



City of Brighton

REPORT FROM THE CITY MANAGER TO CITY COUNCIL

OCTOBER 6, 2022

SUBJECT: FIRST READING AND SETTING OF A PUBLIC HEARING FOR PROPOSED ORDINANCE 601: ZONING ORDINANCE AMENDMENT TO INCLUDE CANNABIS RETAIL STORES AND MOVE THE CITY COUNCIL MEETINGS SCHEDULED FOR NOVEMBER 3, 2022 TO NOVEMBER 10, 2022

BACKGROUND

- At their meeting conducted on September 15, 2022, City Council directed staff and the city attorney, to prepare a draft zoning ordinance amendment regarding cannabis retail stores. This was done in response to the voter-initiated proposed ordinance to repeal the city's prohibition of marijuana facilities.
- Staff and the city attorney conducted a meeting in which the proposed zoning ordinance amendment was created that would allow cannabis retail stores. If adopted, the proposed ordinance would have an effective date of December 1, 2022.
- The Planning Commission will be conducting a public hearing and review of the draft ordinance at their meeting scheduled for October 3, 2022.
- The adoption of the proposed ordinance could be determined based to the results of the upcoming election on November 8th. Staff is proposing City Council move the City Council meetings scheduled for November 3, 2022, to November 10, 2022. Changing this date allows for City Council to know the results of the election prior to the second read and adoption while still meeting the timeline necessary for adoption of the ordinance by December 1, 2022.

RECOMMENDATION

City Council to move the City Council meetings schedule on November 3, 2022 to November 10, 2022, and set a public hearing date of November 10, 2022 for the proposed amendments of ordinance 601.

Prepared by: Mike Caruso, Community Development Manager

Reviewed by: City Attorney (Required for all agreements, ordinances, etc.)

Acceptable Form and Ready to Execute

Other _____

Reviewed &

Approved by: Gretchen Gomolka, City Manager & Finance Director

Attachments: 1. Ordinance 601 - Draft

**CITY OF BRIGHTON
LIVINGSTON COUNTY, MICHIGAN
ORDINANCE NO. 601**

AN ORDINANCE TO AMEND CHAPTER 22, "BUSINESSES" AND CHAPTER 98, "ZONING" OF THE
CODE OF ORDINANCE, TO REGULATE CERTAIN ADULT-USE MARIHUANA
ESTABLISHMENTS OPERATED IN ACCORDANCE WITH STATE LAW AND REPEAL OTHER
CONFLICTING ORDINANCES

THE CITY OF BRIGHTON, LIVINGSTON COUNTY, HEREBY ORDAINS:

PART 1. CHAPTER 22, BUSINESSES.

Amend Article XI, Recreational Marihuana as Follows:

Section. 22-341 – Prohibition of marijuana establishments.

Repeal Section 22-341 and replace with the following Language:

Section. 22-341(a) – Definitions.

The following words and phrases have the meanings when used in this Article:

Co-location or co-located means the siting and operation of a combination of multiple establishments or establishment types at a single location.

Designated consumption establishment means a commercial space that is licensed by LARA and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license.

Equivalent licenses means any of the following held by a single licensee:

1. A marihuana grower license, of any class, issued under the act and a grower license, of any class, issued under the MMFLA.
2. A marihuana processor license issued under the act and a processor license issued under the MMFLA.
3. A marihuana retailer license issued under the act and a provisioning center license issued under the MMFLA.
4. A marihuana secure transporter license issued under the act and a secure transporter license issued under the MMFLA.
5. A marihuana safety compliance facility license issued under the act and a safety compliance facility license issued under the MMFLA.

Excess marihuana grower means a license issued by LARA to a person holding five class C marihuana grower licenses and licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

LARA means the Department of Licensing and Regulatory Affairs and any successor department or agency within the department, including the Cannabis Regulatory Agency.

Licensee means a person holding a state operating license for a marihuana establishment.

Marihuana means all parts of the plant genus cannabis, growing or not; the seeds of that plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. Marihuana does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination. Marihuana does not include industrial hemp.

Marihuana establishment means a marihuana grower, marihuana safety compliance establishment, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by LARA under the MRTMA.

