

**Chapter 866**  
**Medical Marihuana Facilities**

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CROSS REFERENCES
Michigan Medical Marihuana Act, MCL 333.26421 et seq.
Michigan Medical Marihuana Facilities Act, MCL 333.27101 et seq.
Michigan Marihuana Tracking Act, MCL 333.27901 et seq.
Department of Licensing and Regulatory Affairs, Administrative Rules, R 333.101 et seq.

**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. “Permit” means the authorization granted by the City for a Licensee’s operation of a marihuana facility in the City pursuant to this Ordinance.
- K. “Permittee” means a person issued a permit to operate 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. “Safety Compliance Facility” means a licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.
- O. “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.
- P. “Stakeholder” means members of a limited liability company, shareholders of a corporation, partners of a partnership or investors in the proposed Permittee.
- Q. “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 permitted 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. The application fee is in addition to any other fees required, including, but not limited to, zoning fees.
- 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 866.12, the Permittee may apply for an extension/renewal 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 REQUIREMENTS AND PROCEDURE FOR ISSUING LICENSE**

- 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 from the City of Manistee Planning Commission a Special Use Permit authorizing the operation of the facility pursuant to 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; copy of government-issued photo identification; email address; one or more phone numbers, 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; 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;
  - 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 City Clerk;
  - 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), 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 a 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 and 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;
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 neither the applicant nor Stakeholder of the applicant has 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 and 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 permits 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 permits, 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 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 into 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 and there shall be no illumination from the operation outside of the 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 the City Clerk.





- B. Consumption and/or use of marihuana shall be prohibited at the facility;
- C. The facility 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 Permittee, for the following purposes:
  - 1. To inspect and examine all premises of Marihuana Facilities.
  - 2. To inspect, examine, and audit relevant records of the Permittee and, if the Permittee 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 ordinance 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 acceptable 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; and
- Q. Odor from operations shall be controlled as provided in the Zoning Ordinance and as may be required under the Special Use Permit issued to the Permittee.

**866.06            MINIMUM OPERATIONAL STANDARDS FOR GROWER FACILITIES**

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 facility shall be subject to inspection by the City of Manistee Fire Department to insure compliance with all applicable statutes, codes and ordinances; and

- C. Multiple Grower Facility Permits in a single location shall be permitted, subject to approval of the same by the City Clerk.

**866.07 MINIMUM OPERATIONAL STANDARDS FOR SAFETY COMPLIANCE FACILITIES**

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 MMA and MMFLA or applicable Michigan law; and
- B. There shall be no other accessory uses permitted within the same facility other than those associated with testing marihuana.

**866.08 MINIMUM OPERATIONAL STANDARDS OF PROCESSOR FACILITIES**

The following minimum standards for Processor Facilities shall apply:

- A. All activity related to the Processor Facility shall occur indoors;
- B. Processor Facilities shall maintain a log book and/or database which complies with the MMA, as amended, and MMFLA or other applicable state laws;
- C. All marihuana shall be tagged as required by the MMA, the MMFLA or applicable state laws;
- D. That structure shall be subject to inspection at any time by the City of Manistee Fire Department to insure compliance with all applicable statutes, codes and ordinances; and
- E. Processor Facilities shall produce no products other than useable marihuana intended for human consumption.

**866.09 MINIMUM OPERATIONAL STANDARDS FOR SECURE TRANSPORTER FACILITIES**

The following minimum standards for Secure Transporter Facilities shall apply:

- A. Secure Transporters and each Secure Transporter Stakeholder shall not have an interest in a Grower, Processor, Provisioning Center or Safety 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 shall 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, or as may be otherwise required by the state of Michigan.

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 shall 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.

**866.10 LOCATION OF GROWER FACILITY, SAFETY COMPLIANCE FACILITY, PROCESSOR FACILITY AND SECURE TRANSPORTER FACILITY**

- A. All Grower Facilities, Safety Compliance Facilities, Processor Facilities and Secure Transporter Facilities shall only operate and be located within the permitted areas as provided for in the Zoning Ordinance.
- B. Multiple Facility Permits at a single location shall be permitted subject to the review and approval by the City Clerk and subject to the requirements of the state of Michigan.

**866.11 DENIAL AND REVOCATION**

- A. A Permit issued under this Ordinance may be revoked after an administrative hearing at which the City Clerk 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 the Applicant or any stakeholder of the Applicant of a controlled substance-related felony at any time, including prior to and after permitted under this Ordinance;
  3. City Clerk finding of fraud, 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 or in connection with the Application for a Permit or request to renew a Permit;
  4. Material failure to fulfill the business plan described in Section 866.04 C. 19 of this Ordinance.
  5. Sufficient evidence that the Permittee 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 Permit holder or any of its Stakeholders is in default to the City personally or in connection with any business in which they hold an ownership interest, for failure to pay property taxes, special assessments, fines, fees or other financial obligation;
  7. The marihuana facility is determined by the City to have become a public nuisance; or
  8. The Michigan Medical Marihuana Licensing Board has denied, revoked or suspended the applicant's state operating license.
- C. Should the City Clerk revoke a Permit, the Permittee shall have fourteen (14) days from the mailing of the written notice of revocation to appeal the decision to the City Manager. The City Manager may require additional information or act upon the appeal based upon the information supplied to the City Clerk. Should the City Manager reverse the decision of the City Clerk, the City Clerk shall reinstate permit. Should the City Manager affirm the decision of the City Clerk, he/she shall mail by first class mail a written notice affirming the decision to the address for the Permittee contained in the Clerk's records.
- D. Should the City Manager affirm the denial, revocation or suspension of a Permit by the City Clerk, the Permittee shall have fourteen (14) days from the mailing of the decision of the City Manager to appeal the decision to Council, by filing with the City Clerk a written notice of appeal. Council shall hear the appeal at its next regularly scheduled meeting, but no sooner than 7 days from the receipt of the appeal.

**866.12 PERMIT 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. Applications 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.

**866.13 APPLICABILITY**

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

**866.14 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 Permittee to restrain, prevent, or abate any violation of this Ordinance.
- C. This Ordinance shall be enforced and administered by the City Clerk, City of Manistee Police Officer, City Manager or such other city official as may be designated from time to time by resolution of the City Council.

**866.15 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.

**866.16 EFFECTIVE DATE**

This Ordinance shall take effect January 12, 2018 in accordance with law.

(Ord 18-01 adopted 1-2-18)