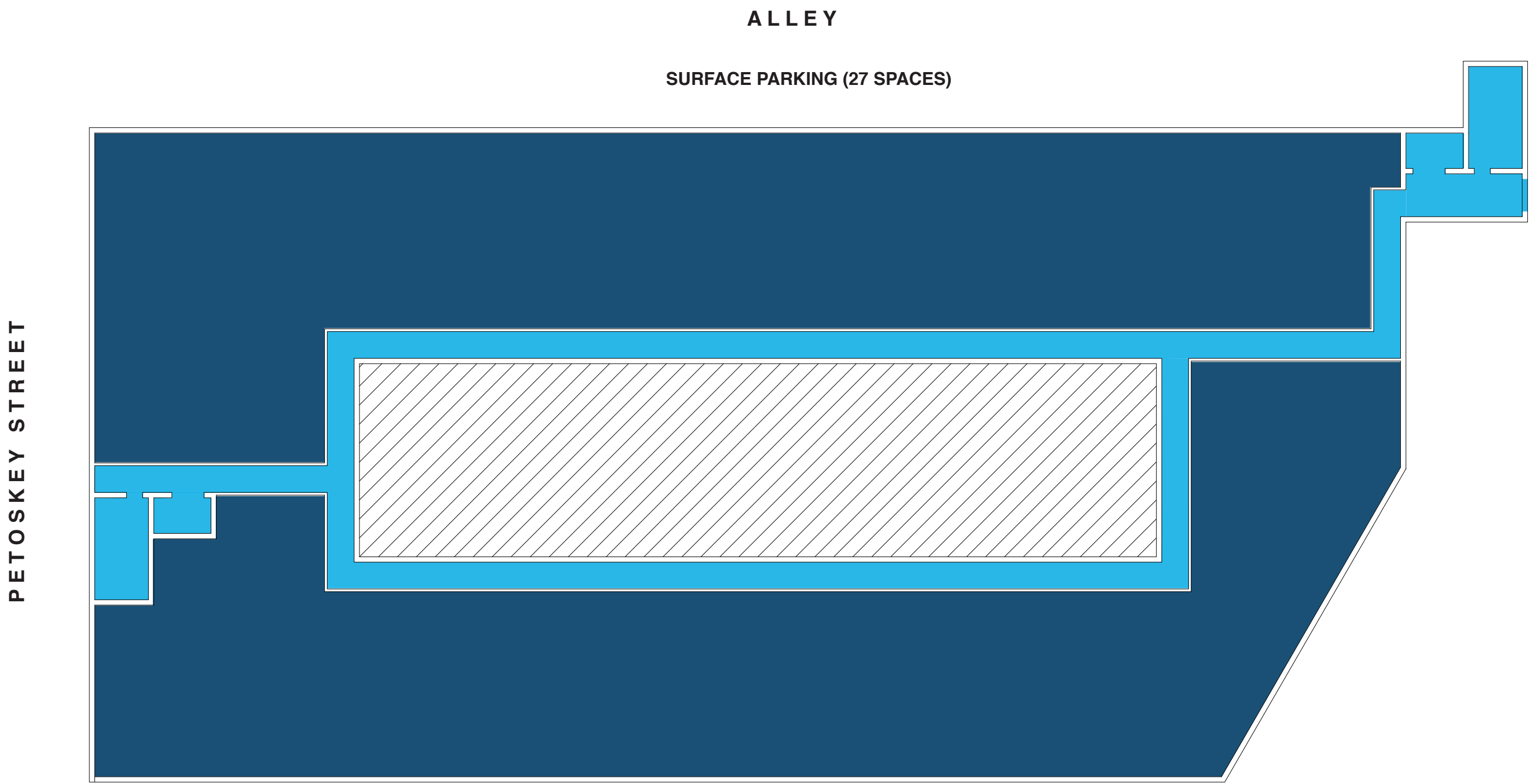
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Journal compilation © 2006 Blackwell Publishing Ltd



GROUND FLOOR

SCALE 1" = 20'-0"

- MECHANICAL ROOM / STORAGE
(1,250 SFT)
- STAIRWELL / ELEVATOR / HALLWAY
(1,130 SFT)
- PUBLIC PARKING
96 PLATFORM LIFT PARKING SPACES
42 STANDARD SPACES
138 TOTAL SPACES



SECOND FLOOR

SCALE 1" = 20'-0"

- MULTI-FAMILY RESIDENTIAL
(19,800 SFT)
- STAIRWELL / ELEVATOR / HALLWAY
(3,625 SFT)
- PLATFORM LIFT PARKING MEZZANINE
(5,700 SFT)

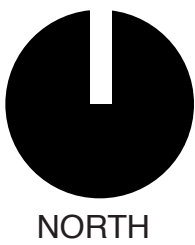


THIRD FLOOR

SCALE 1" = 20'-0"

- MULTI-FAMILY RESIDENTIAL
(26,800 SFT)
- STAIRWELL / ELEVATOR / HALLWAY
(2,675 SFT)

NOTES:
1. THESE DRAWINGS ARE TO BE USED FOR PRELIMINARY
PLANNING PURPOSES ONLY.
2. TOPOGRAPHIC SURVEY PROVIDED BY THE CITY OF PETOSKEY.



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design
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LLC

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Loft 2
Traverse City, MI 49684
(231) 944.4114

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CIVIL ENGINEER
CONSULTANT

REGISTRATION SEAL

ISSUE DATE	DESCRIPTION
7-22-19	CLIENT REVIEW

PROJECT

RRC
PREDEVELOPMENT
ASSISTANCE

CLIENT

CITY OF PETOSKEY
PETOSKEY, MI

PRINCIPAL:	NGE
PROJECT MGR.:	
DESIGNED BY:	NGE
DRAWN BY:	
CHECKED BY:	
COMMISSION / JOB NO.:	2019102.01

DRAWING TITLE

CONCEPT ALTERNATIVE 02

02

set number

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CITY OF DETROIT

PROJECT MGR:

DESIGNED BY	RCE
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DRAWN BY: _____

COMMISSION / JOB NO.: 2010102-01

Downloaded from <http://ajph.org/> on November 10, 2015



Table 1



2014年11月 第11卷第11期

СОДЕРЖАНИЕ

Sarah Bek

From: Jill Fitzpatrick <jjfitz47@aol.com>
Sent: Tuesday, August 13, 2019 1:07 PM
To: CityManager
Subject: Fwd: Darling Lot (correction)

RECEIVED

AUG 13 2019

CITY OF PETOSKEY
CITY MANAGER

CS

My reference to 200 W. Lake below was in error. They (Water St. Condos) already are a PUD. I meant 200 E. Lake, of course, the "Petoskey Grand" site.

Sorry for the confusion.

Jill Fitzpatrick

-----Original Message-----

From: Jill Fitzpatrick <jjfitz47@aol.com>
To: citymanager <citymanager@petoskey.us>
Sent: Tue, Aug 13, 2019 7:51 am
Subject: Darling Lot

After attending last week's City Council Meeting where the three plans to develop the Darling Lot were presented, I came away wondering exactly how the "stacked" parking would work. More visuals would have been helpful, but without them, it was impossible to imagine the logistics, particularly if valets are needed to make it operational.

That said, my choice would be the Walker Garage plan (#3). If the only way to build this is with a public/private partnership, then so be it. It does not appear that the current Planning Commission is ever going to approve a PUD for the 200 W. Lake project, so the parking relief that could have come from that site might never happen.

It would be nice if this project could be ALL parking, but if we cannot afford to build it ourselves, then I guess there will have to be other uses that would make it more attractive to developers. I suspect, however, given the discussion among City Council members at last week's meeting, that the "do nothing" option will win out. All of a sudden, we find ourselves being totally anti-development, a recipe for disaster, in my opinion.

Sincerely,
Jill Fitzpatrick
310 Quaintance Ave.
Petoskey, MI

Sarah Bek

From: Derek <d.r.shiels@gmail.com>
Sent: Wednesday, August 14, 2019 6:31 AM
To: CityManager
Subject: Darling Lot Public Comment

RECEIVED

AUG 14 2019

CITY OF PETOSKEY
CITY MANAGER

SB

8/14/2019

Dear Manager Straebel,

Please accept the following comments concerning the Darling Lot.

- I recommend citizens be provided with more information when given the opportunity to comment on a policy or development proposal. The agenda from the last meeting provided more graphs and data that explain further the process that has gone into getting to the point we are at with the Darling Lot. Often times we (the public) are not aware of a coming decision until we see a notice for an invite of public comment. We should have all the available information provided to us at the notice (via links).
- Mission North was contracted to, in part, "engage the general public and key stakeholders". Two focus groups of 5 and 6 participants and 14 public responses look to be the level of public engagement. Maybe that is appropriate, especially for this early stage, but I want to encourage the City and Council to continue to seek more engagement with the general public.
- I prefer concept 1 or 2 (I am not seeing the "Level 1 exterior spaces public" in the concept 2 sketch?)
- I applaud the idea of the stacked parking considerations that could provide future flexibility for the space should parking needs dwindle in the future.
- I support the commercial condominium approach, which would favor locally-owned businesses and ownership without dependency on a landlord---if not city (public) ownership and investment into the commercial lease spaces (this is if the final plan includes commercial space).
- This is a great opportunity for the City to ensure that the development includes solar panels for the power used in the future space, units that fall under affordable housing, and if commercial space, spaces that target locally-owned businesses. These are critical targets and opportunities for a city investment project such as this one.

Thank you,
Derek Shiels

Follow your joy

Sarah Bek

From: Sarah Ford <sford@phsacf.org>
Sent: Wednesday, August 14, 2019 4:45 PM
To: CityManager
Cc: Amy Tweeten
Subject: Darling Lot feedback

RECEIVED

AUG 14 2019

CITY OF PETOSKEY
CITY MANAGER



Good afternoon, Rob –

I'm writing to encourage the City to move forward with exploring redevelopment of the Darling Lot. Earlier this year, the Community Foundation board voted to make Housing one of our strategic initiatives for the coming years. As part of this work, I represent the Community Foundation as a member of the Little Traverse Bay Housing Partnership. The Community Foundation recognizes that providing housing at nearly all levels is critical for Emmet County to attract and retain workforce, grow our economy, and continue to attract visitors year-round. At nearly every discussion on various topics, housing is raised as a barrier or issue that needs to be addressed.

Given our current need for housing, I was pleased to see the concepts provided by Mission North include multifamily housing, while preserving at least some of the parking that currently exists on that lot. With the designation of this lot as a redevelopment priority, it provides a great opportunity to leverage additional resources and attract development that perhaps wouldn't otherwise be possible. This could be a great opportunity to engage a Community Development Finance Institution that focuses on housing, such as [Michigan Community Capital](#) or [IFF](#), to develop mixed income workforce housing.

I wasn't able to be at the presentation by Mission North that explained the concepts more fully, including the parking lifts, but would encourage the City to explore options that maximize housing units. I hope the City will do what it can to remove as many barriers to development and will consider a path other than maintaining the status quo for this parcel of land.

I know my comments are pretty general, but just wanted to let you know that housing is on the Community Foundation's radar and we are very interested in seeing projects and efforts within the City of Petoskey that help alleviate barriers to providing homes affordable to our area's workforce.

My best,
Sarah

Sarah Ford, MPA, CAP®
Community & Donor Engagement Officer

**Petoskey-Harbor Springs Area
Community Foundation**

616 Petoskey Street, Suite 203
Petoskey, MI 49770
e sford@phsacf.org
p 231-348-5820
f 231-348-5883
www.phsacf.org



BOARD: City Council

MEETING DATE: August 19, 2019

PREPARED: August 15, 2019

AGENDA SUBJECT: Second First Reading of a Zoning Ordinance Allowing Medical Marijuana Provisioning Facilities in the B-3 General Business District, Certain Planned Unit Development (PUDs) Zoning Districts, and possibly in the B-3B Business Industrial Districts, I-1 Light Industrial and I-2 General Industrial Zoning Districts

RECOMMENDATION: That the City Council conduct a second first reading and discuss proposed ordinance. No action required.

Background At the August 5, 2019 meeting, City Council discussed a zoning ordinance to allow medical marijuana provisioning centers in the community. City Council discussed the B-3 General Business District and Planned Unit Development Zoning District, both recommended by the Planning Commission. City Council also discussed whether to include the B-3B Business Industrial Zoning District as well as including the I-1 Light Industrial and the I-2 General Industrial Zoning Districts. Council also directed staff to develop maps showing both a 1,000-foot and 500-foot buffer from K-12 schools. See new maps enclosed as well as maps included in the August 5 Council packet.

Additionally, Joe Blachy and Kasandre Dangler have submitted comments that are included in the packet.

The following was included in the August 5 agenda item.

At its July 18 meeting, by a 7-2 vote, the Planning Commission recommended to City Council they consider approval of the attached zoning ordinance for medical marijuana provisioning centers. As proposed, the ordinance would allow provisioning centers as a special condition use in the following two zoning districts:

1. **B-3 General Business District** – The intent of the B-3 Business District is to provide sites for more diversified business types which would often be incompatible with the pedestrian movement in the local business district or the central business district.
2. **Planned Unit Development (PUD) Districts** – The intent of the PUD District is to permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout, and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; encourage provision of useful open space; provide adequate housing, employment, and shopping opportunities particularly suited to the needs of the residents of the city; and encourage the use, reuse and improvement of existing sites and buildings when the uniform regulations contained in other zoning districts do not provide adequate protection and safeguards for the site or surrounding area. This district is intended to accommodate developments with mixed or varied uses, sites with unusual topography or unique structures or settings within the community, or on land whi

ch exhibits difficult or costly development problems.

See enclosed map – “*Possible Medical Marijuana Provisioning Facility Locations in the B-3 General Business District and PUD Zoning Districts.*” The highlighted areas in blue take into consideration a 1,000-foot buffer from K-12 schools. The proposed ordinance also includes a separation of at least 500 feet between provisioning facilities.

The Planning Commission also recommended that if City Council wanted to consider other locations, they think the B-3B Business Industrial District is most appropriate.

- **B-3B Business Industrial** – The intent of the Business Industrial District is designed to permit a broad range of uses, including light industrial, commercial and residential activities. Performance standards are imposed to assure these uses are compatible and to maintain a quality image of sites of such uses.

See enclosed Zoning Map with the B-3B Business Industrial District colored in dark green and located west of town along Charlevoix Avenue. The draft ordinance does not specifically include reference to the B-3B zoning district at this time but could be easily revised based upon City Council’s direction.

Any provisioning center would need to be at least a 1,000 feet from a K-12 public and private schools. In discussion of the use and appropriate locations, the Commission determined that provisioning centers will generate significant vehicle turnover and therefore should be located along commercial corridors at sites that provide sufficient parking and safe access. The B-3 General Business, two of the existing three PUD districts, and the B-3B Business Industrial districts all have sites that could meet these criteria. The Planning Commission did not feel either the General Industrial or Light Industrial Zoning Districts would be appropriate for medical marijuana provisioning centers. The Planning Commission also strongly recommended that City Council give ample opportunity for public comment and education while soliciting additional public input.

On July 30, the City Manager was contacted by Mr. Joe Blachy regarding a potential “protest petition” opposing medical marijuana provisioning centers in the community. Details of these efforts were not specific and little is known about the initiative. Mr. Blachy has stated he will be attending the August 5 meeting.

According to State legislation there is a provision in the Michigan Regulation and Taxation of Marijuana Act (MRTMA-recreational marijuana) to allow a petition to initiate an ordinance to provide for a number of recreational marijuana establishments in a municipality or to completely prohibit recreational marijuana facilities. See Section 333.27956 from the MRTMA. There is no such petition clause in the medical marijuana state legislation. Nonetheless, Chapter 7 of the City Charter does allow for either a referendum petition that would repeal all or some of an adopted ordinance or an initiative petition that states the ordinance it would enact. See Chapter 7 included in your packet.

Also included in your packet is a survey from Councilmember Dittmar.

Action That City Council discuss and give direction on the following outstanding issues:

- 1) Whether to include a K-12 school buffer zone of either 500 feet or 1,000 feet?
- 2) Whether to include a 500-foot buffer between provisioning centers?
- 3) Zoning Districts appropriate for provisioning centers?
 - B-3 General Business?
 - PUDs?
 - B-3B Business Industrial?
 - I-1 Light Industrial?
 - I-2 General Industrial?

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF PETOSKEY TO

- **AMEND ARTICLE II, SECTION 201, ADD NEW DEFINITIONS PERTAINING TO MEDICAL MARIHUANA FACILITIES;**
- **AMEND ARTICLE X, SECTION 1002, ADD MEDICAL MARIHUANA FACILITIES;**
- **AMEND ARTICLE XXV, SECTION 2502, ADD MEDICAL MARIHUANA FACILITIES;**
- **AMEND ARTICLE XIII, SECTION 1301(1) EXCEPTING MARIHUANA FACILITIES; and**
- **ADD ARTICLE XXXII, PROVIDING ADDITIONAL ZONING PROVISIONS FOR THE SPECIAL USE OF MEDICAL MARIHUANA FACILITIES.**

The City of Petoskey ordains:

ARTICLE II, SECTION 201

Sec. 201. – Definitions. Section 201 of the City of Petoskey's Zoning Ordinance is amended to include the following definitions, in alphabetical order:

LARA: The Michigan Department of Licensing and Regulatory Affairs

Licensee: An entity that holds a license issued under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, as amended, that allows the licensee to operate as one of the following, specified in the license:

- A grower
- A processor
- A secure transporter
- A provisioning center
- A safety compliance facility

Marihuana: The term as defined in section 7106 of the public health code, 1978 PA 368, MCL § 333.7106 et seq.; the Michigan Medical Marihuana Act, MCL § 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL § 333.27101 et seq.; and the Marihuana Tracking Act, MCL§ 333.27901 et seq.

Medical Marihuana Facility: An enterprise at a specific location at which a licensee is licensed and a permit holder is permitted to operate under the Medical Marihuana Facilities Licensing Act. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, MCL § 333.26421 et seq.

Medical Marihuana Permit: A current and valid Permit for a Medical Marihuana Facility issued under the City's Medical Marihuana Facilities Ordinance, granted in accordance with that Ordinance.

Provisioning Center: A licensee that is a commercial entity located in this State 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 Michigan Medical Marihuana Act (MCL § 333.26421 et seq.) is not a provisioning center for purposes of this Ordinance.

ARTICLE X, SECTION 1002

Article X, Section 1002 of the City of Petoskey's Zoning Ordinance is amended to include the following additional principal use permitted subject to special conditions:

10. Medical Marihuana Facilities, to the extent permitted by and subject to the terms and conditions of the City of Petoskey's general ordinances regulating same and subject to the requirements of Article XXXII and the provisions of sections 1716 through 1718 of this ordinance.

ARTICLE XIII, SECTION 1301

Article XIII, Section 1301(1) of the City of Petoskey Zoning Ordinance is hereby amended to read:

All uses permitted and as regulated in the B-3 General Commercial District except for medical marihuana facilities.

ARTICLE XXV, SECTION 2502

Article XXV, Section 2502 of the City of Petoskey Zoning Ordinance is hereby amended to read:

1. All uses permitted in the B-3 General Business District of Petoskey Zoning Ordinance 451 shall be permitted for possible inclusion in a PUD. Accessory buildings and uses customarily incidental to any of the above permitted uses shall be permitted provided that they meet the conditions of section 2503(3)m.
2. Medical Marihuana Facilities shall be permitted in existing Planned Unit Development Districts provided that the development plan is amended. Medical Marihuana Facilities shall only be allowed to the extent permitted by and subject to the terms and conditions of the City of Petoskey's general ordinances regulating same and subject to the requirements of Subsection 1. Above, Article XXXII, and the provisions of sections 1716 through 1718 of this ordinance.

ARTICLE XXXII – MEDICAL MARIHUANA FACILITIES.

Article XXXII of the City of Petoskey's Zoning Ordinance, Medical Marihuana Facilities, is hereby added, as follows:

Sec. 3200. Intent.

It is the purpose of this Article to regulate Medical Marihuana Facilities so as to protect the public health, safety, and welfare of the residents and patients of the City and to establish reasonable and uniform regulations for their operation. It is further the intent of this Article to implement the provisions of the Michigan Medical Marihuana Facilities Licensing Act, MCL § 333.27101, et seq., with respect to local zoning and land use, and to permit the sale and distribution of medical marihuana consistent with applicable State statutes.

The provisions of this article have neither the purpose nor effect of granting immunity from any criminal prosecution under Federal law or granting immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of marihuana in any form, that is not in strict compliance with all applicable laws and rules promulgated by the State of Michigan and the City of Petoskey regarding medical marihuana. This Article does not provide any rights or privileges with regard to marihuana under the Michigan Regulation and Taxation of Marihuana Act, MCL § 333.27102.

Sec. 3201. General Provisions.

Medical marihuana facilities as defined by this Ordinance shall be subject to the following general regulations:

(a) Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by State law are prohibited in the City. In the event that a court with jurisdiction declares some or all of this Section invalid, the City may suspend the acceptance of applications for licensing pending the resolutions of the legal issue in question.

(b) An operator of a medical marihuana facility shall at all times have a valid Medical Marihuana Facility permit issued by the City pursuant to Chapter 8, Article IX of the Petoskey Code of Ordinances, as amended, and a State operating license as issued by LARA pursuant to the Medical Marihuana Facilities Licensing Act, MCL § 333.27101 et seq.

(c) A property owner or operator of a medical marihuana facility shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this ordinance or any applicable amendment thereto.

(d) Discontinuation of a State medical marihuana facility license shall be also considered a discontinuance of a medical marihuana facility, at which time any permit granted by the City pursuant to this Ordinance would be considered ineffective.

Sec. 3202. Site development performance standards for all uses.

- (a) Only one medical marihuana facility per parcel or lot.
- (b) A separation distance of five hundred (500) feet is required from any other medical marihuana facility or marihuana establishment.
- (c) A medical marihuana facility is not permitted within one thousand (1000) feet of: any private or public elementary or secondary school (K-12).
- (d) The distances described in this section shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in this section above to the nearest portion of the building or unit in which the medical marihuana facility is located.

- (e) The separation distances contained in this section are applicable to medical marihuana facilities and establishments located in adjacent governmental jurisdictions.
- (f) A medical marihuana facility is not permitted on the same property or parcel or within the same building where any of the following are located: a package liquor store, a convenience store that sells alcoholic beverages or a fueling station that sells alcoholic beverages.

Nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby revised as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this ordinance.

If any of the standards set forth in this amendment conflict with any other standards of previous or further ordinances or amendments, the stricter standards shall apply.

All ordinances, resolutions, or orders, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, repealed.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

This ordinance shall take effect fifteen (15) days following its enactment and shall be published once within seven (7) days after its enactment as provided by Charter.

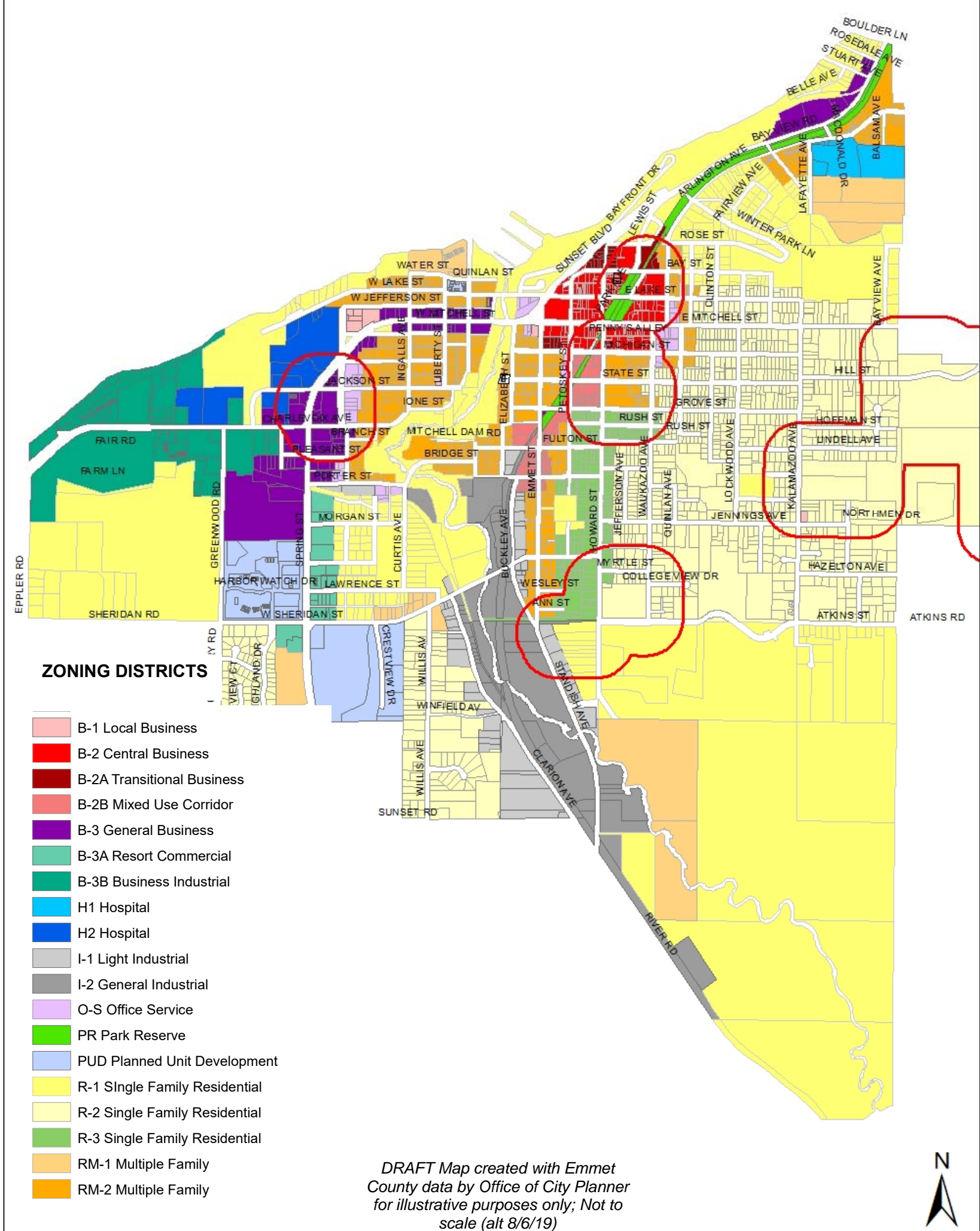
Adopted, enacted and ordained by the City of Petoskey City Council this _____ day _____ of _____ 2019.

