

OWOSSO

Planning Commission



Regular Meeting
6:30pm, Monday, March 26, 2018
Owosso City Council Chambers



MEMORANDUM

301 W. MAIN ▪ OWOSSO, MICHIGAN 48867-2958 ▪ WWW.CI.OWOSSO.MI.US

DATE: March 23, 2018
TO: Chairman Wascher and the Owosso Planning Commission
FROM: Susan Montenegro, Asst. City Manager / Director of Community Development
RE: Regular Planning Commission Meeting: March 26, 2018

The planning commission shall convene at 6:30 pm on Monday, March 26, 2018 in the city council chambers of city hall.

A public hearing is scheduled regarding the amending of Section 29-19 in the zoning ordinance reinstating the previous five foot setback requirement for signs next to right-of-ways.

The commission will also continue the discussion of the attached draft language for Medical Marihuana Facilities within the city of Owosso. The city attorney has also been working on additional draft language that should be incorporated into this ordinance. Scott's additional language will be presented Monday evening for your consideration. In the meantime, I have included changes to the draft ordinance to date, either as a strike through or in **red** as an addition.

We will also take a look at the process of updating the master plan. I have included the MEDC's guide for this process for your reference. A physical copy of the master plan was handed out at last month's meeting; a copy is available for those of you who were absent.

Please take a moment to read through the packet; we have much to discuss!

Please **RSVP for the meeting**. Feel free to contact me at 989.725.0544 if you have questions.

Enjoy your weekend!

Sue

AGENDA
Owosso Planning Commission
Regular Meeting
Monday, March 26, 2018 at 6:30 p.m.
Council Chambers – Owosso City Hall
Owosso, MI 48867

CALL MEETING TO ORDER:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

APPROVAL OF AGENDA: March 26, 2018

APPROVAL OF MINUTES: February 26, 2018

COMMUNICATIONS:

1. Staff memorandum.
2. PC minutes from February 26, 2018.
3. Sign ordinance, section 26-19 / public hearing notice
4. Draft ordinance for Medical Marihuana.
5. Letter to planning commission – Pollicella & Associates, PLLC
6. Master Plan update guide from MEDC

COMMISSIONER/PUBLIC COMMENTS:

PUBLIC HEARING:

1. Sign ordinance amendment, section 26-19

SITE PLAN REVIEW:

1. None.

BUSINESS ITEMS:

1. None.

ITEMS OF DISCUSSION:

1. Draft ordinance language for Medical Marihuana Facilities Licensing. Look at proposed ordinance language and discuss.
2. Master Plan update review process. Discuss the timeline and implementation strategy necessary to update the current master plan.

COMMISSIONER/PUBLIC COMMENTS:

ADJOURNMENT: **Next meeting will be Monday, April 23, 2018**

Commissioners, please call Sue at 725-0544 if you will be unable to attend the meeting on Monday, March 26, 2018.

[The City of Owosso will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audiotapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting/hearing upon seventy-two (72) hours notice to the City of Owosso. Individuals with disabilities requiring auxiliary aids or services should contact the City of Owosso by writing or calling the following: Amy Kirkland, City Clerk, 301 W. Main St, Owosso, MI 48867 (989) 725-0500]. The City of Owosso website is: www.ci.owosso.mi.us

Affirmative Resolutions
Owosso Planning Commission
Regular Meeting
Monday, March 26, 2018 at 6:30 p.m.
Council Chambers – Owosso City Hall
Owosso, MI 48867

Resolution 180326-01

Motion: _____
Support: _____

The Owosso Planning Commission hereby approves the agenda of March 26, 2018 as presented.

Ayes: _____
Nays: _____

Approved: ____ Denied: ____

Resolution 180326-02

Motion: _____
Support: _____

The Owosso Planning Commission hereby approves the minutes of February 26, 2018 as presented.

Ayes: _____
Nays: _____

Approved: ____ Denied: ____

Resolution 180326-03

Motion: _____
Support: _____

The Owosso Planning Commission, finding the request to be in conformance with the criteria for a zoning change, hereby recommends approval of a proposed amendment to Chapter 26, Signs, Section 26-19 (1) a of the Code of the City of Owosso, as attached, reducing the required setback from any public or private street right-of-way to five (5) feet.

Ayes: _____
Nays: _____

Approved: ____ Denied: ____

Motion: _____
Support: _____

The Owosso Planning Commission hereby adjourns the March 26, 2018 meeting, effective at _____pm.

Ayes: _____
Nays: _____

Approved: ____ Denied: ____

**MINUTES
REGULAR MEETING OF THE OWOSSO PLANNING COMMISSION
COUNCIL CHAMBERS, CITY HALL
MONDAY, FEBRUARY 26, 2018 – 6:30 P.M.**

CALL TO ORDER: Chairman Wascher called the meeting to order at 6:30 p.m.

PLEDGE OF ALLEGIANCE: Recited.

ROLL CALL: Tanya Buckelew

MEMBERS PRESENT: Chairman Wascher, Vice-Chair Livingston, Secretary Janae Fear, Commissioners Jake Adams, Tara Jenkins, and Dan Law.