Marihuana event organizer means a person licensed to apply for a temporary marihuana event license under the Emergency Rules.

Marihuana grower means a person licensed by LARA to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

Marihuana microbusiness means a person licensed by LARA to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance establishment, but not to other marihuana establishments.

Marihuana processor means a person licensed by LARA to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

Marihuana retailer means a person licensed by LARA to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

Marihuana secure transporter means a person licensed by LARA to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

Marihuana safety compliance establishment means a person licensed by LARA to test marihuana, including certification for potency and the presence of contaminants.

MMMA means the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, as amended, MCL 333.26424 *et seq.*

MMMFLA means the Michigan Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended, MCL 333.27102 *et seq.*

MRTMA means the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 *et seq.*

Prequalification step or *prequalified* means the portion of the application for a state operating license pertaining to the applicant's financial background and the criminal history of the applicant and other associated persons, as provided by Emergency Rule 6.

Rules means the administrative rules for adult-use marihuana establishments promulgated by LARA, as amended from time to time.

Same location means separate state licenses that are issued to multiple marihuana establishments that are authorized to operate at a single property but with separate business suites, partitions, or addresses.

Single property means a parcel in the City with a single tax identification number.

Stacked grower license means more than 1 state operating license issued to a single licensee to operate as a grower of class C-1,500 marihuana plants as specified in each license at an establishment.

State operating license or, unless the context requires a different meaning, "*license*" means a license that is issued by LARA under the MRTMA that allows the licensee to operate a marihuana establishment.

Section. 22-341(b) - Authorized establishments.

Authorization and special land use permit required. No person shall operate a marihuana establishment in the City without an authorization issued by the City pursuant to the provisions of this Ordinance and a special land use permit pursuant to this Ordinance and the City Zoning Ordinance.

Number of establishments eligible for authorization. The following numbers of marihuana establishments may be authorized to operate in the City, subject to this Ordinance:

- (1) Zero Class A growers (prohibited in the City);
- (2) Zero Class B growers (prohibited in the City);
- (3) Zero Class C growers (prohibited in the City);
- (4) Zero excess growers (prohibited in the City)
- (5) Zero processors (prohibited in the City);
- (6) Zero secure transporters (prohibited in the City);
- (7) Zero safety compliance establishments (prohibited in the City);
- (8) Zero microbusinesses (prohibited in the City);

- (9) Zero designated consumption establishments (prohibited in the City);
- (10) Two (2) marihuana retailers;
- (11) Zero temporary marihuana events (prohibited in the City); and
- (12) Zero research facilities (prohibited in the City).

If LARA authorizes any additional marihuana-related license types that are not identified above, such license types are prohibited in the City.

Co-location; stacked licenses; equivalent licenses. Co-location, stacked grower licenses, and equivalent licenses are prohibited.

Medical marihuana facilities. Medical marihuana facilities under the MMFLA are prohibited.

Final authorization from City required. The authorization process described in Section 3 determines the locations in the City at which establishments may operate if authorized by the City. A proposed establishment is not eligible to operate until the Clerk or the Clerk's designee grants final authorization pursuant to Section 3(d) and until the applicant receives a special land use permit under the City Zoning Ordinance and all required approvals and licenses from LARA.

Section 22-341(c) – Application for authorization.

Timing of Submission. Within any application window established under subsection 3(c), a person may apply for authorization to operate an establishment within the City by complying with the requirements of this section.

Required Application Materials. An application is not considered complete until all of the following are received by the City Clerk or the Clerk's designee:

- (1) A nonrefundable application fee in an amount established by resolution of the City Council.
- (2) An advance of the annual administrative fee established in Section 5(d).
- (3) A photocopy of a valid, unexpired driver's license or state issued identification card for all owners, directors, and officers of the proposed establishment.
- (4) A signed application (available in the Clerk's office), which must include all of the following information and documents:
 - (A) If the applicant is an individual, the applicant's name; date of birth; Social Security number; physical address, including residential and any business address; copy of government-issued photo identification; email address; one or more phone numbers, including emergency contact information;
 - (B) If the applicant is not an individual, the names; dates of birth; physical addresses, including residential and any business address; copy of government-issued photo identifications; email address; and one or more phone numbers of each stakeholder of the applicant, including designation of the highest ranking

representative as an emergency contact person; contact information for the emergency contact person; articles of incorporation or organization; assumed name registration; Internal Revenue Service EIN confirmation letter; copy of the operating agreement of the applicant, if a limited liability company; copy of the partnership agreement, if a partnership; names and addresses of the beneficiaries, if a trust, or a copy of the bylaws or shareholder agreement, if a corporation;