John Murphy
Its Mayor

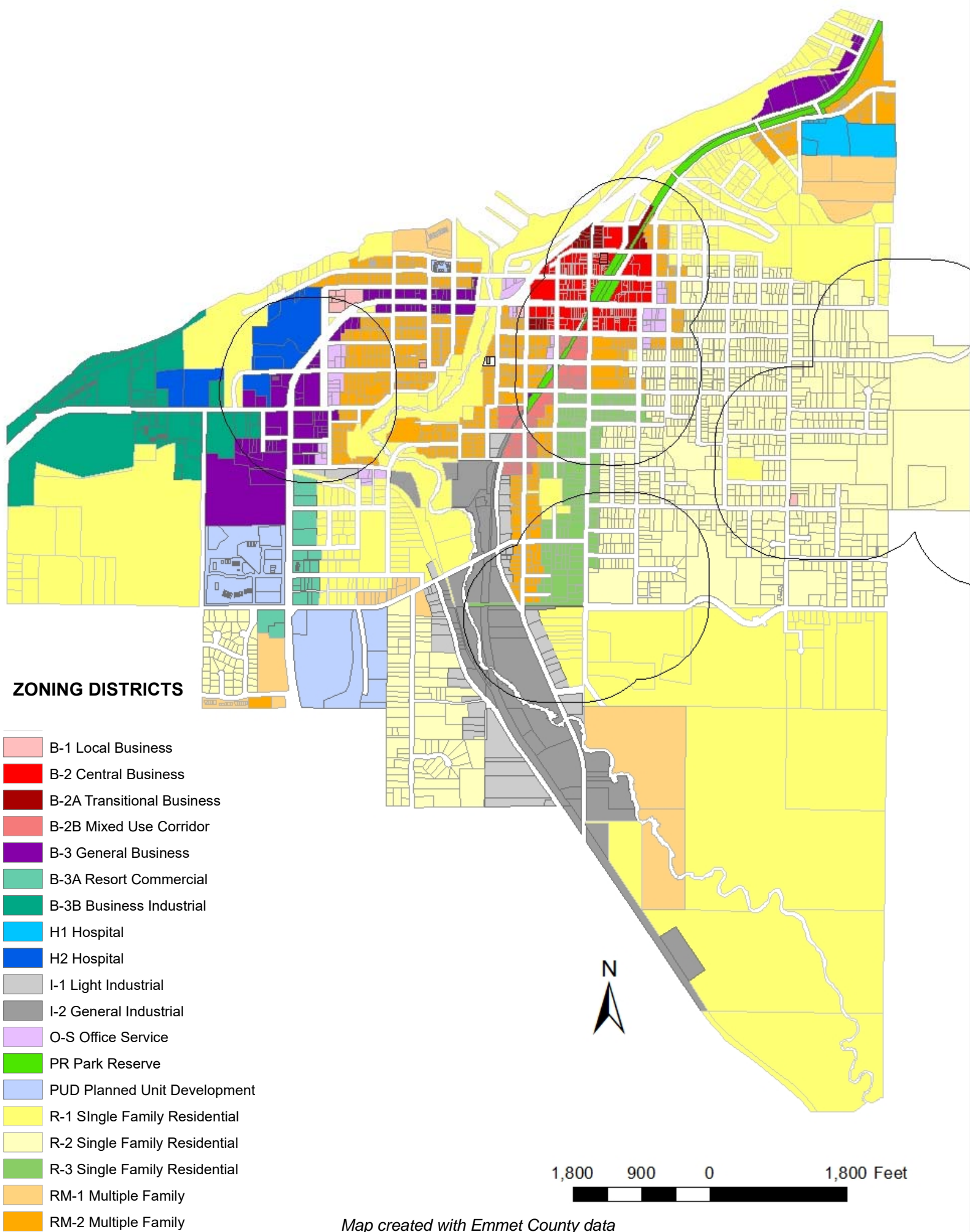
Alan Terry
Its Clerk

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ZONING DISTRICTS WITH BUFFER OF 500 FEET FROM SCHOOLS

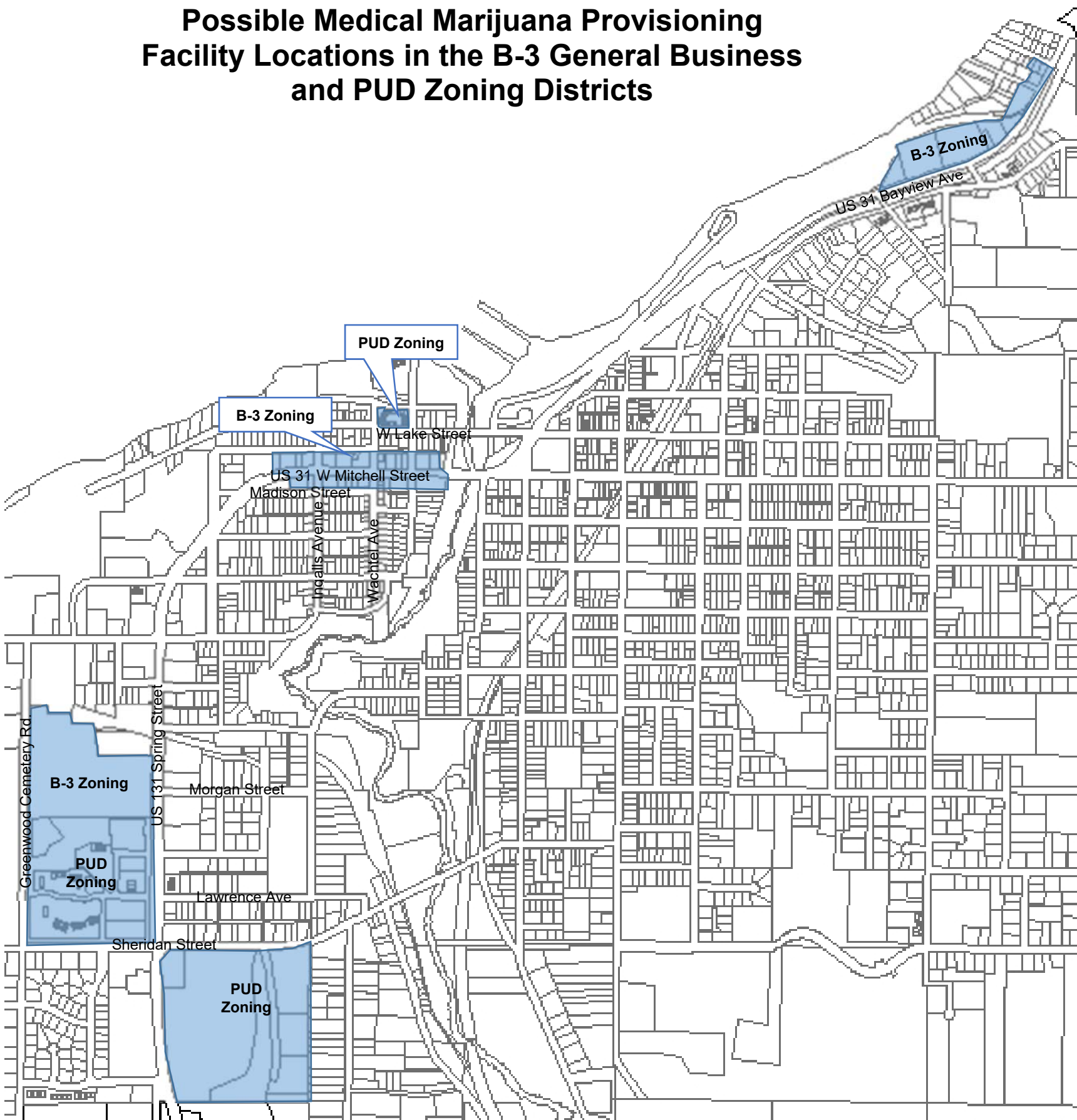


ZONING DISTRICTS WITH BUFFER
OF 1000 FEET FROM SCHOOLS



Map created with Emmet County data
by Office of City Planner for illustrative
purposes only (alt 4/19/19)

Possible Medical Marijuana Provisioning
Facility Locations in the B-3 General Business
and PUD Zoning Districts



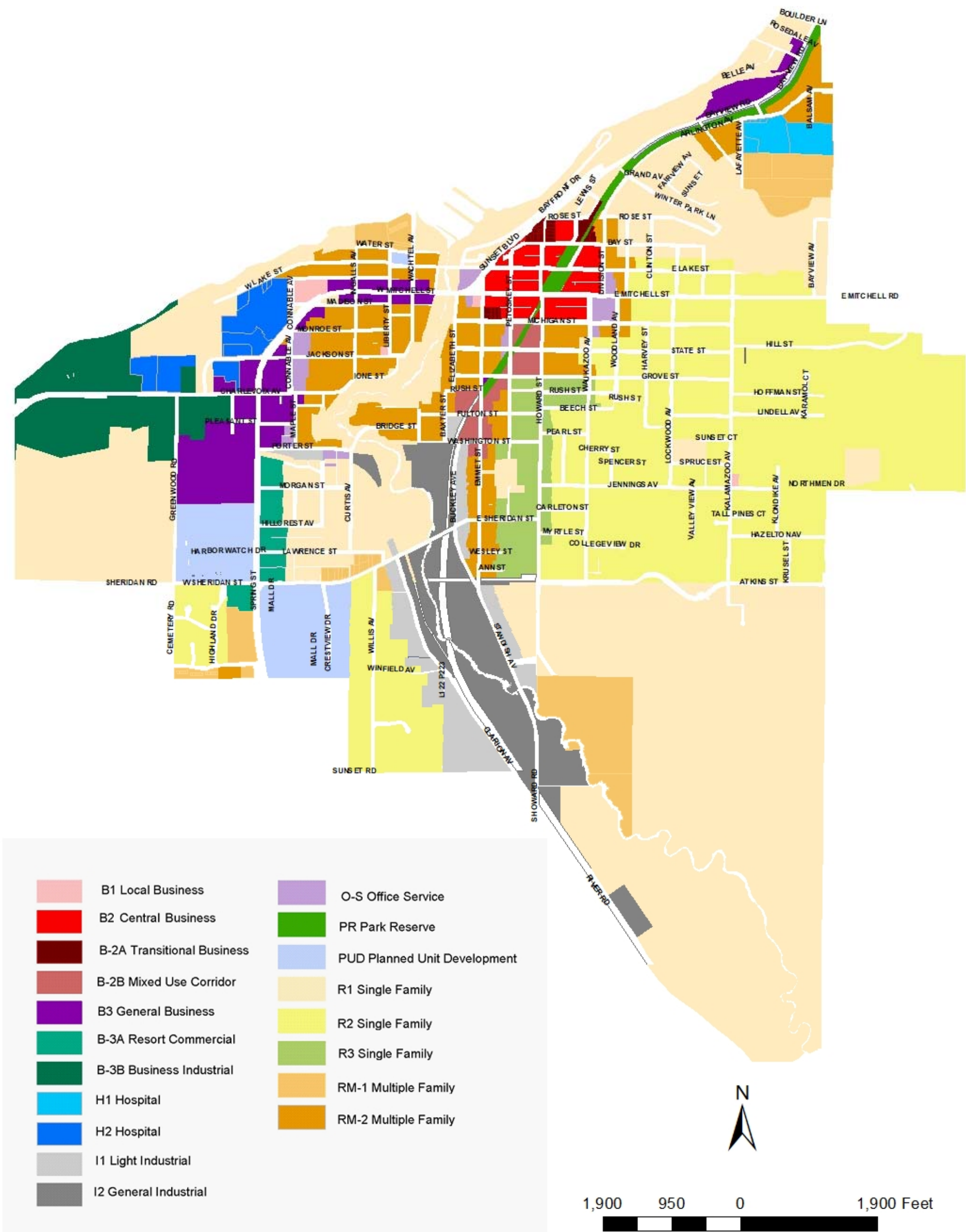
Areas that would allow Medical Marijuana Provisioning Facilities subject to zoning and licensing ordinance provisions including a 500 foot buffer between facilities and limited number of facilities as determined by City Council.



DISCLAIMER

Draft map for discussion purposes only until ordinances adopted by City Council; Not to Scale (alt 08-01-19)

CITY OF PETOSKEY ZONING



August 12, 2019

Letters to the Editor...News Review

SAY NO...TO MARIJUANA STORES IN PETOSKEY

During its August 5th meeting some of the Council members appeared to be “frantic” to bring Marijuana Stores to Petoskey.

Some Councilmembers say that they are only discussing “medical” stores...but we know from past experiences in Gaylord and in Colorado, and trends in Michigan, that medical stores, in fact will...one way or the other...eventually be selling recreational products.

I DO NOT WANT MARIJUANA STORES IN PETOSKEY...LIKE IN DETROIT!!! How about you??

Two of the council members gave as their rational for pushing for stores as “we are only representing our constituents!”

The fact is that there are two distinctly different subjects...and therefore strongly different opinions from Citizens:

- A. Voting for Marijuana legalization in the State and**
- B. Having Retailers in our wonderful City of Petoskey!**

Councilman Grant Dittmar surveyed 335 of 3rd Ward voters. Although they voted in favor of legalization...when surveyed about Marijuana stores: 73% do NOT want recreational retailers and 62% do NOT want medical retailers in Petoskey!

Three towns, which all voted for Marijuana legalization in November...on August 6th they voted AGAINST Retailers in their communities: Vanderbilt, Highland Park, Chrystal Lake Township.

A lot of “Men in Suits (and some in T-shirts) from out of town” are infiltrating Petoskey with promises of a wonderful life with Marijuana!

The factual experiences in towns who have or had retailers in Michigan and Colorado...prove that Marijuana stores are NOT good for our high-quality family-oriented resort community, our youth, or for surrounding businesses! Check out Gaylord’s experience with 9 stores...which were all closed because of police actions!

PLEASE...contact your Council Members and tell them how you feel...or come to the Monday August 19th Council Meeting at 7 PM and voice your opinion!

**Joe Blachy
joe@joelblachy.com**

CITIZENS AGAINST MARIJUANA RETAILERS
IN PETOSKEY CITY LIMITS

Petoskey City Council

Hon. John Murphy, Mayor
Kate Marshall
Suzanne Rosenthal Shumway

Grant Dittmar
Lindsey Walker

Copy to: City Manager, City Planner, Planning Commission members

We would appreciate your HELP in developing a more solid and REAL representation of the Marijuana sale proposal in Petoskey.

It appears to us, that during the City Council meeting of August 5, 2019, your perceptions of the key critically relevant details were grossly incorrect!

There are 4 major areas:

1. It's "only medical" Marijuana that you are considering.
2. You are truly representing your constituents by virtue of how they voted in favor of Marijuana.
3. Marijuana is not harmful, nor addictive.
4. "Men in suits" from out of town are here to help the people of the City of Petoskey.

We KNOW that Marijuana retailers WILL HAVE AN EXTREMELY NEGATIVE IMPACT ON PETOSKEY BASED UPON WHAT HAS HAPPENED IN DENVER, GAYLORD AND MANY OTHER COMMUNITIES WHICH HAVE MADE THE MISTAKE OF ALLOWING MARIJUANA SALES IN THEIR TOWNS!

We would appreciate it if you would carefully review the following FACTS and very carefully consider the POWERFUL impact Marijuana retailers would have on the businesses and people of this wonderful community.

1. IT'S ONLY MEDICAL MARIJUANA DISTRIBUTION THAT WE ARE CONSIDERING.

Council member Lindsey Walker passionately made this statement, but this is wrong for the following reasons:

- A. We agree that many people voted FOR Marijuana because they have sympathy for people who want to use the various products for medications. We recognize that Marijuana has some medicinal values important to some patients and that per Michigan law there are a limited number of medical conditions for which a medical marijuana card is allowed.
- B. This is a small community, so one store would be more than adequate to meet the needs of residents who desire to purchase Marijuana for medicinal reasons. But the Petoskey City Council is considering many stores! We ask you why?
- C. It is likely that there are not many medical Marijuana users in our small community. It makes sense then that a Marijuana provisioning center will need to sell to more than just medical marijuana cardholders. This is especially true if the provisioning center is competing with many other stores.
- D. The Michigan law that was approved by voters last November requires that Recreational Stores MUST HAVE A MEDICAL LICENSE FIRST! So, it is highly likely that any stores in Petoskey that begin as a medical store will eventually pressure the City Council to allow the sale of RECREATIONAL MARIJUANA.
- E. When Colorado authorized medical marijuana, at one point 93% of all prescriptions FOR THE ENTIRE STATE were written by only 2 doctors. What that tells us is that it was NOT for medical use at all!
- F. Gaylord had 9 marijuana stores right after it was authorized a few years ago. Nine stores in one little town for medical purposes? That would mean that every person in the 2-county area, and many more, would have an illness outlined by statute that permits purchase and use of medical marijuana! We might also add that EVERY ONE OF THOSE STORES WAS SHUT DOWN BY THE POLICE FOR INFRACTIONS OF VARIOUS LAWS!

NOTE: DO WE WANT THIS DUPLICATED IN PETOSKEY?

This is the excerpt from the MICHIGAN REGULATION AND TAXATION OF MARIJUANA ACT, Initiated Law 1 of 2018, which has the “medical” prerequisite:

MCL 333.27959(6)

The department shall begin accepting applications for marijuana establishments within 12 months after the effective date of this act. Except as otherwise provided in this section, for 24 months after the department begins to receive applications for marijuana establishments, the department may only accept applications for licensure: for a class A marijuana grower or for a marijuana processor, class B marijuana grower, class C marijuana grower, or a marijuana

secure transporter, from persons holding a state operating license pursuant to the medical marijuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801; and for a marijuana safety compliance facility, from any applicant. One year after the department begins to accept applications pursuant to this section, the department shall begin accepting applications from any applicant if the department determines that additional state licenses are necessary to minimize the illegal market for marijuana in this state, to efficiently meet the demand for marijuana, or to provide for reasonable access to marijuana in rural areas.

Our summary:

As of today, the state intends to start accepting "recreational" applications on November 1, 2019.		
Type of recreational license:	For the first 24 months after accepting applications, these licensing rules apply:	Alternatively, one year after starting to accept applications, the state is not limited to MI resident applicants or existing medical applicants, if it deems the rationale of the law is not being met by those restrictions:
Class A grower	Any MI resident applicant	Any applicant
Class B grower	Requires a medical license	Any applicant
Class C grower	Requires a medical license	Any applicant
Microbusiness	Any MI resident applicant	Any applicant
Retailer	Requires a medical license	Any applicant
Processor	Requires a medical license	Any applicant
Secure transporter	Requires a medical license	Any applicant
Safety compliance facility	Any applicant	Any applicant

G. How easy is it to get a medical card? Easy-just find a doctor to sign for you.

H. Recreational rules will be issued sometime soon to be effective on November 1st of this year.

2. YOU ARE "TRULY REPRESENTING YOUR CONSTITUENTS" BY VIRTUE OF THE FACT THAT THEY VOTED IN FAVOR OF MARIJUANA.

Voting in favor of marijuana ABSOLUTELY DOES NOT MEAN that those constituents want marijuana distribution provisioning centers in Petoskey.

NOTE: WE BELIEVE THAT IT IS CRITICAL THAT THE CITY COUNCIL FIND A WAY TO DETERMINE WHICH OF THE CITIES VOTERS DESIRE AUTHORIZING ANY MARIJUANA STORES IN PETOSKEY....AND WHICH DO NOT!

A. Council member Grant Dittmar took the VERY ADMIRABLE initiative and spent his own money to mail a survey to his constituents in the 3rd Ward. The following are the results of this survey:

- 38% of the 335 survey recipients responded. Wow, an excellent response rate!
- Question: “Should Petoskey add medical marijuana provisioning centers, with THC products, in addition to caregiver growers and patient growers that are already allowed in Petoskey?” **NO: 62% YES: 32%**
- Question: “Should Petoskey allow recreational marijuana businesses with THC products?” **NO: 73% YES: 27%**

VERY CONCLUSIVELY, A SUBSTANTIAL SAMPLE OF THE VOTERS OF PETOSKEY HAVE SPOKEN! They voted for legalization, BUT THEY DO NOT WANT THE NEGATIVES ASSOCIATED WITH STORES IN PETOSKEY!

NOTE: Based upon follow up with Petoskey voters, it appears that the reason the medical number was not higher was because of the “sympathy factor” that many people have for patients that REALLY need medical treatment via marijuana.

B. The following are the results of August 6, 2019, votes in Michigan where in EVERY CASE the voters who voted for legalization are AGAINST distribution centers for their communities:

Vanderbilt

- 59% voted FOR the recreational marijuana initiative in the 2018 election (proposal 18-1)
- Vanderbilt passed an ordinance to opt-out (like Petoskey)
- There was a referendum to overturn the opt-out in the 2019 primary election.
- It failed to overturn the opt-out
- **54% voted to keep the opt-out**

Highland Park

- 71% voted FOR the recreational marijuana initiative in the 2018 election (proposal 18-1)
- Highland Park passed an ordinance to opt-out (like Petoskey)
- There was a referendum to overturn the opt-out in the 2019 primary election
- It failed to overturn the opt-out
- **57% voted to keep the opt-out**

Crystal Lake Township

- 54% voted FOR the recreational marijuana initiative in the 2018 election (proposal 18-1)
- There was an initiative to opt-out in the 2019 primary election, using the initiative clause in the recreational statute
- **59% approved the opt-o**

3. MARIJUANA IS NOT HARMFUL, NOR ADDICTIVE.

- A. The self-proclaimed 20-year heroin user, who spoke at the August 5th City Council meeting in favor of marijuana sales in our city stated that marijuana is not a gateway drug, but that it is an “exit drug” as it was in his case. Interesting?
- B. Hillsdale College *IMPRIMIS*, of January 2019 quotes the speech by Alex Berenson, who wrote “*Tell your children: The truth about marijuana, mental illness, and violence*”. The following are a couple of quotes, but you may see the entire speech here:

<https://imprimis.hillsdale.edu/marijuana-mental-illness-violence/>

- After an exhaustive review, the National Academy of Medicine found in 2017 that “cannabis is likely to increase the risk of developing schizophrenia and other psychosis; the higher the use, the greater the risk.”
- Even cannabis advocates, like Bob Kampia, the co-founder of the Marijuana Policy Project, acknowledged that they “have always viewed medical marijuana laws as a way to protect recreational users!”
- In the 1970’s most marijuana contained less than 2% THC. Today, marijuana routinely contains 20 to 25% THC (NOTE: is that good?)
- Far less work has been done on marijuana than on alcohol, in part because advocates have stigmatized anyone who raised the issue. But studies showing that marijuana use is a significant risk factor for violence, have quietly piled up!

4. “MEN IN SUITS”, FROM OUT OF TOWN, ARE HERE TO HELP THE PEOPLE IN THE CITY OF PETOSKEY.

- A. Are those the same type of “men in suits” who told us for years that cigarette smoking is not harmful? THEY ARE HERE FOR ONE REASON AND THAT IS TO GENERATE BIG PROFITS FROM SELLING TO RECREATIONAL USERS!

- B. One of the “men in suits” at the meeting (in the interest of full disclosure, he wore a sport coat) who announced that he represented Bay Mall stated that the owners would welcome a marijuana store in their mall. (NOTE: We wonder how the other tenants and the nearby owners feel about that?)
- C. After Council Member Lindsey Walker suggested that a 1,000 ft. distance between marijuana stores and schools was not needed, another of the “men in suits” (who said that he was an attorney and represented several local and downstate potential marijuana merchants) suggested that 1000 ft. was not objectionable to his clients. In fact, he said that once federal involvement begins, a 1,000 ft distance was likely to be required. NOTE: We cannot understand how members of the council think but even after that statement the council kept pursuing that concept. One reason given was that with 500 ft. there would be more locations available for more stores! Does the council have no regard for the children of this community?
- D. Below is a copy of a recent newspaper article that highlights the horribly negative effects of the “marijuana revolution” in Colorado. NOTE: Do you think that our Petoskey citizens want these kinds of changes in our town?

From Alan Todd who is co-publisher of the Ouray County Plaindealer:
Potent numbers at the five-year mark of legalized marijuana:

There sure is a lot to wade through in a recently released report from the Rocky Mountain High Intensity Drug Trafficking Area, a drug-prohibition enforcement program run by the U.S. office of National Drug Control Policy. The program, which is focuses on Colorado, Utah, Wyoming and Montana, published a 94-page report entitled "The Legalization of Marijuana in Colorado: The Impact, Volume 5." It has published the report each year since marijuana retail sales were legalized in Colorado.

Here are some of the findings:

- Since recreational marijuana was legalized, marijuana related traffic deaths increased 151 percent while all Colorado traffic deaths increased 35 percent;
- In that same time, traffic deaths involving drivers who tested positive for marijuana more than doubled from 55 in 2013 to 138 people killed in 2017, which equates to one person killed every 2.5 days compared to one person killed every 6.5 days;
- The percentage of all Colorado traffic deaths that were marijuana related increased from 11.43 percent in 2013 to 21.3 percent in 2017;
- Colorado past month marijuana use shows a 45 percent increase in comparing a three-year average prior to recreational marijuana being legalized to the three years after legalization;
- Colorado's past month marijuana use for ages 12 and older is ranked third in the nation and is 85 percent higher than the national average;

The yearly rate of emergency department visits related to marijuana increased 52 percent after the legalization of recreational marijuana (2012 compared to 2016);

- The yearly rate of marijuana-related hospitalizations increased 148 percent after the legalization of recreational marijuana (2012 compared to 2016);
- Marijuana only exposures more than tripled in the five-year average (2013-2017) since Colorado legalized recreational marijuana compared to the five-year average (2008-2012) prior to legalization;
- RMHIDTA Colorado Task Forces conducted 144 investigations of black market marijuana in Colorado in 2017 resulting in 239 felony arrests, 7.3 tons of marijuana seized, 43,949 plants seized and 24 different states the marijuana was destined for;
- The number of highway seizures increased 39 percent from 242 seizures from 2009-2012 to 336 seizures from 2013-2017;
- Seizures of Colorado marijuana in the U.S. mail system increased 1.42 percent from an average of 52 parcels (2009-2012) to an average of 594 parcels (2013-2017);
- Marijuana tax revenue represented approximately 0.9 of 1 percent of Colorado's 2017 budget;
- Violent crime increased 18.6 percent and property crime increased 8.3 percent in Colorado since 2013; and,
- 65 percent of local jurisdictions in Colorado have banned medical and recreational marijuana businesses.

There are so many more stats and findings in this report, including 69 percent of marijuana users admitted to driving high in the last year, and marked increases in THC potency in all products progressively each year since 2013.

Here's one more to leave you with: As of June 2017, there were 491 retail marijuana stores in Colorado compared to 392 Starbucks and 208 McDonald's.

- E. Below is the story of just one example of how our community has already been affected by marijuana users. It is just another example of: "I can drive, I am OK." But in the case of marijuana users, it is very difficult to detect and test for.

The March 21st story in the News Review discussing the nearly head on crash of Kathleen Lynette Willis, 34, and two other vehicles stated that she admitted to regularly using marijuana!

Please consider these FACTS and ask your constituents: DO YOU WANT MARIJUANA RETAILERS IN PETOSKEY, as Grant Dittmar did.

Then search your heart, soul, and mind, relative to what is REALLY THE BEST for families of the City of Petoskey, our many neighbors in counties that surround us, and our visitors and potential new residents who are our primary source of income.

I have lived in Europe and have traveled to many other places in this world, and I have not found one place that offers as positive an environment and people who are as wonderful as ours, who have chosen this place as their home.

PLEASE DO NOT DESTROY THIS POSITIVE ENVIRONMENT BY ADDING MARIJUANA STORES TO PETOSKEY.

Sincerely,

Citizens Against Marijuana Retailers in the Petoskey City Limits

Joe Blachy

joe@joeblachy.com

ATTENTION PETOSKEY!

CITIZENS AGAINST MARIJUANA RETAILERS IN PETOSKEY CITY LIMITS



Yes, I want to help!

I care about my community, my neighbors,
and the families who live here.

If you are interested
in supporting this
effort...or if you are in
favor of **NO STORES
IN PETOSKEY ...**

Please fill out and scan
this form and send to:

Joe Blachy

Email: joe@joeblachy.com

Please mark all that apply to you!

- | | |
|--|--|
| <input type="checkbox"/> I Support the effort | <input type="checkbox"/> Go to City Council meetings to voice my opposition |
| <input type="checkbox"/> Add my name to an ad | <input type="checkbox"/> Assist with obtaining signatures on petitions |
| <input type="checkbox"/> Come to a meeting to plan future activities | <input type="checkbox"/> Assist with research and other work undertaken by the group |
| <input type="checkbox"/> Contribute \$_____ to the effort | <input type="checkbox"/> Other:

_____ |
| <input type="checkbox"/> Sign a petition to stop marijuana stores in Petoskey | <input type="checkbox"/> Other:

_____ |
| <input type="checkbox"/> Vote against marijuana stores in a referendum ... if it comes to that | |
| <input type="checkbox"/> Talk to and write to my City Council representative and other council members about my opposition | |

Name _____ Address _____

Email _____ Phone _____

CITIZENS AGAINST MARIJUANA RETAILERS IN PETOSKEY CITY LIMITS

Kasandre Dangler
1407 Standish Ave
Petoskey, MI 49770
(231)348-8520

August 8, 2019

RECEIVED

AUG 12 2019

CITY OF PETOSKEY
CITY MANAGER

CB

To Whom It May Concern:

Upon researching the proposals for medical marijuana ordinance provisions, I would like to submit a suggestion for another zoning ordinance. The first few properties on Standish Ave are, I believe, a prime area for zoning consideration, my own property included. The reasons why it should be considered are as follows:

- It is outside of the suggested 500 feet buffer from churches and school as well as the 400 feet buffer from parks and recreational areas.
- It is zoned as an I-1 light industrial property.
- It is on a side road that is still fairly accessible.
- It is far enough away from the downtown area to not interfere with the family friendly downtown experience.
- It already comes equipped with adequate parking to cater to the needs of clients.
- It falls in the guidelines of being 500 feet away from any other zoned areas already suggested for provisioning centers.

If this is not able to be a suggested zoning consideration **in addition to** the area that are already being considered, I am asking that it be a suggested zoning consideration **in lieu of** the Kmart property area. I believe that this would be a better fit for our community because the Kmart property is very close to a low income apartment complex as well as the senior center and there have been avid voiced concerns about provisioning centers being too close to small children.

Thank you for your time and consideration. I plan on attending the next city council meeting on August 19, 2019, and I look forward to seeing where the city proceeds with this.

Sincerely,

Kasandre Dangler

age or older, as long as the transfer is not advertised or promoted to the public.

2. Notwithstanding any other law or provision of this act, except as otherwise provided in section 4 of this act, the use, manufacture, possession, and purchase of marihuana accessories by a person 21 years of age or older and the distribution or sale of marihuana accessories to a person 21 years of age or older is authorized, is not unlawful, is not an offense, is not grounds for seizing or forfeiting property, is not grounds for arrest, prosecution, or penalty in any manner, and is not grounds to deny any other right or privilege.

3. A person shall not be denied custody of or visitation with a minor for conduct that is permitted by this act, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.

History: 2018, Initiated Law 1, Eff. Dec. 6, 2018.

Compiler's note: This new act was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. The proposed language was certified to the legislature on April 26, 2018 with the 40-day consideration period lapsing on June 5, 2018. The initiative petition was submitted to the voters as proposal 18-1 at the November 6, 2018 general election where it was approved 2,356,422 for and 1,859,675 against.

333.27956 Adoption or enforcement of ordinances by municipality; marihuana establishment local license; annual fee; restrictions on transportation or other facilities prohibited.

Sec. 6. 1. Except as provided in section 4, a municipality may completely prohibit or limit the number of marihuana establishments within its boundaries. Individuals may petition to initiate an ordinance to provide for the number of marihuana establishments allowed within a municipality or to completely prohibit marihuana establishments within a municipality, and such ordinance shall be submitted to the electors of the municipality at the next regular election when a petition is signed by qualified electors in the municipality in a number greater than 5% of the votes cast for governor by qualified electors in the municipality at the last gubernatorial election. A petition under this subsection is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488.

2. A municipality may adopt other ordinances that are not unreasonably impracticable and do not conflict with this act or with any rule promulgated pursuant to this act and that:

- (a) establish reasonable restrictions on public signs related to marihuana establishments;
- (b) regulate the time, place, and manner of operation of marihuana establishments and of the production, manufacture, sale, or display of marihuana accessories;
- (c) authorize the sale of marihuana for consumption in designated areas that are not accessible to persons under 21 years of age, or at special events in limited areas and for a limited time; and
- (d) designate a violation of the ordinance and provide for a penalty for that violation by a marihuana establishment, provided that such violation is a civil infraction and such penalty is a civil fine of not more than \$500.

3. A municipality may adopt an ordinance requiring a marihuana establishment with a physical location within the municipality to obtain a municipal license, but may not impose qualifications for licensure that conflict with this act or rules promulgated by the department.

4. A municipality may charge an annual fee of not more than \$5,000 to defray application, administrative, and enforcement costs associated with the operation of the marihuana establishment in the municipality.