MEMBERS ABSENT: Commissioners Tom Cook and Tom Taylor

OTHERS PRESENT: Assistant City Manager Susan Montenegro, City Attorney Scott Gould, Mark Hanna, Hilary Dulany, Jackie Langworth.

APPROVAL OF AGENDA:
MOTION BY VICE-CHAIR LIVINGSTON, SUPPORTED BY SECRETARY FEAR TO APPROVE THE AGENDA FOR FEBRUARY 26, 2018.

YEAS ALL. MOTION CARRIED.

APPROVAL OF MINUTES:
MOTION BY VICE-CHAIR LIVINGSTON, SUPPORTED BY SECRETARY FEAR TO APPROVE THE MINUTES FOR THE JANUARY 22, 2018 MEETING.

YEAS ALL. MOTION CARRIED.

- COMMUNICATIONS:**
1. Staff memorandum.
 2. PC minutes from January 22, 2018
 3. Sign ordinance, section 26-19
 4. Paula Givens email – presentation materials
 5. Draft ordinance for Medical Marihuana

COMMISSIONER/PUBLIC COMMENTS:
None

PUBLIC HEARING:
None

SITE PLAN REVIEW:
None

- BUSINESS ITEMS:**
1. ZBA recommendation to review section 26-19 of the sign ordinance and consider returning to former five foot clearance from the right-of-way.

ZBA heard a case from Agnew Graphics regarding the new sign he would like to install but does not meet the revised sign ordinance 10 foot setback. The previous ordinance had the setback at 5 feet and due to MDOT widening Shiawassee Street two times in the past 18 years, created this additional hardship. The current setback of 10 feet from the public right-of-way would also create hardships for many business owners in town who have signs that meet the former setback requirements but not the current.

MOTION BY VICE-CHAIR LIVINGSTON, SUPPORTED BY SECRETARY FEAR TO HOLD A PUBLIC HEARING AT THE MARCH 26, 2018 PLANNING COMMISSION MEETING TO AMEND SECTION 26-19 OF THE SIGN ORDINANCE CHANGING THE CURRENT 10 FOOT SETBACK REQUIREMENT FROM PUBLIC RIGHT-OF-WAYS TO A 5 FOOT SETBACK REQUIREMENT.

RCV YEAS ALL MOTION CARRIED

ITEMS OF DISCUSSION:

1. Presentation by Paula Givens, attorney with Cannabis Legal Group.

Ms. Givens presented the Planning Commission options on how to handle the issue of provisioning center licenses. First come first serve, scoring criteria or being pre-qualified with the State before applying to the city. She stated that first come first serve is not a good idea as with the prequalified with the State, as State may take too long on their paperwork. She presented option for scoring criteria. Also discussed the buffer zone and to try not to set too far away from schools, as it could prohibit economic growth in certain areas of the city.

2. Draft ordinance language for Medical Marihuana Facilities Licensing. Continued the discussions of the proposed ordinance language.

- A revised draft from the January 2018 meeting was discussed.
- Ms. Montenegro will restructure the ordinance as to keeping it uniform as in the 5 types of licenses run in order throughout the ordinance.
- Page 3 Sec 1004 – B 1-8: List out details of the information needed on application. It was questioned if this needed to be spelled out in the ordinance. If a change was made to the application, then the ordinance would have to be amended. Attorney Gould will check into this.
- Page 7 E 3: Some discussion regarding the wording of the sentence.
- Page 7 A 1: Minimum Yard Depth/Distance from Lot Lines: Remove and use wording to refer to the Zoning Ordinance.
- Page 8 B 6: Buffer Zones: Wording was added based on the Michigan Liquor Control guidelines. The word church is to be removed. Attorney Gould suggested keeping the formula and figure out the distance the community wants.
- Page 8 B 6: Buffer Zones: a. change 500 feet to 200 feet and b. change 500 feet to 100 feet.
- Discussion was held on the application selection. Suggested an open application period with an ending date, then use scoring criteria to pick license.
- At the March 26, 2018 meeting, the Planning Commission will work on developing the process.

COMMISSIONER/PUBLIC COMMENT:

Mark Hanna suggested some changes. Page 7 A 1: change setbacks to match zoning ordinance.

Page 4 C – provisional wording is possibly incorrect? Page 3 Sec 1004: suggested removing #1-#8.
How do you recognize someone who is truly a viable candidate?

Jackie Langworth spoke of the changes that were missed from the last meeting regarding setback requirements to mirror the Zoning Ordinance. Does not recommend using the scoring system.

Hillary Dulany spoke about the application process. Difficult to grade an applicant subjectively. Applicants need experience, previous licensed issued, good track record on growth and bringing in jobs. Planning Commission has control on how to set standards on exterior of the buildings.

ADJOURNMENT:

**MOTION BY VICE-CHAIR LIVINGSTON, SUPPORTED BY COMMISSIONER ADAMS TO ADJOURN
AT 8:34 P.M. UNTIL THE NEXT MEETING ON MARCH 26, 2018.**

YEAS ALL, MOTION CARRIED.

