

MANISTEE CITY COUNCIL

WORK SESSION AGENDA

Tuesday, November 28, 2017 - 7:00 p.m. - Council Chambers, City Hall

I. Call to Order.

II. Work Session Items.

- a.) PUBLIC COMMENTS ON WORK SESSION RELATED ITEMS.
- b.) DISCUSSION ON RECYCLING PROGRAM – DPW Director Jeff Mikula and Republic Municipal Services Manager Matt Biolette.
- c.) DISCUSSION ON SIDEWALK ORDINANCE / PROGRAM. – DPW Director Jeff Mikula.
- d.) DISCUSSION ON MEDICAL MARIHUANA ORDINANCE – City Manager Thad Taylor, City Attorney George Saylor, Planning & Zoning Administrator Denise Blakeslee.
- e.) DISCUSSION ON SALE OF CITY PROPERTY POLICY – City Manager Thad Taylor, Planning & Zoning Administrator Denise Blakeslee.
- f.) DISCUSSION ON RIVERFRONT LEASES – Planning & Zoning Administrator Denise Blakeslee.
- g.) OTHER.

III. Adjourn.

Chapter 866
MEDICAL MARIHUANA FACILITIES

866.01 PURPOSE

- A. It is the intent of this ordinance to authorize the establishment of certain types of medical marihuana facilities in the City of Manistee and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the of the community at large; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this ordinance to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the City of Manistee through imposition of an annual, nonrefundable permit application fee of not more than \$5,000.00 for each Permit.
- B. Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Medical Marihuana Act, MCL 333.26421 et seq. (MMA); the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (MMFLA); the Marihuana Tracking Act, MCL 333.27901 et seq. (MTA); and all other applicable rules promulgated by the state of Michigan.
- C. As of the effective date of this ordinance, marihuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., which makes it unlawful to manufacture, distribute, or dispense marihuana, or possess marihuana with intent to manufacture, distribute, or dispense marihuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal law.

866.02 DEFINITIONS

For the purposes of this ordinance:

- A. Any term defined by the MMA shall have the definition given in the MMA.
- B. Any term defined by the MMFLA shall have the definition given in the MMFLA.
- C. Any term defined by the MTA, shall have the definition given in the MTA.
- D. “City” means the City of Manistee.
- E. “City Council” means the Manistee City Council
- F. “Grower” means a licensee that is a commercial entity located in Michigan that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.
- G. “Licensee” means a person holding a state operating license issued under the MMFLA.

- H. “Marijuana” or “marihuana” means that term as defined in the Michigan Public Health Code, MCL 333.1101 et seq.; the MMA: the MMFLA and the MTA.
- I. “Marihuana facility” means an enterprise at a specific location at which a licensee is licensed to operate under the MMFLA, including a marihuana grower, marihuana processor, marihuana secure transporter, or marihuana safety compliance facility. The term does not include or apply to a “primary caregiver” or “caregiver” as that term is defined in the MMA.
- J. “Medical Marihuana Commission” or “Commission” means the Medical Marihuana Commission established under Section 866.04 of this Ordinance.
- K. “Permit” means the authorization granted by the City for a Licensee’s operation of a marihuana facility in the City pursuant to this Ordinance.
- L. “Person” means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, trust, or other legal entity.
- M. “Processor” means a licensee that is a commercial entity located in Michigan that purchases marihuana from a grower, or also holds a grower’s license, and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a “safety compliance facility”.
- N. “Secure transporter” means a licensee that is a commercial entity located in Michigan that stores marihuana and transports marihuana between marihuana facilities for a fee.
- O. “Stakeholder” means members of a limited liability company, shareholder of a corporation, partner of a partnership or investor in the proposed Licensee.
- P. “Zoning Ordinance” means the City of Manistee Zoning Ordinance adopted February 21, 2006, as amended.

866.03 AUTHORIZATION OF FACILITIES AND FEE

- A. The maximum number of each type of marihuana facility permits allowed in the City shall be as follows:

| <u>Facility</u> | <u>Number</u> |
|--------------------|---------------|
| Grower | 12 |
| Processor | 2 |
| Secure transporter | 2 |
| Safety Compliance | 2 |

- B. A nonrefundable permit application fee shall be paid by each marihuana facility licensed under this ordinance in an annual amount of not more than \$5,000.00 as set by resolution of

the City Council to defray the administrative and enforcement costs of the City associated with the operation of the licensed marihuana facility.

- C. Should the City grant a marihuana facility permit, the permit application fee shall be considered as the nonrefundable fee imposed for the first year the Permit is granted. Prior to the expiration of the first year of the Permit, and as provided in this Ordinance in Section 866.13, the Licensee may apply for an extension of the Permit for an additional one year period at a nonrefundable fee of not more than \$5,000 as set by resolution of the City Council.

866.04 MEDICAL MARIHUANA COMMISSION

- A. A City of Manistee Medical Marihuana Commission is hereby established. The Commission shall consist of five (5) members, who shall be appointed by the Mayor with the consent of the City Council. Members shall serve for terms of three (3) years. For initial appointments, one member shall serve for a term of one (1) year, two members shall serve for a term of two (2) years, and two members shall serve for a term of three (3) years.
- B. The members of the commission shall include:
 - 1. The City of Manistee Public Safety Director;
 - 2. The City Manager or his designee;
 - 3. The City Planning and Zoning Director; and
 - 4. Two City Resident.
- C. The Chairperson of the Commission shall be elected annually by majority vote of the members.
- D. No member of the Commission shall have any direct financial interest in a medical marihuana establishment.
- E. All meetings of the Commission shall be held in conformance with the Michigan Open Meetings Act, MCL 15.261 et seq. Meetings may be called by a majority of the Commission, City Clerk or City Manager.
- F. The Commission shall meet at such times as may be required for its review of an Application for a Permit or to hear a request to revoke a Permit.