(C) The name, address, tax identification number, and current zoning designations of the proposed marijuana establishment;

(D) The name and address of the current property owner of record;

(E) If the current property owner is different than the applicant (e.g. where the applicant has a lease, option, land contract, or other present or future interest in the property), the property owner's signature is required in addition to the applicant's.

I. An applicant may submit applications for multiple properties.

II. Multiple applicants may submit applications for a single property, but only one licensee may be authorized to operate on a single property.

(F) The proposed establishment type;

(G) A complete list of all marijuana licenses held by the applicant;

(H) Written consent for the City to inspect the establishment at any time during normal business hours to ensure compliance with applicable laws and regulations;

(I) A location area map of the marijuana establishment and surrounding area that identifies the relative locations and the distances (closest property line to the subject marijuana establishment's building) to the closest real property comprising a public or private elementary, vocational or secondary school, or park;

(J) A copy of all documents issued by LARA indicating that the applicant has been prequalified for a state operating license under the MRTMA;

(K) Proof of an insurance policy covering each licensee and naming the City, its elected and appointed officials, employees, and agents, as additional insured parties, available for the payment of any damages arising out of an act or omission of the applicant or its stakeholders, agents, employees, or subcontractors, in the amount of (a) at least \$1,000,000.00 for property damage; (b) at least \$1,000,000.00 for injury to one person; and (c) at least \$2,000,000.00 for injury to two or more persons resulting from the same occurrence. The policy must provide that the City will be notified by the insurance carrier 30 days in

advance of any cancellation. The insurer must be licensed in the State of Michigan;

(L) Any other information reasonably requested by the City relevant to the processing or consideration of the application.

Application receipt period set by resolution. For any establishment type subject to numerical limitations under Section 2 for which licenses are available, the City shall establish an application receipt period by resolution.

Clerk action upon receipt. The Clerk or the Clerk’s designee will accept and receive any complete application that includes the information and documents required by Section 3(b) and that is received during any applicable application receipt period. Upon receiving a complete application, the Clerk or the Clerk’s designee will, upon request by the applicant, time- and date-stamp the application and inform the applicant of the following:

- (1) The number of existing establishments of the proposed establishment type currently operating within the City;
- (2) The number of pending applications for the desired establishment type; and
- (3) The process by which an applicant will be selected pursuant to subparagraph (e).

Conditional authorization and competitive process. The Clerk or the Clerk’s designee will conditionally authorize establishments as follows:

- (1) If, after close of business on the end date of the application receipt period, the City has received more applications for a given establishment type than would be permitted under Section 2, the City will decide among competing applications by a competitive process intended to select applicants who are best suited to operate in compliance with the MRTMA in the City. The City will provide applicants with twenty-one (21) calendar days’ notice that the applicants must provide supplemental written information and documentation to the City indicating whether the applicant satisfies each of the following criteria:

Scoring Category	Available Points
<i>Applicant Background</i>	
Applicant’s or stakeholders’ relevant experience and business expertise in the operation of the proposed establishment type.	10
Applicant’s or stakeholders’ history of compliance with state law and regulations in operating other medical marihuana facilities or adult-use establishments in Michigan.	10
Applicant’s or stakeholders’ history of compliance with City ordinances and regulations in operating other businesses in the City.	10