Janae L. Fear, Secretary

Sec. 26-19. - General standards for permitted signs.

Signs which are permitted as accessory uses serving a commercial or informational purpose may be permitted subject to the requirements of this chapter; provided, that no such sign shall be erected or altered until approved by the building official/zoning administrator and until a sign permit has been issued pursuant to chapter 26 of the City of Owosso Code of Ordinances.

(1) *Sign setbacks.*

- a. All signs, unless otherwise provided for, shall be set back a minimum of **five (5) feet** from any public or private street right-of-way line or access drive in all districts. This distance shall be measured from the nearest edge of the sign, measured at a vertical line perpendicular to the ground to the right-of-way.

OFFICIAL NOTICE OF CITY OF OWOSSO

ORDINANCE AMENDMENT WORKSHOP

A public workshop will be held on Monday, March 26, 2018 at or about 6:30 pm to receive citizen comment regarding the proposal to amend Chapter 26-19 (1) a., General standards for permitted signs, of the Code of the City of Owosso. The proposed ordinance amendment will reduce the setback requirement of ten (10) feet from any public right-of-way to five (5) feet. A copy of the ordinance is available in the city clerk's office, located at 301 W. Main Street or online at the city Website.

MEETING INFORMATION: Owosso City Planning Commission regular meeting on Monday, March 26, 2018. The meeting will be held in the lower level of the Owosso City Hall at or soon after 6:30 p.m.

WRITTEN COMMENTS: Written comments may be submitted to the city clerk's office at city hall or to Susan Montenegro at susan.montenegro@ci.owosso.mi.us any time prior to the meeting.

Further information on this case is on file in the Community Development Office for your review.

Susan Montenegro
Assistant City Manager / Director of Community Development
989.725.0544
susan.montenegro@ci.owosso.mi.us

The City of Owosso will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio recordings of printed materials being considered at the meeting, to individuals with disabilities at the meeting/hearing upon seventy-two (72) hours notice to the City of Owosso. Individuals with disabilities requiring auxiliary aids or services should contact the City of Owosso by writing or calling the following: Amy K. Kirkland, City Clerk, 301 West Main Street, Owosso, MI 48867 or at (989) 725-0500. The City of Owosso Website address is www.ci.owosso.mi.us.

Police Power Ordinance

AN ORDINANCE TO AUTHORIZE AND REGULATE THE ESTABLISHMENT OF MEDICAL MARIJUANA FACILITIES.

Section 1001. Purpose

- A. It is the intent of this ordinance to authorize the establishment of certain types of medical marijuana facilities in the city of Owosso and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare 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 marijuana facility in the city of Owosso through imposition of an annual, nonrefundable fee of ~~not more than~~ \$5,000.00 on each medical marijuana facility licensee. Authority for the enactment of these provisions is set forth in the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.
- 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 marijuana, in any form, that is not in compliance with the Michigan Medical Marijuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marijuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the state of Michigan.
- C. As of the effective date of this ordinance, marijuana 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 marijuana, or possess marijuana with intent to manufacture, distribute, or dispense marijuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws.
- D. Must comply with all state building codes, including but not limited to plumbing, mechanical, electrical, building energy and fire codes which includes the city of Owosso zoning ordinance, as applicable under law.

Section 1002. Definitions

For the purposes of this ordinance:

- A. Any term defined by the Michigan Medical Marijuana Act, MCL 333.26421 et seq., shall have the definition given in the Michigan Medical Marijuana Act.
- B. Any term defined by the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in the Medical Marijuana Facilities Licensing Act.
- C. Any term defined by the Marijuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marijuana Tracking Act.

- D. "Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.
- E. "Licensee" means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- F. "Marijuana" or "marihuana" means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.
- G. "Marijuana facility" means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, or marijuana safety compliance facility. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.
- H. "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- I. "Processor" means a licensee that is a commercial entity located in Michigan that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.
- J. "Provisioning center" means a licensee that is a commercial entity located in Michigan that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.
- K. "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.
- L. "Secure transporter" means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

Section 1003. Authorization of Facilities and Fee.

- A. The maximum number of each type of marijuana facility allowed in the city of Owosso shall be as follows.

<u>Facility</u>	<u>Number</u>
Grower	unlimited
Processor	unlimited

Provisioning center	#4
Safety compliance facility	unlimited
Secure transporter	unlimited

- B. **Planning commission shall review shall review the number of facilities allowed at the one year mark to re-evaluate and determine if the number allowed needs to be adjusted. From that point on,** every three (3) years, city council shall review the maximum number of each type of marijuana facility allowed and determine whether this maximum number should be changed. The review and its findings shall be recorded in the minutes of the relevant meeting of the city council.
- C. A nonrefundable fee shall be paid by each marijuana facility licensed under this ordinance in an annual amount of ~~not more than~~ \$5,000.00 as set by resolution of the city of Owosso City Council.