866.05 REQUIREMENTS AND PROCEDURE FOR ISSUING PERMIT

- A. No person shall operate a marihuana facility in the City without a valid Permit issued by the City pursuant to the provisions of this ordinance.

- B. No person shall be issued a Permit by the City without first having obtained a Special Use Permit by the City of Manistee Planning Commission to operate the facility in compliance with the Zoning Ordinance.
- C. Every applicant for a Permit to operate a marihuana facility shall file an application in the City Clerk's office upon a form provided by the City. The application shall include:
1. The appropriate nonrefundable permit application fee in the amount determined by the City;
 2. If the applicant is an individual, the applicant's name; date of birth; Social Security number; physical address, including residential and any business address(es), copy of government-issued photo identification; email address; one or more phone number(es), including emergency contact information;
 3. If the applicant is not an individual, the names; dates of birth; physical addresses, including residential and any business address(es); copy of government-issued photo identifications, email address(es), 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(s); 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;
 4. The name and address of the proposed marihuana facility;
 5. For the applicant and for each Stakeholder and employee of the applicant, an affirmation that each and every person is at least 18 years of age and has not been convicted of or pled guilty or no contest to a felony or controlled-substance-related misdemeanor;
 6. Before hiring a prospective agent or employee of the applicant, the holder of a license to operate shall conduct a background check of the prospective employee or agent. If the background check indicates a pending charge or conviction within the past ten (10) years for a controlled substance-related felony, the applicant shall not hire the prospective employee or agent without written permission from the Commission;
 7. A signed release authorizing the City of Manistee Police Department to perform a criminal background check to ascertain whether the applicant, each Stakeholder of the applicant, and each employee of the applicant meet the criteria set forth in this chapter, the cost of which will be charged to the applicant. Alternatively, the applicant may satisfy this requirement by providing to the City a criminal background check conducted by the Michigan State Police or other law enforcement agency;

8. The name, date of birth, physical address (residential and any business address(es)), copy of photo identification, and email address for any managerial employee of the marihuana facility, if other than the applicant or Stakeholder of applicant;
9. An affirmation under oath as to whether the applicant or Stakeholder of applicant has ever applied for or 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;
10. One of the following: (a) proof of ownership of the entire premises wherein the marihuana facility is to be operated; or (b) written consent from the property owner for use of the premises as outlined in the application, along with a copy of the lease for the premises;
11. A description of the security plan for the marihuana facility, including, but not limited to, any lighting, alarms, barriers, recording/monitoring devices, and/or security guard arrangements proposed for the facility and premises. The security plan must contain the specification details of each piece of security equipment. Each medical marihuana establishment must have a security guard present during business hours or alternative security procedures shall be proposed in the business plan;
12. A crisis response plan;
13. A copy of the Special Use Permit issued by the City of Manistee Planning Commission;
14. A floor plan of the marihuana facility, as well as a scale diagram illustrating the property upon which the marihuana facility is to be operated, and the location of the Material Safety Data Sheets and any chemical storage;
15. A list of any chemicals that are or will be stored on the premises;
16. An affidavit that neither the applicant nor any Stakeholder of the applicant is in default to the City. Specifically, that the applicant or Stakeholder of the applicant has not failed to pay any property taxes, special assessments, fines, fee, or other financial obligations to the City;
17. An affidavit that the transfer of marihuana to and from the marihuana facility shall be in compliance with the MMA and the MMFLA and all other applicable Michigan law;
18. An estimate of the number and type of jobs that the medical marihuana establishment is expected to create, the amount and type of compensation expected to be paid for such jobs;

19. A business plan which contains, but is not limited to, the following:
- a) The applicant's experience in operating other similarly permitted or licensed businesses and the applicant's general business management experience;
 - b) The proposed ownership structure of the establishment, including percentage ownership of each person or entity;
 - c) A current organizational chart that includes position descriptions and the names of each person holding each position;
 - d) Planned tangible capital investment in the City, including if multiple licenses are proposed, an explanation of the economic benefits to the City and job creation, if any, to be achieved through the award of such multiple licenses, with supporting factual data;
 - e) Expected job creation from the proposed medical marihuana establishment(s);
 - f) Financial structure and financing of the proposed medical marihuana establishment(s);
 - g) If a Medical Marihuana Grower Facility is proposed, the number of plants anticipated; and
 - h) Community outreach/education plans and strategies;
20. A written description of the training and education that the applicant will provide to all employees, including planned continuing education for existing employees. Further, a written description of the method(s) for record retention of all training provided to existing and former employees;
21. A location area map of the marihuana facility and surrounding area that identifies the relative locations and the distances (closest property line to the subject marihuana facility's building) to the closest real property comprising a public or private elementary, vocational or secondary school; and church or religious institution, if recognized as a tax-exempt entity as determined by the City Assessor's Office;
22. A facility sanitation plan to protect against any marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction in the sewerage system is prohibited;
23. A description of procedures for testing of contaminants, including mold and pesticides;
24. A signed acknowledgment that the applicant is aware and understands that all matters related to marihuana growing, cultivation, possession, testing, safety compliance and

transporting, are currently subject to state and federal laws, rules and regulations, and that the approval or granting of a permit hereunder does not exonerate or exculpate the applicant from abiding by the provisions and requirements and penalties associated with those laws, rules, and regulations, or exposure to any penalties associated therewith; and further, the applicant waives and forever releases any claim, demand, action, legal redress, or recourse against the City, its elected and appointed officials, and its employees and agents for any claims, damages, liabilities, causes of action, damages, or attorney fees that the applicant may incur as a result of the violation by the applicant, its Stakeholders and agents of those laws, rules, and regulations.