Applicant's or stakeholders' lack of criminal history within the past 10 years involving dishonesty, theft, or fraud.	10
Applicant's or stakeholders' lack of criminal history within the past 10 years involving distribution of a controlled substance to a minor (see MCL 333.27958(c)).	10
Applicant's or stakeholders' record of paying all required taxes during the past 5 years, including sales taxes and excise taxes for other marihuana facilities or establishments in Michigan.	10
Applicant's or stakeholders' lack of record of theft or loss of any marihuana product or criminal activity at a marihuana-related business.	10
<i>Proposed Operation</i>	
Applicant's plan for ensuring that customers are 21 years of age or older.	10
Applicant's plan for ensuring that no consumption of marihuana occurs on the premises.	10
Applicant's plan for ensuring that its products have been tested in accordance with the MRTMA Rules and bear the labels required for retail sale.	10
Degree to which the applicant's security plan meets or exceeds the requirements of MRTMA and the MRTMA Rules.	10
Applicant's plan to reduce negative impacts on nearby residents and businesses, including mitigation of odor, light, noise, and traffic effects.	10
Applicant's insurance coverage meets the requirements of this Ordinance and the MRTMA Rules.	10
Applicant's capitalization is at or in excess of the requirements of the MRTMA Rules.	10
Applicant's plan for training employees to operate in compliance with applicable law and the City's ordinances.	10
Total Possible Points	150

(2) Upon timely receipt of the supplemental information described in subparagraph 1, the City Council or its designee shall assign points for the criteria that are satisfied pursuant to the chart in subparagraph 1. In assigning points, the City Council or its designee may compare the relative merits of each application and may discuss the applications and scores in an open meeting. The City Council or its designee shall, based on the resulting scores, select applicants who are best suited to operate in compliance with MRTMA in the City. The City shall notify the selected applicants that they have been granted conditional authorization. In the event of a tie score, the City Council shall select the applicant who, based on the totality of the circumstances, the City finds is best suited to operate in compliance with MRTMA in the City.

(3) If an applicant does not timely submit the supplemental information described in subparagraph 1, then the application shall be discarded and shall not be considered under subparagraph 2.

(4) Once the Clerk or the Clerk's designee has issued conditional authorizations for all of the establishments of a given establishment type that would be permitted under Section 2, the Clerk or the Clerk's designee will place subsequent applications at the end of the waiting list for that establishment type. Applications shall be included on the waiting list in the order designated by the City Council or its designees under subparagraph 2.

Final authorization. The Clerk or the Clerk's designee will grant final authorization for the establishment if the applicant:

(1) Submits an application for special land use authorization pursuant to the City Zoning Ordinance within 30 days after receiving conditional authorization;

(2) Obtains special land use authorization within 12 months after receiving conditional authorization; and

(3) Receives all required operating licenses and approvals from LARA within 18 months after conditional authorization is granted.

Expiration of conditional authorization. If the applicant for a conditionally authorized establishment fails to satisfy any of the deadlines established above, the conditional authorization will expire. The City Council may extend any of the deadlines by resolution upon a showing of good cause.

Waiting list and refund of administrative fee. The Clerk or the Clerk's designee will keep and maintain the waiting lists established pursuant to subsection (e) until the maximum number of establishments of the type to which the list pertains are operating in the City, at which time the waiting list will be deemed automatically discarded. If a conditional authorization for a proposed establishment of that establishment type expires, the Clerk or the Clerk's designee will conditionally authorize the next application on the waiting list. When the waitlist is discarded, the Clerk or the Clerk's designee will refund the advance of the annual administrative fee established in Section 4(c) to all applicants remaining on the waiting list.

Newly available authorizations.

(1) For establishment types for which the maximum number of establishments specified in Section 2 are operating in the City, an authorization will become available when:

(A) The state operating license for an establishment with final authorization expires or is revoked by LARA; or

(B) This Ordinance is amended to authorize additional establishments of that establishment type.

(2) When an authorization becomes available as described in subsection (h)(1), the City Clerk or the Clerk's designee will select a date within the next 90 days on which the City will begin accepting applications from interested persons, and will publish notice of the selected date in a newspaper of general circulation in the City.

(3) On the selected date, the Clerk or the Clerk's designee will begin accepting applications using the same process described in subsections (c) and (d) above. If multiple applications are received on that date, the City Council or its designee will request supplemental information and conduct a competitive selection process as outlined in Section 3(e) above.

Section 22-341(d) – General regulations.

Compliance with applicable laws and regulations. Adult-use marihuana establishments must be operated in compliance with the MRTMA, MRTMA rules, all conditions of the establishment's state operating licenses, and all applicable City ordinances, resolutions, and codes. Compliance with the foregoing does not create immunity from prosecution by federal authorities or other authorities of competent jurisdiction.