5. A municipality may not adopt an ordinance that restricts the transportation of marihuana through the municipality or prohibits a marihuana grower, a marihuana processor, and a marihuana retailer from operating within a single facility or from operating at a location shared with a marihuana facility operating pursuant to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

History: 2018, Initiated Law 1, Eff. Dec. 6, 2018.

Compiler's note: This new act was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. The proposed language was certified to the legislature on April 26, 2018 with the 40-day consideration period lapsing on June 5, 2018. The initiative petition was submitted to the voters as proposal 18-1 at the November 6, 2018 general election where it was approved 2,356,422 for and 1,859,675 against.

333.27957 Implementation, administration, and enforcement by department; powers; duties; public meetings; annual report.

Sec. 7. 1. The department is responsible for implementing this act and has the powers and duties necessary to control the commercial production and distribution of marihuana. The department shall employ personnel and may contract with advisors and consultants as necessary to adequately perform its duties. No person who is pecuniarily interested, directly or indirectly, in any marihuana establishment may be an employee, advisor, or consultant involved in the implementation, administration, or enforcement of this act. An employee, advisor, or consultant of the department may not be personally liable for any action at law for damages sustained by a person because of an action performed or done in the performance of their duties in the

dains." With the exception of emergency ordinances, no ordinance shall be finally passed by the city council at the same meeting at which it is introduced. All ordinances shall be recorded in "The Ordinance Book" when enacted and shall be authenticated by the signatures of the mayor and the city clerk. With the exception of emergency ordinances, all ordinances shall specify an effective date no less than fourteen (14) days after enactment.

Section 6.4. Repeal of Ordinances.

An ordinance may be repealed by the adoption of a repealing ordinance in the same manner as provided for enactment.

Section 6.5. Emergency Ordinances.

The city council may adopt one (1) or more emergency ordinances to meet a public emergency affecting life, health, property, or the public peace. The city council must first declare the existence of the emergency and describe it in specific terms. Ordinances enacted for an emergency may not levy taxes; grant, renew or extend a franchise; or regulate the rate charged by any public utility for its services. An emergency ordinance may be adopted at the same meeting at which it is introduced, may have immediate effect, and shall be published and printed in the same manner as prescribed for other ordinances. Every emergency ordinance shall automatically stand repealed as of the sixty-first (61st) day following the date of adoption, but may be reenacted if the emergency continues to exist. An emergency ordinance may also be repealed by the enactment of an emergency ordinance.

Section 6.6. Penalties.

The city council shall provide in each ordinance for the punishment of those who violate its provisions.

Section 6.7. Publication.

Each ordinance passed by the city council shall be published at least once within seven (7) days after adoption. This publication shall be in a newspaper of general circulation within the City.

Section 6.8. Technical Codes.

The council may adopt into an ordinance by citation any provision of state law or any detailed technical regulations. The adopting ordinance shall clearly identify and state the purpose of the provisions adopted in this way. Copies of the regulations cited shall be available for free inspection at the office of the city clerk and for purchase at reasonable cost.

Section 6.9. Codification.

Copies of all ordinances that are in effect and all amendments to this Charter shall be prepared by the city clerk and available for distribution. At least once each year the council shall direct the compilation or codification of the Charter and of all the ordinances of the City then in force and available at reasonable charge.

CHAPTER 7. INITIATIVE AND REFERENDUM

Section 7.1. Initiation of Petitions.

Citizens of the City may initiate legislation or call for a referendum on legislation by means of petition. An initiative or referendum petition shall be signed by at least ten (10) percent of the registered voters of the City as of the date of the last regular city election before the filing of the petition. All signatures shall be obtained within thirty (30) days before the filing. A referendum petition shall be filed within thirty (30) days of the enactment of the ordinance that it seeks to repeal.

Section 7.2. Form of Petitions.

An initiative or referendum petition shall be addressed to the city council. The petition need not be on one (1) paper, but if it is the aggregate of two (2) or more papers, they shall be identical as to contents. A referendum petition shall clearly identify the ordinance or a portion of it that is proposed for repeal. An initiative petition shall clearly state the ordinance that it proposes to see enacted. No petition shall propose more than one (1) ordinance.

Section 7.3. Circulating Petitions.

Each signer of the petition shall include his residence address and the date of signature. To each page of the petition there shall be attached a sworn affidavit of the circulator that each signature on the page is genuine and that the circulator believes each signer to be a registered voter in the City of Petoskey. Completed petitions shall be filed with the city clerk.

Section 7.4. Canvass by the City Clerk.

The city clerk shall canvass the signatures on any initiative or referendum petition to determine if the signatures are in sufficient number and are not more than thirty (30) days old. The canvass shall be completed within five (5) days and the city clerk shall notify the circulator of any deficiency. The city clerk shall then allow ten (10) days from the notification of deficiency to permit the filing of supplemental petition papers. When a petition of sufficient signatures is filed within the allowed time and is in compliance with provisions of this Charter, the city clerk shall present the petition at the next regular meeting of the city council. The filing of a referendum petition shall suspend effectiveness of the ordinance in question until the issue is determined.

Section 7.5. City Council Action.

Upon receiving an initiative or referendum petition from the city clerk, the city council shall, within thirty (30) days, either:

- (a) If it be an initiative petition, enact the ordinance as submitted in the petition;
- (b) If it be a referendum petition, repeal the ordinance or portion of the ordinance referred; or
- (c) Submit the proposal to the voters.

Section 7.6. Submission to Voters.

Should the city council submit the proposal to the voters, it shall be submitted at the next election held in the City for any other purpose, or, at the discretion of the city council, at a special election called for that specific purpose. In the case of an initiative petition, if no election is to be held in the City for any other purpose within one hundred fifty (150) days from the time the petition is presented to the city council and the city council does not adopt the ordinance, then the city council shall call a special election within sixty (60) days from such time for the submission of the initiative proposal. The result shall be determined by a majority vote of the voters voting thereon, except in cases where otherwise required by the general laws of the State of Michigan. If two (2) or more ordinances adopted at the same election shall have conflicting provisions, the provisions in the ordinance receiving the highest number of affirmative votes shall govern.

Section 7.7. Limitation.

An ordinance adopted by the electorate through initiative proceedings may not be amended or repealed for a period of two (2) years after the date of the election at which it was adopted. An ordinance repealed by the voters may not be reenacted within a period of two (2) years after the date of the election in which it was repealed.

July 31, 2019

Dear City Council,

Most of the marijuana business zones being proposed are in the Third Ward.

Therefore, I conducted a survey of Third Ward voters.

Surveys were mailed to all those who voted in the 2017 election in Ward 3.

The results were published in my convention newsletter, as follows:

There was 38% response from 335 surveys delivered by the post office.

Question 1:

Should Petoskey add “medical” marijuana provisioning centers, with THC products, in addition to the “caregiver” growers and “patient” growers that are already allowed in Petoskey?

*Yes: 38%; **No: 62%***

Question 2:

Should Petoskey allow “recreational” marijuana businesses, with THC products?

*Yes: 27%; **No: 73%***

Thank you,

Grant Dittmar
Councilmember, Ward 3



BOARD: City Council

MEETING DATE: August 19, 2019

PREPARED: August 15, 2019

AGENDA SUBJECT: Second First Reading of an Ordinance to Amend Chapter 8 of the Petoskey Code of Ordinances, Businesses and Business Regulations, Creating a New Article IX – Medical Marijuana Facilities, within the City of Petoskey

RECOMMENDATION: That the City Council conduct a second first reading and discuss proposed ordinance.

Background At the August 5, 2019 City Council meeting, City Council discussed a licensing ordinance that will need to be adopted with the proposed zoning ordinance for medical marijuana provisioning centers as well as the application fee and license/renewal fee per resolution. At the August 5 meeting, City Council discussed allowing 3-4 provisioning centers in yet to be determined zoning districts.

City Council also inquired about any potential State revenues from an excise tax on medical marijuana facilities. With passage of Proposal 1 legalizing recreational marijuana, the State no longer distributes revenues generated by a 3% excise tax on medical marijuana sales. In lieu of these tax dollars on medical marijuana, the State will be implementing a 10% excise tax and a 6% sales tax on recreational marijuana facilities. The 10% excise tax on recreational marijuana will be divvied up considerably before making it to individual communities. After the State's implementation costs are paid and \$20 million is used for research on the use of marijuana to prevent veterans' suicide, 15% of the remaining excise tax revenue will go to municipalities. The money will be divided up based on a pro-rata basis. It is thought that any "new" taxes on a yet to be determined market may not yield expected results by those that pushed the legislation. At this point, it is thought that excise tax revenues to cities allowing recreational marijuana will be modest and not a huge windfall as many in the industry predicted.

The following was included in the August 5, 2019 Council packet.

Along with the medical marijuana zoning ordinance, the City needs to adopt a licensing ordinance regarding medical marijuana provisioning centers. See enclosed draft licensing ordinance. The Planning Commission was given a copy of the draft licensing ordinance for informational purposes only. They did not take any formal action on the licensing ordinance as this is outside their purview:

The purpose of the ordinance is as follows:

- (a) Provide for a means for the distribution of marijuana to patients who qualify to obtain, possess, and use marijuana for medical purposes under State medical marijuana regulations;
- (b) Authorize the establishment of medical marijuana facilities and provide standards and procedures for the review, issuance, renewal and revocation of City-issued permits;

- (c) Coordinate the City's ordinance and procedures with laws and regulations that are and may be enacted by the State of Michigan pertaining to medical marijuana;
- (d) Protect public health and safety through reasonable limitations on marijuana facility operations as they relate to noise, air and water quality, neighborhood and patient safety, security for the facility and its personnel, and other health and safety concerns;
- (e) Protect the character of residential neighborhoods by limiting the location and the concentration of types of marijuana commercial entities to specific areas of the City; and
- (f) Impose fees to defray the cost to the City of the administrative and enforcement costs associated with medical marijuana facilities.

According to direction from City Council at a past City Council meeting, Councilmembers chose to allow medical marijuana provisioning centers only. Councilmembers directed the Planning Commission to *"research and recommend 3-4 provisioning centers in 1-2 locations and addressing signage and hours of operation."* See enclosed copy of the February 18, 2019 City Council meeting minutes. Within Section 8-327 Authorized Facilities, City Council will need to determine the number of provisioning centers allowed within the community.

All future provisioning centers must abide by all zoning requirements and other applicable building, construction and other codes at the time of issuance. Based upon a recommendation by City staff, the City Council will need to establish the non-refundable initial application fee as well as the yearly license renewal fee per resolution for a medical marijuana provisioning center permit. Adoption of the fees should occur at the same meeting whereby the zoning and licensing ordinances are approved.

It is anticipated that there will be more applications for medical marijuana licenses than available local permits. Therefore, per the draft ordinance, the City will host a lottery to randomly select the applicants who are "prequalified" by the State of Michigan for conditional authorization and to establish a waiting list for future conditional authorizations. Sequentially, only applicants drawn early in the lottery will be directed to continue the review process by proceeding to the Planning Commission for Special Condition Use review. (Ex. If Council selects to have three provisioning centers in the community, only the first three applicants drawn through the lottery will be allowed to proceed forward with further local review). Applicants at this stage will have six months to receive their Special Conditional Use Permit. Once approved by the Planning Commission, staff will send proof of the approved application to the Michigan Department of Licensing and Regulatory Affairs (LARA) for the State's final issuance of the license. The City will not issue the final permit for a provisioning center facility to operate until the State issues their final State license.

Other notables are as follows:

- All permits will need to be renewed on an annual basis with forfeiture, suspension or non-renewal of any permit according to Section 8-331.
- Facility requirements are referenced in Section 8-332.
- Prohibited Acts in Section 8-333 with hours of operation including receiving shipments occurring between the hours of 9:00 A.M. to 9:00 P.M..
- The City Clerk is granted the power to implement and administer the permit application process.

Staff has included the Medical Marijuana Facilities Licensing Act (MMFLA) as it is referenced many times throughout the draft licensing ordinance.

Action City Council should determine an exact number of provisioning centers that will be allowed within the community. Barring any significant changes to the licensing ordinance, a second reading could be scheduled for the September 16, 2019 City Council meeting. At that point, City Council could decide whether to solicit further public comment or pass the legislation as proposed. Keep in mind the medical marijuana zoning ordinance, medical marijuana licensing ordinance and resolution establishing the application fee and annual license/renewal fee need to be adopted concurrently.

rs

Enclosures

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND CHAPTER 8 OF THE PETOSKEY CODE OF ORDINANCES,
BUSINESSES AND BUSINESS REGULATIONS, CREATING A NEW ARTICLE IX- MEDICAL
MARIHUANA FACILITIES, WITHIN THE CITY OF PETOSKEY**

The City of Petoskey ordains:

ARTICLE IX MEDICAL MARIHUANA FACILITIES

DIVISION I: GENERAL PROVISIONS

8-325: Purpose and Intent.

The purpose of this Ordinance is to implement the provisions of Public Act 281 of 2016, being the Michigan Medical Marihuana Facilities Licensing Act, so as to protect the public health, safety, and welfare of the residents and patients of the City by setting forth the manner in which medical Marihuana facilities can be operated in the City. Specifically, the purpose of this Ordinance is to:

- (a) Provide for a means for the distribution of Marihuana to patients who qualify to obtain, possess, and use Marihuana for medical purposes under the Michigan Medical Marihuana Act, (MCL§ 333.26421 et seq.), the Medical Marihuana Facilities Licensing Act (MCL § 333.27101 et seq.) and the Marihuana Tracking Act (MCL § 333.27901 et seq.);
- (b) Authorize the establishment of medical Marihuana facilities and provide standards and procedures for the review, issuance, renewal and revocation of City-issued permits;
- (c) Coordinate the City's ordinance and procedures with laws and regulations that are and may be enacted by the State of Michigan pertaining to medical Marihuana;
- (d) Protect public health and safety through reasonable limitations on Marihuana facility operations as they relate to noise, air and water quality, neighborhood and patient safety, security for the facility and its personnel, and other health and safety concerns;
- (e) Protect the character of residential neighborhoods by limiting the location and the concentration of types of Marihuana commercial entities to specific areas of the City; and
- (f) Impose fees to defray the cost to the City of the administrative and enforcement costs associated with medical Marihuana facilities.

Nothing in this ordinance is intended to grant immunity from any criminal prosecution under Federal law. Nothing in this Ordinance is intended to promote or condone the production, distribution, or possession of Marihuana in violation of any applicable law and nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of Marihuana in any form, that is not in strict compliance with all applicable laws and rules promulgated by the State of Michigan and the City of Petoskey regarding medical Marihuana. Nothing in this Ordinance is intended to provide any approvals, permits or licenses for any other type of facility, except for a medical Marihuana facility. Specifically, this Ordinance does not provide any rights or privileges with regard to Marihuana under the Michigan Regulation and Taxation of Marihuana Act, MCL § 333.27102.

By accepting a permit issued pursuant to this Chapter, the holder waives and releases the City, its officers and employees from any liability for injuries, damages or liabilities of any kind that result from the arrest or prosecution of medical Marihuana facility owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations. Further, the holder agrees to indemnify, defend and hold harmless the City, its officers, elected officials, employees and insurers against all liability, claims or demands, including, but not limited to, arising as a result of any claim of diminution of property value by a property owner whose property is located in proximity to a permitted Marihuana facility, arising out of, claimed to have arisen out of or in any manner connected with the operation of a medical Marihuana facility.

8-326: Definitions.

Unless otherwise specifically defined in this ordinance, any terms in this ordinance that are defined or described in any of the Acts shall have the definitions or descriptions as set forth in those Acts. Additionally, as used in this Ordinance:

(a) "Acts" means any combination thereof of the following Michigan State laws:

- (1) "Michigan Medical Marihuana Act" or "MMMA" means 2008 IL1, MCL § 333.26421 et seq. as, may be amended.
- (2) "Michigan Medical Marihuana Facilities Licensing Act" or "MMFLA" means Public Act 281 of 2016, MCL § 333.27101 et seq., as may be amended
- (3) "Michigan Marihuana Tracking Act" means Public Act 282 of 2016, MC § 333.27901 et seq., as may be amended.

(b) "Applicant" means a person who applies for a state operating license and a City Permit. With respect to disclosures in an application, or for purposes of ineligibility for a license, the term "Applicant" shall have the same meaning as the identical term in the Michigan Medical Marihuana Facilities Licensing Act at MCL § 324.27102(c). "Applicant" includes an officer, director and managerial employee of the Applicant and an Applicant shall disclose the identity of any person or entity that controls, directly or indirectly, the Applicant.

(c) "Cultivate" or "Cultivation" means (1) all phases of Marihuana growth from seed to harvest; and (2) the preparation, packaging, and labeling of harvested usable Marihuana.

- (d) "Grower" shall have the same meaning as the identical term in the MMFLA, MCL § 333.27102(g), as amended.
- (e) "Permit" means a current and valid permit for a Marihuana facility issued under this Ordinance. "Permit holder" means a person holding a City of Petoskey operating permit issued under the provisions of this ordinance.
- (f) "Marihuana" shall have the same meaning as the identical term in the MMFLA, MCL § 333.27102(k), as amended.
- (g) "Marihuana facility" shall have the same meaning as the identical term in the MMFLA, MCL § 333.27102(l), as amended.
- (h) "Marihuana plant" shall have the same meaning as the identical term in the MMFLA, MCL § 333.27102(m), as amended.
- (i) "Processor" shall have the same meaning as the identical term in the MMFLA, MCL § 333.27102(u), as amended.
- (j) "Provisioning Center" shall have the same meaning as the identical term in the MMFLA, MCL § 333.27102(v), as amended.
- (k) "Safety compliance facility" shall have the same meaning as the identical term in the MMFLA, MCL § 333.27102(aa), as amended.
- (l) "Secure transporter" "Provisioning Center" shall have the same meaning as the identical term in the MMFLA, MCL § 333.27102(bb), as amended.
- (m) "State operating license" "Provisioning Center" shall have the same meaning as the identical term in the MMFLA, MCL § 333.27102(ee), as amended.

8-327: Authorized Facilities.

The following types of Marihuana facilities may be established and operated by a licensee in the City, subject to compliance with the MMFLA, the Rules promulgated thereunder and this ordinance:

(Note: insert the # of provisioning centers as directed by City Council)

Provisioning Center – Not more than ____ Provisioning Centers shall be established, operated or permitted in the City.

No Marihuana facility shall be eligible to be issued a Permit unless the location of the proposed facility complies with all zoning requirements for the Marihuana facility as set forth in the City Zoning Ordinance and all other applicable building, construction, and other similar codes at the time of issuance. No Applicant or Permit holder may operate more than one Marihuana facility in the City.

To the extent the State adopts in the future any additional or stricter law or regulation governing the sale or distribution of medical Marihuana, the additional or stricter regulation shall control the establishment or operation of any Marihuana facility in the City. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any Permit under this Article, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any Permit issued hereunder.

DIVISION II: LICENSING.

8-328: Permit and Annual Fee Required.

- (a) No person shall establish or operate a Marihuana facility in the City without first having obtained a City Permit and State operating license for the Marihuana facility. License and Permit certificates shall be kept current and publically and prominently displayed within the facility. The facility shall be operated only so long as both the City Permit and state operating license remain in effect. Failure to maintain or display a current license and Permit shall be a violation of this ordinance.
- (b) An annual non-refundable fee to defray the administrative and enforcement costs associated with Marihuana facilities will be set by resolution and adopted by the City Council. The fee will not exceed the state maximum. The Permit fee requirement set forth in this ordinance shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or City ordinance, including, by way of example, any applicable zoning or building permits or approvals.
- (c) A separate Permit shall be required for each premises from which a Marihuana facility is operated. A Marihuana facility's Permit is valid only for the owner named thereon, the type of business disclosed on the application for the Permit, and the location for which the Permit is issued. No transfer, sale, or other conveyance of an interest in a Permit is allowed, unless the transfer, sale or other conveyance has been approved by the State and prior written approval is obtained from the City. The transferee must be in strict compliance with State laws and regulations governing such transfers, per MCL § 333.27406 and the provisions of this Ordinance.
- (d) The permit fee requirement set forth in this Chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any state regulatory agency or City ordinance, including, but not limited to, any applicable fees for site plan review, zoning review, inspections or building permits.

8-329: Permit Application and Approval.

- (a) A person seeking a City Permit to operate a medical Marihuana facility pursuant to the provisions of this Ordinance shall submit an application to the City Clerk on forms provided by the City. At the time of Permit application submission, each applicant shall pay the nonrefundable application fee as established by City resolution. The City shall accept only one Application, per Applicant, per location.

- (b) Applications will only be accepted from those applicants that have been prequalified by the State of Michigan for a Marihuana facility license. Proof of prequalification shall be submitted with the license application.
- (c) Upon an applicant's submission of the above-provided form, the City Clerk shall accept the application for review and consideration and assign it an application number. Only one Permit application, per Applicant, will be accepted for consideration for a single location. Applicant must demonstrate that it has or will have lawful possession of the proposed Marihuana facility for the period during which the Permit will apply (such proof may include a deed, a lease, a real estate contract contingent upon successful licensing, or letter of intent by the owner of the premises indicating an intent to lease the premises to the applicant contingent upon the applicant successfully obtaining a state operating license and local permit). **NO APPLICATION WILL BE ACCEPTED UNLESS IT IS COMPLETE.**
- (d) If the City Clerk identifies a deficiency in an application, the applicant shall have ten (10) business days to correct the deficiency after notification by the City Clerk. The application will be considered withdrawn on the 11th business day if correction was not made.
- (e) If the number of Permit applications accepted for consideration in the first thirty (30) days after the ordinance becomes effective is greater than the number of facilities allowed, the City Clerk will conduct a drawing to randomly select applicants for conditional authorization and to establish a waiting list for future conditional authorizations for that facility type on the thirty-first (31st) day (or the first business day if that day falls on a weekend or holiday) after the ordinance becomes effective. The name of each qualified Applicant shall be drawn individually by the City Clerk in sequence, with each qualified Applicant being assigned a number corresponding to the order in which their name was drawn. The drawing will be noticed and held at the first available City Council public meeting. The lottery will continue until the names of all qualified Applicants are drawn and assigned a number, which shall create an eligibility list to be maintained by the City Clerk. The eligibility list shall remain valid until a new lottery. In the event a provisional Permit becomes available for whatever reason, it shall be offered to the next qualified applicant in order of the eligibility list. If a qualified Applicant declines a provisional Permit when one becomes available or if their provisional Permit lapses they shall be removed from the eligibility list. Applicants who are otherwise qualified but whose facility is located within 500 feet of an Applicant higher on the eligibility list shall retain their position on the eligibility list unless and until the prior Applicant is issued a provisional permit, at which point the Applicant shall be removed from the eligibility list.. For all applications received on or after the thirty-first (31st) day after the effective date of this Ordinance, complete Permit applications will be processed and eligible Applicants added to the eligibility list in the order received.
- (f) The following information shall be submitted with the application:

- i. For an individual, the applicant's name, date of birth, physical address, including residential and any business address(es) attached to the individual, copy of government issued photo identification, email address, and one or more phone numbers, including emergency contact information, and, if applicable, Federal EIN.
- ii. For non-individuals, the names, date of birth, physical address, including residential and any business address(es), copy of government issued photo identification, email address, and one or more phone numbers of each stakeholder and/or general partners of the applicant, including designation of the highest ranking stakeholder and/or general partner as an emergency contact person and information for the emergency contact person, articles of incorporation/organization, assumed name registration documents, Internal Revenue Service SS-4, EIN confirmation letter(s), and a copy of the operating agreement of the applicant if a limited liability company, copy of the partnership agreement if a partnership, or a copy of the by-laws or shareholder agreement if a corporation; its legal status, and proof of registration with, or a certificate of good standing from the State of Michigan, as applicable.
- iii. Proof of lawful use of the proposed premises that may consist of a deed, a lease, a real estate contract contingent upon successful licensing or letter of intent by the owner of the premises indicating an intent to lease the premises to the applicant contingent upon the applicant successfully obtaining a state operating license and local permit.
- iv. The name and address of the proposed Medical Marihuana facility and contact information.
- v. A comprehensive operating plan for the marihuana facility for which the application is being submitted that includes all of the information required for the Marihuana Facilities Plan to be submitted in connection with a state license pursuant to the rules, the operational standards in this chapter, as applicable, and the following at a minimum:
 - i. A description of the type of marihuana facility applied for.
 - ii. A security plan for the marihuana facility that addresses all required security measures of the rules and addresses at a minimum the ability to meet the security measures of the rules. The security plan must contain the specific details of each piece of security equipment to be utilized by the marihuana facility and comply with the provisions of this chapter, as well as any other applicable provisions of the rules adopted by the State of Michigan. The security system, shall be maintained in good working order and provide twenty-four hours per day coverage and shall be available for inspection and review by the City, Public Safety Department and State Police at all times. A separate security system is required for each facility. Surveillance recordings are to be maintained for a minimum of 30 days.

- iii. An HVAC plan for the marihuana facility describing in detail among other things the equipment or systems that will be used to prevent any odor of marihuana from leaving the premises.
 - iv. A lighting plan.
 - v. Disposal and waste management plan for wastes generated at the Marihuana facility.
 - vi. The anticipated or actual number of employees and positions, including a staffing plan.
 - vii. Evidence of insurance required by the MMFLA in the form of a certificate of insurance evidencing the existence of a valid and effective policy, or, evidence that the applicant is able to obtain such insurance and state the limits of each policy, the name of the insurer, the effective date and expiration date of each policy and policy number if known.
- (g) Application for operation of a Marihuana facility, or leasing property to a Marihuana facility, constitutes consent by the applicant, and all owners, managers, and employees of the business, and the owner of the property to permit the City Manager or his/her designee to conduct inspections of the Marihuana facility to ensure compliance with this Ordinance or any other applicable law, rule, or regulation.
- (h) Upon receipt of a completed application, the City Clerk may circulate the application to all affected department heads of the City or their designees for input as to whether the application and premises is in compliance with applicable laws, rules and regulations.
- (i) After preliminary review of the Permit application to confirm compliance with applicable laws, rules and regulations, and if so confirmed, the applicant shall be conditionally approved for a Permit and the City shall prepare a conditional approval notice for the purposes of State application requirements. The applicant must then obtain Special Condition Use and Site Plan approval from the Planning Commission within six (6) months of receiving conditional approval or the approval will expire and the application will be considered withdrawn, although the Planning Commission may grant an extension at its sole discretion for up to an additional six (6) months, so long as the Applicant is diligently pursuing Special Condition Use and Site Plan approval. All Permits issued are contingent upon the State of Michigan issuing a license for the operation under State law. A provisional permit does not authorize the applicant to operate a medical Marihuana facility without first obtaining a state operating license for the facility, and obtaining all other permits, inspections, and approvals required by this chapter and all other applicable provisions of this code.

- (j) An inspection of the proposed Marihuana facility by the City is required prior to the issuance of the City operating permit. Such inspection shall occur after the Marihuana facility is ready for operation, but prior to the stocking of the business with any medical Marihuana and prior to the opening of the Marihuana facility or commencement of operations. The City shall verify that the Marihuana facility is constructed and can be operated in accordance with the application submitted and the applicable requirements of this Chapter and any other applicable law, rule or regulation.
- (k) After verification that the Marihuana facility is constructed and can be operated in accordance with the application submitted and the applicable requirements of this Chapter and any other applicable law, rule or regulation, and the issuance of a permanent certificate of occupancy for the Marihuana facility, the City Clerk shall issue a Permit for a term of one (1) year. The City-issued Permit shall be prominently displayed within the Marihuana facility.
- (l) Throughout the application process, and while any granted Permit is in force, the applicant or the Permit holder shall report any other change in the information provided on the application to the City within ten business days of the change.

8-330: Permit Renewal.

A City Marihuana facility operating Permit shall run concurrently with the State operating Marihuana license issued for the facility, unless revoked as provided by law.

Subject to the provisions of 8-331 below, a Permit may be renewed annually by completing a renewal application and payment of the annual Permit fee thirty (30) days prior to its expiration. A Permit will be renewed by the City for one (1) year if (1) there are no uncured administrative and/or legal violations in the prior year, including no taxes owed on the subject property; (2) the applicant has paid the annual City Permit fee for the renewal period; (3) any Stakeholder changes have been fully disclosed to the City; and (4) the applicant has paid and received the renewal of its State license.

Prior to the issuance of a renewed Permit by the City, the premises shall be inspected to assure that it and its systems are in compliance with the requirements of this Ordinance.

8-331: Permit Forfeiture, Suspension, Non-Renewal.

In the event that a Marihuana facility does not commence operations within one year of issuance of a City operating Permit, the Permit shall be deemed forfeited; the business may not commence operations and the Permit is not eligible for renewal. The City will consider new applications in place of the forfeited Permit in a manner consistent with 8-329(e) of this Ordinance.

The City may immediately revoke or suspend an existing Permit or refuse to renew a Permit for any of the following reasons:

- (a) The applicant or permit holder is denied a state operating license;

- (b) The applicant or Permit holder, or his or her agent, manager or employee, has violated, does not meet, or has failed to comply with, any of the terms, requirements, conditions or provisions of this Ordinance or with any applicable state or local law or regulation;
- (c) The Marihuana facility is substantially different from the comprehensive operating plan, Marihuana facility plan, conceptual plan or other representations contained in the application;
- (d) Officers of the City are unable to access the proposed facility for Permit inspections or are denied access by the applicant or Permit holder;
- (e) The applicant or Permit holder, or his or her agent, manager or employee, has failed to comply with any special terms or conditions of its Permit pursuant to an order of the state or local licensing authority, including those terms and conditions that were established at the time of issuance of the Permit and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the Permit or failure to comply to laws changing subsequent to acquiring a Permit;
- (f) The State of Michigan has revoked the Marihuana facility's state-issued license or permit; or
- (g) the Marihuana facility has been operated in a manner that, in the opinion of the City Manager, adversely affects the public health, safety or welfare. Evidence to support a finding under this Section may include, without limitation, a pattern of criminal conduct within the premises of the Marihuana facility or in the immediate area surrounding such business, a pattern of criminal conduct directly related to or arising from the operation of the Marihuana facility, or a nuisance condition emanating from or caused by the Marihuana facility. Any criminal conduct shall be limited to the violation of a state law or regulation or city ordinance.