25. All cultivation must be performed within an enclosed, locked facility. The applicant shall specifically acknowledge this provision;

26. As it relates to a Marihuana Grower Facility, the following additional items shall be required:

- a) A grower/cultivation plan that includes, at a minimum, a description of the cultivation methods to be used, including plans for the growing mediums, treatments, and/or additives;
- b) A production testing plan that includes, at a minimum, a description of how and when samples for laboratory testing by a state-approved Safety Compliance Facility will be selected, what type of testing will be requested, and how the test results will be used;
- c) An affidavit that all operations will be conducted in conformance with the MMMA, the MMFLA, MTA, and/or other applicable Michigan law;
- d) A chemical and pesticide storage plan that states the names of chemicals and pesticides to be used in cultivation, and where and how pesticides and chemicals will be stored in the facility, along with a plan for the disposal of unused pesticides and chemicals;

27. Any other information which may be required by Commission rule or City Council ordinance.

D. Every applicant for a Permit to operate a marihuana facility in the City shall submit with the application a photocopy of the applicant's valid and current license issued by the state of Michigan in accordance with the MMFLA.

E. Upon an applicant's completion of the above-described form and furnishing of all required information and documentation, the City Clerk shall forward the application and assign it a sequential application number by facility type based on the date and time of acceptance. The Commission shall act to approve or deny an application not later than forty-five (45) days from the date the completed application is filed with the City Clerk. If approved, the City Clerk shall issue the applicant a provisional permit.

- F. Maintaining a valid license issued by the state is a condition for the issuance and maintenance of a Permit under this ordinance and continued operation of any marihuana facility.
- G. A Permit issued under this ordinance is not transferable without the prior approval of the City under the same terms and conditions required for the initial issuance of a permit under this Ordinance.

866.06 MINIMUM OPERATIONAL STANDARDS FOR ALL MARIHUANA FACILITIES WITHIN THE CITY OF MANISTEE

The following minimum standards shall apply to all Marihuana Facilities within the City:

- A. Marihuana Facilities shall comply at all times and in all circumstances with the MMMA, MMFLA, and applicable Michigan law, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time. It is the responsibility of the owner to be aware of changes in the MMFLA. The City bears no responsibility for failure of the owner to be unaware of changes in the MMFLA;
- B. Consumption and/or use of marihuana shall be prohibited at the facility;
- C. The premises shall be open, at all times, to any Michigan Medical Marihuana Licensing Board investigator, agent, auditor, state police officer, or City of Manistee Police Officer, without a warrant and without notice to the licensee, and said individual(s) may enter the premises, offices, facilities, or other places of business of a licensee, for the following purposes:
 - 1. To inspect and examine all premises of Marihuana Facilities.
 - 2. To inspect, examine, and audit relevant records of the licensee and, if the licensee or any employee 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.
 - 3. To inspect persons, and inspect or examine personal effects present in a marihuana facility.
 - 4. To investigate alleged violations of the MMA, MMFLA, this Chapter and applicable Michigan law.
- D. The marihuana facility shall be continuously monitored with a surveillance system that includes security cameras. The video recordings shall be maintained in a secure, off- site location for a period of fourteen (14) days and be available upon request of the City of

Manistee Police Department. The storage facility shall not be used for any other commercial purpose.

- E. The marihuana facility shall not be open or accessible to the general public.
- F. The marihuana facility shall be maintained and operated so as to comply with all state and local rules, regulations and ordinances. All Marihuana Facilities shall comply with applicable requirements of the Zoning Ordinance, including obtaining and maintaining a Special Use Permit.
- G. All marihuana shall be contained within an enclosed, locked facility;
- H. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring, lighting and/or watering devices that support the Grower, growing or harvesting of marihuana are located;
- I. All persons working in direct contact with marihuana shall conform to hygienic practices while on duty, including, but not limited to:
 - 1. Maintaining adequate personal cleanliness;
 - 2. Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when their hands may have become soiled or contaminated;
 - 3. Refraining from having direct contact with marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.
- J. Litter and waste shall be properly removed and the operating systems for waste disposal shall be maintained in an adequate manner so that they do not constitute a source of contamination.
- K. Floors, walls and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair;
- L. There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste development of odor and minimize the potential for waste becoming an attractant, harborage or breeding place for pests;
- M. Marihuana that can support the rapid growth of undesirable microorganisms including but not limited to mold shall be held in a manner that prevents the growth of these microorganisms;
- N. All building fixtures and other facilities shall be maintained in a sanitary condition;
- O. The dispensing of marihuana at the facility is strictly prohibited;

P, Exterior signage or advertising identifying the facility is prohibited;

866.07 MINIMUM OPERATIONAL STANDARDS FOR A GROWER FACILITY

The following minimum standards for Grower Facilities shall apply:

- A. Grower Facilities shall maintain a log book and/or database indicating the number of Marihuana Plants therein;
- B. The portion of the structure storing any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspections at any time and approval by the City of Manistee Fire Department to insure compliance with all applicable statues, codes and ordinances;

866.08 MINIMUM OPERATIONAL STANDARDS FOR A SAFETY COMPLIANCE FACILITY

The following minimum standards for Safety Compliance Facilities shall apply:

- A. Safety Compliance Facilities shall maintain a log book and/or database which complies with the MMMA and MMFLA or applicable Michigan law;
- B. There shall be no other accessory uses permitted within the same facility other than those associated with testing Marihuana;

866.09 MINIMUM OPERATIONAL STANDARDS OF PROCESSOR FACILITIES

The following minimum standards for Processor Facility shall apply:

- A. All activity related to the Processor Facility shall be done indoors;
- B. Processor Facilities shall maintain a log book and/or database which complies with the MMA, as amended, and MMFLA or applicable state laws;
- C. All Marihuana shall be tagged as required by the MMA, the Medical Marihuana Facilities Licensing Act or applicable state laws
- D. That portion of the structure where any chemicals are located and/or stored shall be subject to inspections at any time and approval by the City of Manistee Fire Department to insure compliance with all applicable statues, codes and ordinances;
- E. Processor Facilities shall produce no products other than useable Marihuana intended for human consumption;