No consumption on premises. No smoking, inhalation, or other consumption of marihuana shall take place on or within the premises of any establishment. It shall be a violation of this Ordinance to engage in such behavior, or for a person to knowingly allow such behavior to occur. Evidence of all of the following gives rise to a rebuttable presumption that a person allowed the consumption of marihuana on or within a premises in violation of this section:

- (1) The person had control over the premises or the portion of the premises where the marihuana was consumed;
- (2) The person knew or reasonably should have known that the marihuana was consumed; and
- (3) The person failed to take corrective action.

Annual fee. A licensee must pay an annual fee of \$5,000 for each license used within the City to help defray administrative and enforcement costs. The initial annual fee(s) must be paid to the City when the application for City approval is submitted. In each subsequent year, fees are due on the date on which the licensee submits an application to LARA for renewal of the state operating license.

Default to City. An applicant who is in default (or who has a named stakeholder who is in default) to the City for any reason (including but not limited to nonpayment of property taxes or utilities) is not eligible to apply for a license under this Ordinance.

Section 22-341(e) - Relocation of establishments, transfers of licenses, and expansion of grow operations.

An existing establishment may be moved to a new location in the City, subject to applicable zoning regulations, prior City Council approval, and approval by LARA. In deciding whether to

approve a new location for an existing establishment, the City Council shall consider the following nonexclusive factors:

- a. The impact of the establishment's new location on traffic, parking, public safety, noise, and aesthetics;
- b. The impact of the establishment's new location on the community as a whole; and
- c. The existing establishment's compliance with City ordinances and with state law and administrative rules.

A license for an existing establishment may be transferred to a new licensee that intends to continue operating at the same location, subject to approval by City Council and LARA.

Section 22.341(f) - Violations.

Revocation of City authorization; Request for revocation of state operating license. If at any time an authorized establishment violates this Ordinance or any other applicable City ordinance, the City Council may revoke the establishment's authorization under this Ordinance following notice and a hearing, and the City Council may request that LARA revoke or refrain from renewing the establishment's state operating license.

Civil infraction. It is unlawful to disobey, neglect, or refuse to comply with any provision of this Ordinance. A violation of this Ordinance is a municipal civil infraction. Each day the violation continues shall be a separate offense. Notwithstanding any other provision of this Ordinance to the contrary, violators are subject to the following fines:

- (1) First violation = \$500
- (2) Second offense = \$2,500
- (3) Each subsequent offense = \$5,000

Other remedies. The foregoing sanctions are in addition to the City's right to seek other appropriate and proper remedies, including actions in law or equity.

PART 2 – CHAPTER 98, ZONING.

Amend Section 98-2.2 – Definitions, to add the following definitions:

Cannabis establishments. Cannabis establishments mean "marihuana establishments" as defined by the State of Michigan. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Air contaminants. Stationary local sources producing air-borne particulates, heat, odors, fumes, spray, vapors, smoke or gases in such quantities as to be irritating or injurious to health.

Marihuana establishment. A location at which a license holder is licensed to operate under the Michigan Regulation and Taxation of Recreational Marihuana Act (MRTMA)

Marihuana retailer. A person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

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

Safety compliance establishment. An establishment authorized to receive marihuana from, test marihuana for, and return marihuana to a licensed marihuana establishment.

Separation Distance Measurements. The distance computed by measuring a straight line from the nearest property line of the parcel used for the purposes stated in this ordinance to the nearest property line of the parcel used as a marihuana establishment.

Amend Section 98-3.10 (C) - Special Land Uses, to add the following:

3. Marihuana retailer

Amend Section 98-3.15 (C) - Special Land Uses, to add the following:

3. Marihuana retailer

Amend Chapter 98, Article 4, by adding the following new section:

