

ARTICLE IV. OFFENSES AGAINST PUBLIC SAFETY

Sec. 38-92 MEDICAL MARIHUANA FACILITIES

- (a) *Purpose.* The purpose of this Ordinance is to exercise the police regulatory powers of the City of Sturgis by licensing and regulating provisioning centers, grower facilities, safety compliance facilities, processor facilities, and secure transporter to the extent permissible under the State of Michigan and to protect the public health, safety and welfare of the residents of the City of Sturgis. It is not the purpose or intent of this Ordinance to diminish, abrogate, or restrict the protections for medical use of marihuana found in the Michigan Medical Marihuana Act or City Ordinance Sec. 38-91.
- (b) *Definitions.* The following words, terms and phrases when used in this Section shall have the meanings ascribed to them in this Subsection. Definitions from Section 38-93, when used in this section shall have the meanings ascribed to them in that Section when referring to Adult Use (Recreational) Marihuana:
- (1) “*Applicant*”, unless specifically stated to mean a state License, means an individual, organization, partnership, company, corporation enterprise, or other entity that applies for a Municipal License as well as the person or persons associated with the Applicant. For purposes of this definition, an Applicant includes a managerial employee of the Applicant, a person holding a direct or indirect ownership interest of more than 10% in the Applicant, and the following for each type of Applicant:
- For an individual or sole proprietorship: the proprietor and spouse.
 - For a partnership and limited liability partnership: all partners and their spouses.
 - For a limited partnership and limited liability limited partnership: all general and limited partners, not including a limited partner holding a direct or indirect ownership interest of 10% or less and who does not exercise control over or participate in the management of the partnership, and their spouses.
 - For a limited liability company: all members and managers, not including a member holding a direct or indirect ownership interest of 10% or less and who does not exercise control over or participate in the management of the company, and their spouses.
 - For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, and all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.
 - For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, and all

stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

- For a multilevel ownership enterprise: any entity or person that receives or has the right to receive more than 10% of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.
- For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

For purposes of this definition, an Applicant does not include:

- A person who provides financing to an applicant or licensee under a bona fide financing agreement at a reasonable interest rate.
 - A franchisor who grants a franchise to an applicant, provided that the franchisor does not have the right to receive royalties based upon the sale of marijuana or marijuana- infused products by the applicant who is a franchisee. Nothing herein shall be construed to preclude a franchisor from charging an applicant who is a franchisee a fixed fee. As used in this definition, the terms “franchise,” “franchisor,” and “franchisee” shall have the meanings set forth in section 2 of the Franchise Investment Law, 1974 PA 269, MCL 445.1502.
 - A person receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation.
 - A person receiving reasonable payment under a licensing agreement or contract concerning the licensing of intellectual property including, but not limited to, brands and recipes.
- (2) “*Application*” means an Application for a Permit under this Ordinance and includes all supplemental documentation attached or required to be attached thereto.
- (3) “*Application Documents*” means the items required as part of an Application submitted to the City prior to them being accepted as complete as provided in Subsection (e)(1).
- (4) “*Clerk*” means the City of Sturgis Clerk or his/her designee.
- (5) “*Co-Located Facility*” means marijuana businesses holding 2 or more types of state operating licenses under the MRTMA and MMFLA operating within a single location.
- (6) “*Commercial Medical Marijuana Facility*” or “*Facility*” means one of the following:

- i. “*Provisioning Center*,” as that term is defined in the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016 (“MMFLA”);
 - ii. “*Processor*,” as that term is defined in the MMFLA;
 - iii. “*Secure Transporter*,” as that term is defined in the MMFLA;
 - iv. “*Grower*,” including *Class A*, *Class B* and *Class C*, as those terms are defined in the MMFLA;
 - v. “*Safety Compliance Facility*,” as that term is defined in the MMFLA.
- (7) “*Department*” means the Michigan State Department of Licensing and Regulatory Affairs or any authorized designated Michigan agency authorized to regulate, issue or administer a Michigan License for a Commercial Medical Marihuana Facility.
 - (8) “*License*” means a current and valid License for a Commercial Medical Marihuana Facility issued by the State of Michigan.
 - (9) “*Licensee*” means a Person holding a current and valid Michigan License for a Commercial Medical Marihuana Facility.
 - (10) “*Marihuana*” means that term as defined in Section 7106 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106.
 - (11) “*Michigan Regulation and Taxation of Marihuana Act*” or MRTMA means Initiated Law 1 of 2018, MCL 333.27951 et. seq.
 - (12) “*Medical Marihuana*” means that term as defined in MCL 333.26423.
 - (13) “*Paraphernalia*” means drug paraphernalia as defined in section 7451 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7451, that is or may be used in association with Medical Marihuana.
 - (14) “*Patient*” means a “registered qualifying patient” or a “visiting qualifying patient” as those terms are defined by MCL 333.26421, et seq.
 - (15) “*Permit*” means a current and valid Permit for a Commercial Medical Marihuana Facility issued under this Ordinance, which shall be granted to a Permit Holder only for and limited to a specific Permitted Premises and a specific Permitted Property. Said Permit shall be in addition to the Special Use Permit required to be obtained under the City Zoning Ordinance.
 - (16) “*Permit Holder*” means the Person that holds a current and valid Permit issued under this Ordinance.