Section 1004. Requirements and Procedure for Issuing License

- A. No person shall operate a marijuana facility in city of Owosso without a valid marijuana facility license issued by the city of Owosso pursuant to the provisions of this ordinance.
- B. Every applicant for a license to operate a marijuana facility shall file an application in the **city clerk's** office upon a form provided by the city of Owosso. ~~[The application shall contain the following information:]~~
- C. Every applicant for a license to operate a marijuana facility shall submit with the application a photocopy of the applicant's valid ~~and current~~ **provisional** license issued by the State of Michigan in accordance with the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- D. Upon an applicant's completion of the above-provided form and furnishing of all required information and documentation, the **city clerk** shall accept the application and assign it a sequential application number by facility type based on the date and time of acceptance. The **city clerk** shall act to approve or deny an application not later than fourteen (14) days from the date the application was accepted. If approved, the **city clerk** shall issue the applicant a provisional license.
- E. A provisional license means only that the applicant has submitted a valid application for a marijuana facility license, and the applicant shall not locate or operate a marijuana facility without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the city of Owosso. A provisional license will lapse and be void if such permits and approvals are not diligently pursued to completion.
- F. Within fourteen (14) days from the applicant submitting proof of obtaining all other required permits and approvals and payment of the license fee, the **city clerk** shall approve or deny the marijuana facility license. The **city clerk** shall issue marijuana facility licenses in order of the sequential application number previously assigned.
- G. Maintaining a valid marijuana facility license issued by the state is a condition for the issuance and maintenance of a marijuana facility license under this ordinance and continued operation of any marijuana facility.

H. A marijuana facility license issued under this ordinance is not transferable.

Section 1005. License Renewal

- A. A marijuana facility license shall be valid for one year from the date of issuance, unless revoked as provided by law.
- B. A valid marijuana facility license may be renewed on an annual basis by submitting a renewal application upon a form provided by the city of Owosso and payment of the annual license fee. Application to renew a marijuana facility license shall be filed at least thirty (30) days prior to the date of its expiration.

Section 1006. Applicability

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

Section 1007. Penalties and Enforcement.

- A. Any person who violates any of the provisions of this ordinance shall be responsible for a misdemeanor. 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 of Owosso 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 zoning administrator, or such other city official as may be designated from time to time by resolution of the city council.

Section 1008. 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.

Section 1009. Effective Date

This Ordinance shall take effect twenty-one days after city council passage in accordance with law.

Sample Zoning Ordinance Amendments

Definitions

Add the following definitions to Section 38-5. -Definitions.

"Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

"Licensee" means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

"Marijuana" or "marihuana" means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.

"Marijuana facility" means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, or marijuana safety compliance facility. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

"Outdoor production" means growing marijuana in an expanse of open or cleared ground or in a greenhouse, hoop house, or similar non-rigid structure that does not utilize any artificial lighting, including but not limited to electrical lighting sources.

"Processor" means a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

"Provisioning center" means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.

"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.

"Secure transporter" means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

Zoning Districts

Add, where appropriate, to each zoning district's list of possible special land uses the following, where wanted:

- A. A marijuana grower as authorized by the city of Owosso's police power authorizing ordinance in the **I-1 Light Industrial** District(s);
- B. A marijuana processor as authorized by the city of Owosso's police power authorizing ordinance in the **I-1 Light Industrial** District(s);
- C. A marijuana provisioning center as authorized by the city of Owosso's police power authorizing ordinance in the **B-1, B-2, B-3 and B-4 Business Districts and I-1 Light Industrial** District(s);
- D. A marijuana safety compliance facility as authorized by the city of Owosso's police power authorizing ordinance in the **I-1 Light Industrial** District(s); and
- E. A marijuana secure transporter as authorized by the city of Owosso's police power authorizing ordinance in the **I-1 Light Industrial** District(s).

Special Use Standards

~~Add a section to Article XIX—Special Use Permits.~~

~~16XX. Marijuana grower, marijuana processor, marijuana provisioning center, Marijuana secure transporter, and Marijuana safety compliance facility:~~

- ~~A. A marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, and marijuana safety compliance facility, in accordance with the provisions of state law, may be permitted through the issuance of a special use permit pursuant to Article XIX in the specified zone(s), provided that:~~
 - 1. Any uses or activities found by the state of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by state law may not be permitted by the city of Owosso. In the event that a court with jurisdiction declares some or all of this article invalid, then the city of Owosso may suspend the acceptance of applications for **Medical Marihuana Facilities Licenses** special use permits pending the resolution of the legal issue in question.
 - ~~2. At the time of application for a special use permit the marijuana facility must be licensed by the state of Michigan and then must be at all times in compliance with the laws of the state of Michigan including but not limited to the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the state of Michigan.~~
 - ~~3. At the time of application for a special use permit the marijuana facility must be licensed by the city of Owosso, [or have the city of Owosso license concurrently in process with the special use permit and site plan approval], and then must be at all times in compliance with the city of Owosso's police power authorizing ordinance.~~
 - 4. The use or facility must be at all times in compliance with all other applicable laws and ordinances of the city of Owosso.
 - 5. The city of Owosso may suspend or revoke a **Medical Marihuana Facilities Licenses** special use permit based on a finding that the **Medical Marihuana Facilities Licenses** provisions of the

~~special use standards in this section~~, all other applicable provisions of this zoning ordinance, the city of Owosso's police power authorizing ordinance, or the terms of the special use permit and approved site plan are not met.