Section 98-4.45 – Marihuana Establishments

1. *Purpose.* It is recognized by this Chapter that certain unique uses cannot easily be evaluated in the same manner as other uses because of their potential to adversely affect public health, safety and welfare; establish a public nuisance; conflict with the character of a neighborhood; impair the social and economic well-being of neighboring properties; impair the general development of an area; or operate in a manner contrary to the purpose and intent of this Chapter. However, when properly regulated, these uses can make a positive contribution to the economic vitality of the city. Therefore, it is the purpose of this Article to impose reasonable regulations upon certain uses to provide an adequate approval process while moderating their potential adverse effects on surrounding and neighboring properties.
2. *Applicability.* Any land use that requires a license from the Department of Licensing and Regulatory Affairs (LARA) in the administration of the Michigan Regulation and Taxation of Marihuana Act (MRTMA) or other state law providing for the sale, transport, testing, growing, distribution, and processing of marihuana or any other activity involving a marihuana-related use shall require review and approval pursuant to Article 6. Any establishment not specifically authorized in this Ordinance is prohibited. Provisions of this section do not apply to the medical use of marihuana in compliance with the Michigan Medical Marihuana Act (MMMA).
3. *Approval Procedures for Marihuana Establishments.*
 - A. *Zoning approval.* Preliminary Zoning approval shall be required prior to issuance of any license. Preliminary Zoning approval does not guarantee a license for any proposed establishment and final zoning approval is subject to the issuance of a license pursuant to Chapter 22 of the City of Brighton Municipal Code.

- B. *License Required.* Licensing for marihuana establishments is required per Chapter 22 of City of Brighton Municipal Code.
4. *Zoning review application requirements.* Zoning applications for marihuana establishments shall be submitted as required in Section 6.2. In addition, the following information is also required:
- A. A site plan shall be required, showing the proposed building(s) to be used, remodeled or reconstructed, along with the parking, landscaping and lighting plans. Existing and proposed building elevations shall be provided, including building materials, window glazing calculations, descriptions of glass to be used, and other pertinent information that describes building construction or structural alterations.
 - B. A plan for general waste disposal, chemical disposal and plant waste disposal.
 - C. A notarized statement by the property owner that acknowledges use of the property for a marihuana establishment and agreement to indemnify, defend and hold harmless the City, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising out of, or in connection to, the operation of a marihuana establishment. Written consent shall also include approval of the owner and operator for the City to inspect the establishment at any time during normal business hours to ensure compliance with applicable laws and regulations.
 - D. A copy of official paperwork issued by LARA as follows: paperwork indicating that the applicant has successfully completed the prequalification step of the application for the state operating license associated with the proposed land use, or proof that the applicant has filed such application for the prequalification step with LARA, including all necessary application fees.
 - E. A map, drawn to scale, displaying all schools, parks or playgrounds within 800 feet of the proposed location. Distances shall be measured in accordance with the Separation Distance Measurements, as defined in Section 2.2.
 - F. *Operations and Management Plan.* An operations and management plan shall be submitted. The plan should describe security measures in the establishment; this may include the movement of the product, methods of storage, cash handling, etc.
 - G. All permitted establishments shall be bonded to guarantee that all accounting and taxes are paid in full according to the law and that the operation or establishment performs in accordance with all government standards
5. *Separation Distances.* It is recognized that special regulations of marihuana establishments have been deemed necessary to limit the intensity and density of this use, and to recognize that separation distances are necessary from certain uses as described in this Section. No marihuana establishments are permitted within eight hundred (800) feet of the following uses:
- A. A K-12 public or private school, unless a lesser distance is separated by Interstate I-96.

- B. An establishment that offers regular on-site cultural, educational, artistic, athletic, social, recreational or advisory programs and services primarily to persons 18 years of age and under.
 - C. An establishment that is licensed by the State of Michigan as a Substance Use Disorder Program.
 - D. A park or playground.
6. *Requirements.* In addition to the licensing requirements of Chapter 22, the following general requirements apply:
- A. Hours of operation of all marihuana establishments shall not be before 8 a.m. or after 8 p.m. All deliveries shall occur within these hours.
 - B. Consumption of marihuana shall be prohibited in all establishments, and a sign shall be posted on the premises of each establishment indicating that consumption is prohibited on the premises.
 - C. Residential uses within the same structure/building are prohibited.
 - D. Outdoor storage of any kind is prohibited. The discharge of toxic, flammable or hazardous materials into city sewer or storm drains is prohibited. All waste shall be kept secure and shall be disposed of in a manner consistent with local, state and federal laws.
 - E. No marihuana establishments shall be operated in a manner that creates noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the property on which the establishment is operated.
 - F. Air contaminants and waste management must be controlled by the following methods:
 - i. The building must be equipped with an activated air scrubbing and carbon filtration system that eliminates all air contaminants prior to leaving the building. Fan(s) must be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three (3). The filter(s) shall be rated for the applicable CFM.
 - ii. Air scrubbing and filtration system must be maintained in working order and must be in use at all times. Filters must be changed per manufacturers' recommendation to ensure optimal performance.
 - iii. Negative air pressure must be maintained inside the building.
 - iv. Alternative power source must be available at all times and capable of providing power sufficient to maintain air filtration and negative air pressure in the event of power failure.
 - v. Doors and windows must remain closed, except for the minimum time length needed to allow people to ingress or egress the building.