- (17) “*Permit Slot*” means an unissued permit available to be issued to an Applicant.
- (18) “*Permitted Premises*” means the particular building, buildings, or tenant space within which the Permit Holder will be authorized to conduct the Facility’s activities pursuant to the Permit.
- (19) “*Permitted Property*” means the real property comprised of a lot, parcel or other designated unit of real property upon which the Permitted Premises is situated.
- (20) “*Person*” means a natural person, company, partnership, profit or non-profit corporation, Limited Liability Company, or any joint venture for a common purpose.
- (21) “*Premises*” means the particular building, buildings, section of land, or tenant space within which a particular use is conducted.
- (22) “*Public Place*” means any area in which the public is invited or generally permitted in the usual course of business.
- (23) “*School*” means any property owned or leased by an elementary, parochial, private, or secondary school, including buildings, fields, or other property utilized by the school. Elementary, parochial, private and secondary schools are defined as in the City of Sturgis Zoning Code.
- (24) “*Stacked Permit*” means one or more additional Class C Grower Permits applied for or issued to either a single Applicant already requesting an initial Class C Grower Permit or a single Permit Holder with at least one Class C Grower Permit under this ordinance.

(c) *Permit Required; Eligibility; General Provisions.*

- (1) The City hereby authorizes the operation of the following types of Commercial Medical Marihuana Facilities:
 - i. Growers, Class A
 - ii. Growers, Class B
 - iii. Growers, Class C
 - iv. Processors
 - v. Provisioning Centers
 - vi. Safety Compliance Facilities
 - vii. Secure Transporters
 - viii. Co-Located Facilities as defined in this ordinance
- (2) The following number of Permits can be issued for each authorized Commercial Medical Marihuana Facility type:
 - i. Growers, Class A: Unlimited
 - ii. Growers, Class B: Unlimited

- iii. Growers, Class C: Unlimited
 - iv. Processors: Unlimited
 - v. Provisioning Centers in B-H 1 Zoning District: 3 Permits
 - vi. Provisioning Centers in M Zoning District: Unlimited
 - vii. Provisioning Centers in all other Districts: 0 Permits
 - viii. Safety Compliance Facilities: Unlimited
 - ix. Secure Transporters: Unlimited
- (3) No person shall operate a Commercial Medical Marihuana Facility at any time or any location within the City unless a currently-effective Permit for that person at that location has been issued under this Ordinance.
 - (4) Commercial Medical Marihuana Facilities shall operate only as allowed under this Ordinance.
 - (5) The City Manager is granted the power to fully and effectively implement and administer the Permit Application process.
 - (6) The requirements set forth in this Ordinance shall be in addition to, and not in lieu of, any other licensing or permitting requirements imposed by applicable federal, state or local laws, regulations, codes or ordinances.
 - (7) As specified in this Ordinance, each Applicant shall pay nonrefundable Review fees, Application fees, annual fees, renewal fees and inspection fees for Permits to the City to defray the costs incurred by the City for inspection, administration and enforcement of the local regulations regarding Commercial Medical Marihuana Facilities. The City Commission shall by resolution set the fees in an amount not to exceed any limitations imposed by Michigan law. The Permit fee requirement shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state or City law or ordinance, including, by way of example, any applicable zoning or building permits.
 - (8) The City has no obligation to process or approve any incomplete Application.
 - (9) A Permit shall remain valid for one year following removal of all stipulations on an issued Permit.
 - (10) It is the sole and exclusive responsibility of each Permit Holder or Applicant at all times during the Application period and during its operation to immediately provide the City with all material changes in any information submitted on an Application and any other changes that may materially affect any state License or its City Permit.
 - (11) No Permit issued under this Ordinance may be assigned or transferred to another person or entity except as specified in this Ordinance. No Permit issued under this Ordinance is transferrable to any other location except for the Permitted Premises on the Permitted Property.

- (12) The original Permit issued under this Ordinance shall be prominently displayed at the Permitted Premises in a location where it can be easily viewed by the public, law enforcement and administrative authorities.
 - (13) A Permit Holder may not engage in any other Commercial Medical Marihuana Facility in the Permitted Premises or on the Permitted Property, or in its name at any other location within the City, without first obtaining a separate Permit.
 - (14) No Permit shall be granted or renewed for a Commercial Medical Marihuana Facility in a residence.
 - (15) Co-Located Facilities are subject to state law for multiple uses per premises, subject to the City Manager or his designee's determination that such uses are compatible together at that location, are consistent on a shared basis with all the provisions of the MMFLA and each use is consistent with zoning and other provisions of the City Code of Ordinances. If these conditions are met, more than one different marihuana facility may be located on one parcel. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire wall separating any marihuana facility and any adjacent businesses.
 - (16) Stacked Permit. An Applicant that is requesting an initial Class C Grower Permit or a Permit Holder that has been issued a Class C Grower permit may apply for one or more Stacked Permits at the same Permitted Premise subject to all requirements of the MMFLA, administrative rules and local regulations. Each Stacked Permit is subject to all applicable fees for application and renewal. There are two categories for a Stacked Permit: Minor or Major.
 - i. Stacked Permit-Minor. A minor Stacked Permit is one that doesn't require changes to the Permitted Premise or Permitted Property and doesn't require changes to the information provided in the original Class C Grower Application. This permit type does not require an additional special land use permit approved by the Planning Commission and maybe approved by the Zoning Administrator.
 - ii. Stacked Permit-Major. A major permit is one that requires changes to the Permitted Premise or Permitted Property and/or has changes to the information provided in the original Class C Grower Application. This permit type must follow all of the application requirements and approvals.
- (d) *Other Laws and Ordinances.* In addition to the terms of the Ordinance, any Commercial Medical Marihuana Facility shall comply with all City Ordinances, including without limitation the City Zoning Ordinance, and with all other applicable federal, state and local ordinances, laws, codes and regulations. To the extent that the terms of this Ordinance are in conflict with the terms of any other applicable federal, state or local ordinances, laws, codes or regulations, the terms of the most restrictive ordinance, law, code or regulation shall control.