866.10 MINIMUM OPERATIONAL STANDARDS OF SECURE TRANSPORTER

The following minimum standards for Secure Transporters shall apply:

- A. Secure Transporter licensee and each stakeholder shall not have an interest in a Grower, Processor, Provisioning Center or State Compliance facility and shall not be a registered qualifying patient or a registered primary caregiver.
- B. A Secure Transporter shall enter all transactions, current inventory, and other information as required by the state into the statewide monitoring system.
- C. A Secure Transporter shall comply with all of the following:
 - 1. Each driver transporting marihuana must have a chauffeur's license issued by the state.
 - 2. 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 five (5) years or have been convicted of a misdemeanor involving a controlled substance within the past five (5) years.
 - 3. Each vehicle shall be operated with a two-person crew with at least one individual remaining with the vehicle at all times during the transportation of marihuana.
 - 4. A route plan and manifest shall be entered into the statewide monitoring system, and a copy shall be carried in the transporting vehicle and presented to a law enforcement officer upon request.
 - 5. The marihuana shall be transported by one or more sealed containers and not be accessible while in transit.
 - 6. A secure transporting vehicle shall not bear markings or other indication that it is carrying marihuana or a marihuana infused product.
- D. A vehicle used by 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 all state and local laws, rules, regulations and ordinances.

866.11 LOCATION OF GROWER FACILITY, SAFETY COMPLIANCE FACILITY, PROCESSOR FACILITY AND SECURE TRANSPORTER

- A. All Grower Facilities, Safety Compliance Facilities, Processor Facilities and Secure Transporters shall only operate and be located within the permitted areas as provided for in the Zoning Ordinance.

866.12 DENIAL AND REVOCATION

- A. A Permit issued under this Ordinance may be revoked after an administrative hearing at which the Commission by majority vote of members present determines that grounds for revocation under this Ordinance exist. Notice of the time and place of the hearing and the grounds for revocation must be given to the holder of a Permit at least five days prior to the date of the hearing, by first class mail to the address given on the permit application; a licensee whose permit is the subject of such hearing may present evidence and/or call witnesses at the hearing;
- B. A Permit applied for or issued under this Ordinance may be denied or revoked on any of the following basis:
1. Any violation of this Ordinance;
 2. Any conviction of or release from incarceration for a felony under the laws of this State, any other state, or the United States within the past five (5) years by the Applicant or any stakeholder of the Applicant as measured from the date of the Application or the date of becoming a stakeholder, whichever occurs later, or while licensed under this Ordinance; or any conviction of a substance-related felony by the Applicant or any stakeholder of the Applicant ever or while licensed under this Ordinance;
 3. Commission of fraud or misrepresentation or the making of a false statement by the Applicant or any stakeholder of the Applicant while engaging in any activity for which this Ordinance requires a Permit;
 4. Material failure to fulfill the business plan described in Section 866.05 C. 21 of this Ordinance.
 5. Sufficient evidence that the Permittee(s) lacks, or has failed to demonstrate, the requisite professionalism and/or business experience required to assure strict adherence to this Ordinance, and the rules and regulations governing the Medical Marihuana Program in the State of Michigan;
 6. The marihuana facility is determined by the City to have become a public nuisance;
 7. The Michigan Medical Marihuana Licensing Board has denied, revoked or suspended the applicant's state license.

866.13 LICENSE RENEWAL

- A. A Permit shall be valid for one year from the date of issuance, unless revoked as provided by law, including this Ordinance.
- B. A valid Permit may be renewed on an annual basis by submitting a renewal application upon a form provided by the City and payment of the annual permit fee. Application to renew a

Permit shall be filed with the City Clerk at least thirty (30) days prior to the date of its expiration. As long as no changes to the Permittee have occurred and there is no pending request to revoke or suspend a Permit, and the Permittee has paid the Permit Renewal Fee, the City Clerk shall renew the Permit.

866.14 APPLICABILITY

The provisions of this ordinance shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marihuana facility were established without authorization before the effective date of this ordinance.

866.15 PENALTIES AND ENFORCEMENT

- A. Any person who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and subject to the payment of a civil fine of \$500, plus costs. Each day a violation of this Ordinance continues to exist constitutes a separate violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.
- B. A violation of this Ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, the City may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Ordinance.
- C. This Ordinance shall be enforced and administered by the City Clerk, or such other city official as may be designated from time to time by resolution of the City Council.

866.16 SEVERABILITY

In the event that any one or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this Ordinance.

866.17 EFFECTIVE DATE

This Ordinance shall take effect _____ in accordance with law.



Memorandum

Denise Blakeslee
Planning & Zoning Director
70 Maple Street
Manistee, MI 49660
231.398.2805
dblakeslee@manisteemi.gov
www.manisteemi.gov

TO: Thad Taylor
City Manager

FROM: Denise Blakeslee
Planning & Zoning Director 

DATE: October 30, 2017

RE: CP-3 Policy and Procedure for the sale of City Owned Property

Thad, when working on identifying surplus city owned property and determining that some properties should be marketed by a Real Estate Broker changes to CP-3 Policy and Procedure for the sale of City Owned Property were needed. Staff has worked on and the City Attorney has reviewed an amended the policy and it is ready for City Council's consideration. The following attachments are provided.

Copy of the current CP-3 Policy

Reformatted current CP-3 Policy with strikeouts and additions highlighted in yellow

A copy of the proposed amended CP-3 Policy for City Councils consideration

POLICY AND PROCEDURE
FOR THE
SALE OF CITY OWNED PROPERTY

The City of Manistee accepts proposals from persons interested in purchasing City owned property. In order for the City to receive an optimal price for the property, the following policy and procedure shall be followed.

The properties owned by the City of Manistee fall into three categories:

1. Parks, roadways and municipal properties which should not be considered for sale.
2. Those properties of vacant or occupied land which have no future value or use by the City.
3. Those properties, vacant or occupied, that the City would like to market with specific anticipated, uses or development.