- vi. The building official may approve an alternative odor control system, in accordance with the Michigan Mechanical Code, if a mechanical engineer licensed in the State of Michigan submits a report that sufficiently demonstrates the alternative system will be equal to or better than the air scrubbing and carbon filtration system otherwise required.
- vii. Ventilation, by-product and waste disposal, and water management (supply and disposal) for the establishment will not produce contamination of air, water, or soil; or reduce the expected life of the building due to heat and mold; or create other hazards that may negatively impact the structure and/or surrounding properties.
- G. Such uses shall contribute to the vibrancy of the districts in which they are located.
- H. The sale or dispensing of alcohol or tobacco products at a marihuana retail establishment is prohibited.
- I. *Establishment Exterior.* The exterior appearance of an establishment must be compatible with surrounding businesses and any descriptions of desired future character of the district in which the retailer is located, as described in the Master Plan.
 - i. No marihuana or equipment used in the sale, testing or transport of marihuana can be placed or stored outside of an enclosed building.
 - ii. Site and building lighting shall be sufficient for safety and security, but not cause excessive glare or be designed so as to be construed as advertising with the intent to attract attention. Outdoor lighting shall comply with Article 5, Section 5.4.
 - iii. Drive-through establishments, walk up windows and mobile establishments are prohibited.
- J. *Establishment Interior.*
 - i. Interior construction, design and use of an establishment will not impede the future use of a building for other uses as permitted in the assigned zone district.
 - ii. Neither marihuana nor marihuana-infused products may be placed within twenty (20) feet of the front façade, nor displayed such that they are visible from a public way.
 - iii. Interior security measures other than security cameras shall not be visible from the public right-of-way (e.g. security shutters, bars, or other methods) during operating business hours.
 - iv. Interior lighting shall not be so bright so as to create a nuisance to neighboring property owners or passersby.

Amend Section 98-5.6, Off-street parking and loading regulations as follows:

Amend Table 98-5.6 (E), Off-Street Parking Requirements, to add the following:

B. Commercial/Office/Service Uses

24. Retail uses, including marihuana retailers, (except as otherwise specified): One (1) for each 300 square feet of GFA.

PART 3 – SAVINGS CLAUSE

The amendments referenced herein do not affect or impair any act done, offense committed, or right accruing or acquired, or liability, penalty or forfeiture or punishment pending or incurred prior to the effective date of this amendment.

PART 4 - REPEALER

Any ordinances that conflict with this Ordinance are repealed to the extent necessary to give this Ordinance full force and effect.

PART 5 - SEVERABILITY

The provisions of this Ordinance are severable. If any provision of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining provisions of this Ordinance.

PART 6 – EFFECTIVE DATE

This ordinance shall take effect on December 1, 2022 at 12:01 am and after publication as provided by law and the Charter.

YEAS: Council Member(s) _____

NAYS: Council Member(s) _____

ABSTAIN: Council Member(s) _____

ABSENT: Council Member(s) _____

CERTIFICATION

As the City Supervisor and City Clerk of City of Brighton, Livingston County, Michigan, I certify this is a true and complete copy of an ordinance adopted by the City of Brighton Council at a regular meeting held on _____, 2022.

Date: _____, 2022

Mayor

Date: _____, 2022

City Clerk

First Reading: _____

Brief Publication: _____

Public Hearing: _____

Adoption: _____

Full Publication: _____

DRAFT