(e) *Application for and Renewal of Permits.*

- (1) *Application Documents.* Application Documents for a Permit for a Facility shall be submitted to the Zoning Administrator, and on or after the effective date of this Ordinance shall contain the following information. Information obtained from the Applicant is exempt from public disclosure under state law. Upon receipt, review, and approval as outlined in this Ordinance of all Application Documents by City staff, the Documents will be considered a complete Application.
- i. The name, address, phone number and email address of the Applicant and the proposed Commercial Medical Marihuana Facility;
 - ii. The names, home addresses and personal phone numbers for all Applicants and the Commercial Medical Marihuana Facility;
 - iii. One (1) copy of the following:
 - 1) Pre-approval for a Medical Marihuana Facility license by the State of Michigan.
 - 2) For Class A, B, or C Growers or Processors, preapproval from the Sturgis Electric Department of the electric system's ability to deliver the estimated peak capacity (kW) and energy (kWh) of the Facility.
 - 3) All documentation of the Applicant's valid tenancy, ownership or other legal interest in the proposed Permitted Property and Permitted Premises. If the Applicant is not the owner of the proposed Permitted Property and Permitted Premises, a notarized statement from the owner of such property authorizing the use of the property for a Commercial Medical Marihuana Facility.
 - 4) If the Applicant is a corporation, non-profit organization, Limited Liability Company or any other entity other than a natural person, indicate its legal status, attach a copy of all company formation documents (including amendments), proof of registration with the State of Michigan, and a certificate of good standing.
 - 5) A valid, unexpired driver's license or state issued ID for all Applicants for the proposed Facility.
 - 6) Evidence of a valid sales tax license for the business if such a license is required by state law or local regulations.
 - 7) Application for Sign Permit, if any sign is proposed.

- 8) Non-refundable Medical Marihuana Facility Application Document Review fee.
- 9) Business and Operations Plan, showing in detail the Commercial Medical Marihuana Facility's proposed plan of operation, including without limitation, the following:
 - a. A description of the type of Facility proposed and the anticipated or actual number of employees.
 - b. A security plan meeting the requirements of Subsection (f)(3) of this Ordinance.
 - c. A description by category of all products to be sold.
 - d. An affidavit indicating the Applicant will, prior to applying for a building permit:
 1. Submit a list of Material Safety Data Sheets for all nutrients, pesticides, and other chemicals proposed for use in the Facility.
 2. Submit a comprehensive report identifying all hazardous materials and processes that will be utilized by the Facility. This list must include all cleaning supplies, as well as chemicals used and/or produced either as products or as waste products in the processes at the establishment. The report shall determine the acceptability of technologies, processes, products, facilities, materials and uses attending the design, operation, or use of a building or premises. All hazardous materials and chemicals must be listed as to how to handle the disposal of these materials. The opinion and report shall be prepared by a qualified third person, firm or corporation approved by the City.
 3. Obtain a wastewater discharge permit before connecting to or contributing to the POTW. Refer to City of Sturgis Utilities Code, Subdivision II. Wastewater Discharge Permits, Section 62-191.
 - e. A description and plan of all equipment and methods that will be employed to stop any impact to adjacent uses, including enforceable assurances that no odor will be detectable from outside of the Permitted Premises.
 - f. A plan for the disposal of Marihuana and related byproducts that will be used at the Facility.