6. A marijuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales of marijuana, may not be permitted as a home business or accessory use nor may they include accessory uses except as otherwise provided in this ordinance.
7. Signage requirements for marijuana facilities, unless otherwise specified, are as provided in Chapter 26 – Signs of the *Owosso Code of Ordinances*.

B. Marijuana growers and marijuana processors shall be subject to the following standards:

1. ~~Minimum Lot Size~~. A minimum lot size standard shall apply as follows:

a. ~~In the [list the specific rural and agricultural district(s)], the subject property shall be a minimum of [#] acres, except that if the majority of abutting properties are equal to or greater than [lessor #] acres, the subject property shall be a minimum of [lessor #] acres. Abutting properties include properties that are contiguous to the subject property, as well as properties directly across any access drive, or private, public, or road.~~

b. ~~In the [list the specific industrial district(s)], the subject property shall be a minimum of [#] acres, except that if outdoor production is proposed, the subject property shall be a minimum of [greater #] acres.~~

2. ~~Minimum Yard Depth/Distance from Lot Lines~~. The minimum front, rear, and side yard setbacks for any structure used for marijuana production shall be 50 feet. The minimum front, rear, and side yard setbacks for outdoor production shall be a minimum of 100 feet from all lot lines. The minimum water front setback for any structure or outdoor production shall be a minimum of 100 feet from the ordinary high water mark. **Minimum yard depth/distance from lot lines shall adhere to measurement requirements as listed in Article XVI. –Schedule of Regulations for each zoning designation as listed.**

3. ~~Indoor Production and Processing~~. In the **I-1 light industrial district**, marijuana **processing** production shall be located entirely within one or more completely enclosed buildings. In the **I-1 light industrial district**, marijuana **production** processing shall be located entirely within a fully enclosed, secure, indoor facility or greenhouse with rigid walls, a roof, and doors.

4. ~~Maximum Building Floor Space~~. The following standards apply in the **I-1 light industrial district**:

a. ~~A maximum of [#] square feet of building floor space may be used for all activities associated with marijuana production on the subject property.~~

a. b- If only a portion of a building is authorized for use in marijuana production, a partition wall at least seven feet in height, or a height as required by the applicable building codes, whichever is greater, shall separate the marijuana production space from the remainder of the building. A partition wall must include a door, capable of being closed and locked, for ingress and egress between the marijuana production space and the remainder of the building.

5. ~~Lighting~~. Lighting shall be regulated as follows:

- a. Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
 - b. Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.
6. Odor. As used in this subsection, building means the building, or portion thereof, used for marijuana production or marijuana processing.
- a. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
 - b. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
 - c. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
 - d. Negative air pressure shall be maintained inside the building.
 - e. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
 - f. An alternative odor control system is permitted if the special use permit applicant submits and the municipality accepts a report by a mechanical engineer licensed in the state of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.
7. Security Cameras. If used, security cameras shall be directed to record only the subject property and may not be directed to public rights-of-way as applicable, except as required to comply with licensing requirements of the state of Michigan.
- ~~8. Residency. In the [list specific rural or agricultural district(s)], an owner of the subject property, or the licensee associated with the subject property shall reside in a dwelling unit on the subject property unless there is a 24-hour, seven days a week staffed security presence on the property with a direct phone number supplied to local law enforcement,~~

C. Provisioning centers shall be subject to the following standards:

- 1. Hours. A provisioning center may only sell to consumers or allow consumers to be present in the building space occupied by the provisioning center between the hours of **8:00 9:00 a.m. and 9:00 p.m.**
- 2. Indoor Activities. All activities of a provisioning center, including all transfers of marijuana, shall be conducted within the structure and out of public view. A provisioning center shall not have a walk-up window or drive-thru window service.
- 3. Other Activities. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the provisioning center.

4. Nonconforming Uses. A provisioning center may not locate in a building in which a nonconforming retail use has been established in any district.
5. Physical Appearance. The exterior appearance of the structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.
6. Buffer Zones. A provisioning center may not be located within the distance specified from the uses below as determined by the city of Owosso. ~~The distance shall be measured as the shortest straight line distance between the property line of the location of the following uses to the property line of the parcel on which provisioning center premises is located, whichever is less.~~ **Distance shall be measured as stipulated in the Michigan Liquor Control Act as follows: The distance between the school building and the contemplated location must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the school building nearest to the contemplated location and from the part of the contemplated location nearest to the school building.**
 - a. A provisioning center may not be located within **200** feet of the real property comprising or used by a public or private elementary, vocational, or secondary school. ; ~~a public or private college, junior college, or university; a licensed child care center or preschool; a public playground, public swimming pool, or public or private youth activity facility; a public park, public outdoor recreation area, or public recreation facility; or a public library.~~
 - b. A provisioning center may not be located within **100** feet of a religious institution or a residentially zoned property.
7. Odor. As used in this subsection, building means the building, or portion thereof, used for a provisioning center.
 - a. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
 - b. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
 - c. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
 - d. Negative air pressure shall be maintained inside the building.
 - e. Doors and windows shall remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
 - f. An alternative odor control system is permitted if the special use applicant submits and the municipality accepts a report by a mechanical engineer licensed in the State of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to

review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted

~~D. Marijuana Safety Compliance Facility shall be subject to the following standards:~~