If a Permit is terminated, revoked, suspended or restricted, the City Clerk or his or her designee will notify in writing by mail or electronic mail both the permit holder, at the last known address on file with the City for notification of the applicant, and the Michigan Department of Licensing and Regulatory Affairs of the termination, revocation, suspension, or restriction of the permit and the reasons therefore in writing.

A Permit granted by this Chapter 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.

DIVISION III: FACILITY REQUIREMENTS.

8-332: Requirements.

- (a) A Marihuana facility shall comply with all of the requirements of State law and all applicable State regulations.
- (b) Unless permitted by the MMMA and Medical Marihuana Facilities Licensing Act or applicable state law:

- i. General public or common areas of a Provisioning Center must be separated from the Restricted Access Area as defined by State regulation, R 333.201(s) by a permanent and locked barrier;
- ii. No Marihuana is permitted to be stored, displayed, or transferred in an area accessible to the general public;
- iii. Any usable Marihuana remaining on the premises of a Provisioning Center while the Provisioning Center is not in operation shall be secured in a safe that is permanently affixed to the premises;
- iv. No Marihuana plants shall be located in a Provisioning Center;
- v. 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 conformance with local and state laws and regulations;
- vi. All Marihuana delivered to a patient shall be packaged and labeled as provided by state laws;
- vii. All registered patients must present both their Michigan Medical 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;
- viii. Certified laboratory testing results that meets the MMMA and Medical Marihuana Facilities Licensing Act or applicable state laws must be available to all Provisioning Center patients/customers upon request;
- ix. All Marihuana facilities shall comply with all applicable requirements of the City of Petoskey's Zoning Ordinance;
- x. A Marihuana facility and all articles of property in the facility are subject to inspection, search and examination at any time by a member of the Petoskey Public Safety Department, the County Sheriff's Department, or the Department of State Police;
- xi. All signage and advertising for a Marihuana facility shall comply with all municipal ordinances, state law, and these rules regulating signs and advertising. Refer to Sign Ordinance for additional information; and

- xii. All activities of Marihuana commercial entities, including, without limitation, the displaying, selling, and storage of Marihuana and Marihuana-infused products shall be conducted indoors and out of public view and shall not be visible from outside the facility. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a Marihuana facility must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a Marihuana facility, the owner of the subject premises and the Permit holder shall be jointly and severally liable for such conditions and shall be responsible for immediate, full cleanup and correction of such condition. The Permit holder shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable state and local laws and regulations.

8-333 Prohibited Acts.

It shall be unlawful for any Permit holder for a Marihuana facility, or for any agent, manager, or employee thereof to:

- (a) Sell, give, dispense or otherwise distribute to any patient or primary caregiver who is not a licensee a more Marihuana in usable form (including the useable Marihuana equivalent of Marihuana-infused products) within any seven (7) day period of time than they are allowed by the MMMA to possess.
- (b) Distribute Marihuana or Marihuana-infused products to a consumer free of charge.
- (c) Allow the consumption of Marihuana or Marihuana products on the licensed premises. A sign shall be posted on the premises of each facility indicating that consumption is prohibited on the premises.
- (d) Sell Marihuana or Marihuana products at a licensed provisioning center at any time other than between the hours of 9:00 A.M. and 9:00 P.M. daily.
- (e) Receive shipments of Marihuana or Marihuana products between the hours of 9:00 P.M. and 9:00 A.M.

8-334: Grant of Administrative Authority.

The City Clerk is granted the power and duty to fully and effectively implement and administer the Permit Application process and issuance of a provisional Permit and operating Permits issued by the City as provided in this chapter.

8-335: RESERVED.

All other provisions of the Code of Ordinances not specifically amended shall remain in full force and effect.

Nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby revised as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this ordinance.

If any of the standards set forth in this amendment conflict with any other standards of previous or further ordinances or amendments, the stricter standards shall apply.

All ordinances, resolutions, or orders, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, repealed.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

This ordinance shall take effect fifteen (15) days following its enactment and shall be published once within seven (7) days after its enactment as provided by Charter.

Adopted, enacted and ordained by the City of Petoskey City Council this _____ day of _____, 2019.

John Murphy
Its Mayor

Alan Terry
Its Clerk



CITY COUNCIL

February 18, 2019

A regular meeting of the City of Petoskey City Council was held in the City Hall Council Chambers, Petoskey, Michigan, on Monday, February 18, 2019. This meeting was called to order at 7:00 P.M.; then, after a recitation of the Pledge of Allegiance to the Flag of the United States of America, a roll call then determined that the following were

Present: John Murphy, Mayor
Kate Marshall, City Councilmember
Suzanne Shumway, City Councilmember
Grant Dittmar, City Councilmember
Lindsey Walker, City Councilmember

Absent: None

Also in attendance were City Manager Robert Straebel, Clerk-Treasurer Alan Terry, Public Works Director Michael Robbins, City Planner Amy Tweeten and Downtown Director Becky Goodman.

Hear Stormwater, Asset Management and Wastewater Presentation

Larry Fox, principal of C2AE, Gaylord, an engineering consultant, gave a brief presentation on Stormwater, Asset Management and Wastewater (SAW) grant program. Mr. Fox reviewed that he was the project manager for the MDEQ SAW grant over the last three years; reviewed costs associated with the program; reviewed that all manholes were studied and graded; sewers were televised, rated on maps and developed into CIP for future work on the worst rated; reviewed that a Stormwater Management Plan was developed and will be implemented into the CIP; that an ordinance should be implemented to provide enforcement; and that staff was trained in GIS and has tablets for field use.

City Councilmembers inquired if this plan would be incorporated in the Master Plan and if it will help the City's sustainability measures. The City Manager responded that the plan will be included.

Consent Agenda - Resolution No. 19267

Following introduction of the consent agenda for this meeting of February 18, 2019, City Councilmember Dittmar moved that, seconded by City Councilmember Marshall adoption of the following resolution:

BE IT RESOLVED that the City Council does and hereby confirms that the draft minutes of the January 28, 2019 special joint session and February 4, 2019 regular session City Council meetings be and are hereby approved; and

BE IT RESOLVED that receipt by the City Council of a report concerning all checks that had been issued since February 4, for contract and vendor claims at \$1,481,112.13 intergovernmental claims at \$0, and the February 7 payroll at \$199,123.89, for a total of \$1,680,236.02 be and is hereby acknowledged.

Said resolution was adopted by the following vote:

AYES: Marshall, Shumway, Dittmar, Walker, Murphy (5)

NAYS: None (0)

Hear Public Comment

Mayor Murphy asked for public comments and there were no comments.

Hear City Manager Updates

The City Manager reviewed that Bob Berg, owner of 200 East Lake Street, plans to provide a conceptual development plan to the Planning Commission at the March 21 meeting and is requesting Brownfield Tax Increment dollars to pay for underground parking; that with new Councilmembers, staff could schedule a review of the Brownfield process to familiarize City Council with the overall tax increment concept; that the Bayfront Park stair tower bids came in substantially higher than cost estimates by \$185,000 and that staff is working with project engineers to “value engineer” with a possible bid award at the next meeting; that Solanus Beach conceptual plans have been revised and the Parks and Recreation Commission endorsed the plans; that the owner of the 48-unit Harbor Village Apartments on Crestview Drive requested the City consider adoption of a payment in lieu of taxes (PILOT) ordinance establishing a service charge in lieu of property taxes; and that progress on the MDOT retaining wall work on Bayfront Park is slow due to extremely low temperatures.

Mayor Murphy asked for public comments and heard an inquiry if there will be a top on the stair tower and the City Manager responded that there will not be a cover.

Planning Commission Appointment – Resolution No. 19268

Mayor Murphy reviewed that City Council consider a possible appointment to the Planning Commission.

City Councilmember Dittmar moved that, seconded by City Councilmember Marshall adoption of the following resolution:

BE IT RESOLVED that the City Council does and hereby approves the appointment of Chad McDonald, 1412 Highland Drive, to the Planning Commission to fill a vacated term ending August 31, 2019.

Said resolution was adopted by the following vote:

AYES: Marshall, Shumway, Dittmar, Walker, Murphy (5)

NAYS: None (0)

Approve Medical Marijuana – Resolution No. 19269

The City Manager reviewed that City Council requested a discussion on both medical and recreational marijuana in light of the November 6, 2018 voter approved Michigan Regulation and Taxation Marijuana Act (MRTMA). The City Manager further reviewed that the MRTMA legalizes at the State level (not federal) the recreational use and possession of marijuana; that MRTMA sets out a regulatory process to permit and license certain types of “marijuana establishments” (i.e. growers, safety compliance facilities, processors, microbusinesses, retailers and secure transporters); and that MRTMA does not however replace those laws and regulations already in place in Michigan involving the medical marijuana under the Michigan Medical Marijuana (MMA) of 2008 or the Medical Marijuana Facilities Licensing Act (MMFLA) of 2016.

The City Manager reported that under MMFLA, in order to allow medical marijuana facilities to be established within a community, the community needs to adopt an ordinance “opting-in”; that MRTMA is different and requires that if a community wishes to prohibit the formation and operation of recreation marijuana establishments within the community, the community must adopt an ordinance “opting-out”; that if a community does not opt out, then recreation marijuana establishments can be located and licensed by the State within that community; that it is unclear of the law when precisely the State will begin accepting applications for licenses, but it must do so before December 6, 2019; that MRTMA is unclear, ambiguous and raises many legal questions that will need to be determined by courts, legislation and State regulators; reviewed guidelines for zoning such establishments; that for the first 24 months after LARA begins accepting applications for marijuana establishment licenses, only those persons holding a MMFLA may apply for a retail, processor, Class B or Class C grower or secure transport license issued under the MRTMA;

that most cities, townships and villages chose to “opt out” for recreational marijuana; reviewed that there is also a voter petition initiative language in the MRTMA that allows for a process whereby voters could allow or bar marijuana establishments in a community; and reviewed that at this point the City has opted out of allowing medical marijuana by simply taking no action and since the City has taken no action on recreational marijuana, the City technically has opted in at this point.

The City Attorney reviewed that Council received copies of the laws, guidelines, a document issued by the attorney relating to various issues relevant to consideration of medical and recreational marijuana and was available to answer any questions.

City Councilmembers discussed medical marijuana; heard from those in support of medical establishments; heard an inquiry on how many patients are in Michigan and how someone obtains a medical card; that there are 300,000 patients and applications are online; heard from those in support of locating an area to allow 3-4 establishments excluding downtown; and to allow provisional centers only.

City Councilmembers then discussed recreational marijuana and heard from those both opposed and in favor of allowing recreational establishments; that by allowing medical marijuana it is opening the door for recreational; that everything is legal except to purchase it; and that staff should begin looking at possible ordinances.

City Councilmember Shumway moved that, seconded by City Councilmember Walker to allow medical marijuana establishments and requested the Planning Commission to research and recommend 3-4 provisioning centers in 1-2 locations and addressing signage and hours of operation.

Said motion was adopted by the following vote:

AYES: Marshall, Shumway, Walker, Murphy (4)

NAYS: Dittmar (1)

Mayor Murphy asked for public comments and heard that there are high end users in downtown and it would be beneficial to provide testing centers; inquired if the City would have a fair licensing method; heard from a medical user and thanked Council for supporting comments; that Council should consider a laboratory; that this is great progressive action by Council and the City should take into account the downtown and that tourists will use establishments; that approval will bring in a lot of new opportunities; that Planning Commission should look at different licenses as there are underused areas of City that these establishments could be implemented; that other states have experienced an increased use by underage users, leading to negative effects in their behavior; that the free market will take care of downtown issue; that staff and all Boards and Commissions should want to preserve what is already in the community; and that all establishments should be considered not just provisional centers.

Approve Master Plan Consultant Agreement with LIAA – Resolution No. 19270

The City Manager reviewed that pursuant to the Michigan Planning Enabling Act, a Planning Commission is required to review its Master Plan every five years for possible updates; that the last major re-write of the plan was adopted in 2009, which was then reviewed and updated in 2014; that a major update is needed; that \$20,000 was budgeted in the Office of City Planner budget for consultant assistance; that \$6,000 was awarded to the City by the Mott Foundation from area community foundations to assist with public engagement; that City Council identified sustainability as a priority goal during its 2018 strategic planning process; and staff determined that incorporating sustainability and resiliency as an overarching framework of the plan would achieve broader implementation than creating a stand-alone sustainability plan. Staff requested a proposal from LIAA, a leader in community resiliency planning, and includes significant resources to maximize community engagement, including youth involvement.

City Councilmember Marshall moved that, seconded by City Councilmember Shumway to authorize contracting with Land Information Access Association (LIAA) for master plan consulting services.

Said motion was adopted by the following vote:

AYES: Marshall, Shumway, Dittmar, Walker, Murphy (5)

NAYS: None (0)

Approve FOPLC Lieutenants 2018-2020 Contract – Resolution No. 19271

The City Manager reviewed that after completing 312 Arbitration, the City's negotiation team along with representatives for the FOPLC Lieutenants division agreed to a three-year contract beginning on January 1, 2018 with an expiration date of December 31, 2020. The City Manager reviewed some of the contract highlights including use of part-time employees, vacation scheduling, uniforms, medical and hospitalization insurance, pension plan increases and wage increases.

City Councilmember Shumway moved that, seconded by City Councilmember Walker adoption of the following resolution:

WHEREAS, certain Department of Public Safety Lieutenants unionized staff members are represented by the Fraternal Order of Police Labor Council (FOPLC); and

WHEREAS, City and bargaining unit representatives negotiated provisions of a proposed agreement for the Lieutenants Division; and

WHEREAS, the City Manager now has reported that an agreement has been reached with the FOPLC Lieutenants Division for the period of January 1, 2018 – December 31, 2020:

NOW, THEREFORE, BE IT RESOLVED that the City Manager be and is hereby directed to execute on behalf of the City an employment agreement with the Department of Public Safety Lieutenants Division who are represented by the Fraternal Order of Police Labor Council.

Said resolution was adopted by the following vote:

AYES: Marshall, Shumway, Dittmar, Walker, Murphy (5)

NAYS: None (0)

Approve MERS Lieutenant Contribution Changes – Resolution No. 19272

The City Manager reviewed that the City provides defined contribution retirement benefits through MERS, which covers three separate groups of employees Nonunion, DPW Union and Public Safety Union. The newly approved collective bargaining agreement covering the Public Safety Lieutenant unionized employees for January 1, 2018 through December 31, 2020 includes provisions that requires annual increases in employee contributions for the next three years towards the Lieutenants pension plan. The City Manager reviewed that contribution rates will increase on January 1 of each year as follows: 2018 at 3.5%, 2019 at 4% and 2020 and thereafter, at a rate of 4.5%.

City Councilmember Marshall moved that, seconded by City Councilmember Shumway adoption of the following resolution:

WHEREAS, the City is a participating governmental unit in the Michigan Municipal Employees' Retirement System (MMERS) pension plan document of 1996; and

WHEREAS, in accordance with pension provisions of a renewed collective bargaining agreement with certain unionized employees for the City's Public Safety Lieutenants require changes to the City's current MMERS plan:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby elects to change current Michigan Municipal Employees' Retirement System (MMERS) benefits for Department of Public Safety unionized personnel, referred to as City of Petoskey (2402), Division 11 – Public Safety Lieutenants Union, a defined benefit plan with employees contributing 4% beginning January 2019 and 4.5% beginning January 2020 as set forth in the plan adoption agreements for 2019 and 2020; and

BE IT FURTHER RESOLVED that the City of Petoskey City Council does and hereby authorizes the City Manager and Director of Finance to prepare and sign the Defined Benefit Plan Adoption Agreements with MMERS for Division 11 to make changes as set forth above to the existing defined benefit plan.

Said resolution was adopted by the following vote:

AYES: Marshall, Shumway, Dittmar, Walker, Murphy (5)

NAYS: None (0)

Hear State vs. Odawa Litigation Update

The City Attorney gave a brief update on the Odawa litigation; reviewed that City Council was provided two judgements that were issued and filed on January 31, 2019; and that the trial won't start until 2020.

Council Comments

Mayor Murphy reported that the Downtown Greenway Corridor Phase II project has received multiple awards.

There being no further business to come before the City Council, this February 18, 2019, meeting of the City Council adjourned at 9:05 P.M.

John Murphy, Mayor

Alan Terry, Clerk-Treasurer

MEDICAL MARIHUANA FACILITIES LICENSING ACT
Act 281 of 2016

AN ACT to license and regulate medical marihuana growers, processors, provisioning centers, secure transporters, and safety compliance facilities; to allow certain licensees to process, test, or sell industrial hemp; to provide for the powers and duties of certain state and local governmental officers and entities; to create a medical marihuana licensing board; to provide for interaction with the statewide monitoring system for commercial marihuana transactions; to create an advisory panel; to provide immunity from prosecution for marihuana-related offenses for persons engaging in certain activities in compliance with this act; to prescribe civil fines and sanctions and provide remedies; to provide for forfeiture of contraband; to provide for taxes, fees, and assessments; and to require the promulgation of rules.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 10, Imd. Eff. Jan. 26, 2018;—Am. 2018, Act 648, Eff. Mar. 28, 2019.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

The People of the State of Michigan enact:

PART 1. GENERAL PROVISIONS

333.27101 Short title.

Sec. 101. This act shall be known and may be cited as the "medical marihuana facilities licensing act".

History: 2016, Act 281, Eff. Dec. 20, 2016.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27102 Definitions.

Sec. 102. As used in this act:

- (a) "Advisory panel" or "panel" means the marihuana advisory panel created in section 801.
- (b) "Affiliate" means any person that controls, is controlled by, or is under common control with; is in a partnership or joint venture relationship with; or is a co-shareholder of a corporation, a co-member of a limited liability company, or a co-partner in a limited liability partnership with a licensee or applicant.
- (c) "Applicant" means a person who applies for a state operating license. Applicant includes, with respect to disclosures in an application, for purposes of ineligibility for a license under section 402, or for purposes of prior board approval of a transfer of interest under section 406, and only for applications submitted on or after January 1, 2019, a managerial employee of the applicant, a person holding a direct or indirect ownership interest of more than 10% in the applicant, and the following for each type of applicant:
 - (i) For an individual or sole proprietorship: the proprietor and spouse.
 - (ii) For a partnership and limited liability partnership: all partners and their spouses. For a limited partnership and limited liability limited partnership: all general and limited partners, not including a limited partner holding a direct or indirect ownership interest of 10% or less and who does not exercise control over or participate in the management of the partnership, and their spouses. For a limited liability company: all members and managers, not including a member holding a direct or indirect ownership interest of 10% or less and who does not exercise control over or participate in the management of the company, and their spouses.
 - (iii) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, and all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.
 - (iv) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, and all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.
 - (v) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive more than 10% of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.
 - (vi) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.
- (d) "Board" means the medical marihuana licensing board created in section 301.
- (e) "Cutting" means a section of a lead stem or root stock that is used for vegetative asexual propagation.

- (f) "Department" means the department of licensing and regulatory affairs.
- (g) "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, provisioning center, or another grower.
- (h) "Industrial hemp" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.
- (i) "Industrial hemp research and development act" means the industrial hemp research and development act, 2014 PA 547.
- (j) "Licensee" means a person holding a state operating license.
- (k) "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.
- (l) "Marihuana facility" means a location at which a licensee is licensed to operate under this act.
- (m) "Marihuana plant" means any plant of the species *Cannabis sativa* L. Marihuana plant does not include industrial hemp.
- (n) "Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product is not considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 to 289.8111.
- (o) "Marihuana tracking act" means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.
- (p) "Michigan medical marihuana act" means the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.
- (q) "Municipality" means a city, township, or village.
- (r) "Paraphernalia" means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacturing, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marihuana.
- (s) "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- (t) "Plant" means any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.
- (u) "Processor" means a licensee that is a commercial entity located in this state 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 or another processor.
- (v) "Provisioning center" means a licensee that is a commercial entity located in this state 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 registered primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of this act.
- (w) "Registered primary caregiver" means a primary caregiver who has been issued a current registry identification card under the Michigan medical marihuana act.
- (x) "Registered qualifying patient" means a qualifying patient who has been issued a current registry identification card under the Michigan medical marihuana act or a visiting qualifying patient as that term is defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.
- (y) "Registry identification card" means that term as defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.
- (z) "Rules" means rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, by the department in consultation with the board to implement this act.
- (aa) "Safety compliance facility" means a licensee that is a commercial entity that takes marihuana from a marihuana facility or receives marihuana from a registered primary caregiver, tests the marihuana for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.
- (bb) "Secure transporter" means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.
- (cc) "Seed" means the fertilized, ungerminated, matured ovule, containing an embryo or rudimentary plant, of a marihuana plant that is flowering.
- (dd) "Seedling" means a marihuana plant that has germinated and has not flowered and is not harvestable.

(ee) "State operating license" or, unless the context requires a different meaning, "license" means a license that is issued under this act that allows the licensee to operate as 1 of the following, specified in the license:

- (i) A grower.
- (ii) A processor.
- (iii) A secure transporter.
- (iv) A provisioning center.
- (v) A safety compliance facility.

(ff) "Statewide monitoring system" or, unless the context requires a different meaning, "system" means an internet-based, statewide database established, implemented, and maintained by the department under the marihuana tracking act, that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

- (i) Verifying registry identification cards.
- (ii) Tracking marihuana transfer and transportation by licensees, including transferee, date, quantity, and price.
- (iii) Verifying in commercially reasonable time that a transfer will not exceed the limit that the patient or caregiver is authorized to receive under section 4 of the Michigan medical marihuana act, MCL 333.26424.

(gg) "Tissue culture" means a marihuana plant cell, cutting, tissue, or organ, that is kept under a sterile condition on a nutrient culture medium of known composition and that does not have visible root formation. A tissue culture is not a marihuana plant for purposes of a grower.

(hh) "Usable marihuana" means the dried leaves, flowers, plant resin, or extract of the marihuana plant, but does not include the seeds, stalks, and roots of the plant.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 10, Imd. Eff. Jan. 26, 2018;—Am. 2018, Act 582, Eff. Jan. 1, 2019;—Am. 2018, Act 648, Eff. Mar. 28, 2019;—Am. 2019, Act 3, Imd. Eff. Apr. 16, 2019.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

PART 2. APPLICATION OF OTHER LAWS

333.27201 Protected activities; person owning or leasing property upon which marihuana facility located subject to penalties or sanctions prohibited; conditions; activities of certified public accountant or financial institution not subject to certain penalties or sanctions; other provisions of law inconsistent with act; definitions.

Sec. 201. (1) Except as otherwise provided in this act, if a person has been granted a state operating license and is operating within the scope of the license, the licensee and its agents are not subject to any of the following for engaging in activities described in subsection (2):

- (a) Criminal penalties under state law or local ordinances regulating marihuana.
- (b) State or local criminal prosecution for a marihuana-related offense.
- (c) State or local civil prosecution for a marihuana-related offense.
- (d) Search or inspection, except for an inspection authorized under this act by law enforcement officers, the municipality, or the department.
- (e) Seizure of marihuana, real property, personal property, or anything of value based on a marihuana-related offense.
- (f) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau based on a marihuana-related offense.

(2) The following activities are protected under subsection (1) if performed under a state operating license within the scope of that license and in accord with this act, rules, and any ordinance adopted under section 205:

- (a) Growing marihuana.
- (b) Purchasing, receiving, selling, transporting, or transferring marihuana from or to a licensee, a licensee's agent, a registered qualifying patient, or a registered primary caregiver.
- (c) Possessing marihuana.
- (d) Possessing or manufacturing marihuana paraphernalia for medical use.
- (e) Processing marihuana.
- (f) Transporting marihuana.
- (g) Testing, transferring, infusing, extracting, altering, or studying marihuana.
- (h) Receiving or providing compensation for products or services.

(3) Except as otherwise provided in this act, a person who owns or leases real property upon which a marihuana facility is located and who has no knowledge that the licensee violated this act is not subject to any of the following for owning, leasing, or permitting the operation of a marihuana facility on the real property:

- (a) Criminal penalties under state law or local ordinances regulating marihuana.
- (b) State or local civil prosecution based on a marihuana-related offense.
- (c) State or local criminal prosecution based on a marihuana-related offense.
- (d) Search or inspection, except for an inspection authorized under this act by law enforcement officers, the municipality, or the department.
- (e) Seizure of any real or personal property or anything of value based on a marihuana-related offense.
- (f) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau.

(4) Except as otherwise provided in this act, a certified public accountant who is licensed under article 7 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736, is not subject to any of the following for engaging in the practice of public accounting as that term is defined in section 720 of the occupational code, 1980 PA 299, MCL 339.720, for an applicant or licensee who is in compliance with this act, rules, and the Michigan medical marihuana act:

- (a) Criminal penalties under state law or local ordinances regulating marihuana.
- (b) State or local civil prosecution based on a marihuana-related offense.
- (c) State or local criminal prosecution based on a marihuana-related offense.
- (d) Seizure of any real or personal property or anything of value based on a marihuana-related offense.
- (e) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau based on a marihuana-related offense.

(5) Except as otherwise provided in this act, a financial institution is not subject to any of the following for providing a financial service to a licensee under this act:

- (a) Criminal penalties under state law or local ordinances regulating marihuana.
- (b) State or local civil prosecution based on a marihuana-related offense.
- (c) State or local criminal prosecution based on a marihuana-related offense.
- (d) Seizure of any real or personal property or anything of value based on a marihuana-related offense.
- (e) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau based on a marihuana-related offense.

(6) For the purposes of regulating the commercial entities established under this act, any provisions of the following acts that are inconsistent with this act do not apply to a grower, processor, secure transporter, provisioning center, or safety compliance facility operating in compliance with this act:

- (a) The business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098.
- (b) The nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.
- (c) 1931 PA 327, MCL 450.98 to 450.192.
- (d) The Michigan revised uniform limited partnership act, 1982 PA 213, MCL 449.1101 to 449.2108.
- (e) The Michigan limited liability company act, 1993 PA 23, MCL 450.4101 to 450.5200.
- (f) 1907 PA 101, MCL 445.1 to 445.5.
- (g) 1913 PA 164, MCL 449.101 to 449.106.
- (h) The uniform partnership act, 1917 PA 72, MCL 449.1 to 449.48.

(7) As used in this section:

(a) "Financial institution" means any of the following:

- (i) A state or national bank.
- (ii) A state or federally chartered savings and loan association.
- (iii) A state or federally chartered savings bank.
- (iv) A state or federally chartered credit union.
- (v) An insurance company.
- (vi) An entity that offers any of the following to a resident of this state:
 - (A) A mutual fund account.
 - (B) A securities brokerage account.
 - (C) A money market account.
 - (D) A retail investment account.

(vii) An entity regulated by the Securities and Exchange Commission that collects funds from the public.

(viii) An entity that is a member of the National Association of Securities Dealers and that collects funds from the public.

(ix) Another entity that collects funds from the public.

(b) "Financial service" means a deposit; withdrawal; transfer between accounts; exchange of currency;

loan; extension of credit; purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument; or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 10, Imd. Eff. Jan. 26, 2018.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27203 Registered qualifying patient or registered primary caregiver; criminal prosecution or sanctions prohibited; conditions.

Sec. 203. A registered qualifying patient or registered primary caregiver is not subject to criminal prosecution or sanctions for purchasing marihuana from a provisioning center if the quantity purchased is within the limits established under the Michigan medical marihuana act. A registered primary caregiver is not subject to criminal prosecution or sanctions for any transfer of 2.5 ounces or less of marihuana to a safety compliance facility for testing.

History: 2016, Act 281, Eff. Dec. 20, 2016.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27204 Medical purpose defense.

Sec. 204. This act does not limit the medical purpose defense provided in section 8 of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26428, to any prosecution involving marihuana.

History: 2016, Act 281, Eff. Dec. 20, 2016.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27205 Marihuana facility; ordinance; requirements.

Sec. 205. (1) The board shall not issue a state operating license to an applicant unless the municipality in which the applicant's proposed marihuana facility will operate has adopted an ordinance that authorizes that type of facility. A municipality may adopt an ordinance to authorize 1 or more types of marihuana facilities within its boundaries and to limit the number of each type of marihuana facility. A municipality may adopt other ordinances relating to marihuana facilities within its jurisdiction, including zoning regulations, but shall not impose regulations regarding the purity or pricing of marihuana or interfering or conflicting with this act or rules for licensing marihuana facilities. A municipality that adopts an ordinance under this subsection that authorizes a marihuana facility shall provide the department with all of the following on a form prescribed and provided by the department:

(a) An attestation that the municipality has adopted an ordinance under this subsection that authorizes the marihuana facility.

(b) A description of any zoning regulations that apply to the proposed marihuana facility within the municipality.

(c) The signature of the clerk of the municipality or his or her designee.

(d) Any other information required by the department.

(2) A municipal ordinance may establish an annual, nonrefundable fee of not more than \$5,000.00 to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the municipality.

(3) The department may require a municipality to provide the following information to the department on a form prescribed and provided by the department regarding a licensee who submits an application for license renewal:

(a) Information that the board declares necessary to determine whether the licensee's license should be renewed.

(b) A description of a violation of an ordinance or a zoning regulation adopted under subsection (1) committed by the licensee, but only if the violation relates to activities licensed under this act and rules or the Michigan medical marihuana act.

(c) Whether there has been a change to an ordinance or a zoning regulation adopted under subsection (1) since the license was issued to the licensee and a description of the change.