PROCEDURE:

1. Properties offered for sale or requested for sale (that do not fall into an anticipated use category) by a buyer should be referred to the Planning Commission by the City Manager.
2. The Planning Commission will determine category (future use) and in consultation with the City Manager and City Assessor, recommend a minimum price. Those properties which are designated as having desired specific anticipated uses or development will be recommended for sale with development guidelines to be adhered to by the buyer. This process will insure that the property is developed in the way which the City deems in the best interest of the future development of the City.
3. Upon review by the Planning Commission a recommendation will be forwarded to the City Council.
4. If the City Council concurs with the recommendation, the City Manager will be instructed to advertise and accept bids for the sale.
5. The received bids will be reviewed by Council. A bid which does not meet the recommended price may be refused or accepted by the Council. If the bid is acceptable to the Council, the Council will give public notice of the following:

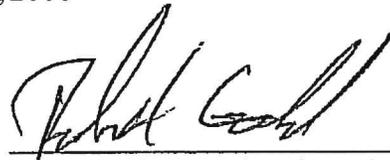
- a. a description of the property.
- b. the tentative accepted price, and
- c. an offer to sell the property to any interested buyer at a price which is greater than the tentatively accepted price.

An open competitive bidding situation is created.

- 6. The period of time to accept this (or these) increased bids will be no longer than fifteen (15) days. If the public notice generates subsequent bids, the Council will instruct the City Manager to initiate the bid procedure again. This procedure will continue until a single highest bid is obtained.
- 7. Upon final acceptance of the bid, the City Council formally resolves to sell the property to the highest bidder and instructs the City Manager to execute the deal.
- 8. For those City owned properties located outside of the City incorporated limits, Council shall have the flexibility to negotiate the purchase price for the property being sold. Appraisals, consideration of job creations or other relevant information shall be considered when establishing a purchase price for the property. Planning Commission involvement and competitive bidding are not required for sale of property located outside of the City limits.

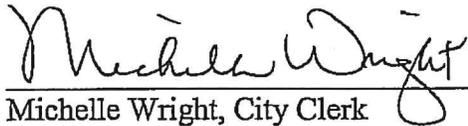
Properties to be leased by the City should be executed in a similar manner.

Council Policy Adopted: April 5, 1988
Council Policy Revised: November 8, 2006



Mayor Robert B. Goodspeed 11/08/06
Dated

Attest:



Michelle Wright, City Clerk 11-8-06
Dated



PROCEDURE FOR THE
SALE OF CITY OWNED PROPERTY POLICY

Adopted: April 5, 1988, Amended: Nov. 8, 2006

The City of Manistee accepts proposals from persons interested in purchasing City owned property. In order for the City to receive an optimal price for the property, the following policy and procedure shall be followed.

The properties owned by the City of Manistee fall into three categories:

1. Parks, roadways and municipal properties which should not be considered for sale.
2. Anticipated use properties are those properties, that the City would like to market with specific anticipated uses or development including properties zoned industrial in the City Industrial Park, Renaissance Industrial Park and surrounding industrial properties in Manistee Township. ~~Those properties, vacant or occupied, that the City would like to market with specific anticipated, uses or development.~~
3. Those properties, ~~vacant or occupied~~, which have no future value or use by the City and are deemed to be surplus property.

PROCEDURE FOR ANTICIPATED USE PROPERTIES

1. Anticipated use properties can be sold for development without public bidding. The City will consider factors such as development experience and financial viability when considering the sale of the property.
2. City may hire a Broker to sell the properties on behalf of the City.
3. Any proposed sale requires approval by City Council.

PROCEDURE FOR SURPLUS PROPERTIES

1. The sale of surplus properties requires review and recommendation to City Council by the Planning Commission.
2. A minimum value will be established for the properties by the City Assessor or Real Estate Broker in consultation with the City Manager and a recommendation made to City Council.
3. If the City Council concurs with the recommendations, the City Manager will be instructed to advertise and accept bids for the sale. A broker/realtor may be hired to sell the property on behalf of the City.

4. The received bids or offers will be reviewed by Council. City Council reserves the right to accept or reject any bid.

Planning Commission involvement is not required for sale of property located outside of the City limits.

Properties to be leased by the City should be executed in a similar manner.

PROCEDURE:

- ~~1. Properties offered for sale or requested for sale (that do not fall into an anticipated use category) by a buyer should be referred to the Planning Commission by the City Manager.~~
- ~~2. The Planning Commission will determine category (future use) and in consultation with the City Manager and City Assessor, recommend a minimum price. Those properties which are designated as having desired specific anticipated uses or development will be recommended for sale with development guidelines to be adhered to by the buyer. This process will insure that the property is developed in the way which the City deems in the best interest of the future development of the City.~~
- ~~3. Upon review by the Planning Commission a recommendation will be forwarded to the City Council.~~
- ~~4. If the City Council concurs with the recommendation, the City Manager will be instructed to advertise and accept bids for the sale.~~
- ~~5. The received bids will be reviewed by Council. A bid which does not meet the recommended price may be refused or accepted by the Council. If the bid is acceptable to the Council, the Council will give public notice of the following:
 - ~~a. a description of the property.~~
 - ~~b. the tentative accepted price, and~~
 - ~~c. an offer to sell the property to any interested buyer at a price which is greater than the tentatively accepted price.~~~~

~~An open competitive bidding situation is created.~~

- ~~6. The period of time to accept this (or these) increased bids will be no longer than fifteen (15) days. If the public notice generates subsequent bids, the Council will instruct the City Manager to initiate the bid procedure again. This procedure will continue until a single highest bid is obtained.~~
- ~~7. Upon final acceptance of the bid, the City Council formally resolves to sell the property to the highest bidder and instructs the City Manager to execute the deal.~~
- ~~8. For those City owned properties located outside of the City incorporated limits, Council shall have the flexibility to negotiate the purchase price for the property being sold. Appraisals, consideration of job creations or other relevant information shall be considered when establishing a purchase price for the property. Planning Commission involvement and competitive bidding are not required for sale of property located outside of the City limits.~~