- 10) Whether any Applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.
 - 11) A site plan and interior floor plan of the Permitted Premises and the Permitted Property signed and sealed by a Michigan registered architect, or professional engineer. Site plan must include distance between the Permitted Premises and all applicable buffered uses identified in Subsection (f)(5) of this Ordinance, unless those uses are greater than 1,500 ft. from the Permitted Premises.
 - 12) The amount of water usage estimated for the facility, including the estimated average gallons per day and peak gallons per minute as well as estimated needs for fire suppression, if applicable.
 - 13) Information regarding any other Commercial Medical Marihuana Facility or Adult Use Recreational Marihuana Establishment that the Applicant or any of the Applicant's Owners directors, officers or managers is authorized to operate in any other jurisdiction within the State, or another State, and their involvement in each Marihuana Establishment or Medical Marihuana Facility.
- iv. Any other information reasonably requested by the City to be relevant to the processing or consideration of the Application.
- (2) *Review of Application Documents.* All Application Documents submitted by a potential Applicant will be reviewed by City staff for completeness with the requirements of Subsection (e)(1) of this Ordinance before being considered a complete Application. All Application Documents will be stamped or otherwise identified by City staff at the date and time they are submitted by a potential Applicant. Application Documents will be reviewed in the order they are received.
- i. City staff has ten (10) business days to review the Application Documents and determine if they are complete.
 - ii. Complete Application Documents will be accepted as an Application under this Ordinance and processed. A determination of a complete Application shall not prohibit the City from requiring supplemental information at any time during the Application process.

- iii. If Application Documents are found to be incomplete, the prospective Applicant will be notified in writing of the deficiencies and given ten (10) business days to correct those deficiencies.
 - 1) If the deficiencies are corrected within the ten (10) business days, the Application Documents will be considered complete and accepted as an Application under this Ordinance.
 - 2) If deficiencies are not corrected within the ten (10) business days, the Application Documents will be returned to the prospective Applicant. If the prospective Applicant wishes to re-submit Application Documents, they must be re-submitted in their entirety with a new Application Document Review fee. This re-submission will be considered a new set of Application Documents and will be date and time stamped for processing order at the date and time they are re-submitted.

(3) *Processing and Review of Applications.*

- i. An Application will be held for processing until a Permit Slot is available for the Facility type specified on the Application.
- ii. An Application will be considered for a Permit Slot in the order that its Application Documents were submitted.
- iii. When a Permit Slot is available for an Application, the Applicant will be notified and will be given five (5) business days to pay the Medical Marihuana Facility Application Fee. The Medical Marihuana Facility Application Document Review fee will be applied to the cost of the Medical Marihuana Facility Application Fee. If an Applicant does not pay the fee within the time allotted, the next Application in order will be issued the Permit Slot, and the first Application will be returned to the list of completed Applications as first in line for the next Permit Slot.
- iv. Upon payment of the Medical Marihuana Facility Application Fee by an Applicant with an Application issued a Permit Slot, the Zoning Administrator shall refer a copy of the Application to the Department Head or designated staff person of the following for their review and approval: the Police Department, the Fire Department, the Wastewater Treatment Department, the City Engineer, the Electric Department, the Building Department, the Zoning Department, and any other applicable departments.
- v. In order for a Medical Marihuana Facility Application to be approved, all of the following conditions must be met:

- 1) The Applicant has passed a criminal background check conducted by the City of Sturgis Police Department.
 - 2) The Wastewater Treatment Department has completed a preliminary review of the plan submitted.
 - 3) The Engineering Department has confirmed that the necessary amount of water for the facility is available and completed a preliminary review of the plan submitted.
 - 4) The Electric Department has reviewed all provided plans to ensure conformity with their previously supplied determination on the ability to supply the proposed Facility and general site requirements.
 - 5) The Zoning Department has confirmed that the proposed location complies with the buffer requirements, and a preliminary review of the plan submitted.
 - 6) A Special Land Use Permit application has been submitted, Permit fees have been paid, and the Special Land Use Permit has been approved by the Planning Commission.
 - 7) The Applicant must not have a 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 ten (10) years or conviction of a controlled substance-related felony within the past ten (10) years.
 - 8) The Applicant must not have, within the past five (5) years, conviction of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or having been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state.
 - 9) The Applicant has not knowingly submitted an application for a state License that contains false, misleading or fraudulent information, or has not intentionally omitted pertinent information on the Application for a Permit.
- vi. Following review by City Departments and prior to approval of a Special Land Use Permit, if deficiencies are found in the Application, the Applicant is notified in writing of the areas of deficiency and given thirty (30) days to correct those deficiencies. If the deficiencies are considered by City staff to be corrected, the Applicant's Special Land Use Permit will be considered by the Planning Commission. If the deficiencies are not considered to be corrected within the thirty (30) day time period, the Application will be denied.

- vii. All inspections, review and processing of the Application shall be completed within ninety (90) days of payment of the Medical Marihuana Facility Application Fee or within one hundred twenty (120) days if the location of the Permitted Premises is proposed to be amended from an existing permitted location. The processing time may be extended upon written notice by the City for good cause, and any failure to meet the required processing time shall not result in the automatic grant of the Permit.
- viii. If all conditions of this Ordinance have been met, the City Clerk shall issue the Permit to the Applicant.
 - 1) All Permits issued have the following stipulations:
 - a. Issuance of License Qualification by the State of Michigan for the Permit Holder under State law and the City of Sturgis receiving a copy of that License Qualification prior to occupancy.
 - b. Issuance of final occupancy of the Permitted Premises by the Community Development Department. All construction must be in accordance with applicable zoning ordinances, building codes, and any other applicable state or local laws, rules or regulations.
 - c. For Processors and Class A, B, and C Growers proposing to connect to or to contribute to the POTW, a wastewater discharge permit. Refer to City of Sturgis Code of Ordinances Section 62-191.
 - d. Issuance of Final Approval by the State of Michigan and the City of Sturgis receiving a copy of the Final Approval prior to the business opening.
 - 2) A Permit Holder has one (1) year from the date of issuance to meet all stipulations of the Permit. If all stipulations are not met in this timeframe, the Permit is revoked and considered denied. A Permit Holder may request an extension up to six (6) months to this timeframe, which may be granted by the City Clerk.
 - a. If a permit holder has been issued an extension, a building permit has been issued for the permitted premise and construction is ongoing or completed, but they have not satisfied all the stipulations of the permit, the permit holder may apply for an extension request with the City Commission.
- ix. If a Permit is denied, the denial must be in writing and must state the reason(s) for denial.