(4) Information a municipality obtains from an applicant under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Except as otherwise provided in this subsection, information a municipality provides to the department under this section is subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 10, Imd. Eff. Jan. 26, 2018.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27206 Rules.

Sec. 206. The department, in consultation with the board, shall promulgate rules and emergency rules as necessary to implement, administer, and enforce this act. The rules must ensure the safety, security, and integrity of the operation of marihuana facilities, and must include rules to do the following:

- (a) Set appropriate standards for marihuana facilities and associated equipment.
- (b) Subject to section 408, establish minimum levels of insurance that licensees must maintain.
- (c) Establish operating regulations for each category of license to ensure the health, safety, and security of the public and the integrity of marihuana facility operations.
- (d) Establish qualifications and restrictions for persons participating in or involved with operating marihuana facilities.
- (e) Establish testing standards, procedures, and requirements for marihuana sold through provisioning centers.
- (f) Provide for the levy and collection of fines for a violation of this act or rules.
- (g) Prescribe use of the statewide monitoring system to track all marihuana transfers, as provided in the marihuana tracking act and this act, and provide for a funding mechanism to support the system.
- (h) Establish quality control standards, procedures, and requirements for marihuana facilities.
- (i) Establish chain of custody standards, procedures, and requirements for marihuana facilities.
- (j) Establish standards, procedures, and requirements for waste product disposal and storage by marihuana facilities.
- (k) Establish chemical storage standards, procedures, and requirements for marihuana facilities.
- (l) Establish standards, procedures, and requirements for securely and safely transporting marihuana between marihuana facilities.
- (m) Establish standards, procedures, and requirements for the storage of marihuana by marihuana facilities.
- (n) Establish labeling and packaging standards, procedures, and requirements for marihuana sold or transferred through provisioning centers, including a prohibition on labeling or packaging that is intended to appeal to or has the effect of appealing to minors.
- (o) Establish daily and monthly purchasing limits at provisioning centers for registered qualifying patients and registered primary caregivers to ensure compliance with the Michigan medical marihuana act.
- (p) Establish marketing and advertising restrictions for marihuana products and marihuana facilities.
- (q) Establish maximum tetrahydrocannabinol levels for marihuana-infused products sold or transferred through provisioning centers.
- (r) Establish health standards to ensure the safe preparation of products containing marihuana that are intended for human consumption in a manner other than smoke inhalation.
- (s) Establish restrictions on edible marihuana-infused products to prohibit shapes that would appeal to minors.
- (t) Establish standards, procedures, and requirements for the sale of industrial hemp from a provisioning center to a registered qualified patient. The rules promulgated under this subdivision must be promulgated before March 1, 2019.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 10, Imd. Eff. Jan. 26, 2018;—Am. 2018, Act 648, Eff. Mar. 28, 2019.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27207 Third-party inventory control and tracking system; exception for statewide monitoring system.

Sec. 207. (1) Except as otherwise provided in subsection (2), a licensee shall adopt and use a third-party inventory control and tracking system that is capable of interfacing with the statewide monitoring system to allow the licensee to enter or access information in the statewide monitoring system as required under this act

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and rules. The third-party inventory control and tracking system must have all of the following capabilities necessary for the licensee to comply with the requirements applicable to the licensee's license type:

(a) Tracking all marihuana plants, products, packages, patient and primary caregiver purchase totals, waste, transfers, conversions, sales, and returns that are linked to unique identification numbers.

(b) Tracking lot and batch information throughout the entire chain of custody.

(c) Tracking all products, conversions, and derivatives throughout the entire chain of custody.

(d) Tracking marihuana plant, batch, and product destruction.

(e) Tracking transportation of product.

(f) Performing complete batch recall tracking that clearly identifies all of the following details relating to the specific batch subject to the recall:

(i) Sold product.

(ii) Product inventory that is finished and available for sale.

(iii) Product that is in the process of transfer.

(iv) Product being processed into another form.

(v) Postharvest raw product, such as product that is in the drying, trimming, or curing process.

(g) Reporting and tracking loss, theft, or diversion of product containing marihuana.

(h) Reporting and tracking all inventory discrepancies.

(i) Reporting and tracking adverse patient responses or dose-related efficacy issues.

(j) Reporting and tracking all sales and refunds.

(k) Electronically receiving and transmitting information as required under this act, the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430, and the marihuana tracking act.

(l) Receiving testing results electronically from a safety compliance facility via a secured application program interface into the system and directly linking the testing results to each applicable source batch and sample.

(m) Identifying test results that may have been altered.

(n) Providing the licensee with access to information in the tracking system that is necessary to verify that the licensee is carrying out the marihuana transactions authorized under the licensee's license in accordance with this act.

(o) Providing information to cross-check that product sales are made to a registered qualifying patient or a registered primary caregiver on behalf of a registered qualifying patient and that the product received the required testing.

(p) Providing the department and state agencies with access to information in the database that they are authorized to access.

(q) Providing law enforcement agencies with access to only the information in the database that is necessary to verify that an individual possesses a valid and current registry identification card.

(r) Providing licensees with access only to the information in the system that they are required to receive before a sale, transfer, transport, or other activity authorized under a license issued under this act.

(s) Securing the confidentiality of information in the database by preventing access by a person who is not authorized to access the statewide monitoring system or is not authorized to access the particular information.

(t) Providing analytics to the department regarding key performance indicators such as the following:

(i) Total daily sales.

(ii) Total marihuana plants in production.

(iii) Total marihuana plants destroyed.

(iv) Total inventory adjustments.

(2) If the statewide monitoring system is capable of allowing a licensee to access or enter information into the statewide monitoring system without use of a third-party inventory control and tracking system, a licensee may access or enter information into the statewide monitoring system directly and the licensee is not required to adopt and use a third-party inventory control and tracking system.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 582, Eff. Jan. 1, 2019.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27208 Marihuana facility and property; examination by local and state police.

Sec. 208. A marihuana facility and all articles of property in that facility are subject to examination at any time by a local police agency or the department of state police.

History: 2016, Act 281, Eff. Dec. 20, 2016.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:
"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

PART 3. MEDICAL MARIHUANA LICENSING BOARD

333.27301 Medical marihuana licensing board; creation; membership; appointment; terms; vacancy; reimbursement for expenses; other public office; eligibility; removal of member; appointment and employment limitations; financial disclosure statement; direct or indirect interest.

Sec. 301. (1) The medical marihuana licensing board is created within the department of licensing and regulatory affairs.

(2) The board consists of 5 members who are residents of this state, not more than 3 of whom are members of the same political party. The governor shall appoint the members. One of the members shall be appointed from 3 nominees submitted by the senate majority leader and 1 from 3 nominees submitted by the speaker of the house. The governor shall designate 1 of the members as chairperson.

(3) The members shall be appointed for terms of 4 years, except, of those who are first appointed, 1 member shall be appointed for a term of 2 years and 2 members shall be appointed for a term of 3 years. A member's term expires on December 31 of the last year of the member's term. If a vacancy occurs, the governor shall appoint a successor to fill the unexpired term in the manner of the original appointment.

(4) Each member of the board shall be reimbursed for all actual and necessary expenses and disbursements incurred in carrying out official duties.

(5) A board member shall not hold any other public office for which he or she receives compensation other than necessary travel or other incidental expenses.

(6) A person who is not of good moral character or who has been indicted for, charged with, or convicted of, pled guilty or nolo contendere to, or forfeited bail concerning any felony or a misdemeanor involving a controlled substance violation, theft, dishonesty, or fraud under the laws of this state, any other state, or the United States or a local ordinance in any state involving a controlled substance violation, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state is not eligible to serve on the board.

(7) The governor may remove any member of the board for neglect of duty, misfeasance, malfeasance, nonfeasance, or any other just cause.

(8) The board shall not appoint or employ an individual if any of the following circumstances exist:

(a) During the 3 years immediately preceding appointment or employment, the individual held any direct or indirect interest in, or was employed by, a person who is licensed to operate under this act or under a corresponding license in another jurisdiction or a person with an application for an operating license pending before the board or in any other jurisdiction. The board shall not employ an individual who has a direct or indirect interest in a licensee or a marihuana facility.

(b) The individual or his or her spouse, parent, child, child's spouse, sibling, or spouse of a sibling has an application for a license pending before the board or is a member of the board of directors of, or an individual financially interested in, any licensee or marihuana facility.

(9) Each member of the board and each key employee as determined by the department shall file with the governor a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of the member and key employee and his or her spouse, if any, affirming that the member and key employee are in compliance with subsection (8)(a) and (b). The financial disclosure statement shall be made under oath and filed at the time of employment and annually thereafter.

(10) Each employee of the board shall file with the board a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of the employee and his or her spouse. This subsection does not apply to a key employee.

(11) A member of the board or key employee shall not hold any direct or indirect interest in, be employed by, or enter into a contract for services with an applicant, a board licensee, or a marihuana facility for a period of 4 years after the date his or her employment or membership on the board terminates. The department in consultation with the board shall define the term "direct or indirect interest" by rule.

(12) For 2 years after the date his or her employment with the board is terminated, an employee of the board shall not acquire any direct or indirect interest in, be employed by, or enter into a contract for services with any applicant, licensee, or marihuana facility.

(13) For 2 years after the termination of his or her office or employment with the board, a board member or an individual employed by the board shall not represent any person or party other than this state before or against the board.

(14) A business entity in which a former board member or employee or agent has an interest, or any partner, officer, or employee of the business entity, shall not make any appearance or represent a party that the former member, employee, or agent is prohibited from appearing for or representing. As used in this subsection, "business entity" means a corporation, limited liability company, partnership, limited liability partnership, association, trust, or other form of legal entity.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 582, Eff. Jan. 1, 2019.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27302 Board; duties.

Sec. 302. The board has general responsibility for implementing this act. The board has the powers and duties specified in this act and all other powers necessary and proper to fully and effectively implement and administer this act for the purpose of licensing, regulating, and enforcing the licensing and regulation system established under this act for marihuana growth, processing, testing, and transporting. The board is subject to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The board's duties include all of the following:

- (a) Granting or denying each application for a state operating license within a reasonable time.
- (b) Deciding all license applications in reasonable order.
- (c) Conducting its public meetings in compliance with the open meetings act, 1976 PA 267, MCL 15.231 to 15.246.
- (d) Consulting with the department in promulgating rules and emergency rules as necessary to implement, administer, and enforce this act. The board shall not promulgate a rule establishing a limit on the number or type of marihuana facility licenses that may be granted.
- (e) Implementing and collecting the application fee described in section 401 and, in conjunction with the department of treasury, the tax described in section 601 and regulatory assessment described in section 603.
- (f) Providing for the levy and collection of fines for a violation of this act or rules.
- (g) Providing oversight of a marihuana facility through the board's inspectors, agents, and auditors and through the state police or attorney general for the purpose of certifying the revenue, receiving complaints from the public, or conducting investigations into the operation of the marihuana facility as the board considers necessary and proper to ensure compliance with this act and rules and to protect and promote the overall safety, security, and integrity of the operation of a marihuana facility.
- (h) Providing oversight of marihuana facilities to ensure that marihuana-infused products meet health and safety standards that protect the public to a degree comparable to state and federal standards applicable to similar food and drugs.
- (i) Reviewing and ruling on any complaint by a licensee regarding any investigative procedures of this state that are believed to be unnecessarily disruptive of marihuana facility operations. The need to inspect and investigate is presumed at all times. The board may delegate authority to hear, review, or rule on licensee complaints to a subcommittee of the board. To prevail on the complaint, a licensee must establish by a preponderance of the evidence that the procedures unreasonably disrupted its marihuana facility operations.
- (j) Holding at least 2 public meetings each year. Upon 72 hours' written notice to each member, the chairperson or any 2 board members may call a special meeting. Three members of the board constitute a quorum, including when making determinations on an application for a license. Three votes are required in support of final determinations of the board on applications for licenses and all other licensing determinations, except that 4 votes are required in support of a determination to suspend or revoke a license. The board shall keep a complete and accurate record of all of its meetings and hearings. Upon order of the board, 1 of the board members or a hearing officer designated by the board may conduct any hearing provided for under this act or by rules and may recommend findings and decisions to the board. The board member or hearing officer conducting the hearing has all powers and rights regarding the conduct of hearings granted to the board under this act. The record made at the time of the hearing shall be reviewed by the board or a majority of the board, and the findings and decision of the majority of the board are the order of the board in the case.
- (k) Maintaining records that are separate and distinct from the records of any other state board. The records shall be made available for public inspection subject to the limitations of this act and shall accurately reflect all board proceedings.
- (l) Reviewing the patterns of marihuana transfers by the licensees under this act as recorded in a statewide database established for use in administering and enforcing this act and making recommendations to the governor and the legislature in a written annual report to the governor and the legislature and additional

reports that the governor requests. The annual report shall be submitted by April 15 of each year and shall include the report required under section 702, a statement of receipts and disbursements by the board, the actions taken by the board, and any additional information and recommendations that the board considers appropriate or that the governor requests.

(m) Except as otherwise provided in this act, all information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the board are subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except for the following:

(i) Unless presented during a public hearing or requested by the licensee or applicant who is the sole subject of the data, all of the information, records, interviews, reports, statements, memoranda, or other data supplied to, created by, or used by the board related to background investigation of applicants or licensees and to trade secrets, internal controls, and security measures of the licensees or applicants.

(ii) All information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the board that have been received from another jurisdiction or local, state, or federal agency under a promise of confidentiality or if the release of the information is otherwise barred by the statutes, rules, or regulations of that jurisdiction or agency or by an intergovernmental agreement.

(iii) All information in the statewide monitoring system.

History: 2016, Act 281, Eff. Dec. 20, 2016.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27303 Board; powers.

Sec. 303. (1) The board has jurisdiction over the operation of all marihuana facilities. The board has all powers necessary and proper to fully and effectively oversee the operation of marihuana facilities, including the authority to do all of the following:

(a) Investigate applicants for state operating licenses, determine the eligibility for licenses, and grant licenses to applicants in accordance with this act and the rules.

(b) Investigate all individuals employed by marihuana facilities.

(c) At any time, through its investigators, agents, auditors, or the state police, without a warrant and without notice to the licensee, enter the premises, offices, facilities, or other places of business of a licensee, if evidence of compliance or noncompliance with this act or rules is likely to be found and consistent with constitutional limitations, for the following purposes:

(i) To inspect and examine all premises of marihuana facilities.

(ii) To inspect, examine, and audit relevant records of the licensee and, if the licensee 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.

(iii) To inspect the person, and inspect or examine personal effects present in a marihuana facility, of any holder of a state operating license while that person is present in a marihuana facility.

(iv) To investigate alleged violations of this act or rules.

(d) Investigate alleged violations of this act or rules and take appropriate disciplinary action against a licensee.

(e) Consult with the department in adopting rules to establish appropriate standards for marihuana facilities and associated equipment.

(f) Require all relevant records of licensees, including financial or other statements, to be kept on the premises authorized for operation of the marihuana facility of the licensee or in the manner prescribed by the board.

(g) Require that each licensee of a marihuana facility submit to the board a list of the stockholders or other persons having a 1% or greater beneficial interest in the facility in addition to any other information the board considers necessary to effectively administer this act and rules, orders, and final decisions made under this act.

(h) Eject, or exclude or authorize the ejection or exclusion of, an individual from a marihuana facility if the individual violates this act, rules, or final orders of the board. However, the propriety of the ejection or exclusion is subject to a subsequent hearing by the board.

(i) Conduct periodic audits of marihuana facilities licensed under this act.

(j) Consult with the department as to appropriate minimum levels of insurance for licensees in addition to the minimum established under section 408 for liability insurance.

(k) Delegate the execution of any of its powers that are not specifically and exclusively reserved to the board under this act for the purpose of administering and enforcing this act and rules.

(l) Take disciplinary action as the board considers appropriate to prevent practices that violate this act and rules.

(m) Review a licensee if that licensee is under review or the subject of discipline by a regulatory body in any other jurisdiction for a violation of a controlled substance or marihuana law or regulation in that jurisdiction.

(n) Take any other reasonable or appropriate action to enforce this act and rules.

(2) The board may seek and shall receive the cooperation and assistance of the department of state police in conducting background investigations of applicants and in fulfilling its responsibilities under this act. The department of state police may recover its costs of cooperation under this subsection.

History: 2016, Act 281, Eff. Dec. 20, 2016.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27305 Board; disclosure form; providing certain notices to chairperson; ex parte communication; outside employment; personal transaction involving marihuana with licensee or applicant; violation.

Sec. 305. (1) By January 31 of each year, each member of the board shall prepare and file with the governor's office and the board a disclosure form in which the member does all of the following:

(a) Affirms that the member or the member's spouse, parent, child, or child's spouse is not a member of the board of directors of, financially interested in, or employed by a licensee or applicant.

(b) Affirms that the member continues to meet any other criteria for board membership under this act or the rules promulgated by the board.

(c) Discloses any legal or beneficial interests in any real property that is or that may be directly or indirectly involved with operations authorized by this act.

(d) Discloses any other information as may be required to ensure that the integrity of the board and its work is maintained.

(2) By January 31 of each year, each employee of the board shall prepare and file with the board an employee disclosure form in which the employee does all of the following:

(a) Affirms the absence of financial interests prohibited by this act.

(b) Discloses any legal or beneficial interests in any real property that is or that may be directly or indirectly involved with operations authorized by this act.

(c) Discloses whether the employee or the employee's spouse, parent, child, or child's spouse is financially interested in or employed by a licensee or an applicant for a license under this act.

(d) Discloses such other matters as may be required to ensure that the integrity of the board and its work is maintained.

(3) A member, employee, or agent of the board who becomes aware that the member, employee, or agent of the board or his or her spouse, parent, or child is a member of the board of directors of, financially interested in, or employed by a licensee or an applicant shall immediately provide detailed written notice thereof to the chairperson.

(4) A member, employee, or agent of the board who within the previous 10 years has been indicted for, charged with, or convicted of, pled guilty or nolo contendere to, or forfeited bail concerning a misdemeanor involving controlled substances, dishonesty, theft, or fraud or a local ordinance in any state involving controlled substances, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state, or a felony under Michigan law, the laws of any other state, or the laws of the United States or any other jurisdiction shall immediately provide detailed written notice of the conviction or charge to the chairperson.

(5) Any member, employee, or agent of the board who is negotiating for, or acquires by any means, any interest in any person who is a licensee or an applicant, or any person affiliated with such a person, shall immediately provide written notice of the details of the interest to the chairperson. The member, employee, or agent of the board shall not act on behalf of the board with respect to that person.

(6) A member, employee, or agent of the board shall not enter into any negotiations for employment with any person or affiliate of any person who is a licensee or an applicant and shall immediately provide written notice of the details of any such negotiations or discussions in progress to the chairperson. The member, employee, or agent of the board shall not take action on behalf of the board with respect to that person.

(7) Any member, employee, or agent of the board who receives an invitation, written or oral, to initiate a

discussion concerning employment or the possibility of employment with a person or affiliate of a person who is a licensee or an applicant shall immediately report that he or she received the invitation to the chairperson. The member, employee, or agent of the board shall not take action on behalf of the board with respect to the person.

(8) A licensee or applicant shall not knowingly initiate a negotiation for or discussion of employment with a member, employee, or agent of the board. A licensee or applicant who initiates a negotiation or discussion about employment shall immediately provide written notice of the details of the negotiation or discussion to the chairperson as soon as he or she becomes aware that the negotiation or discussion has been initiated with a member, employee, or agent of the board.

(9) A member, employee, or agent of the board, or former member, employee, or agent of the board, shall not disseminate or otherwise disclose any material or information in the possession of the board that the board considers confidential unless specifically authorized to do so by the chairperson or the board.

(10) A member, employee, or agent of the board or a parent, spouse, sibling, spouse of a sibling, child, or spouse of a child of a member, employee, or agent of the board shall not accept any gift, gratuity, compensation, travel, lodging, or anything of value, directly or indirectly, from any licensee or any applicant or affiliate or representative of a licensee or applicant, unless the acceptance conforms to a written policy or directive that is issued by the chairperson or the board. Any member, employee, or agent of the board who is offered or receives any gift, gratuity, compensation, travel, lodging, or anything of value, directly or indirectly, from any licensee or any applicant or affiliate or representative of an applicant or licensee shall immediately provide written notification of the details to the chairperson.

(11) A licensee or applicant, or an affiliate or representative of an applicant or licensee, shall not, directly or indirectly, give or offer to give any gift, gratuity, compensation, travel, lodging, or anything of value to any member, employee, or agent of the board that the member, employee, or agent of the board is prohibited from accepting under subsection (10).

(12) A member, employee, or agent of the board shall not engage in any conduct that constitutes a conflict of interest and shall immediately advise the chairperson in writing of the details of any incident or circumstances that would present the existence of a conflict of interest with respect to performing board-related work or duties.

(13) A member, employee, or agent of the board who is approached and offered a bribe as described in section 118 of the Michigan penal code, 1931 PA 328, MCL 750.118, or this act shall immediately provide written account of the details of the incident to the chairperson and to a law enforcement officer of a law enforcement agency having jurisdiction.

(14) A member, employee, or agent of the board shall disclose his or her past involvement with any marijuana enterprise in the past 5 years and shall not engage in political activity or politically related activity during the duration of his or her appointment or employment.

(15) A former member, employee, or agent of the board may appear before the board as a fact witness about matters or actions handled by the member, employee, or agent during his or her tenure as a member, employee, or agent of the board. The member, employee, or agent of the board shall not receive compensation for such an appearance other than a standard witness fee and reimbursement for travel expenses as established by statute or court rule.

(16) A licensee or applicant or any affiliate or representative of an applicant or licensee shall not engage in ex parte communications with a member of the board. A member of the board shall not engage in any ex parte communications with a licensee or an applicant or with any affiliate or representative of an applicant or licensee.

(17) Any board member, licensee, or applicant or affiliate or representative of a board member, licensee, or applicant who receives any ex parte communication in violation of subsection (16), or who is aware of an attempted communication in violation of subsection (16), shall immediately report details of the communication or attempted communication in writing to the chairperson.

(18) Any member of the board who receives an ex parte communication in an attempt to influence that member's official action shall disclose the source and content of the communication to the chairperson. The chairperson may investigate or initiate an investigation of the matter with the assistance of the attorney general and state police to determine if the communication violates subsection (16) or subsection (17) or other state law. The disclosure under this section and the investigation are confidential. Following an investigation, the chairperson shall advise the governor or the board, or both, of the results of the investigation and may recommend action as the chairperson considers appropriate. If the chairperson receives such an ex parte communication, he or she shall report the communication to the governor's office for appropriate action.

(19) A new or current employee or agent of the board shall obtain written permission from the director of the department or his or her designee before continuing outside employment held at the time the employee

begins to work for the board. Permission shall be denied, or permission previously granted shall be revoked, if the director of the department or his or her designee considers the nature of the work to create a possible conflict of interest or if it would otherwise interfere with the duties of the employee or agent for the board.

(20) An employee or agent of the board granted permission for outside employment shall not conduct any business or perform any activities, including solicitation, related to outside employment on premises used by the board or during the employee's working hours for the board.

(21) The chairperson shall report any action he or she has taken or proposes to take under this section with respect to an employee or agent or former employee or former agent to the board at the next meeting of the board.

(22) Except as allowed under the Michigan medical marihuana act, a member, employee, or agent of the board shall not enter into any personal transaction involving marihuana with a licensee or applicant.

(23) If a licensee or applicant, or an affiliate or representative of a licensee or applicant, violates this section, the board may deny a license application, revoke or suspend a license, or take other disciplinary action as provided in section 407.

(24) Violation of this section by a member of the board may result in disqualification or constitute cause for removal under section 301(7) or other disciplinary action as recommended by the board to the governor.

(25) A violation of this section by an employee or agent of the board need not result in termination of employment if the board determines that the conduct involved does not violate the purpose of this act. However, all of the following apply:

(a) If, after being offered employment or beginning employment with the board, the employee or agent intentionally acquires a financial interest in a licensee or an applicant, or an affiliate or representative of a licensee or applicant, the offer or employment with the board shall be terminated.

(b) If a financial interest in a licensee or an applicant, or an affiliate or representative of a licensee or applicant, is acquired by an employee or agent that has been offered employment with the board, an employee of the board, or the employee's or agent's spouse, parent, or child, through no intentional action of the employee or agent, the individual shall have up to 30 days to divest or terminate the financial interest. Employment may be terminated if the interest has not been divested after 30 days.

(c) Employment shall be terminated if the employee or agent is a spouse, parent, child, or spouse of a child of a board member.

(26) Violation of this section does not create a civil cause of action.

(27) As used in this section:

(a) "Outside employment", in addition to employment by a third party, includes, but is not limited to, the following:

(i) Operation of a proprietorship.

(ii) Participation in a partnership or group business enterprise.

(iii) Performance as a director or corporate officer of any for-profit or nonprofit corporation or banking or credit institution.

(iv) Performance as a manager of a limited liability company.

(b) "Political activity" or "politically related activity" includes all of the following:

(i) Using his or her official authority or influence for the purpose of interfering with or affecting the result of an election.

(ii) Knowingly soliciting, accepting, or receiving a political contribution from any person.

(iii) Running for the nomination or as a candidate for election to a partisan political office.

(iv) Knowingly soliciting or discouraging the participation in any political activity of any person who is either of the following:

(A) Applying for any compensation, grant, contract, ruling, license, permit, or certificate pending before the board.

(B) The subject of or a participant in an ongoing audit, investigation, or enforcement action being carried out by the board.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 582, Eff. Jan. 1, 2019.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

PART 4. LICENSING

333.27401 Licensure; application; background investigation; consent to inspections,

examinations, searches, and seizures; disclosure of confidential records; interest in other state operating license; fee; additional costs; notification to municipality.

Sec. 401. (1) Beginning December 15, 2017, a person may apply to the board for state operating licenses in the categories of class A, B, or C grower; processor; provisioning center; secure transporter; and safety compliance facility as provided in this act. The application shall be made under oath on a form provided by the board and shall contain information as prescribed by the board, including, but not limited to, all of the following:

(a) The name, business address, business telephone number, Social Security number, and, if applicable, federal tax identification number of the applicant.

(b) The identity of every person having any ownership interest in the applicant with respect to which the license is sought. If the disclosed entity is a trust, the application shall disclose the names and addresses of the beneficiaries; if a privately held corporation, the names and addresses of all shareholders, officers, and directors; if a publicly held corporation, the names and addresses of all shareholders holding a direct or indirect interest of greater than 5%, officers, and directors; if a partnership or limited liability partnership, the names and addresses of all partners; if a limited partnership or limited liability limited partnership, the names of all partners, both general and limited; or if a limited liability company, the names and addresses of all members and managers.

(c) An identification of any business that is directly or indirectly involved in the growing, processing, testing, transporting, or sale of marihuana, including, if applicable, the state of incorporation or registration, in which an applicant or, if the applicant is an individual, the applicant's spouse, parent, or child has any equity interest. If an applicant is a corporation, partnership, or other business entity, the applicant shall identify any other corporation, partnership, or other business entity that is directly or indirectly involved in the growing, processing, testing, transporting, or sale of marihuana in which it has any equity interest, including, if applicable, the state of incorporation or registration. An applicant may comply with this subdivision by filing a copy of the applicant's registration with the Securities and Exchange Commission if the registration contains the information required by this subdivision.

(d) Whether an applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or controlled-substance-related misdemeanor, not including traffic violations, regardless of whether the offense has been reversed on appeal or otherwise, including the date, the name and location of the court, arresting agency, and prosecuting agency, the case caption, the docket number, the offense, the disposition, and the location and length of incarceration.

(e) Whether an 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.

(f) Whether an applicant has filed, or been served with, a complaint or other notice filed with any public body, regarding the delinquency in the payment of, or a dispute over the filings concerning the payment of, any tax required under federal, state, or local law, including the amount, type of tax, taxing agency, and time periods involved.

(g) A statement listing the names and titles of all public officials or officers of any unit of government, and the spouses, parents, and children of those public officials or officers, who, directly or indirectly, own any financial interest in, have any beneficial interest in, are the creditors of or hold any debt instrument issued by, or hold or have any interest in any contractual or service relationship with an applicant. As used in this subdivision, public official or officer does not include a person who would have to be listed solely because of his or her state or federal military service.

(h) A description of the type of marihuana facility; anticipated or actual number of employees; and projected or actual gross receipts.

(i) Financial information in the manner and form prescribed by the board.

(j) A paper copy or electronic posting website reference for the ordinance or zoning restriction that the municipality adopted to authorize or restrict operation of 1 or more marihuana facilities in the municipality.

(k) A copy of the notice informing the municipality by registered mail that the applicant has applied for a license under this act. The applicant shall also certify that it has delivered the notice to the municipality or will do so by 10 days after the date the applicant submits the application for a license to the board.

(l) Any other information the department requires by rule.

(2) The board shall use information provided on the application as a basis to conduct a thorough

background investigation on the applicant. A false application is cause for the board to deny a license. The board shall not consider an incomplete application but shall, within a reasonable time, return the application to the applicant with notification of the deficiency and instructions for submitting a corrected application. Information the board obtains from the background investigation is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) An applicant must provide written consent to the inspections, examinations, searches, and seizures provided for in section 303(1)(c)(i) to (iv) and to disclosure to the board and its agents of otherwise confidential records, including tax records held by any federal, state, or local agency, or credit bureau or financial institution, while applying for or holding a license. Information the board receives under this subsection is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) An applicant must certify that the applicant does not have an interest in any other state operating license that is prohibited under this act.

(5) A nonrefundable application fee must be paid at the time of filing to defray the costs associated with the background investigation conducted by the board. The department in consultation with the board shall set the amount of the application fee for each category and class of license by rule. If the costs of the investigation and processing the application exceed the application fee, the applicant shall pay the additional amount to the board. All information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the board in the course of its review or investigation of an application for a license under this act shall be disclosed only in accordance with this act. The information, records, interviews, reports, statements, memoranda, or other data are not admissible as evidence or discoverable in any action of any kind in any court or before any tribunal, board, agency, or person, except for any action considered necessary by the board.