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SALE OF CITY OWNED PROPERTY POLICY**

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Council Policy Adopted: April 5, 1988
Council Policy Revised: November 8, 2006

Mayor

Attest:

City Clerk

Memorandum

TO: Thad Taylor
City Manager

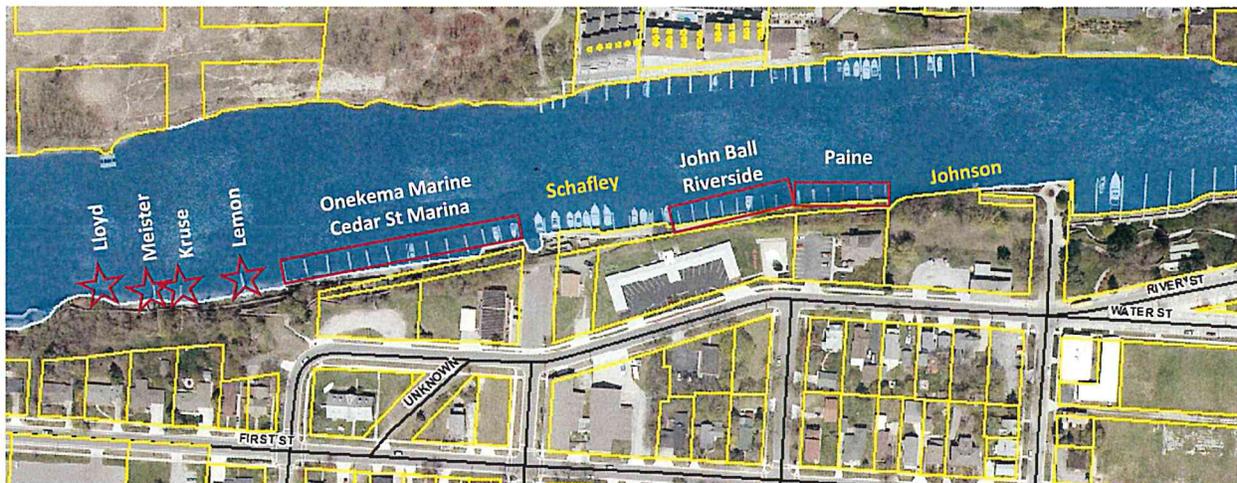
FROM: Denise Blakeslee 
Planning & Zoning Director

DATE: October 30, 2017

RE: Riverfront Leases

Denise Blakeslee
Planning & Zoning Director
70 Maple Street
Manistee, MI 49660
231.398.2805
dblakeslee@manisteemi.gov
www.manisteemi.gov

Thad, the City has property along the Manistee River Channel that they have leased to adjacent property owners for personal boat slips and marinas. There are four residential leases and three commercial leases and two leases have a \$1 fee in exchange for easements (Schafley and Johnson) that will need renewal as follows:



The rates for the residential and commercial riverfront leases were reduced in 2013. This was done to reflect the state of the economy at that time and the term of the lease was reduced from ten years to five years. In 2013 the leases were reduced and for three years did not have an annual increase the fourth and fifth year had an annual 3% increase.

The previous residential and commercial riverfront leases were for ten years with an annual 5% increase. Staff is recommending renewing the leases with an annual 3% increase for a period of five years. It will take until 2020 for the leases to slightly exceed the lease rate that was paid in 2012.

I have attached a comparison table, local marina rates and responses to letters sent to the commercial lease holders for the November Council Worksession for discussion.