- ~~1. A marijuana safety compliance facility shall be subject to the special regulations and standards applicable to [medical laboratories and medical testing facilities] in the ordinance.~~
- ~~2. All activities of a marijuana safety compliance facility, including all transfers of marijuana, shall be conducted within the structure and out of public view.~~

~~E. Marijuana Secure transporter shall be subject to the following standards:~~

- ~~1. A marijuana secure transporter shall be subject to the special regulations and standards applicable to [transportation and warehousing] uses in the [ordinance] and the following standards.~~
- ~~2. Any buildings or structures used for the containment of stored materials shall be located no closer than [#] feet from any property line.~~

Nonconformities

Add a section to Article XVII – General Provisions, Section 38-378.

- A. No marijuana facility operating or purporting to operate prior to December 15, 2017, shall be deemed to have been a legally existing use nor shall the operation of such marijuana facility be deemed a legal nonconforming use under this **Section 38-378. –Nonconforming uses.**
- B. A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this **Section 38-378. –Nonconforming uses** or any amendment thereto.
- C. Discontinuation of a state medical marijuana facility license shall constitute prima facie evidence that a nonconformity has been discontinued.

City Responsibility.

The City Clerk shall provide the following information to the State Licensing Board within 90 days after the municipality receives notification from the applicant that he or she has applied for a license under this act:

- (a) A copy of the local ordinance that authorizes the marijuana facility.
- (b) A copy of any zoning regulations that apply to the proposed marijuana facility within the municipality.
- (c) A description of any violation of the local ordinance or zoning regulations included under subdivision (a) or (b) committed by the applicant, but only if those violations relate to activities licensed under this act or the Michigan medical marijuana act.
- (d) The municipality's failure to provide information to the board shall not be used against the applicant.

(e) Information a municipality obtains from an applicant related to licensure under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

DRAFT

POLLICELLA & ASSOCIATES, PLLC
CANNABIS ATTORNEYS OF MICHIGAN
4312 EAST GRAND RIVER AVENUE
HOWELL, MICHIGAN 48843
PH 517.546.1181 FAX 517.292.2468

Denise A. Pollicella, Managing Partner
Ph; 810-623-5188
Denise.pollicella@pollicella.net

March 14, 2018
Electronic Delivery

Planning Commission
City of Owosso
301 West Main Street
Owosso, MI 48867

Re: Comments on the Adverse Impact of a Competitive, Score-based Application Process for Medical Marihuana Facilities

Dear Commissioners:

We have attended numerous planning commission meetings and have continued to follow with interest your progress on the adoption of enabling and zoning ordinances permitting state-licensed medical marihuana facilities in the City of Owosso. We admire that you are thoughtfully considering ordinances that are tailored to your city and that benefit the entire community.

At the Planning Commission Meeting on February 26th, an industry consultant suggested that the Commission add scoring criteria language to the ordinance. The consultant implied that it would give the City control over who would be operating these facilities.

We disagree with a competitive application process and urge you to consider the potential adverse effects of such a system.

First, implementing any type of scoring system requires subjective evaluations that would make the city vulnerable to legal claims from losing applicants who have invested tens of thousands of dollars securing real estate and hiring attorneys, architects and consultants.

Second, implementing a scoring system is resource intensive and it is unlikely that Owosso has the staff available to either timely assess or knowledgeably evaluate what are likely to be hundreds of pages thick proposals. By way of example, the City of Lansing accepted

*Business Transactions * Litigation * Labor & Employment * Regulatory Law * Medical Marihuana*

Small Business Legal Services & Cannabis Attorneys of Michigan are wholly owned and operated by Pollicella & Associates, PLLC
a Michigan professional limited liability company

cannabisattorneysofmichigan.com

over eighty applications for twenty-five provisioning centers on December 15, 2017 has yet to approve even one. It had to hire an outside consulting firm to perform the scoring after the applications go through each city department, and is already fielding challenges to the few denials it has issued. See also the attached article on scoring problems in Pennsylvania.

The use of a bid proposal-style applications is typically promoted by consultants working for large out-of-state companies in an effort to unfairly shrink the applicant pool. The Michigan state application due diligence process is both rigorous and intensive, and does more than enough to ensure that licenses are only issued to those who are financially able and well-qualified. Your draft ordinance recognizes the role of the state, and by requiring state prequalification, lets the state, with ample resources and ability, determine who is eligible for a license.

In the alternative, we would suggest removing license caps and using zoning buffers and overlay districts to organically limit the number of provisioning centers. It allows market forces to determine their number, the City to determine their location, and the state to determine their eligibility. It is arguably objective, and it frees Owosso from a resource-consuming process and the risk of liability from engaging in a flawed subjective scoring system.

If you have any questions or comments, please do not hesitate to contact me directly.