(6) By 10 days after the date the applicant submits an application to the board, the applicant shall notify the municipality by registered mail that it has applied for a license under this act.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 582, Eff. Jan. 1, 2019.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27402 License; issuance; ineligibility; circumstances; other considerations granting license; fingerprint processing fee; criminal history check; requirements applicable to fingerprints; definitions; review of application; informing applicant of decision; issuance; duration; renewal; notice; expiration; consent to inspections; examinations, searches, and seizures; information required to be provided by applicant.

Sec. 402. (1) The board shall issue a license to an applicant who submits a complete application and pays both the nonrefundable application fee required under section 401(5) and the regulatory assessment established by the board for the first year of operation, if the board determines that the applicant is qualified to receive a license under this act.

(2) An applicant is ineligible to receive a license if any of the following circumstances exist:

(a) The applicant has 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 10 years or has been convicted of a controlled substance-related felony within the past 10 years.

(b) Within the past 5 years the applicant has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state.

(c) The applicant has knowingly submitted an application for a license under this act that contains false information.

(d) The applicant is a member of the board.

(e) The applicant fails to demonstrate the applicant's ability to maintain adequate premises liability and casualty insurance for its proposed marihuana facility.

(f) The applicant holds an elective office of a governmental unit of this state, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit in this state, another state, or the federal government; or is employed by a governmental unit of this state. This subdivision does not apply to an elected officer of or employee of a federally recognized Indian tribe or to an elected precinct delegate.

- (g) The board determines that the applicant is not in compliance with section 205(1).
- (h) The applicant fails to meet other criteria established by rule.
- (3) In determining whether to grant a license to an applicant, the board may also consider all of the following:
 - (a) The integrity, moral character, and reputation; personal and business probity; financial ability and experience; and responsibility or means to operate or maintain a marihuana facility of the applicant and of any other person that meets either of the following:
 - (i) Controls, directly or indirectly, the applicant.
 - (ii) Is controlled, directly or indirectly, by the applicant or by a person who controls, directly or indirectly, the applicant.
 - (b) The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.
 - (c) The sources and total amount of the applicant's capitalization to operate and maintain the proposed marihuana facility.
 - (d) 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.
 - (e) Whether the applicant has filed, or had filed against it, a proceeding for bankruptcy within the past 7 years.
 - (f) 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 1 or more years.
 - (g) Whether the applicant has a history of noncompliance with any regulatory requirements in this state or any other jurisdiction.
 - (h) Whether at the time of application the applicant is a defendant in litigation involving its business practices.
 - (i) Whether the applicant meets other standards in rules applicable to the license category.
- (4) Each applicant shall ensure that 1 set of fingerprints is submitted to the department of state police. The applicant shall submit with its application the applicant's written consent to the criminal history check described in this section and the submission of the applicant's fingerprints to, and the inclusion of the applicant's fingerprints in, the state and federal database systems described in subsection (7).
- (5) The fingerprints required under subsection (4) may be taken by a law enforcement agency or any other person determined by the department of state police to be qualified to take fingerprints. The applicant shall submit a fingerprint processing fee to the department in an amount required under section 3 of 1935 PA 120, MCL 28.273, and any costs imposed by the Federal Bureau of Investigation.
- (6) The department of state police shall do all of the following:
 - (a) Conduct a criminal history check on each applicant and request the Federal Bureau of Investigation to make a determination of the existence of any national criminal history pertaining to each applicant.
 - (b) Provide the board with a written report containing the criminal history record information of each applicant.
- (7) All of the following apply concerning fingerprints submitted to the department of state police under this section:
 - (a) The department of state police shall store and retain all fingerprints submitted under this section in an automated fingerprint identification system database that searches against latent fingerprints, and provides for an automatic notification if and when a subsequent fingerprint is submitted into the system that matches a set of fingerprints previously submitted under this section or if and when the criminal history of an individual whose fingerprints are retained in the system is updated. Upon receiving a notification, the department of state police shall immediately notify the board. Information in the database maintained under this subsection is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.
 - (b) The department of state police shall forward all fingerprints submitted to it under this section to the Federal Bureau of Investigation for submission of those fingerprints into the FBI automatic notification system. This subdivision does not apply until the department of state police is a participant in the FBI automatic notification system. As used in this subdivision:
 - (i) "Automatic notification system" means a system that stores and retains fingerprints, and that provides for an automatic notification to a participant if and when a fingerprint is submitted into the system that matches an individual whose fingerprints are retained in the system or if and when the criminal history of an

individual whose fingerprints are retained in the system is updated.

(ii) "FBI automatic notification system" means the automatic notification system that is maintained by the Federal Bureau of Investigation.

(8) The board shall review all applications for licenses and shall inform each applicant of the board's decision.

(9) A license shall be issued for a 1-year period and is renewable annually. Except as otherwise provided in this act, the board shall renew a license if all of the following requirements are met:

(a) The licensee applies to the board on a renewal form provided by the board that requires information prescribed in rules.

(b) The application is received by the board on or before the expiration date of the current license.

(c) The licensee pays the regulatory assessment under section 603.

(d) The licensee meets the requirements of this act and any other renewal requirements set forth in rules.

(10) The department shall notify the licensee by mail or electronic mail at the last known address on file with the board advising of the time, procedure, and regulatory assessment under section 603. The failure of the licensee to receive notice under this subsection does not relieve the licensee of the responsibility for renewing the license.

(11) If a license renewal application is not submitted by the license expiration date, the license may be renewed within 60 days after its expiration date upon application, payment of the regulatory assessment under section 603, and satisfaction of any renewal requirement and late fee set forth in rules. The licensee may continue to operate during the 60 days after the license expiration date if the license is renewed by the end of the 60-day period.

(12) License expiration does not terminate the board's authority to impose sanctions on a licensee whose license has expired.

(13) In its decision on an application for renewal, the board shall consider any specific written input it receives from an individual or entity within the local unit of government in which the applicant for renewal is located.

(14) A licensee must consent in writing to inspections, examinations, searches, and seizures that are permitted under this act and must provide a handwriting exemplar, fingerprints, photographs, and information as authorized in this act or by rules.

(15) An applicant or licensee has a continuing duty to provide information requested by the board and to cooperate in any investigation, inquiry, or hearing conducted by the board.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2017, Act 105, Imd. Eff. July 13, 2017;—Am. 2018, Act 582, Eff. Jan. 1, 2019.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27403 Application deficiency; correction.

Sec. 403. If the board identifies a deficiency in an application, the board shall provide the applicant with a reasonable period of time to correct the deficiency.

History: 2016, Act 281, Eff. Dec. 20, 2016.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27404 Repealed. 2018, Act 582, Eff. Jan. 1, 2019.

Compiler's note: The repealed section pertained to a true party of interest.

333.27405 Background check.

Sec. 405. Subject to the laws of this state, before hiring a prospective employee, the holder of a license shall conduct a background check of the prospective employee. If the background check indicates a pending charge or conviction within the past 10 years for a controlled substance-related felony, a licensee shall not hire the prospective employee without written permission of the board.

History: 2016, Act 281, Eff. Dec. 20, 2016.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27406 Transfer, sale, or purchase of license.

Sec. 406. Each license is exclusive to the licensee, and a licensee or any other person must apply for and receive the board's approval before a license is transferred, sold, or purchased. The attempted transfer, sale, or other conveyance of an interest in a license without prior board approval is grounds for suspension or revocation of the license or for other sanction considered appropriate by the board, but only if the transfer, sale, or other conveyance would result in the transferee meeting the definition of applicant.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 582, Eff. Jan. 1, 2019.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27407 Denial, suspension, revocation, or restriction of license.

Sec. 407. (1) If an applicant or licensee fails to comply with this act or rules, if a licensee fails to comply with the marihuana tracking act, if a licensee no longer meets the eligibility requirements for a license under this act, or if an applicant or licensee fails to provide information the board requests to assist in any investigation, inquiry, or board hearing, the board may deny, suspend, revoke, or restrict a license. The board may suspend, revoke, or restrict a license and require the removal of a licensee or an employee of a licensee for a violation of this act, rules, the marihuana tracking act, or any ordinance adopted under section 205. The board may impose civil fines of up to \$5,000.00 against an individual and up to \$10,000.00 or an amount equal to the daily gross receipts, whichever is greater, against a licensee for each violation of this act, rules, or an order of the board. Assessment of a civil fine under this subsection is not a bar to the investigation, arrest, charging, or prosecution of an individual for any other violation of this act and is not grounds to suppress evidence in any criminal prosecution that arises under this act or any other law of this state.

(2) The board shall comply with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, when denying, revoking, suspending, or restricting a license or imposing a fine. The board may suspend a license without notice or hearing upon a determination that the safety or health of patrons or employees is jeopardized by continuing a marihuana facility's operation. If the board suspends a license under this subsection without notice or hearing, a prompt postsuspension hearing must be held to determine if the suspension should remain in effect. The suspension may remain in effect until the board determines that the cause for suspension has been abated. The board may revoke the license or approve a transfer or sale of the license upon a determination that the licensee has not made satisfactory progress toward abating the hazard.

(3) After denying an application for a license, the board shall, upon request, provide a public investigative hearing at which the applicant is given the opportunity to present testimony and evidence to establish its suitability for a license. Other testimony and evidence may be presented at the hearing, but the board's decision must be based on the whole record before the board and is not limited to testimony and evidence submitted at the public investigative hearing.

(4) Except for license applicants who may be granted a hearing at the discretion of the board under subsection (3), any party aggrieved by an action of the board suspending, revoking, restricting, or refusing to renew a license, or imposing a fine, shall be given a hearing before the board upon request. A request for a hearing must be made to the board in writing within 21 days after service of notice of the action of the board. Notice of the action of the board must be served either by personal delivery or by certified mail, postage prepaid, to the aggrieved party. Notice served by certified mail is considered complete on the business day following the date of the mailing.

(5) The board may conduct investigative and contested case hearings; issue subpoenas for the attendance of witnesses; issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents; and administer oaths and affirmations to witnesses as appropriate to exercise and discharge the powers and duties of the board under this act. The director of the department or his or her designee may issue subpoenas and administer oaths and affirmations to witnesses.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 582, Eff. Jan. 1, 2019.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27407a Operation of marihuana facility; license required; violation; penalties.

Sec. 407a. Beginning June 1, 2019, a person shall not hold itself out as operating a marihuana facility if the

person does not hold a license to operate that marihuana facility or if the person's license to operate that marihuana facility is suspended, revoked, lapsed, or void, or was fraudulently obtained or transferred to the person other than pursuant to section 406. A person that violates this section is guilty as follows:

(a) In the case of a first violation, a misdemeanor punishable by a fine of not less than \$10,000.00 or more than \$25,000.00 or imprisonment of not more than 93 days, or both.

(b) In the case of a second or subsequent violation, a misdemeanor punishable by a fine of not less than \$10,000.00 or more than \$25,000.00 or imprisonment of not more than 1 year, or both.

(c) If the violation causes death or serious injury, a felony punishable by a fine of not less than \$10,000.00 or more than \$25,000.00 or imprisonment for not more than 4 years, or both.

History: Add. 2018, Act 582, Eff. Jan. 1, 2019.

333.27408 Proof of financial responsibility.

Sec. 408. (1) Before the board grants or renews any license under this act, the licensee or applicant shall file with the department proof of financial responsibility for liability for bodily injury to lawful users resulting from the manufacture, distribution, transportation, or sale of adulterated marihuana or adulterated marihuana-infused product in an amount not less than \$100,000.00. The proof of financial responsibility may be in the form of cash, unencumbered securities, a liability insurance policy, or a constant value bond executed by a surety company authorized to do business in this state. As used in this section:

(a) "Adulterated marihuana" means a product sold as marihuana that contains any unintended substance or chemical or biological matter other than marihuana that causes adverse reaction after ingestion or consumption.

(b) "Bodily injury" does not include expected or intended effect or long-term adverse effect of smoking, ingestion, or consumption of marihuana or marihuana-infused product.

(2) An insured licensee shall not cancel liability insurance required under this section unless the licensee complies with both of the following:

(a) Gives 30 days' prior written notice to the department.

(b) Procures new proof of financial responsibility required under this section and delivers that proof to the department within 30 days after giving the department the notice under subdivision (a).

History: 2016, Act 281, Eff. Dec. 20, 2016.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27409 State operating license as revocable privilege.

Sec. 409. A state operating license is a revocable privilege granted by this state and is not a property right. Granting a license does not create or vest any right, title, franchise, or other property interest. A licensee or any other person shall not lease, pledge, or borrow or loan money against a license.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 582, Eff. Jan. 1, 2019.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

PART 5. LICENSEES

333.27501 Grower license.

Sec. 501. (1) A grower license authorizes the grower to grow not more than the following number of marihuana plants under the indicated license class for each license the grower holds in that class:

(a) Class A – 500 marihuana plants.

(b) Class B – 1,000 marihuana plants.

(c) Class C – 1,500 marihuana plants.

(2) Except as otherwise provided in this subsection, a grower license authorizes sale of marihuana plants to a grower only by means of a secure transporter. A grower license authorizes the sale or transfer of seeds, seedlings, or tissue cultures to a grower from a registered primary caregiver or another grower without using a secure transporter.

(3) A grower license authorizes a grower to transfer marihuana without using a secure transporter to a processor or provisioning center if both of the following are met:

(a) The processor or provisioning center occupies the same location as the grower and the marihuana is

transferred using only private real property without accessing public roadways.

(b) The grower enters each transfer into the statewide monitoring system.

(4) A grower license authorizes sale of marihuana, other than seeds, seedlings, tissue cultures, and cuttings, to a processor or provisioning center.

(5) Except as otherwise provided in subsections (2) and (3) and section 505, a grower license authorizes the grower to transfer marihuana only by means of a secure transporter.

(6) To be eligible for a grower license, the applicant and each investor in the grower must not have an interest in a secure transporter or safety compliance facility.

(7) Until December 31, 2018, for a period of 30 days after the issuance of a grower license and in accord with rules, a grower may transfer any of the following that are lawfully possessed by an individual formerly registered as a primary caregiver who is an active employee of the grower:

(a) Marihuana plants.

(b) Seeds.

(c) Seedlings.

(8) A grower shall comply with all of the following:

(a) Until December 31, 2021, have, or have as an active employee an individual who has, a minimum of 2 years' experience as a registered primary caregiver.

(b) While holding a license as a grower, not be a registered primary caregiver and not employ an individual who is simultaneously a registered primary caregiver.

(c) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

(9) A grower license does not authorize the grower to operate in an area unless the area is zoned for industrial or agricultural uses or is unzoned and otherwise meets the requirements established in section 205(1).

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 10, Imd. Eff. Jan. 26, 2018.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27502 Processor license; exception for industrial hemp.

Sec. 502. (1) A processor license authorizes purchase of marihuana only from a grower and sale of marihuana-infused products or marihuana only to a provisioning center or another processor.

(2) Except as otherwise provided in section 505 and this subsection, a processor license authorizes the processor to transfer marihuana only by means of a secure transporter. A processor license authorizes a processor to transfer marihuana without using a secure transporter to a grower or provisioning center if both of the following are met:

(a) The grower or provisioning center occupies the same location as the processor and the marihuana is transferred using only private real property without accessing public roadways.

(b) The processor enters each transfer into the statewide monitoring system.

(3) To be eligible for a processor license, the applicant and each investor in the processor must not have an interest in a secure transporter or safety compliance facility.

(4) Until December 31, 2018, for a period of 30 days after the issuance of a processor license and in accord with rules, a processor may transfer any of the following that are lawfully possessed by an individual formerly registered as a primary caregiver who is an active employee of the processor:

(a) Marihuana plants.

(b) Usable marihuana.

(5) A processor shall comply with all of the following:

(a) Until December 31, 2021, have, or have as an active employee an individual who has, a minimum of 2 years' experience as a registered primary caregiver.

(b) While holding a license as a processor, not be a registered primary caregiver and not employ an individual who is simultaneously a registered primary caregiver.

(c) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

(6) This act does not prohibit a processor from handling, processing, marketing, or brokering, as those terms are defined in section 2 of the industrial hemp research and development act, MCL 286.842, industrial hemp.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 10, Imd. Eff. Jan. 26, 2018;—Am. 2018, Act 648, Eff. Mar. 28, 2019.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:
"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27503 Secure transporter license.

Sec. 503. (1) A secure transporter license authorizes the licensee to store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana facilities for a fee upon request of a person with legal custody of that marihuana or money. It does not authorize transport to a registered qualifying patient or registered primary caregiver. If a secure transporter has its primary place of business in a municipality that has adopted an ordinance under section 205 authorizing that marihuana facility, the secure transporter may travel through any municipality.

(2) To be eligible for a secure transporter license, the applicant and each investor with an interest in the secure transporter must not have an interest in a grower, processor, provisioning center, or safety compliance facility and must not be a registered qualifying patient or a registered primary caregiver.

(3) A secure transporter shall enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

(4) A secure transporter shall comply with all of the following:

(a) Each driver transporting marihuana must have a chauffeur's license issued by this state.

(b) Each employee who has custody of marihuana or 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 5 years or have been convicted of a misdemeanor involving a controlled substance within the past 5 years.

(c) Each vehicle must be operated with a 2-person crew with at least 1 individual remaining with the vehicle at all times during the transportation of marihuana.

(d) A route plan and manifest must be entered into the statewide monitoring system, and a copy must be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(e) The marihuana must be transported in 1 or more sealed containers and not be accessible while in transit.

(f) A secure transporting vehicle must not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

(5) A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with this act.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 10, Imd. Eff. Jan. 26, 2018.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:
"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27504 Provisioning center license.

Sec. 504. (1) A provisioning center license authorizes the purchase or transfer of marihuana only from a grower or processor and sale or transfer to only a registered qualifying patient or registered primary caregiver. Except as otherwise provided in section 505 and this subsection, all transfers of marihuana to a provisioning center from a separate marihuana facility must be by means of a secure transporter. A transfer of marihuana to a provisioning center from a marihuana facility that occupies the same location as the provisioning center does not require a secure transporter if the marihuana is transferred to the provisioning center using only private real property without accessing public roadways.

(2) A provisioning center license authorizes the provisioning center to transfer marihuana to or from a safety compliance facility for testing by means of a secure transporter or as provided in section 505.

(3) To be eligible for a provisioning center license, the applicant and each investor in the provisioning center must not have an interest in a secure transporter or safety compliance facility.

(4) A provisioning center shall comply with all of the following:

(a) Sell or transfer marihuana to a registered qualifying patient or registered primary caregiver only after it has been tested and bears the label required for retail sale.

(b) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

(c) Before selling or transferring marihuana to a registered qualifying patient or to a registered primary caregiver on behalf of a registered qualifying patient, inquire of the statewide monitoring system to determine whether the patient and, if applicable, the caregiver hold a valid, current, unexpired, and unrevoked registry

identification card and that the sale or transfer will not exceed the daily and monthly purchasing limit established by the medical marihuana licensing board under this act.

(d) Not allow the sale, consumption, or use of alcohol or tobacco products on the premises.

(e) Not allow a physician to conduct a medical examination or issue a medical certification document on the premises for the purpose of obtaining a registry identification card.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 10, Imd. Eff. Jan. 26, 2018.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27505 Safety compliance facility license; exception for industrial hemp.

Sec. 505. (1) In addition to transfer and testing authorized in section 203, a safety compliance facility license authorizes the safety compliance facility to do all of the following without using a secure transporter:

(a) Take marihuana from, test marihuana for, and return marihuana to only a marihuana facility.

(b) Collect a random sample of marihuana at the marihuana facility of a grower, processor, or provisioning center for testing.

(2) A safety compliance facility must be accredited by an entity approved by the board by 1 year after the date the license is issued or have previously provided drug testing services to this state or this state's court system and be a vendor in good standing in regard to those services. The board may grant a variance from this requirement upon a finding that the variance is necessary to protect and preserve the public health, safety, or welfare.

(3) To be eligible for a safety compliance facility license, the applicant and each investor with any interest in the safety compliance facility must not have an interest in a grower, secure transporter, processor, or provisioning center.

(4) A safety compliance facility shall comply with all of the following:

(a) Perform tests to certify that marihuana is reasonably free of chemical residues such as fungicides and insecticides.

(b) Use validated test methods to determine tetrahydrocannabinol, tetrahydrocannabinol acid, cannabidiol, and cannabidiol acid levels.

(c) Perform tests that determine whether marihuana complies with the standards the board establishes for microbial and mycotoxin contents.

(d) Perform other tests necessary to determine compliance with any other good manufacturing practices as prescribed in rules.

(e) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

(f) Have a secured laboratory space that cannot be accessed by the general public.

(g) Retain and employ at least 1 staff member with a relevant advanced degree in a medical or laboratory science.

(5) This act does not prohibit a safety compliance facility from taking or receiving industrial hemp for testing purposes and testing the industrial hemp pursuant to the industrial hemp research and development act.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 10, Imd. Eff. Jan. 26, 2018;—Am. 2018, Act 648, Eff. Mar. 28, 2019.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

PART 6. TAXES AND FEES

333.27601 Provisioning center; imposition of tax; rate; administration.

Sec. 601. (1) A tax is imposed on each provisioning center at the rate of 3% of the provisioning center's gross retail receipts. By 30 days after the end of the calendar quarter, a provisioning center shall remit the tax for the preceding calendar quarter to the department of treasury accompanied by a form prescribed by the department of treasury that shows the gross quarterly retail income of the provisioning center and the amount of tax due, and shall submit a copy of the form to the department. If a law authorizing the recreational or nonmedical use of marihuana in this state is enacted, this section does not apply beginning 90 days after the effective date of that law.

(2) The taxes imposed under this section shall be administered by the department of treasury in accordance with 1941 PA 122, MCL 205.1 to 205.31, and this act. In case of conflict between the provisions of 1941 PA

122, MCL 205.1 to 205.31, and this act, the provisions of this act prevail.

History: 2016, Act 281, Eff. Dec. 20, 2016.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27602 Medical marihuana excise fund.

Sec. 602. (1) The medical marihuana excise fund is created in the state treasury.

(2) Except for the application fee under section 401, the regulatory assessment under section 603, and any local fees, all money collected under section 601 and all other fees, fines, and charges, imposed under this act must be deposited in the medical marihuana excise fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the medical marihuana excise fund at the close of the fiscal year remains in the fund and does not lapse to the general fund.

(4) The state treasurer is the administrator of the medical marihuana excise fund for auditing purposes.

(5) The money in the medical marihuana excise fund must be allocated, upon appropriation, as follows:

(a) 25% to municipalities in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the municipality.

(b) 30% to counties in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the county.

(c) 5% to counties in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the county. Money allocated under this subdivision must be used exclusively to support the county sheriffs and must be in addition to and not in replacement of any other funding received by the county sheriffs.

(d) 30% to this state for the following:

(i) Until September 30, 2017, for deposit in the general fund of the state treasury.

(ii) Beginning October 1, 2017, for deposit in the first responder presumed coverage fund created in section 405 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.405.

(e) 5% to the Michigan commission on law enforcement standards for training local law enforcement officers.

(f) 5% to the department of state police.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 10, Imd. Eff. Jan. 26, 2018.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27603 Regulatory assessment.

Sec. 603. (1) A regulatory assessment is imposed on certain licensees as provided in this section. All of the following shall be included in establishing the total amount of the regulatory assessment established under this section:

(a) The department's costs to implement, administer, and enforce this act, except for the costs to process and investigate applications for licenses supported with the application fee described in section 401.

(b) Expenses of medical-marihuana-related legal services provided to the department by the department of attorney general.

(c) Expenses of medical-marihuana-related services provided to the department by the department of state police.

(d) Expenses of medical-marihuana-related services provided by the department of treasury.

(e) \$500,000.00 to be allocated to the department for expenditures of the department for licensing substance use disorder programs.

(f) An amount equal to 5% of the sum of the amounts provided for under subdivisions (a) to (d) to be allocated to the department of health and human services for substance-abuse-related expenditures including, but not limited to, substance use disorder prevention, education, and treatment programs.

(g) Expenses related to the standardized field sobriety tests administered in enforcing the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(h) An amount sufficient to provide for the administrative costs of the Michigan commission on law enforcement standards.

(2) The regulatory assessment is in addition to the application fee described in section 401, the tax

described in section 601, and any local licensing fees.

(3) The regulatory assessment shall be collected annually from licensed growers, processors, provisioning centers, and secure transporters. The regulatory assessment for a class A grower license shall not exceed \$10,000.00.

(4) Beginning in the first year marihuana facilities are authorized to operate in this state, and annually thereafter, the department, in consultation with the board, shall establish the total regulatory assessment at an amount that is estimated to be sufficient to cover the actual costs and support the expenditures listed in subsection (1).

(5) On or before the date the licensee begins operating and annually thereafter, each grower, processor, provisioning center, and secure transporter shall pay to the state treasurer an amount determined by the department to reasonably reflect the licensee's share of the total regulatory assessment established under subsection (4).

History: 2016, Act 281, Eff. Dec. 20, 2016.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27604 Marihuana regulatory fund.

Sec. 604. (1) The marihuana regulatory fund is created in the state treasury.

(2) The application fee collected under section 401 and the regulatory assessment collected under section 603 shall be deposited in the marihuana regulatory fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the marihuana regulatory fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall be the administrator of the marihuana regulatory fund for auditing purposes.

(5) Except as provided in section 603(1)(d) and (e), the department shall expend money from the marihuana regulatory fund, upon appropriation, only for implementing, administering, and enforcing this act.

History: 2016, Act 281, Eff. Dec. 20, 2016.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27605 Use of money from Michigan marihuana registry fund.

Sec. 605. The department may use any money appropriated to it from the marihuana registry fund created in section 6 of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26426, for the purpose of funding the operations of the department and the board in the initial implementation and subsequent administration and enforcement of this act.

History: 2016, Act 281, Eff. Dec. 20, 2016.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

PART 7. REPORTS

333.27701 Financial statements.

Sec. 701. By 30 days after the end of each state fiscal year, each licensee shall transmit to the board and to the municipality financial statements of the licensee's total operations. The financial statements shall be reviewed by a certified public accountant in a manner and form prescribed by the board. The certified public accountant must be licensed in this state under article 7 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736. The compensation for the certified public accountant shall be paid directly by the licensee to the certified public accountant.

History: 2016, Act 281, Eff. Dec. 20, 2016.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

333.27702 Report.

Rendered Friday, July 12, 2019

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Michigan Compiled Laws Complete Through PA 47 of 2019

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Sec. 702. The board shall submit with the annual report to the governor under section 302(I) and to the chairs of the legislative committees that govern issues related to marihuana facilities a report covering the previous year. The report shall include an account of the board actions, its financial position, results of operation under this act, and any recommendations for legislation that the board considers advisable.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 582, Eff. Jan. 1, 2019.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

PART 8. MARIHUANA ADVISORY PANEL

333.27801 Marihuana advisory panel.

Sec. 801. (1) The marihuana advisory panel is created within the department.

(2) The marihuana advisory panel consists of 17 members, including the director of state police or his or her designee, the director of this state's department of health and human services or his or her designee, the director of the department or his or her designee, the attorney general or his or her designee, the director of the department of agriculture and rural development or his or her designee, and the following members appointed by the governor:

- (a) One registered medical marihuana patient or medical marihuana primary caregiver.
- (b) One representative of the industry from the growers category.
- (c) One representative of the industry from the processors category.
- (d) One representative of the industry from the provisioning centers category.
- (e) One representative of the industry from the safety compliance facilities category.
- (f) One representative of townships.
- (g) One representative of cities and villages.
- (h) One representative of counties.
- (i) One representative of sheriffs.
- (j) One representative of local police.
- (k) One physician licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.
- (l) One representative of the industry from the secure transporter category.

(3) The governor shall appoint the first members of the panel by March 1, 2018. The members appointed to the panel shall serve at the pleasure of the governor and shall serve for terms of 3 years or until a successor is appointed, whichever is later.

(4) If a vacancy occurs on the advisory panel, the governor shall make an appointment for the unexpired term in the same manner as the original appointment.

(5) The director of the department or his or her designee shall call the first meeting of the panel within 1 month after the advisory panel is appointed. At the first meeting, the panel shall elect from among its members a chairperson and any other officers it considers necessary or appropriate. After the first meeting, the panel shall meet at least 2 times each year, or more frequently at the call of the chairperson.

(6) A majority of the members of the panel constitute a quorum for the transaction of business. A majority of the members present and serving are required for official action of the panel.

(7) The business that the panel performs must be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(8) A writing prepared, owned, used, in the possession of, or retained by the panel in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(9) Members of the panel shall serve without compensation. However, members of the panel may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the panel.

(10) The panel may make recommendations to the board concerning promulgation of rules and, as requested by the board or the department, the administration, implementation, and enforcement of this act and the marihuana tracking act.

(11) State departments and agencies shall cooperate with the panel and, upon request, provide it with meeting space and other necessary resources to assist it in the performance of its duties.

History: 2016, Act 281, Eff. Dec. 20, 2016;—Am. 2018, Act 10, Imd. Eff. Jan. 26, 2018.

Compiler's note: Enacting section 2 of Act 281 of 2016 provides:

"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."

requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."



City of Petoskey

Agenda Memo

BOARD: City Council

MEETING DATE: August 19, 2019 **DATE PREPARED:** August 15, 2019

AGENDA SUBJECT: Initial Discussion Regarding Setting an Application Fee and Annual License/Renewal Fee for Medical Marijuana Provisioning Centers

RECOMMENDATION: That City Council discuss.

Background As part of establishing a medical marijuana provisioning center program for the community, City Council will be asked to adopt two fees per resolution: 1) An initial Application Fee and 2) An Annual License/Renewal Fee. No action is needed at this point. The resolution should be approved at the same meeting whereby the zoning and licensing ordinance are approved.