Riverfront Lease Comparison Table

2003 – 2012 10 year Leases vs 2013 - 2022

| Residential Leases (Lemon, Kras, Meister, Lloyd) all have 30 feet of frontage | | | | | | 1 dock/2 slips | |
|---|--------------------------------|---------------------------|------|--------------------|---------------------------|------------------|-------------|
| 2003 | \$16.45 x 30 ft (5% increase) | \$493.50 annual payment | 2013 | No annual increase | \$660.00 annual payment | | |
| 2004 | \$17.27 x 30 ft (5% increase) | \$518.10 annual payment | 2014 | No annual increase | \$660.00 annual payment | | |
| 2005 | \$18.13 x 30 ft (5% increase) | \$543.90 annual payment | 2015 | No annual increase | \$660.00 annual payment | | |
| 2006 | \$19.03 x 30 ft (5% increase) | \$570.90 annual payment | 2016 | 3% annual increase | \$680.00 annual payment | | |
| 2007 | \$19.98 x 30 ft (5% increase) | \$599.40 annual payment | 2017 | 3% annual increase | \$700.00 annual payment | | \$700/\$350 |
| 2008 | \$20.97 x 30 ft (5% increase) | \$629.10 annual payment | 2018 | 3% annual increase | \$721.00 annual payment | | \$721/\$361 |
| 2009 | \$22.01 x 30 ft (5% increase) | \$660.30 annual payment | 2019 | 3% annual increase | \$743.00 annual payment | | \$743/\$372 |
| 2010 | \$23.11 x 30 ft (5% increase) | \$693.30 annual payment | 2020 | 3% annual increase | \$765.00 annual payment | | \$765/\$383 |
| 2011 | \$24.26 x 30 ft (5% increase) | \$727.80 annual payment | 2021 | 3% annual increase | \$788.00 annual payment | | \$788/\$394 |
| 2012 | \$25.47 x 30 ft (5% increase) | \$764.10 annual payment | 2022 | 3% annual increase | \$812.00 annual payment | | \$812/\$406 |
| Commercial Lease (Paine) 186 feet of frontage | | | | | | 7 docks/14 slips | |
| 2003 | \$16.45 x 186 ft (5% increase) | \$3,059.70 annual payment | 2013 | No annual increase | \$4,094.00 annual payment | | |
| 2004 | \$17.27 x 186 ft (5% increase) | \$3,212.22 annual payment | 2014 | No annual increase | \$4,094.00 annual payment | | |
| 2005 | \$18.13 x 186 ft (5% increase) | \$3,372.18 annual payment | 2015 | No annual increase | \$4,094.00 annual payment | | |
| 2006 | \$19.03 x 186 ft (5% increase) | \$3,539.58 annual payment | 2016 | 3% annual increase | \$4,217.00 annual payment | | |
| 2007 | \$19.98 x 186 ft (5% increase) | \$3,716.28 annual payment | 2017 | 3% annual increase | \$4,343.00 annual payment | | \$620/\$310 |
| 2008 | \$20.97 x 186 ft (5% increase) | \$3,900.42 annual payment | 2018 | 3% annual increase | \$4,474.00 annual payment | | \$639/\$320 |
| 2009 | \$22.01 x 186 ft (5% increase) | \$4,093.86 annual payment | 2019 | 3% annual increase | \$4,608.00 annual payment | | \$658/\$329 |
| 2010 | \$23.11 x 186 ft (5% increase) | \$4,298.46 annual payment | 2020 | 3% annual increase | \$4,746.00 annual payment | | \$678/\$339 |
| 2011 | \$24.26 x 186 ft (5% increase) | \$4,512.36 annual payment | 2021 | 3% annual increase | \$4,888.00 annual payment | | \$698/\$349 |
| 2012 | \$25.47 x 186 ft (5% increase) | \$4,737.42 annual payment | 2022 | 3% annual increase | \$5,035.00 annual payment | | \$719/\$360 |
| Commercial Lease (John Ball/Riverside Motel) 230 feet of frontage | | | | | | 9 docks/18 slips | |
| 2003 | \$16.45 x 230 ft (5% increase) | \$3,783.50 annual payment | 2013 | No annual increase | \$5,062.00 annual payment | | |
| 2004 | \$17.27 x 230 ft (5% increase) | \$3,972.10 annual payment | 2014 | No annual increase | \$5,062.00 annual payment | | |
| 2005 | \$18.13 x 230 ft (5% increase) | \$4,169.90 annual payment | 2015 | No annual increase | \$5,062.00 annual payment | | |
| 2006 | \$19.03 x 230 ft (5% increase) | \$4,376.90 annual payment | 2016 | 3% annual increase | \$5,214.00 annual payment | | |
| 2007 | \$19.98 x 230 ft (5% increase) | \$4,595.40 annual payment | 2017 | 3% annual increase | \$5,370.00 annual payment | | \$597/\$298 |
| 2008 | \$20.97 x 230 ft (5% increase) | \$4,823.10 annual payment | 2018 | 3% annual increase | \$5,531.00 annual payment | | \$615/\$307 |
| 2009 | \$22.01 x 230 ft (5% increase) | \$5,062.30 annual payment | 2019 | 3% annual increase | \$5,697.00 annual payment | | \$633/\$317 |
| 2010 | \$23.11 x 230 ft (5% increase) | \$5,315.30 annual payment | 2020 | 3% annual increase | \$5,868.00 annual payment | | \$652/\$326 |
| 2011 | \$24.26 x 230 ft (5% increase) | \$5,579.80 annual payment | 2021 | 3% annual increase | \$6,044.00 annual payment | | \$671/\$335 |
| 2012 | \$25.47 x 230 ft (5% increase) | \$5,858.10 annual payment | 2022 | 3% annual increase | \$6,226.00 annual payment | | \$692/\$346 |

Riverfront Lease Comparison Table 2003 – 2012 Leases vs 2013 - 2022

| Commercial Lease (Onekama Marine) 441 feet of frontage | | | | | 12 docks/24 slips | |
|---|--------------------------------|----------------------------|------|--------------------|----------------------------|-------------|
| 2003 | \$16.45 x 441 ft (5% increase) | \$7,254.45 annual payment | 2013 | No annual increase | \$9,706.00 annual payment | |
| 2004 | \$17.27 x 441 ft (5% increase) | \$7,616.07 annual payment | 2014 | No annual increase | \$9,706.00 annual payment | |
| 2005 | \$18.13 x 441 ft (5% increase) | \$7,995.33 annual payment | 2015 | No annual increase | \$9,706.00 annual payment | |
| 2006 | \$19.03 x 441 ft (5% increase) | \$8,392.23 annual payment | 2016 | 3% annual increase | \$9,997.00 annual payment | |
| 2007 | \$19.98 x 441 ft (5% increase) | \$8,811.18 annual payment | 2017 | 3% annual increase | \$10,297.00 annual payment | \$858/\$429 |
| 2008 | \$20.97 x 441 ft (5% increase) | \$9,247.77 annual payment | 2018 | 3% annual increase | \$10,606.00 annual payment | \$883/\$441 |
| 2009 | \$22.01 x 441 ft (5% increase) | \$9,706.41 annual payment | 2019 | 3% annual increase | \$10,924.00 annual payment | \$910/\$455 |
| 2010 | \$23.11 x 441 ft (5% increase) | \$10,191.51 annual payment | 2020 | 3% annual increase | \$11,252.00 annual payment | \$937/\$469 |
| 2011 | \$24.26 x 441 ft (5% increase) | \$10,698.66 annual payment | 2021 | 3% annual increase | \$11,589.00 annual payment | \$965/\$483 |
| 2012 | \$25.47 x 441 ft (5% increase) | \$11,232.27 annual payment | 2022 | 3% annual increase | \$11,937.00 annual payment | \$994/\$497 |
| Dennis & Emmy Johnson – in exchange for easement \$1.00 annually 2013 - 2017 | | | | | | |
| Paul & Amy Schafley – in exchange for easement \$1.00 annually 2013 -2017 | | | | | | |