- 1) Applications which are denied will not be refunded the Medical Marihuana Facilities Application Fee.
 - 2) Upon denial of the Application, the Permit Slot is considered open and the next Application in line is given the Permit Slot.
 - 3) If the Applicant of a denied Application chooses to re-submit, this re-submission will be considered a new set of Application Documents and will be date and time stamped for processing order at the date and time they are re-submitted. A new Medical Marihuana Application Document Review Fee and all other subsequent fees will be required.
- x. Denial of an Application or non-renewal of a Permit may be appealed to the City Manager who will set a date and time within ten (10) business days to conduct a hearing where the Applicant can be heard. The City Manager may uphold the denial, reverse the denial, or take such other action deemed appropriate. Appeals from the final determination of the City may be taken to a court of competent jurisdiction; during appeal, another Applicant for a Municipal License Slot may be considered by the City.
- (4) *Renewal Application.* Renewal Applications shall require City approval.
- i. Renewal Applications for a Medical Marihuana Facility maintaining the location of the Permitted Premises shall be received by the Zoning Administrator not less than ninety (90) days prior to the expiration of the annual Permit. Renewal Applications for a Medical Marihuana Facility requesting a change in the location of the Permitted Premises shall be submitted and received not less than one hundred twenty (120) days prior to the expiration of the Permit.
 - ii. A Renewal Application must follow the same approval process as all new Applications with the exception of the following:
 - 1) A Permit Holder that submits an application for a Renewal Permit at a previously Permitted Premises shall be deemed in compliance with the spacing requirements set forth in Subsection (f)(5) of this Ordinance.
 - 2) For any information required as part of the Application process that has not changed, the Permit Holder may submit an Affidavit of No Changes in place of the information when submitting a Renewal Application. If any of the items requested in the Application process has changed, such items must be submitted as required in this Ordinance.

- 3) A Permit Holder, as a stipulation of a renewal Permit issued by the City, must provide proof of having submitted a License renewal application no later than thirty (30) days after expiration of their State License. Once a renewed State License has been granted, a copy must be provided to the City of Sturgis.
 - 4) A renewal Permit issued by the City takes effect on the date of expiration of the original Permit issued and the Permit Holder has one year from that date until renewal is again required.
- iii. A Permit Holder whose Permit expires and for which a complete Renewal Application has not been received by the expiration date shall be deemed to have forfeited the Permit under this Ordinance. They will be considered denied and their Permit Slot will be issued to the next Application in line. The City will not accept Renewal Applications after the expiration date of the Permit.
 - iv. A Permit Holder issued a renewal Permit by the City that is either denied a renewal license by the State of Michigan or that does not meet all stipulations within six (6) months of the renewal permit being issued will have their Permit revoked and considered denied. Their Permit Slot will be issued to the next Application in line.
- (5) *Changes to Application or Permit.*
- i. If at any time before or after a Permit is issued pursuant to this Ordinance, any information required in the Permit Application, the MMFLA, MRTMA, or any rule of regulation promulgated thereunder, changes in any way from that which is stated in the Application, the Applicant or Permit Holder shall supplement such information in writing with ten (10) days from the date upon which such change occurs.
 - 1) Changes to a new application will be considered a minor or major change as determined by the Zoning Administrator.
 - a. Minor changes include a change to person or persons associated with the Applicant, additional MSDS pages being provided, updating power, water or waste water calculations or other similar information. Minor changes will be accepted as part of the Application.
 - b. Major changes include changing the location of the facility whether it be to a different site or changing the size of any new buildings, a change of Facility type, a change of Applicant entity, or other similar changes. A major change will result in the

Application being returned to the Applicant. If the Applicant wishes to re-submit, the re-submission will be considered a new set of Application Documents and will be date and time stamped for processing order at the date and time they are re-submitted. Any fees will not be waived.