Per State Statute, the City could establish an annual fee of up to \$5,000 for the Application Fee and up to \$5,000 for the License/Renewal Fee to defray the administrative and enforcement costs incurred by the City.

Application Fee It is estimated that the City would most likely incur costs in excess of \$5,000 for review of an individual medical marijuana provisioning center application. Staff's time (hourly rate and fringe benefit costs) are estimated in the determination of the Application Fee in reviewing the following items during the Application phase:

- Review, processing and oversight of applications with possible requests for additional information (City Clerk/Deputy Clerk, Planner, Public Safety Director, City Manager);
- Verification of stakeholder/employee background checks;
- Verification of local application information with LARA "prequalified" applicants;
- Developing/maintaining a master list of applicants;
- Communications with City Council, press and general public;
- Zoning compliance determination;
- Develop lottery system, hold lottery, process results and video tape entire process;
- Develop correspondence and send lottery results to each applicant;
- Attend Planning Commission meetings when applicants are pursuing Special Condition Use (City Attorney, City Manager);
- Issuance of conditional permit/denial of conditional permit;
- Correspondence with LARA regarding applicants who have completed local permitting process;
- Miscellaneous ordinance and statute compliance review;
- Legal fees;
- Intangibles?

Annual License Fee/Renewal Fee It is also estimated the City will incur costs in excess of \$5,000 in the initial year for administration and enforcement of medical marijuana provisioning center licenses. It is important to note, the annual Licensing/Renewal Fees will be reviewed each year and could be revised accordingly. Staff's time (hourly rate and fringe benefit costs) are estimated in the determination of the fee in reviewing the following items during the Licensing/Renewal approval/denial phase:

- Initial meeting with applicants regarding their general time frame for opening and status of final license approval from LARA;
- Review of license/renewal application (Public Safety, Planner, City Clerk/Deputy Clerk, City Manager);
- Review and verification of final LARA license;
- Final inspection by Public Safety of video and retention technology, alarm system, fire suppression, labeling of products, whether alcohol, tobacco or marijuana is being consumed on the property, etc.;
- Background checks of final employee roster;
- Issuance or denial of annual license;
- Enforcement issues/Increase in complaints;
- Miscellaneous ordinance and statute compliance review;
- Legal Fees;
- Intangibles?

Action No action is needed at this time but feedback from City Council is appreciated.

rs
Enclosures



RESOLUTION NO. _____

**A RESOLUTION ESTABLISHING AN APPLICATION FEE AND LICENSING/RENEWAL FEE
FOR MEDICAL MARIJUANA PROVISIONING CENTERS**

WHEREAS, Michigan voters in 2008 approved the use of marijuana for medical use; and

WHEREAS, in 2016, the Michigan Legislature passed PA 281, the Medical Marijuana Facilities Licensing Act (MMFLA) to establish parameters for the growth, distribution and use of medical marijuana; and

WHEREAS, the MMFLA establishes a Medical Marijuana Licensing Board within the Department of Licensing and Regulatory Affairs that may grant up to five different types of medical marijuana facilities including provisioning centers; and

WHEREAS, the City's Planning Commission has taken public comment and has made recommendations to City Council on appropriate zoning districts for medical marijuana provisioning centers; and

WHEREAS, the City of Petoskey has approved both a zoning ordinance and licensing ordinance allowing up to # medical marijuana provisioning centers within the City; and

WHEREAS, the City wishes to adopt fees to defray the administrative and enforcement costs associated with medical marijuana provisioning centers; and

WHEREAS, City staff has estimated the approximate costs of the medical marijuana Application Fee as well as an annual Licensing/Renewal Fee:

NOW THEREFORE BE IT RESOLVED, that the Petoskey City Council hereby adopts Resolution No. _____, setting the following charges for a medical marijuana provisioning center Application Fee and an annual Licensing/Renewal Fee:

Medical Marijuana Provisioning Center Application Fee	\$5,000
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Medical Marijuana Provisioning Center Annual License/Renewal Fee	\$5,000
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The aforementioned fees do not include any State of Michigan fees or fees associated with obtaining a Special Condition Use or Site Plan approval through the Petoskey Planning Commission.

State of Michigan)
County of Emmet) ss
City of Petoskey)

I, Alan Terry, Clerk of the City of Petoskey, do hereby certify that the foregoing is a true copy of a resolution adopted by the City Council of the City of Petoskey on the _____ day of _____, 2019, and of the whole thereof.

In witness whereof, I have hereunto set my hand and affixed the corporate seal of said City of Petoskey this _____ day of _____, 2019.

Alan Terry, City Clerk



City of Petoskey

Agenda Memo

BOARD: City Council

MEETING DATE: August 19, 2019

PREPARED: August 13, 2019

AGENDA SUBJECT: Retirement Plan Employee Contribution Changes

RECOMMENDATION: That City Council adopt the proposed resolution

Background The City has received the arbitrator's decision on the Public Safety Officer's collective bargaining agreement following an arbitration hearing held on April 18, 2019. See enclosed decision.

The arbitrator's decision included the following changes: (1) wage increases at 2% in 2018 and 2019 and 1% in 2020; (2) retirement benefits to remain the same except officers covered by the MERS B-4 defined benefit plan will increase employee contributions (currently 3%) to 4.0% as of August 1, 2019 and 4.5% as of January 1, 2020. The arbitrator's decision is binding on both parties and does not require additional approval.

The Municipal Employees Retirement System (MERS) requires a revised Defined Contribution Plan Adoption Agreement listing the change in employee contribution rates for each year in which the employee contribution rate changes. Included are two separate agreements which will implement the new employee contributions that take affect beginning August 1, 2019 and January 1, 2020.

As of Thursday, August 15, 2019, the Public Safety Officer's union has not ratified the collective bargaining agreement. Past practice has always been to seek Council's approval after the union has ratified the contract. We will bring forward the collective bargaining agreement for council discussion after the union has ratified the contract.

Action Enclosed are two defined benefit plan adoption agreements, required by MERS, and a resolution authorizing execution of the two agreements for Council's approval that will enact the changes to the required employee contributions for 2019 and 2020.

at
Enclosures



City of Petoskey

Resolution

WHEREAS, the City is a participating governmental unit in the Michigan Municipal Employees' Retirement System (MMERS) pension plan document of 1996; and

WHEREAS, in accordance with pension provisions of a renewed collective bargaining agreement with certain unionized employees for the City's Public Safety Officers requires changes to the City's current MMERS plan:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council does and hereby elects to change current Michigan Municipal Employees' Retirement System (MMERS) benefits for Department of Public Safety unionized personnel, referred to as City of Petoskey (2402), Division 02 – Public Safety Officers Union, a defined benefit plan with employees contributing 4% beginning August 1, 2019 and 4.5% beginning January 1, 2020 as set forth in the plan adoption agreements for 2019 and 2020; and

BE IT FURTHER RESOLVED that the City of Petoskey City Council does and hereby authorizes the City Manager and Director of Finance to prepare and sign the Defined Benefit Plan Adoption Agreements with MMERS for Division 02 to make changes as set forth above to the existing defined benefit plan.

Defined Benefit Plan Adoption Agreement



1134 Municipal Way Lansing, MI 48917 | 800.767.MERS (6377) | Fax 517.703.9711

www.mersofmich.com

The Employer, a participating municipality or participating court within the state of Michigan, hereby agrees to adopt and administer the MERS Defined Benefit Plan provided by the Municipal Employees' Retirement System of Michigan, as authorized by 1996 PA 220, in accordance with the MERS Plan Document, as both may be amended, subject to the terms and conditions herein.

I. Employer Name _____ **Municipality #:** _____

If new to MERS, please provide your municipality's fiscal year: _____ through _____.
Month Month

II. Effective Date

Check one:

A. ☐ If this is the **initial** Adoption Agreement for this group, the effective date shall be the first day of _____, 20____.

☐ This municipality or division is new to MERS, so vesting credit prior to the **initial** MERS effective date by each eligible employee shall be credited as follows (choose one):

- ☐ All prior service from date of hire
- ☐ Prior service proportional to assets transferred; all service used for vesting
- ☐ Prior service and vesting service proportional to assets transferred
- ☐ No prior service but grant vesting credit
- ☐ No prior service or vesting credit

☐ Link this new division to division number _____ for purposes of determining contributions (Unless otherwise specified, the standard transfer/rehire rules apply)

B. ☐ If this is an **amendment** of an existing Adoption Agreement (Defined Benefit division number _____), the effective date shall be the first day of _____, 20____. *Please note:* You only need to mark **changes** to your plan throughout the remainder of this Agreement.

C. ☐ If this is a **temporary benefit** that lasts 2-6 months, the effective dates of this temporary benefit are from ___/01/___ through ___/___/___ for Defined Benefit division number _____.
Last day of month
Please note: You only need to mark **changes** to your plan throughout the remainder of this Agreement.

D. ☐ If this is to **separate employees** from an existing Defined Benefit division (existing division number(s) _____) into a new division, the effective date shall be the first day of _____, 20____.

E. ☐ If this is to merge division(s) _____ into division(s) _____, the effective date shall be the first of _____, 20____.

Defined Benefit Plan Adoption Agreement

III. Eligible Employees

Only those Employees eligible for MERS membership may participate in the MERS Defined Benefit Plan. A copy of ALL employee enrollment forms must be submitted to MERS. The following groups of employees are eligible to participate:

(Name of Defined Benefit division – e.g. All Full Time Employees, or General after 7/01/13)

☐ Only retirees will be in this division.

These employees are (check one or both):

☐ In a collective bargaining unit (attach cover page, retirement section, signature page)

☐ Subject to the same personnel policy

To receive one month of service credit (check one):

☐ An employee shall work 10 _____ hour days.

☐ An employee shall work _____ hours in a month.

All employees as classified under eligible employees, whether full or part time, who meet this criteria must be reported to MERS. If you change your current day of work definition to be more restrictive, the new definition only applies to employees hired after the effective date.

To further define eligibility, check all that apply:

☐ **Probationary Periods** are allowed in one-month increments, no longer than 12 months. During this introductory period, the Employer will not report or provide service time for this period, including retroactively. Service will begin after the probationary period has been satisfied.

The probationary period will be _____ month(s).

☐ **Temporary employees** in a position normally requiring less than a total of 12 whole months of work in the position may be *excluded* from membership. These employees must be notified in writing by the participating municipality that they are excluded from membership within 10 business days of date of hire or execution of this Agreement.

The temporary exclusion period will be _____ month(s).

IV. Provisions

Valuation Date: _____, 20____

1. Review the valuation results

It is recommended that your MERS representative presents and explains the valuation results to your municipality before adopting. Please choose one:

☐ Our MERS representative presented and explained the valuation results to the

_____ on _____.
(Board, Finance Cmte, etc.) (mm/dd/yyyy)

☐ As an authorized representative of this municipality, I _____
(Name)

_____ waive the right for a presentation of the results.
(Title)

Defined Benefit Plan Adoption Agreement

This Adoption Agreement will be implemented in conjunction with a current actuarial valuation certified by a MERS actuary that sets contribution rates.

Annually, the MERS actuary will conduct an actuarial valuation to determine the employers' contribution rates. Employers are responsible for payment of said contributions at the rate, in the form and at the time that MERS determines.

2. Benefit Multiplier (1%-2.5%, increments of 0.05%) _____ % (max 80% for multipliers over 2.25%)

☐ Check here if multiplier will be effective for existing active members' future service only (Bridged Benefit as of effective date on page 1)

If checked, select one below:

- ☐ Termination Final Average Compensation (calculated over the members entire wage history)
- ☐ Frozen Final Average Compensation (FAC is calculated twice, once for the timeframe that matches the original multiplier, and once for the new multiplier)

3. Final Average Compensation (Min 3 yr, increments of 1 yr) _____ years
4. Vesting (5 -10 yrs, increments of 1 yr) _____ years
5. Normal Retirement Age will be the later of: _____ (any age from 60-70), or the vesting provision selected above (#4).
6. Required employee contribution (Max 10%, increments of 0.01%) _____ %
7. Compensation for the Defined Benefit Plan means the salary or wages paid to an employee for personal services rendered while a member of MERS. Compensation and any applicable employee contributions must be reported to MERS on a monthly basis.

Employers shall define compensation using the following options (choose one):

- ☐ Compensation including all items as allowed in the MERS Plan Document (Section 14).

If anything varies, specify here:

Included: _____

Excluded: _____

- ☐ Base wages only.

If any items should be included, specify here:

Included: _____

- ☐ Medicare taxable wages as reported on W2.

- ☐ Wages plus amounts otherwise not reported as gross compensation, such as elected amounts for Section 125(a) or 457(b) deferrals.

Defined Benefit Plan Adoption Agreement

8. Unreduced Early Retirement/Service Requirements:

<input type="checkbox"/> Age 50 – 54_____ Service of either <input type="checkbox"/> 25 or <input type="checkbox"/> 30 years
<input type="checkbox"/> Age 55 – 65_____ Service between 15 and 30 years _____
<input type="checkbox"/> Service only (must be any number from 20 – 30 years accrued service): _____
<input type="checkbox"/> Age + Service Points (total must be from 70 – 90): _____ points

9. Other

- ☐ Surviving Spouse will receive _____% of Straight Life benefit without a reduction to the employee's benefit
- ☐ Duty death or disability enhancement (add up to additional 10 years of service credit not to exceed 30 years of service)
- ☐ Deferred Retirement Option Program (DROP)
- ☐ Annuity Withdrawal Program (AWP)

Calculation of the actuarial equivalent of the lump sum distribution made under AWP will be done using:

 - ☐ Interest rate for employee contributions as determined by the Retirement Board, or
 - ☐ MERS' assumed rate of return as of the date of the distribution.

10. Cost-of-Living Adjustment

<input type="checkbox"/> All current retirees as of effective date <input type="checkbox"/> Retirees who retire between _____/01/____ and _____/01/____	<input type="checkbox"/> Future retirees who retire after effective date
Increase of _____% or \$_____ per month	Increase of _____% or \$_____ per month
Select one: <input type="checkbox"/> Annual automatic increase <input type="checkbox"/> One-time increase	<input type="checkbox"/> Annual automatic increase
Select one: <input type="checkbox"/> Compounding <input type="checkbox"/> Non-compounding	Select one: <input type="checkbox"/> Compounding <input type="checkbox"/> Non-compounding
Employees must be retired _____ months (6-12 months, increments of 1 month)	Employees must be retired _____ months (6-12 months, increments of 1 month)

- ☐ Check here if the existing COLA will be bridged for active participants as of the effective date selected on this form. Benefits accrued for service after the effective date will have no COLA increase applied.

Defined Benefit Plan Adoption Agreement

11. Service Credit Purchase Estimates are:

- ☐ Not permitted
- ☐ Permitted

V. Appointing MERS as the Plan Administrator

The Employer hereby agrees to the provisions of this *MERS Defined Benefit Plan Adoption Agreement* and appoints MERS as the Plan Administrator pursuant to the terms and conditions of the Plan. The Employer also agrees that in the event of any conflict between the MERS Plan Document and the MERS Defined Benefit Plan Adoption Agreement, the provisions of the Plan Document control.

VI. Modification Of The Terms Of The Adoption Agreement

If the Employer desires to amend any of its elections contained in this Adoption Agreement, including attachments, the Governing Body or Chief Judge, by resolution or official action accepted by MERS, must adopt a new Adoption Agreement. The amendment of the new Agreement is not effective until approved by MERS.

VII. Enforcement

1. The Employer acknowledges that the Michigan Constitution of 1963, Article 9, Section 24, provides that accrued financial benefits arising under a public Employer's retirement plan are a contractual obligation of the Employer that may not be diminished or impaired, and prohibits the use of the Employer's required current service funding to finance unfunded accrued liabilities.
2. The Employer agrees that, pursuant to the Michigan Constitution, its obligations to pay required contributions are contractual obligations to its employees and to MERS and may be enforced in a court of competent jurisdiction;
3. In accordance with the Constitution and this Agreement, if at any time the balance standing to the Employer's credit in the reserve for employer contributions and benefit payments is insufficient to pay all service benefits due and payable to the entity's retirees and beneficiaries, the Employer agrees and covenants to promptly remit to MERS the amount of such deficiency as determined by the Retirement Board within thirty (30) days notice of such deficiency.
4. The Employer acknowledges that wage and service reports are due monthly, and the employee contributions (if any) and Employer contributions are due and payable monthly, and must be submitted in accordance with the MERS Enforcement Procedure for Prompt Reporting and Payment, the terms of which are incorporated herein by reference.
5. Should the Employer fail to make its required contribution(s) when due, the retirement benefits due and payable by MERS on behalf of the entity to its retirees and beneficiaries may be suspended until the delinquent payment is received by MERS. MERS may implement any applicable interest charges and penalties pursuant to the MERS Enforcement Procedure for Prompt Reporting and Payment and Plan Document Section 79, and take any appropriate legal action, including but not limited to filing a lawsuit and reporting the entity to the Treasurer of the State of Michigan in accordance with MCL 141.1544(d), Section 44 of PA 436 of 2012, as may be amended.
6. The Employer acknowledges that changes to the Employer's MERS Defined Benefit Plan must be made in accordance with the MERS Plan Document and applicable law, and agrees that MERS will not administer any such changes unless the MERS Plan Document and applicable law permit same, and MERS is capable of administering same.

Defined Benefit Plan Adoption Agreement

VIII. Execution

Authorized Designee of Governing Body of Municipality or Chief Judge of Court

The foregoing Adoption Agreement is hereby approved by _____ on
the ____ day of _____, 20____. (Name of Approving Employer)

Authorized signature: _____

Title: _____

Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: _____, 20____ Signature: _____
(Authorized MERS Signatory)

Defined Benefit Plan Adoption Agreement



1134 Municipal Way Lansing, MI 48917 | 800.767.MERS (6377) | Fax 517.703.9711

www.mersofmich.com

The Employer, a participating municipality or participating court within the state of Michigan, hereby agrees to adopt and administer the MERS Defined Benefit Plan provided by the Municipal Employees' Retirement System of Michigan, as authorized by 1996 PA 220, in accordance with the MERS Plan Document, as both may be amended, subject to the terms and conditions herein.

I. Employer Name _____ **Municipality #:** _____

If new to MERS, please provide your municipality's fiscal year: _____ through _____.
Month Month

II. Effective Date

Check one:

A. ☐ If this is the **initial** Adoption Agreement for this group, the effective date shall be the first day of _____, 20____.

☐ This municipality or division is new to MERS, so vesting credit prior to the **initial** MERS effective date by each eligible employee shall be credited as follows (choose one):

- ☐ All prior service from date of hire
- ☐ Prior service proportional to assets transferred; all service used for vesting
- ☐ Prior service and vesting service proportional to assets transferred
- ☐ No prior service but grant vesting credit
- ☐ No prior service or vesting credit

☐ Link this new division to division number _____ for purposes of determining contributions (Unless otherwise specified, the standard transfer/rehire rules apply)

B. ☐ If this is an **amendment** of an existing Adoption Agreement (Defined Benefit division number _____), the effective date shall be the first day of _____, 20____. *Please note:* You only need to mark **changes** to your plan throughout the remainder of this Agreement.

C. ☐ If this is a **temporary benefit** that lasts 2-6 months, the effective dates of this temporary benefit are from ___/01/___ through ___/___/___ for Defined Benefit division number _____.
Last day of month
Please note: You only need to mark **changes** to your plan throughout the remainder of this Agreement.

D. ☐ If this is to **separate employees** from an existing Defined Benefit division (existing division number(s) _____) into a new division, the effective date shall be the first day of _____, 20____.

E. ☐ If this is to merge division(s) _____ into division(s) _____, the effective date shall be the first of _____, 20____.

Defined Benefit Plan Adoption Agreement

III. Eligible Employees

Only those Employees eligible for MERS membership may participate in the MERS Defined Benefit Plan. A copy of ALL employee enrollment forms must be submitted to MERS. The following groups of employees are eligible to participate:

(Name of Defined Benefit division – e.g. All Full Time Employees, or General after 7/01/13)

☐ Only retirees will be in this division.

These employees are (check one or both):

☐ In a collective bargaining unit (attach cover page, retirement section, signature page)

☐ Subject to the same personnel policy

To receive one month of service credit (check one):

☐ An employee shall work 10 _____ hour days.

☐ An employee shall work _____ hours in a month.

All employees as classified under eligible employees, whether full or part time, who meet this criteria must be reported to MERS. If you change your current day of work definition to be more restrictive, the new definition only applies to employees hired after the effective date.

To further define eligibility, check all that apply:

☐ **Probationary Periods** are allowed in one-month increments, no longer than 12 months. During this introductory period, the Employer will not report or provide service time for this period, including retroactively. Service will begin after the probationary period has been satisfied.

The probationary period will be _____ month(s).

☐ **Temporary employees** in a position normally requiring less than a total of 12 whole months of work in the position may be *excluded* from membership. These employees must be notified in writing by the participating municipality that they are excluded from membership within 10 business days of date of hire or execution of this Agreement.

The temporary exclusion period will be _____ month(s).

IV. Provisions

Valuation Date: _____, 20____

1. Review the valuation results

It is recommended that your MERS representative presents and explains the valuation results to your municipality before adopting. Please choose one:

☐ Our MERS representative presented and explained the valuation results to the

_____ on _____.
(Board, Finance Cmte, etc.) (mm/dd/yyyy)

☐ As an authorized representative of this municipality, I _____
(Name)

_____ waive the right for a presentation of the results.
(Title)

Defined Benefit Plan Adoption Agreement

This Adoption Agreement will be implemented in conjunction with a current actuarial valuation certified by a MERS actuary that sets contribution rates.

Annually, the MERS actuary will conduct an actuarial valuation to determine the employers' contribution rates. Employers are responsible for payment of said contributions at the rate, in the form and at the time that MERS determines.

2. Benefit Multiplier (1%-2.5%, increments of 0.05%) _____ % (max 80% for multipliers over 2.25%)

☐ Check here if multiplier will be effective for existing active members' future service only (Bridged Benefit as of effective date on page 1)

If checked, select one below:

- ☐ Termination Final Average Compensation (calculated over the members entire wage history)
- ☐ Frozen Final Average Compensation (FAC is calculated twice, once for the timeframe that matches the original multiplier, and once for the new multiplier)

3. Final Average Compensation (Min 3 yr, increments of 1 yr) _____ years
4. Vesting (5 -10 yrs, increments of 1 yr) _____ years
5. Normal Retirement Age will be the later of: _____ (any age from 60-70), or the vesting provision selected above (#4).
6. Required employee contribution (Max 10%, increments of 0.01%) _____ %
7. Compensation for the Defined Benefit Plan means the salary or wages paid to an employee for personal services rendered while a member of MERS. Compensation and any applicable employee contributions must be reported to MERS on a monthly basis.

Employers shall define compensation using the following options (choose one):

- ☐ Compensation including all items as allowed in the MERS Plan Document (Section 14).

If anything varies, specify here:

Included: _____

Excluded: _____

- ☐ Base wages only.

If any items should be included, specify here:

Included: _____

- ☐ Medicare taxable wages as reported on W2.

- ☐ Wages plus amounts otherwise not reported as gross compensation, such as elected amounts for Section 125(a) or 457(b) deferrals.

Defined Benefit Plan Adoption Agreement

8. Unreduced Early Retirement/Service Requirements:

<input type="checkbox"/> Age 50 – 54_____ Service of either <input type="checkbox"/> 25 or <input type="checkbox"/> 30 years
<input type="checkbox"/> Age 55 – 65_____ Service between 15 and 30 years _____
<input type="checkbox"/> Service only (must be any number from 20 – 30 years accrued service): _____
<input type="checkbox"/> Age + Service Points (total must be from 70 – 90): _____ points

9. Other

- ☐ Surviving Spouse will receive _____% of Straight Life benefit without a reduction to the employee's benefit
- ☐ Duty death or disability enhancement (add up to additional 10 years of service credit not to exceed 30 years of service)
- ☐ Deferred Retirement Option Program (DROP)
- ☐ Annuity Withdrawal Program (AWP)

Calculation of the actuarial equivalent of the lump sum distribution made under AWP will be done using:

 - ☐ Interest rate for employee contributions as determined by the Retirement Board, or
 - ☐ MERS' assumed rate of return as of the date of the distribution.

10. Cost-of-Living Adjustment

<input type="checkbox"/> All current retirees as of effective date <input type="checkbox"/> Retirees who retire between _____/01/____ and _____/01/____	<input type="checkbox"/> Future retirees who retire after effective date
Increase of _____% or \$_____ per month	Increase of _____% or \$_____ per month
Select one: <input type="checkbox"/> Annual automatic increase <input type="checkbox"/> One-time increase	<input type="checkbox"/> Annual automatic increase
Select one: <input type="checkbox"/> Compounding <input type="checkbox"/> Non-compounding	Select one: <input type="checkbox"/> Compounding <input type="checkbox"/> Non-compounding
Employees must be retired _____ months (6-12 months, increments of 1 month)	Employees must be retired _____ months (6-12 months, increments of 1 month)

- ☐ Check here if the existing COLA will be bridged for active participants as of the effective date selected on this form. Benefits accrued for service after the effective date will have no COLA increase applied.

Defined Benefit Plan Adoption Agreement

11. Service Credit Purchase Estimates are:

- ☐ Not permitted
- ☐ Permitted

V. Appointing MERS as the Plan Administrator

The Employer hereby agrees to the provisions of this *MERS Defined Benefit Plan Adoption Agreement* and appoints MERS as the Plan Administrator pursuant to the terms and conditions of the Plan. The Employer also agrees that in the event of any conflict between the MERS Plan Document and the MERS Defined Benefit Plan Adoption Agreement, the provisions of the Plan Document control.

VI. Modification Of The Terms Of The Adoption Agreement

If the Employer desires to amend any of its elections contained in this Adoption Agreement, including attachments, the Governing Body or Chief Judge, by resolution or official action accepted by MERS, must adopt a new Adoption Agreement. The amendment of the new Agreement is not effective until approved by MERS.

VII. Enforcement

1. The Employer acknowledges that the Michigan Constitution of 1963, Article 9, Section 24, provides that accrued financial benefits arising under a public Employer's retirement plan are a contractual obligation of the Employer that may not be diminished or impaired, and prohibits the use of the Employer's required current service funding to finance unfunded accrued liabilities.
2. The Employer agrees that, pursuant to the Michigan Constitution, its obligations to pay required contributions are contractual obligations to its employees and to MERS and may be enforced in a court of competent jurisdiction;
3. In accordance with the Constitution and this Agreement, if at any time the balance standing to the Employer's credit in the reserve for employer contributions and benefit payments is insufficient to pay all service benefits due and payable to the entity's retirees and beneficiaries, the Employer agrees and covenants to promptly remit to MERS the amount of such deficiency as determined by the Retirement Board within thirty (30) days notice of such deficiency.
4. The Employer acknowledges that wage and service reports are due monthly, and the employee contributions (if any) and Employer contributions are due and payable monthly, and must be submitted in accordance with the MERS Enforcement Procedure for Prompt Reporting and Payment, the terms of which are incorporated herein by reference.
5. Should the Employer fail to make its required contribution(s) when due, the retirement benefits due and payable by MERS on behalf of the entity to its retirees and beneficiaries may be suspended until the delinquent payment is received by MERS. MERS may implement any applicable interest charges and penalties pursuant to the MERS Enforcement Procedure for Prompt Reporting and Payment and Plan Document Section 79, and take any appropriate legal action, including but not limited to filing a lawsuit and reporting the entity to the Treasurer of the State of Michigan in accordance with MCL 141.1544(d), Section 44 of PA 436 of 2012, as may be amended.
6. The Employer acknowledges that changes to the Employer's MERS Defined Benefit Plan must be made in accordance with the MERS Plan Document and applicable law, and agrees that MERS will not administer any such changes unless the MERS Plan Document and applicable law permit same, and MERS is capable of administering same.

Defined Benefit Plan Adoption Agreement

VIII. Execution

Authorized Designee of Governing Body of Municipality or Chief Judge of Court

The foregoing Adoption Agreement is hereby approved by _____ on
the ____ day of _____, 20____. (Name of Approving Employer)

Authorized signature: _____

Title: _____

Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: _____, 20____ Signature: _____
(Authorized MERS Signatory)

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN EMPLOYMENT RELATIONS COMMISSION
BUREAU OF EMPLOYMENT RELATIONS

In the Statutory Arbitration Between:

MICHIGAN FRATERNAL ORDER
OF POLICE LABOR COUNCIL
Representing
PUBLIC SAFETY OFFICERS,

Petitioner/Labor Organization,

MERC Case No. L18 A-0018

-and-

CITY OF PETOSKEY,

Respondent/Public Employer

COMPULSORY ARBITRATION

Pursuant to Public Act 312 of 1969, as amended
(MCL 423.231, *et seq*)

ARBITRATION PANEL

Chair: C. Barry Ott

Union Delegate: Heather Cummings, ESQ.

Employer Delegate: Richard A. Dinon, ESQ.

ADVOCATES

Employer Advocate: Richard A. Dinon, ESQ.

Dinon Law, PLC

430 E. Lake Street

Petoskey, Michigan 49770

Union Advocate: Heather Cummings, ESQ.

Sheila Cummings, ESQ.