Thank you again for your time and consideration of this matter.

Most Sincerely,



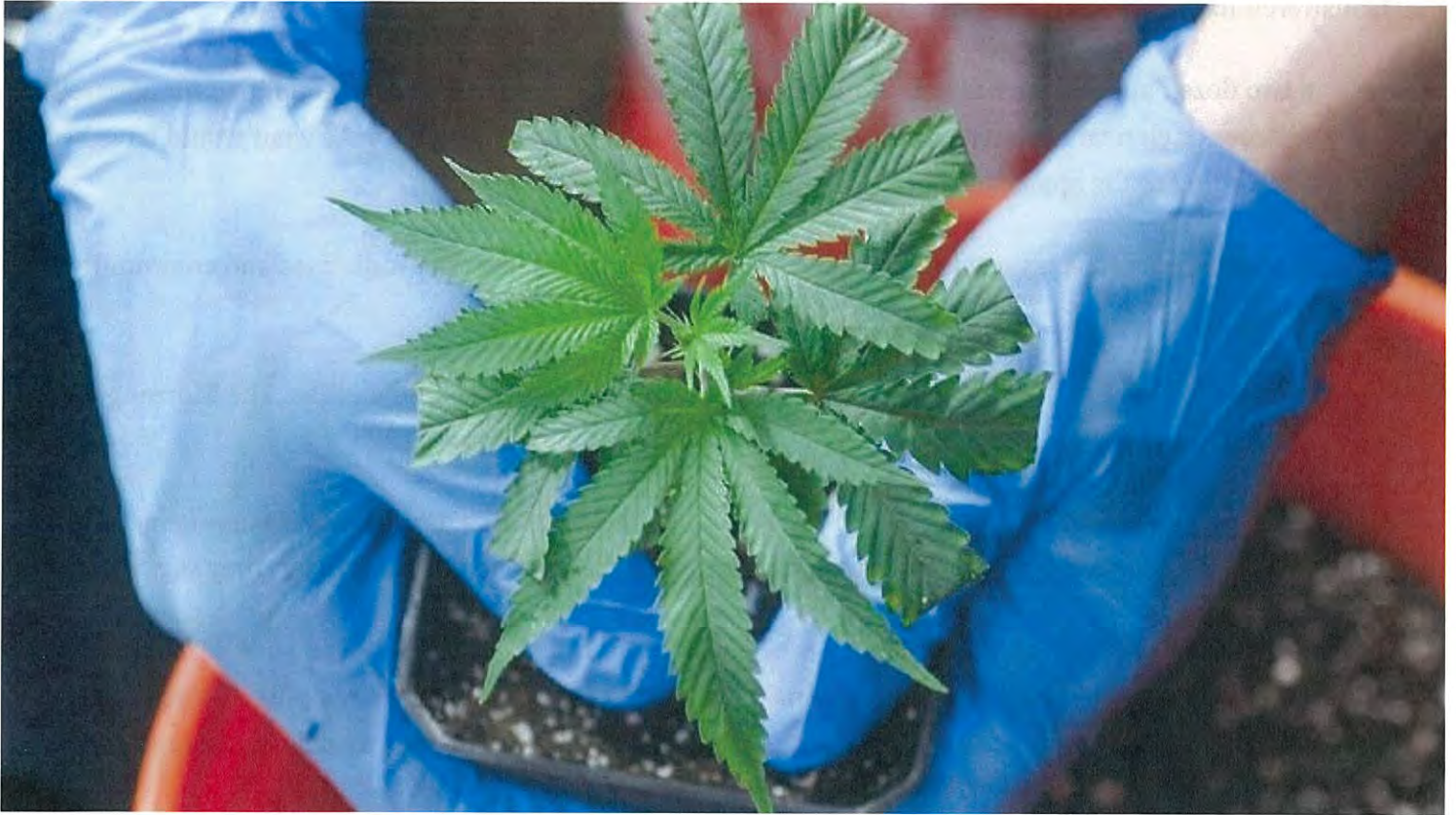
Denise A. Pollicella, Esq.

*Business Transactions * Litigation * Labor & Employment * Regulatory Law * Medical Marijuana*

Small Business Legal Services & Cannabis Attorneys of Michigan are wholly owned and operated by Pollicella & Associates, PLLC
a Michigan professional limited liability company

cannabisattorneysofmichigan.com

Medical marijuana appeals expose flaws in application scoring



More than 130 administrative appeals have been filed against the state Department of Health's Office of Medical Marijuana over a secret evaluation committee's handling of applications to grow, process and dispense medical marijuana in Pennsylvania. (HARRY FISHER / THE MORNING CALL)



By **Andrew Wagaman**
Of The Morning Call

SEPTEMBER 23, 2017, 6:00 AM

The competition for 39 permits to grow, process and dispense medical marijuana in Pennsylvania was bound to leave many applicants speed-dialing their lawyers to complain about unfair evaluations.

Sure enough, this month a Bethlehem applicant sued the state Department of Health to **shut down the new medical marijuana program** because of what it considered a bungled permitting process. Advocates **decried that company**, Keystone ReLeaf, as self-serving and inconsiderate of the ailing children and adults who have long sought relief.