- ii. An Applicant or Permit Holder has a duty to notify the City in writing of any pending criminal charge, and any criminal conviction of a felony or other offense involving a crime of moral turpitude by the Applicant, any owner, principal officer, director, manager, or employee within ten (10) days of the event.
- iii. An Applicant or Permit Holder has a duty to notify the City in writing of any pending criminal charge, and any criminal conviction, whether a felony, misdemeanor, petty offense, or any violation of a local law related to the cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of marihuana, the MMMA, the MMFLA, the MRTMA, any building, fire, health or zoning statute, code or ordinance related to the cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of marihuana by the Applicant, any owner, principal officer, director, manager, or employee within (10) ten days of the event.
- iv. A Permit may be assigned or transferred only if all of the following are true:
 - 1) A Permit has been issued and all stipulations for that Permit have been met, including written final approval by the State of Michigan for State Licensure.
 - 2) All current Permit Holders submit an affidavit approving the transfer.
 - 3) The person(s) or entity proposed to receive the transferred Permit submit Application Documents and are issued a Permit Transfer Approval. Issuance of a Permit Transfer Approval includes the following:
 - a. Certification of a completed Application as per the process of this Ordinance. The Applicant may submit an affidavit of no change to the Permitted Premises to forego the Application requirements as it pertains to the Permitted Premises if no physical changes will be completed as part of the assignment or transfer.
 - b. Payment of a Permit Transfer review fee as set by the City Commission.
 - c. Review of the Application per Subsection (e)(3)iv.-vii. If an affidavit of no change to the Permitted Premises is submitted,

review of corresponding information and the requirement for a Special Land Use Permit would be considered satisfied.

- d. Issuance or denial of the Permit Transfer Approval will be completed as per subsection (e)(3)viii.-x. Stipulations of viii.1) will be considered met when the Applicant has all required licenses or permits in their name. Where an affidavit of no change to the Permitted Premises has been filed, the stipulation for a required proof of final occupancy will be waived.
 - e. Until the Permit Transfer Approval is issued, the existing Permit will remain with the current Permit Holder. Transfer of the Permit will not change its date of expiration.
- (6) *Expiration of Application.* If an Application has been held waiting for a permit slot for one (1) year, the City will contact the Applicant and request in writing confirmation that the Application is accurate and that the Application should be kept on file. If the Applicant asks the Application to be removed, or if confirmation in writing is not received in ten (10) business days, the Application will be removed from the list of Applications and a letter sent to the Applicant. If the Applicant wishes to re-submit after this point, this re-submission will be considered a new set of Application Documents and will be date and time stamped for processing order at the date and time they are re-submitted. A new Medical Marihuana Application Document Review Fee will be required.
- (f) *Operational Requirements – Commercial Medical Marihuana Facilities.* A Commercial Medical Marihuana Facility issued a Permit under this Ordinance and operating in the City shall at all times comply with the following operational requirements, which the City may review and amend from time to time as it determines reasonable.
- (1) *Scope of Operation.* Commercial Medical Marihuana Facilities shall comply with all respective applicable codes of the local zoning, building, and health departments. The Facility must hold a valid local Permit and State Commercial Medical Marihuana Facility License for the type of Commercial Medical Marihuana Facility intended to be carried out on the Permitted Property. The Facility operator, owner or Licensee must have documentation available that local and State sales tax requirements, including holding any licenses, if applicable, are satisfied.
 - (2) *Required Documentation.* Each Commercial Medical Marihuana Facility shall be operated from the Permitted Premises on the Permitted Property. No Commercial Medical Marihuana Facility shall be permitted to operate from a moveable, mobile or transitory location, except for a Permitted and Licensed Secure Transporter when engaged in the lawful transport of Marihuana. No person under the age of eighteen (18) shall be allowed to enter into the Permitted Premises without a parent or legal guardian.

- (3) *Security.* Permit Holders shall at all times maintain a security system that meets State law requirements, and in addition shall also include the following:
- i. Robbery and burglary alarm systems which are professionally monitored and operated twenty-four (24) hours a day, seven (7) days a week and which will contact local law enforcement if triggered;
 - ii. A locking safe permanently affixed to the Permitted Premises that shall store all Marihuana and cash remaining in the Facility overnight;
 - iii. All Marihuana in whatever form stored at the Permitted Premises shall be kept in a secure manner and shall not be visible from outside the Permitted Premises, nor shall it be grown, processed, exchanged, displayed or dispensed outside the Permitted Premises; and
 - iv. All security recordings and documentations shall be preserved for at least thirty (30) days by the Permit Holder and made available to any law enforcement upon request for inspection.
- (4) *Operating Hours.* No Provisioning Center shall operate between the hours of 8:00 p.m. and 8:00 a.m.
- (5) *Required Spacing.* The following spacing requirements for Medical Marihuana Facilities are present:
- i. No Commercial Medical Marihuana Facility shall be located within one thousand (1,000) feet from any school.
 - ii. No Provisioning Center shall be located within two hundred and fifty (250) feet from any of the following:
 - 1) Public Park.
 - 2) Church or house of worship.
 - 3) City of Sturgis property zoned R-1, R-2, R-3, R-4, or R-5.
 - 4) Burr Oak Township property zoned R1, R2, or R3.
 - 5) Fawn River Township property zoned R1, R2, RMH, or RL.
 - 6) Sherman Township property zoned RR, RP, MDR, WR, or MHC.
 - 7) Sturgis Township property zoned R1, R2, R3, or MHP.
 - 8) City dwelling units (as defined in the City of Sturgis Zoning Code) in a zoning district other than listed in (f)(5) ii. 3).
 - 9) Township dwelling units (as defined in the City of Sturgis Zoning Code) in a zoning district other than listed in (f)(5) ii. 4) through 7) above.
 - iii. The distances provided in this Subsection shall be measured by following a straight line, without regard to intervening buildings, from the nearest point

of the Permitted Premises at which the proposed Medical Marihuana Facility is to be located to the nearest point of one of the following:

- 1) The lot line of the separated use, when:
 - a. A school, public park, church, or house of worship is the only use on the parcel.
 - b. A parcel is zoned in one of the districts listed in Subsections (f)(5) ii. 3) through 7).
- 2) The premises of the separated use, when:
 - a. A school, public park, church, or house of worship is one of multiple uses on the parcel.
 - b. Measuring from (f)(5) ii. 8) or 9).
- iv. Spacing requirements become effective upon issuance of a Municipal License or Medical Marihuana permit whether conditional or not.
- (6) *Amount of Marihuana.* The amount of Marihuana on the Permitted Property and under the control of the Permit Holder, owner or operator of the Facility shall not exceed that amount permitted by the state License or the City's Permit.
- (7) *Sale of Marihuana.* The Marihuana offered for sale and distribution must be packaged and labeled in accordance with state law. The Facility is prohibited from selling, soliciting or receiving orders for Marihuana or Marihuana Products over the internet.
- (8) *Sign Restrictions.* No pictures, photographs, drawings or other depictions of Marihuana or Marihuana Paraphernalia shall appear on the outside of any Permitted Premises nor be visible outside of the Permitted Premises on the Permitted Property. The words "Marihuana," "Marijuana," "cannabis" and any other words used or intended to convey the presence or availability of Marihuana shall not appear on the outside of the Permitted Premises nor be visible outside of the Permitted Premises on the Permitted Property. Permit Holders shall not advertise in a way that is inconsistent with the provisions of the MMFLA, LARA rules, or the City of Sturgis Zoning Ordinance.
- (9) *Use of Marihuana.* The sale, consumption or use of alcohol or tobacco products on the Permitted Premises is prohibited. Smoking or consumption of controlled substances, including Marihuana, on the Permitted Premises is prohibited.
- (10) *Indoor Operation.* All activities of Commercial Medical Marihuana Facilities, including without limitation, distribution, growth, cultivation, or the sale of Marihuana, and all other related activity permitted under the Permit Holder's License

or Permit must occur indoors. The Facility's operation and design shall minimize any impact to adjacent uses, including the control of any odor by maintaining and operating an air filtration system so that no odor is detectable outside the Permitted Premises.

- (11) *Unpermitted Growing.* A Patient or Licensed Caregiver may not grow his or her own Marihuana at a Commercial Medical Marihuana Facility.
- (12) *Distribution.* No person operating a Facility shall provide or otherwise make available Marihuana to any person who is not legally authorized to receive Marihuana under state law.
- (13) *Permits.* All necessary building, electrical, plumbing, and mechanical permits must be obtained for any part of the Permitted Premises in which electrical, wiring, lighting or watering devices that support the cultivation, growing, harvesting or testing of Marihuana are located.
- (14) *Waste Disposal.* The permit holder, owner and operator of the Facility shall use lawful methods in controlling waste or by-products from any activities allowed under the License or Permit. All waste or by-products stored must be contained in a dumpster that is locked or located within a locked enclosure.
- (15) *Proof of Insurance.* A Permit Holder shall at all times maintain full force and effect for duration of the license, worker's compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000 per occurrence and a \$2,000,000 aggregate limit issued from a company licensed to do business in Michigan. A Permit Holder shall provide proof of insurance to the City Clerk in the form of a certificate of insurance evidencing the existence of a valid and effective policy which discloses the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, the policy number, and the names of the additional insureds. The policy shall name the City of Sturgis and its officials and employees as additional insureds to the limits required by this Subsection. A licensee or its insurance broker shall notify the City of any cancellation or reduction in coverage within seven days of receipt of insurer's notification to that effect. The licensee, permittee, or lessee shall forthwith obtain and submit proof of substitute insurance to the City Clerk within five (5) business days in the event of expiration or cancellation of coverage.
- (16) *Transportation.*
 - i. Marihuana may be transported by a Secure Transporter within the City under this Ordinance, and to effectuate its purpose, only:
 - 1) By Persons who are otherwise authorized by state law to possess Marihuana for medical purposes;
 - 2) In a manner consistent with all applicable state laws and rules, as