Cummings & Cummings Law Group, PLLC

423 N. Main Street

Royal Oak, Michigan 48067

PETITION FILED: November 15, 2018

PANEL CHAIR APPOINTED: December 7, 2018

SCHEDULING CONFERENCE HELD: DECEMBER 21, 2018

HEARING HELD: APRIL 18, 2019

AWARD ISSUED:

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7. SUMMARY OF AWARD

WITNESS LIST

1. DAVID WILLIS
2. LAWRENCE DONOVAN
3. SCOTT GOSCIAK
4. WADE STEEN
5. MATTHEW BREED
6. ALAN TERRY

INTRODUCTION AND BACKGROUND

The City of Petoskey is located in Emmet County on the shore of Little Traverse Bay and is a coastal resort community with a population of 5636. The City is governed by an elected Council and appointed City Manager. This Arbitration case involves the City of Petoskey and the Public Safety Officers represented by the Fraternal Order of Police Labor Council. The last Collective Bargaining Agreement covered the period of January 1, 2015 through December 31, 2017. Negotiations on a successor agreement began on December 19, 2017. Mediation was held on January 8, 2018 and February 21, 2018. The negotiations were unsuccessful and the Union filed a petition for Act 312 Arbitration on November 15, 2018. The Michigan Employment Relations Commission appointed the under signed as the impartial arbitrator and chairperson of the arbitration panel on December 7, 2018. The Union appointed Heather Cummings as their delegate and the Employer appointed Richard a. Dinon. A pre hearing conference was held on December 21, 2018 and Position Statements were filed by the parties on January 11, 2019. Last best offers were submitted on March 15, 2019 and a hearing was held on April 18, 2019. Post hear briefs were filed by the parties on June 28, 2019.

The Public Safety Department combines police, fire and emergency medical services. There are fourteen (14) full time Public Safety Officers (PSOs) in the bargaining, who are trained as certified as law-enforcement officers, fire fighters, and emergency medical technicians. These Officers are highly trained individuals and in addition to their first responder duties they also are involved in educational and community outreach programs. The Union represents two other bargaining unit in the Public Safety Department; the Public Safety Lieutenants with four (4) full time members, and part time Public Safety Officers with six (6) members. The Department is under the direction of the Public Safety Director, Matthew Breed.

Overall, the City has approximately 73 full time employees and 62 part time seasonal employees. The Teamsters Union represents non-public safety employees in the Department of Public Works and Parks & Recreation Departments.

STATUTORY CRITERIA

The findings, opinions, and orders of the panel must be based upon the following factors:

MCL 423.239, *et seq.*

Sec. 9. (1). If the parties have no collective bargaining agreement or the parties have an agreement and have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions, and order upon the following factors:

(a) The financial ability of the unit of government to pay. All of the following shall apply to the arbitration pane's determination of the ability of the unit of government to pay:

(i) The financial impact on the community of any award made by the arbitration panel.

(ii) The interests and welfare of the public.

(iii) All liabilities, whether or not they appear on the balance sheet of the unit of government.

(iv) Any law of this state or any directive issued under the local government and school district fiscal Accountability act, 2011 PA 4, MC; 141.1501 to 141.1531, that places limitations on a unit of government's expenditures or revenue collection.

(b) The lawful authority of the employer.

I Stipulations of the parties.

(d) Comparison of the wages, hours, and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services and with other employees generally in both of the following:

(i) Public employment in comparable communities.

(ii) Private employment in comparable communities.

I Comparison of the wages, hours, and conditions of employment of other employees of the unit of government outside of the bargaining unit in question.

(f) The average consumer prices for goods and services, commonly known as the cost of living.

(g) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

(h) Changes in any of the foregoing circumstances while the arbitration proceedings are pending.

(i) Other factors that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration, or otherwise between the parties, in the public service or in private employment.

(2) The arbitration panel shall give the financial ability of the unit of government to pay the most significance, if the determination is supported by competent, material, and substantial evidence.

STIPULATIONS AND PRELIMINARY RULINGS

On April 12, 2019 the Employer submitted an Amended Last Best Offer. On April 15, 2019. The Union filed an objection to the motion, citing MERC Rule 423.507 (3)(C)(ii) which provides: "Once submitted, a party may withdraw, but not otherwise modify, any economic issue submitted in its last offer of settlement except by stipulation of the parties. The motion to amend was denied.

The parties have agreed that all of the disputed issues before the panel are economic and as such the panel must adopt the last best offer from one of the parties without modification in accordance with MCL423.238.

On June 10, 2019, the Union submitted an actuarial report of the cost of the Union's proposal to increase the pension multiplier from 2.0% to 2.25%. On June 18, 2019, the City filed an objection on the grounds that the submission was not timely and should not be allowed. The objection was denied based upon a finding that during the hearing the Panel Chair requested that such a study be submitted, and the report was allowed. The Panel Chair also allowed the City to submit an MERS report regarding changes to certain assumptions which was not available at the time of the hearing.

COMPARABLE COMMUNITIES

As noted in a previous arbitration case involving the Petoskey Public Safety Lieutenants and acknowledged by the parties, that since this case involves a Public Safety Department that combines police/fire and emergency medical services, it is difficult to compile a list of truly comparable communities. As in the for-mention arbitration case the panel will accept all of the proposed comparable communities that have a public safety department for wage and benefit comparison purposes. We will also accept those communities that do not have a public safety department for proposes of comparison of pension benefits only. Consequently, the list of comparable communities is as follows: City of Fraser, Bay City, City of St. Joseph, City of Albion, Boyne City, City of Cheboygan, City of East Grand Rapids, City of Bloomfield Hills, City of Charlevoix and Emmet County.

ABILITY TO PAY

At the outset of the arbitration process, the City asserted that it was not claiming it was unable to pay the cost of the Union's proposals. According to the City, it experienced a historic decrease in General Operating Millage revenue while Public Safety expenditures have continued to increase. The City cites the fact that in 2009, General Operating Millage revenue stood at \$3.497 million and Public Safety expenditures were at \$2.785 million or 79.6% of mileage revenue. In 2017, General Operating Millage revenue had decreased to \$3.259 million and Public Safety expenditures had risen to \$3.425 million, or 105.1% of operating mileage revenue. As a result, the City adjusted pension benefits for non-bargaining unit employees and negotiated such adjustments through collective bargaining, so all employees except the Public Safety Department have experienced a reduction in the pension multiplier, resulting in cost savings to the City.

The Union argues that their financial analysis reveals that the City of Petoskey's financial condition is sound. The record testimony of Union witness Wade Steen indicates that the City's cash to expense ratio was 64.26% and rising. According to Mr. Steen such ratio is exceptional and to put it into perspective he cites the Government Finance Officers Association's best practice ratio of 15-25%. In reviewing the City's asset to liability ratio, which is 36.63 to 1, Mr. Steen explained that a ratio of 3 to 1 means three times as many assets, compared to all your current liabilities is considered very good. The City's general fund balance has increased from just over \$3 million to \$5.2 million in a four year span.

Further, the City's cash balance from 2013 to 2017 has gone from \$2.9 million to over \$4.5 million. The Union asserts that it is clear from the proofs and testimony that the City is more than able to afford the Union's proposals.

WAGES

The parties have agreed to a three year contract covering the period from January 1, 2018 through December 31, 2020. Wage increases for each year of the contract term will be treated as separate issues.

UNION' LAST BEST OFFER

Classification and Wage Rates. The following hourly base wage rates shall be effective the first full period on or after January 1, 2019 or the effective date of the Agreement, whichever is later, and shall be adjusted annually as set forth below.

<u>Classification</u>	<u>2018 (2.0%)</u>	<u>2019 (2.0%)</u>	<u>2020 (2.0%)</u>
Grade IV			
Effective at the			
End of first 36 months	\$33.00	\$33.66	\$34.33

The dollar amounts are only estimates

RETROACTIVITY:

- The 2.0% wage increase for 1/01/2018 – 12/31/2018 is retroactive to January 1, 2018;
- The 2.0% wage increase for 1/01/2019 – 12/31/2019 is retroactive to January 1, 2019.

EMPLOYER'S LAST BEST OFFER

Wages/Retroactivity: The Employer proposes wage adjustments as follows:

2018 – 1.5% retroactive to January 1, 2018 for employees hired before January 1, 2012 and 2.0% retroactive to January 1, 2018 for employees hired after January 1, 2012.*

- *This proposed increase is consistent with the net effect of a 2% wage increase reduced by the proposed 0.5% increase in employee pension contribution for employees hired before January 1, 2012, as awarded to the Lieutenants in a prior Arbitration proceeding.*

2019 – 0.0% increase retroactive from January 1, 2019 to the date of implementation of the Agreement. Thereafter, a pro-rated 1.0% increase for the remainder of 2019.* For employees hired after January 1, 2012, 1% increase retroactive to January 1, 2019.

- *This proposed increase is consistent with the net effect of a 1% wage increase reduced by the proposed 1% increase in employee pension contribution (from the current 3% to 4%) for employees hired before January 1, 2012, as awarded to the Lieutenants in a prior Arbitration proceeding. Upon implementation of the Agreement, the 1% wage increase will be implemented on a pro-rated basis for the duration of 2019, and the pension contribution will be increased from 3% to 4%.*

This language corresponds with the wage offer above, and reflects a “net” wage increase and pension contribution that is the equivalent to the wage and pension award to the Lieutenants in the prior Arbitration proceeding.

2020 – 1.0% increase for all bargaining unit members.

DISCUSSION – WAGE INCREASE - 2018

The Union argues that their wage increase proposal of 2.0% for 2018, 2019 and 2020 with retroactivity for 2018 and 2019 is reasonable and supported by the record testimony and evidence. Union Exhibit C lists the wage increases for the comparable communities for years listed above, all provide for increases in 2018 of 2.0% or more, ranging from 2.0% to 4.0%. The same is true for the year 2019. For the year 2020 only four communities report increases ranging from 2.0% to 2.5%. The Petoskey Public Safety Officers present hourly rate of \$32.36 ranks third highest among the comparable communities and a 2.0% increase would maintain that standing. (U-1) The internal comparables tend to support the Union’s offer of 2.0%, with the Teamsters bargaining unit receiving a 2.0% yearly increase in their most recent Agreement and the Petoskey Public Safety Lieutenants received a 2.0% increase retroactive to January 1, 2018.

The Employer argues that the wages for Petoskey Public Safety Officers are the highest among the comparable communities outside metropolitan Detroit area and are more than 10% above the average for public safety officers, excluding the wage levels of the department in the metro-Detroit area. (See Employer Exhibit A)

The Employer's last best offer of a wage increase of 1.5% retroactive to January 1, 2018 for employees hired before January 1, 2012 and 2.0% retroactive to January 1, 2018 for employees hired after January 1, 2012 is characterized as consistent with the net effect of a 2.0% wage increase reduced by the proposed 0.5% increase in employee pension contribution for employees hired before January 1, 2012, as awarded to the Lieutenants in a prior Arbitration proceeding is problematic. In the prior case, the panel did award a wage increase of 2.0% retroactively to January 1, 2018 and increased the employee pension contribution by 0.5% effective January 1, 2018 for employees hired before January 1, 2012. In the instant case the parties have proposed to increase the employee pension contribution from 3.0% to 4.0% beginning on the date the award is issued through 12-31-2019. Not retroactive to January 1, 2018 as in the prior arbitration case, and the proposed increase in the employee contribution to the pension plan is not 0.5% but 1.0%.

CONCLUSION – WAGE INCREASE 2018

While it is true that the level of compensation for Petoskey's Public Safety Officers is very competitive, it is also clear that a majority of comparable communities have all granted wage increases of 2.0% or more for the year 2018. The cost of living, as measured by the CPI for the Midwest region, has increased between 2.0% to 2.5%. An increase of 2.0% would maintain the unit's standing among the comparable communities. Therefore, a majority of the panel is of the opinion that the Section 9 factors of Act 312 are best served by the adoption of the Union's last best offer

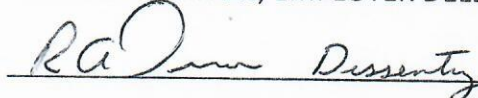
AWARD – WAGE INCREASE 2018

The panel hereby adopts the last best offer of the Union to increase wages by 2%, retroactive to January 1, 2018.

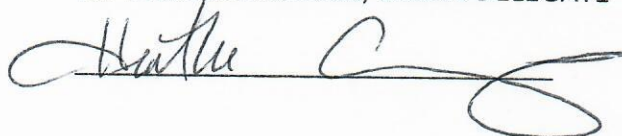
C. BARRY OTT, PANEL CHAIR

_____

RICHARD A. DINON, EMPLOYER DELEGATE

_____

HEATHER CUMMINGS, UNION DELEGATE

_____

DISCUSSION – WAGE INCREASE - 2019

The Employer's last best offer proposes a 0.0% retroactive from January 1, 2019 to the date of implementation of the Agreement and a pro-rated increase of 1.0% for the remainder of 2019. For employees hired after January 1, 2012, 1.0% increase retroactive to January 1, 2019. The Employer again asserts that their offer is equivalent to the wage and pension award in the Lieutenants prior arbitration proceeding. In the prior case the panel awarded a 1.0% wage increase retroactive to January 1, 2019 and increased the employee pension contribution from 3.5% to 4.0% effective January 1, 2019. This assertion is simply not accurate. In the instant case, the parties both propose to increase the employee pension contribution from 3.0% to 4.0% effective on the date of implementation of the award through December 31, 2019, not retroactive to January 1, 2019 as was the case in the prior arbitration award.

The Union has proposed a 2.0% increase retroactive to January 1, 2019 and argues that the increase is consistent with the increases granted among the comparable communities. (Union Exhibit C). As noted earlier, the increases ranged from 2.0% to 4.0%.

CONCLUSION – WAGE INCREASE – 2019

The Employer in their brief maintains that it was their intent to offer a wage increase to this bargaining unit that is identical to that awarded to the Lieutenants, 2.0% for 2018, 1.0% for 2019 and 1.0% for 2020. In the opinion of the Panel Chair, the City's proposal did not achieve that expressed intent. While it is understandable that the City would prefer to maintain the wage relationship between the two Public Safety Units, such is made very difficult when there are significant differences in benefits and interest. MCL 423.238 requires the panel to adopt the last best offer from one of the parties, without modification when the issue involved is an economic issue and once submitted the last best offer may not be amended without the consent of the other party. (MERC Rule 423.507(3)(c)(ii)) Therefore, a majority of the panel is of the opinion that the Section 9 factors of Act 312 are best served by adoption of the Union's last best offer.

AWARD – WAGE INCREASE – 2019

The panel hereby adopts the last best offer of the Union of a 2.0% wage increase for 1/01/2019 – 12/31/2019, retroactive to January 1, 2019.

C. BARRY OTT, PANEL CHAIR

C. Barry Ott

RICHARD A. DINON, EMPLOYER DELEGATE

RA Dinon Dissenting

HEATHER CUMMINGS, UNION DELEGATE

Heather Cummings

WAGE – INCREASE 2020

The Employer's last best offer provides for a 1.0% wage increase effective January 1, 2020. The Union's last best offer provides for a 2.0% wage increase effective January 1, 2020.

DISCUSSION – WAGE INCREASE – 2020

Only four of the comparable communities have determined wage increases for the year 2020, ranging from 2.0% to 2.5% and all result in wage levels that are below that of Petoskey's. The offer of a 1.0% increase is consistent with the increase awarded to the Lieutenants bargaining unit. In view of the panel's award for wage increases of 2.0% for the years 2018 and 2019, a majority of the panel is of the opinion that the Section 9 factors are best served by the adoption of the Employer's last best offer.

AWARD – WAGE INCREASE 2020

The panel hereby adopts the last best offer of the Employer for a 1.0% wage increase effective January 1, 2020 for all bargaining unit members.

C. BARRY OTT, PANEL CHAIR

C. Barry Ott

RICHARD A. DINON, EMPLOYER DELEGATE

R A Dinon

HEATHER CUMMINGS, UNION DELEGATE

Heather Cummings
Dissenting

PENSION

The Union's last best offer for employees hire prior to January 1, 2012 is as follows:
Current employees enrolled in the MERS Plan B-4 defined benefit pension plan shall increase their pension contributions by the following schedule into the retirement plan:

Beginning on the date award is issued through 12-31-2019, 4.0%

Beginning on 1-1-2020, 4.5%

The Employer's last best offer for employees hired prior to January 1, 2012 is as follows:
Maintain current MERS B-4 Plan, FAC3, F50/25, increase employee contribution to 4% of wages for 2019, effective on the date of award, and increase employee contribution to 4.5% for 2020.

DISCUSSION – PENSION

At first glance it appears the parties are in agreement on this issue and the Employer urges the panel to unanimously award the benefits proposed by both parties. However, careful examination of the proposal reveals that in their brief the Employer claims the Union's offer utilizes the same language as the Employers offer. Namely that the increased employee

contributions apply to wages for 2019, effective on the date of the award and that is not what the Union has proposed. The Union proposes to increase employee contributions "Beginning on the date award is issued through 12/31/19 4%, and Beginning on 1/1/2020 4.5%." The Employer's language could be interpreted to apply the increased employee contribution to all wages paid in the year 2019. As noted earlier, the panel must award one of the last best offers without modification. Therefore, for purposes of clarity a majority of the panel is of the opinion that the Section 9 factors are best served by the adoption of the Union's last best offer.

AWARD – PENSION

The panel hereby adopts the last best offer of the Union as follows:

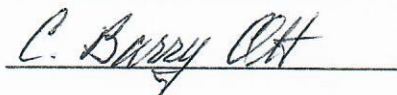
Section 16.1 Pension Plan. Effective January 1, 2012, current employees shall be covered under the Municipal Employees' Retirement System (MERS) Plan B-4, inclusive of the F50/25 and FAC 3 riders.

Current employees enrolled in the MERS Plan B-4 defined benefit pension plan shall increase their pension contributions by the following schedule into the retirement plan:

Beginning on date award is issued through 12/31/2019 4.0%

Beginning on 1-1-2020 4.5%

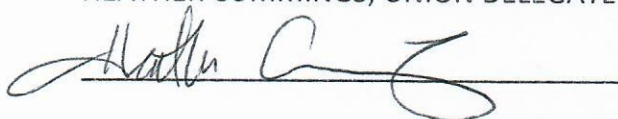
C. BARRY OTT, PANEL CHAIR



RICHARD A. DINON, EMPLOYER DELEGATE



HEATHER CUMMINGS, UNION DELEGATE



PENSION – DEFINED BENEFIT MULTIPLIER FOR EMPLOYEES

HIRED AFTER JANUARY 1, 2012

The Union's last best offer is as follows: Any employee hired after January 1, 2012 shall be covered under the Municipal Employees Retirement System (MERS) plan B-3, inclusive of the F50/25 and FAC riders.

The Employer's last best offer is as follows: Maintain current MERS B-2 Plan, FAC 3, F50/25, fully funded by the Employer. Maintains the status quo.

The effect of the Union's proposal would increase the pension multiplier from 2.0% to 2.25%, result in enhanced pension benefits. The offer includes a requirement for employees to contribute 3.0% of their wages to the pension plan. Since the Union's proposal to increase the employee contribution is contingent upon an award of the MERS B-3 plan, the panel will deal with both issues under this heading. The Union argues that the objective of their proposal is to create greater group cohesiveness among the unit employees. The Union secured a MERS Actuarial report outlining the costs to the City if the Union's proposed pension multiplier increase for the five bargaining unit members was awarded. (Exhibit D) The report utilized data from the most recent actuarial report of 2017 which showed the City's funding level below 80%. (Exhibit E, page 2-3) The result is that the Employer would be required to pay \$6,228 to bring the division to 80% funded. The increase in liability for the increased benefit will be \$7,777 for a total of \$14,005. The normal cost of the Employer contribution for this division is 10.46% of payroll and the increased multiplier will raise the cost to 11.82% an increase of 1.36% or \$4,344. According to the Union, if the employees contribute 3% of their salary this will reduce the cost to the Employer by 1.40% and also cover the cost of the 1.36% increase, because MERS values the employee contribution of 3% as a 2.76% reduction in the normal cost of the Employer's contribution.

The Employer argues that a review of the comparable communities shows that there are no recent situations in any bargaining unit where employees have received an increase in pension benefits. The Employer cites in detail a list of the comparable communities that have negotiated reductions or changes to retirement plans and pension benefits, resulting in cost reductions for the employers.

The Employer also contends that in the previous arbitration case with the Lieutenants bargaining unit the Union argued that it was not fair or equitable to change the level of pension benefits that had been previously promised to the employees and the same should hold true for the post 2012 employees. From 2012 to present, every newly hired PSO was fully aware of the benefit package being offered, including retirement benefit and they accepted employment.

DISCUSSION – PENSIONS

The above arguments concerning the Actuarial report regarding the cost of the Union's proposal are all based upon assumptions which will impact costs depending on whether the assumption are met or exceeded. The cost of the present pension plans for this unit are substantial and MERS forecasts future increases that will impact the fiscal year 2021 employer contribution requirements. The Union's proposal to increase the multiplier and employee contributions to the retirement plan for employees hired after 1/12/2012 resulting in little or no cost to the Employer is speculative. Therefore, a majority of the panel is of the opinion that the Section 9 factors are best served by the adoption of the Employer's last best offer to maintain the status quo.

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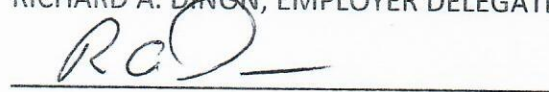
HIRED AFTER JANUARY 1, 2012

The panel hereby adopts the last best offer of the Employer to maintain the status quo as follows: "Any employee hired after January 1, 2012 and before the date of implementation of this agreement shall be covered under the Michigan Municipal Retirement System (MMERS) Plan B-2, inclusive of the F50/25 and FAC3 riders. The Employer shall pay the full cost of this retirement coverage."

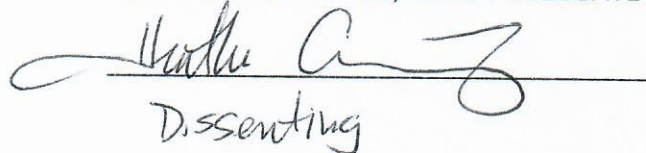
C. BARRY OTT, PANEL CHAIR



RICHARD A. DINON, EMPLOYER DELEGATE



HEATHER CUMMINGS, UNION DELEGATE


Dissenting

RETIREMENT – NEW EMPLOYEES HIRED AFTER

AWARD

The Employer's last best offer is as follows: "All employees hired after the implementation of the award shall receive a DC benefit consisting of an Employer contribution of 3%, plus an employer match of up to an additional 2% of employee contributions. The employer contributions are subject to a 4-year vesting schedule of 25% for each of 1st four years of service.

The Union's last best offer is as follows: All new employees shall receive a MES B-3 Defined Benefit Plan with FAC3 and F50/25 riders, with an employee contribution to 3% of wages.

The Employer argues that all new employees hired by the City for any position (except this unit) receive the Defined Contribution retirement benefit that the Employer is offering as

its LBO. This has been occurring since 2016 and is consistent with the Lieutenants bargaining unit which agreed to the Defined Contribution plan in their first contract negotiations. The Employer contends that at least five of the external comparable communities revised their pension plans to a DC plan for new hires. The Employer notes that their proposal does not affect any current employees and any potential new hire would decide whether to accept an offer of employment with full knowledge of the level retirement benefits offered. The Employer asserts that it should be permitted to determine the entry level of wages and benefits it chooses to offer new hires.

The Union argues that the Employer's proposal would create a third tier of pension benefits and such is inconsistent with their argument of a desire to have uniform pension benefits for all City employees as a matter of equality and consistency. Moreover, the Union contends that the Defined Contribution Plan proposal would produce the following result: an employee who is hired today and retires in 25 years would receive \$16,000 a year in retirement. (Tr., page 93, lines 4-6) It is noted that the US Department of Health and Human Services has declared \$16,901 to be at the poverty level for a family of 2 in 2019. The Union argues that among the comparable communities that have a DC plan the employers are contributing 13.5% and 15% of wages compared to Petoskey's offer of a 3% Employer contribution, with an additional match of up to 2%. (U-6)

DISCUSSION

The record evidence and testimony on this issue indicates that a minority of Public safety Departments have adopted a defined contribution retirement plan and those that have offer a significantly higher employer contribution to the plan. The Employers contention that the prior Lieutenants arbitration awarded a DC plan is inaccurate. The parties in that case had agreed to the plan in an earlier negotiation. The Employer's expressed desire to have a uniform pension plan for all City employees simply is not achieved by the creation of a third tier of pension plans for this bargaining unit. The duties and work of a Public Safety Officer differ greatly from any other City employee and as a result most employers provided for an earlier retirement age and higher pension multipliers than that of general employees. While the Employer may wish to unilaterally establish wage and benefit levels for new hires such matters are mandatory

subjects of bargaining, mediation and arbitration. Therefore, a majority of the panel is of the opinion that the Section 9 factors are best serve by the adoption of the Union's last best offer. In view of our earlier decisions regarding pension issues, the result is to maintain the status quo.

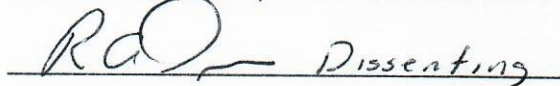
AWARD – NEW EMPLOYEES HIRED AFTER THE AWARD

The panel hereby adopts the Union's proposal which results in an award to maintain the status quo.

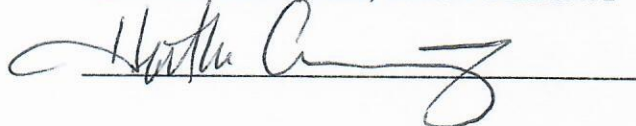
C. BARRY OTT, PANEL CHAIR



RICHARD A. DINON, EMPLOYER DELEGATE

 *Dissenting*

HEATHER CUMMINGS, UNION DELEGATE



SENIOR OFFICERS PAY

The Union's last best offer is as follows: "The most senior public safety officer on duty and assigned to the road patrol and not assigned to the Bay Harbor sub-station shall act as the senior officer and shall be paid a premium of one (sic) dollar (\$1.00) an hour for all hours worked in addition to their regular wage when a Lieutenant is not on duty.

The Employer's last best offer is to maintain the status quo.

The Union argues that in 2018, there were 196 shifts with no Lieutenant on duty, nearly 30% of the 672 total shifts. According to the Union the practice of using a senior officer in place of a Lieutenant is the norm and it is only fair the officer receive some type of compensation.

The Employer is opposed to the proposal on the grounds that the senior officer is not expected to assume any additional responsibility, or is held accountable, except in very limited and specific circumstances which rarely occur. According to the Employer none of the

comparable public safety departments provide extra compensation for senior officers in the absence of a supervisor.

The external and internal comparables do not support the Union's proposal. Therefore, a majority of the panel is of the opinion that the Section 9 factors are best served by the adoption of the Employer's last best offer.

AWARD – SENIOR OFFICER PAY

The panel hereby adopts the last best offer of the employer maintain the status quo.

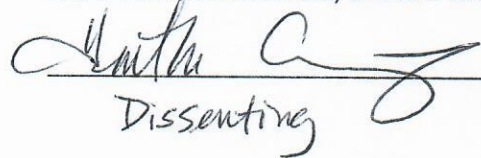
C. BARRY OTT, PANEL CHAIR

_____

RICHARD A. DINON, EMPLOYER DELEGATE

_____

HEATHER CUMMINGS, UNION DELEGATE

_____

Dissenting

CALL-IN TIME

The Union proposes to increase the minimum hours for officers called back to duty outside their normal duty schedule from two (2) to three (3) hours.

The Employer proposes to maintain the status quo.

The record regarding this issue indicates that among the comparable communities a majority provide a minimum of two (2) hours of overtime per each call in. Only three communities provide more, ranging from three to four hours. During the hearing the parties were asked to provide some data on the number of calls and employees who responded in 2018. The data indicates that there were 135 call in instances and 82 instances where PSO received the two hour minimum. According to the City that represents a cost of \$5,214. While the cost appears to be modest, the fact remains that the majority of the external comparables

afford two (2) hours. Therefore, a majority of the panel is of the opinion that the Section 9 factors are best served by the adoption of the Employer's last best offer.

AWARD – CALL-IN TIME

The panel hereby adopts the last best offer of the Employer to maintain the status quo.

C. BARRY OTT, PANEL CHAIR

C. Barry Ott

RICHARD A. DINON, EMPLOYER DELEGATE

RAD 7-29-19

HEATHER CUMMINGS, UNION DELEGATE

Heather Cummings 7-17-19
Dissenting

Dated 8-1-19

SUMMARY OF AWARD

1. Wage Increase 2018 – 2% retroactive 1/1/2018
2. Wage Increase 2019 – 2% retroactive 1/1/2019
3. Wage Increase 2020 – 1 % effective 1/1/2020
4. Defined benefit Employee contribution for current employees, increase to 4.0% date of award, increase to 4.5% on 1/1/20.
5. Defined benefit multiplier for employees hired after 1/1/2012 – maintain status quo
6. Defined benefit employee contribution for employees hired after 1/1/2012 – maintain status quo.
7. Senior officers pay – maintain status quo
8. Call-in time – maintain status quo



City of Petoskey

Agenda Memo

BOARD: City Council

MEETING DATE: August 19, 2019 **DATE PREPARED:** August 15, 2019

AGENDA SUBJECT: Michigan Municipal League Annual Meeting Representatives

RECOMMENDATION: That City Council name official representatives to the annual meeting

Background At the request of the Michigan Municipal League, the City Council will be asked to adopt the enclosed proposed resolution that would confirm the City Council's appointment of an official voting representative and an alternate representative, one of whom would be seated at the annual business meeting of the Michigan Municipal League that will be conducted September 25 in conjunction with the League's 2019 Convention September 25-27 which will be held in Detroit.

Action If City Councilmembers plan to attend a representative and alternate can be appointed. However, if there is no interest in attending the convention no action is needed.

sb
Enclosure



City of Petoskey

Resolution

BE IT RESOLVED that the City of Petoskey City Council does and hereby selects _____ as the City's voting representative for the annual business meeting of the Michigan Municipal League that has been scheduled for Wednesday, September 25, 2019, in Detroit; and

BE IT FURTHER RESOVLED that the City Council does and hereby selects _____ as the City's alternate representative to serve in the absence of the voting representative at said annual meeting.