| LOCAL MARINA RATES | | | | |
|-----------------------------------|--|-----------------------|-------------------------------|-------------------------|
| Seng's Marina | | | | |
| Floating Dock Pricing | 30' Slip | 40' Slip | 50' Slip | 60' Slip |
| Seasonal | \$2,300 | \$2,700 | \$2,900 | \$3,200 |
| Monthly | \$800 | \$950 | \$1,150 | \$1,250 |
| 2 week stay | \$425 | \$500 | \$650 | \$750 |
| 1 week stay | \$250 | \$300 | \$350 | \$400 |
| Overnight | \$50 | \$65 | \$80 | \$95 |
| Stationary Dock Pricing | Wall Slip, 25' max length, 15' wide | Long Dock 18' wide | Long Dock 15' wide | Long Dock 15.5' wide |
| Seasonal | \$1,800 | \$2,900 | \$2,600 | \$2,300 |
| Monthly | \$650 | \$1,150 | \$900 | \$800 |
| 2 week stay | \$375 | \$650 | \$500 | \$425 |
| 1 week stay | \$175 | \$350 | \$300 | \$250 |
| Overnight | \$40 | \$80 | \$65 | \$50 |
| Harbor Village | | | | |
| Slips for Sale | 35 ft slip/\$14,500 | | \$40 ft slip/\$19,000 | |
| Tracey Lindeman/Hokanson's | | | | |
| Seasonal | \$2,400 | | | |
| Shipwatch Marina | | | | |
| Seasonal | \$2,200 | | | |
| Insta-Launch | | | | |
| Seasonal | \$540 | | | |
| Pier 31 | | | | |
| Seasonal | 30 feet and Under \$1,300 | | \$40 for each additional foot | |
| Cedar Street Marina | | | | |
| Seasonal | 30 ft boat \$2,070 | | | |
| Manistee Inn & Marina | | | | |
| Daily \$30 (guests \$20) | Weekly \$150 | | Seasonal \$1,600 | |

| LEASED CITY PROPERTY/MARINA RATES | | |
|--|---|-----------------------------------|
| Geoffrey and Mary Pane | 14 slips (10 filled in 2017) | \$1,700 season/ half season \$800 |
| Riverside Motel & Marina | \$900 Seasonal \$400 monthly Daily \$30 - Guests \$20 | |
| Cedar Street Marina | Per foot pricing – 26' Average \$1,964 (seasonal) | |



70 Maple Street, Manistee, MI 49660 www.manisteemi.gov



CITY HALL
70 Maple Street

City Manager
231.398.2801

City Assessor
231.398.2802

Planning, Zoning &
Community Dev.
231.398.2805

City Clerk
231.398.2803

City Treasurer
231.398.2804

Water Billing
231.723.2559

Administration
FAX 231.723-1546

Clerk/Treasurer
FAX 231.723-5410

Police Department
70 Maple Street
231.723.2533
FAX 231.398.2012

Fire Department
281 First Street
231.723.1549
Fax 231.723.3519

Public Works
280 Washington St.
231.723.7132
FAX 231.723.1803

Parks Department
231.723.4051

Water Maintenance
231.723.3641

Wastewater Plant
50 Ninth Street
231.723.1553

August 2, 2017

Geoffrey and Mary Paine
531 Broad Avenue
Manistee, MI 49660

RE: Riverfront Lease

Good Morning!

Current riverfront leases expire on December 31, 2017. In an effort to establish renewal rates the City is requesting the following information for your facility:

Number of slips:

14 - TEN FILLED THIS YEAR

Seasonal pricing:

\$¹ 1,700 / SEASON 3 BOATS 1/2 SEASON @ \$200

Transient rate:

NONE

Enclosed is a return envelope for your convenience. We thank you in advance for your assistance, if you have any questions, please call me at 231.398.2805.

Sincerely,

CITY OF MANISTEE

Denise J. Blakeslee
Planning & Zoning Director



CITY HALL
70 Maple Street

City Manager
231.398.2801

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Fax 231.723.3519

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280 Washington St.
231.723.7132
FAX 231.723.1803

Parks Department
231.723.4051

Water Maintenance
231.723.3641

Wastewater Plant
50 Ninth Street
231.723.1553

August 2, 2017

Little River Management
PO Box 371
Manistee, MI 49660

RE: Riverfront Lease

Good Morning!

Current riverfront leases expire on December 31, 2017. In an effort to establish renewal rates the City is requesting the following information for your facility:

Number of slips: 18

Seasonal pricing: average \$900.00

Transient rate: 20.00/day

Enclosed is a return envelope for your convenience. We thank you in advance for your assistance, if you have any questions, please call me at 231.398.2805.

Sincerely,

CITY OF MANISTEE

Denise J. Blakeslee
Planning & Zoning Director



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FAX 231.723.1803

Parks Department
231.723.4051

Water Maintenance
231.723.3641

Wastewater Plant
50 Ninth Street
231.723.1553

August 2, 2017

Onkama Marina
4378 Crescent Beach Road
PO Box 210
Onkama, MI 49675

RE: Riverfront Lease

Good Morning!

Current riverfront leases expire on December 31, 2017. In an effort to establish renewal rates the City is requesting the following information for your facility:

Number of slips: 54 -

Seasonal pricing: Per ft pricing - 26' AVE = \$1964 @

Transient rate: NONE

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Sincerely,

CITY OF MANISTEE

Denise J. Blakeslee
Planning & Zoning Director

RECEIVED
AUG 05 2017

BY:

Denise J. Blakeslee

* COST TO OPERATE -
 ELECTS @ WATER @ SEWER
 MAINTENANCE MANAGER WAGE
 MAINTENANCE COSTS
 LEASE COSTS - MUST BE REDUCED - MARINA IS NOT PROFITABLE AT THESE RATES
 REQUEST REDUCTION OF RATE BY 35% -

Jim Mills