amended; and

- 3) In a secure manner designed to prevent the loss of Marihuana.
 - ii. No vehicle used for the transportation or delivery of Marihuana under this Ordinance shall have for markings the words “Marihuana”, “Marijuana” or “cannabis” or any similar words; pictures or other renderings of the Marihuana plant; advertisements for Marihuana or for its sale, transfer, cultivation, delivery, transportation or manufacture, or any other word, phrase or symbol indicating or tending to indicate that the vehicle is transporting Marihuana.
 - iii. No vehicle may be used for the ongoing or continuous storage of Marihuana, but may only be used incidental to, and in furtherance of, the transportation of Marihuana.
- (17) Additional Conditions. The City may impose such reasonable Terms and Conditions on a Commercial Medical Marihuana Facility special use as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Ordinance and applicable law.
- (g) *Penalties and Consequences for Violation.* In addition to any other penalties or legal consequences provided under applicable federal, state and local law, regulations, codes and ordinances:
- (1) Violations of the provisions of this Ordinance or failure to comply with any of the requirements of this Ordinance shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of the requirements of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined no more than five hundred and 00/100 (\$500.00) dollars, or imprisoned for not more than ninety (90) days, or both, and, in addition, shall pay all costs and expenses involved. Each day such violation continues shall be considered a separate offense.
 - (2) Violations of the provisions of this Ordinance or failure to comply with any of the requirements of this Ordinance shall constitute a civil infraction. The fine for any civil infraction shall be five thousand dollars (\$5,000.00) plus court costs, attorney fees and abatement costs of each violation, together with all other remedies pursuant to MCL 600.8701, *et seq.* Each day a violation continues shall be deemed a separate civil infraction.
 - (3) The owner of record or tenant of any building, structure or premises, or part thereof, and any architect, builder, contractor, agent or person who commits, participates in, assists in or maintains such violation may each be found guilty or responsible of a separate offense and suffer the penalties and forfeitures provided in Subsections (1) and (2) directly above, except as excluded from responsibility by state law.

- (4) In addition to any other remedies, the City may institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any violations of this Ordinance. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine, jail sentence or forfeiture shall not exempt the violator from compliance with the provisions of this Ordinance.
- (h) *City liability and indemnification.*
- (1) By accepting a Permit issued pursuant to this Ordinance, the Permit Holder waives and releases the City, its officers, elected officials, and employees from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of Medical Marihuana Facility owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.
- (2) By accepting a Permit issued pursuant to this Ordinance, all Permit Holders agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising on account of bodily injury, sickness, disease, death, property loss or damage or any other loss of any kind, including but not limited to, any claim of diminution of property value by a property owner whose property is located in proximity to a Permitted Property, arising out of, claimed to have arisen out of, or in any manner connected with the operation of a marihuana establishment or use of a product cultivated, processed, distributed or sold that is subject to the Permit, or any claim based on an alleged injury to business or property by reason of a claimed violation of the federal Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. Section 1964(c) or any other alleged violation of the law
- (3) By accepting a Permit issued pursuant to this Ordinance, a Permit Holder agrees to indemnify, defend and hold harmless the City, its officers, elected officials, employees and insurers, against all liability, claims, penalties, or demands arising on account of any alleged violation of any existing law including the federal Controlled Substances Act, 21 U.S.C. Section 801 et seq. or Chapter 7 of the Michigan Public Health Code, MCL 333. 7101 et. seq.
- (i) *Permit as revocable privilege.* A Permit granted by this Ordinance is a revocable privilege granted by the City and is not a property right. Granting a Permit does not create or vest any right, title, franchise, or other property interest. Each Permit is exclusive to the Permit Holder, and a Permit Holder or any other person must apply for and receive the City's approval before a Permit is transferred, sold, or purchased. A Permit Holder or any other person shall not lease, pledge, or borrow or loan money against a Permit. The attempted transfer, sale, or other conveyance of an interest in a Permit without prior state and local approval is grounds for suspension or revocation of the Permit or for other sanction considered appropriate by the City.

(j) *Nonrenewal, suspension or revocation of Permit.* The City may, after notice and hearing as provided in Subsection (e)(3)x of this Ordinance, suspend, revoke, or refuse to renew a Permit for any of the following reasons:

- (1) The Applicant or Permit Holder, or his or her agent, manager or employee, has violated, does not meet, or has failed to comply with, any of the terms, requirements, conditions or provisions of this Section or with any applicable state or local law or regulation;
- (2) The Applicant or Permit Holder, or his or her agent, manager or employee, has failed to comply with any special terms or conditions of its Permit pursuant to an order of the state or local licensing authority, including those terms and conditions that were established at the time of issuance of the Permit and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the Permit.
- (3) The Medical Marihuana Facility has been operated in a manner that adversely affects the public health, safety or welfare.

Evidence to support a finding under this Subsection may include, without limitation, a continuing pattern of conduct, a continuing pattern of drug-related criminal conduct within the premises of the Medical Marihuana Facility or in the immediate area surrounding such Facility, a continuing pattern of criminal conduct directly related to or arising from the operation of the Facility, or an ongoing nuisance condition emanating from or caused by the Facility. Criminal conduct shall be limited to the violation of a state law or regulation or City ordinance.

(k) *Authorization to inspect, search and examine.* A Medical Marihuana Facility and all articles of property in the Facility are subject to inspection, search and examination at any time by a member of the Sturgis Police Department, the Department of State Police, or the Sturgis Building Department and the Application for a Permit constitutes consent by the Applicant, and all owners, managers, and employees of the Marihuana Establishment, and the owner of the property to permit the City Manager to conduct routine examination and inspection of the Marihuana Establishment to ensure compliance with this Ordinance or any other applicable law, rule, or regulation without a search warrant and consent to seizure of any surveillance records, camera recordings, reports, or other materials required as a condition of a Municipal License without a search warrant.

(l) *Severability.* The provisions of this Ordinance are hereby declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.