But a **Morning Call review** of more than 130 administrative appeals filed against the state Department of Health's Office of Medical Marijuana reveals a broader scope of the complaints that threaten to plunge the

nascent industry into a legal morass over an evaluation committee’s handling of applications.

Seemingly cut-and-dried application requirements such as photo IDs and resumes were expected to be scored for completion. Instead, many were graded on a sliding scale — and to the hundredth decimal point. One yes-or-no question worth 50 points yielded a score of 41.38 for one applicant and 6.30 points for another, though both answered in the affirmative.

More than two dozen applications, usually comprising several hundred pages, were disqualified for apparent technical glitches or clerical oversights, and applicants were offered no chance to make what would have been easy fixes, according to the appeals.

And nearly every appeal took issue with how the committee quantified diversity initiatives and community impact pitches.

...ry three denied applications. The Morning Call
... open records request.

Support Quality Journalism
Subscribe for only 99¢

START NOW >

...ie litigious path as other state bureaucracies that
micro-managed the issuance of a limited number of permits. The Keystone ReLeaf lawsuit, they say, will only be the beginning.

“It’s Groundhog Day,” said Chris Goldstein, a cannabis legalization advocate in Philadelphia. “States that have attempted to do limited permits have been fraught with the most lawsuits, regulatory delays and problems with implementation. This was so predictable.”

Others say the issues are ultimately procedural molehills that are not remotely serious enough to delay patients access to medical cannabis.

“The process used by the Department of Health was extremely well-vetted, and the appeals seem like a natural part of the process,” said Michael Bronstein, co-founder of the American Trade Association of Cannabis and Hemp and the director of a coalition made up of the successful Pennsylvania applicants. “Patients who have been waiting for years need access as quickly as possible.”

The law is the law?

Companies paid nonrefundable application fees of \$10,000 and \$5,000 for grower/processor and dispensary applications, respectively.

At least two dozen applicants challenged the Health Department’s decision to not even score applications that were deemed incomplete.

Jill Lamoureux, CEO of Pittsburgh Pure Keystone LLC in Pittsburgh, submitted two growing applications and one dispensary application, each exceeding 400 pages. According to Pure Keystone’s appeal, she experienced

formatting glitches while transferring 12 required application attachments between computers.

In the process of fixing broken forms before sending them, she inadvertently included one attachment twice, omitting another. She submitted the missing attachment March 23, according to the appeal.

After not hearing back from the Health Department, Lamoureux emailed Eric Hagarty, one of Gov. Tom Wolf's deputy chiefs of staff, asking if he had heard of other applicants experiencing similar issues.

According to an email included in the appeal, Hagarty responded, "There were a couple folks who seemed to have issues with the formatting, but DOH was never able to re-create the issues on their end. I don't think there's any cause for concern that DOH would disqualify an applicant over something like that."

Two months later, all three Pure Keystone applications were rejected as incomplete.

In its appeal, Keystone ReLeaf also claimed Hagarty said the state would not disqualify its grower/processor application because of a USB drive glitch.

Hagarty did not respond to a request for comment.

The disqualifications were not just overly severe, but also illegal, other appeals claim. The Medical Marijuana Act includes a paragraph that says the department "shall notify" applicants if further documentation is required, and that applicants have 30 days to provide the additional material.

Plus, several appeals point out that the Health Department did allow one Pittsburgh-area applicant to resubmit after its **application was destroyed in the mail**.

In its three appeals, Pure Keystone attorney Ansley Westbrook II argued that rejection based on technical glitches "would be an abuse of discretion, would have no reasonable relation to any governmental interest and would be in violation of substantive and procedural due process and equal protection."

He added, "The impact of this issue ... cannot support the basis for the rejection of the application."

John M. Cascioli of Bangor, owner of CannaMed Green Inc., also had two applications rejected for one missing attachment. He insists the attachment was on a USB drive mailed to the department, but said that whatever happened, it did not warrant disqualification.

"We literally spent \$2 million preparing for this," he said. "I can't believe it. I just don't understand."

Consistent inconsistencies

Applicants who at least received a scorecard found other reasons to express incredulity.

Though some application sections were evaluated on a pass/fail basis, the evaluation committee mainly used a five-level scoring scale. For example, a response to a 50-point question that "meets expectations" earned 21 to

30 points.

Denied applicants claim the department should have explained which sections the review panel would score using the scale. They also say the scale never should have been used to score certain elements.

Take the capital requirements section. The Medical Marijuana Act required grow facilities to have at least \$2 million and dispensaries to have at least \$150,000 in financial backing, and the application simply instructed companies to summarize their available capital. During the submission period, multiple applicants asked if they could score more points if they demonstrated they had more than the minimum capital, but the Health Department said it **“could not provide a response” to this specific question.**

Sure enough, the more financial backing an applicant said it had, the closer it came to getting all 75 points, according to the appeals. Some appellants said they would have demonstrated a greater war chest had they known the question was not pass/fail.

For the “personal identification” attachment, applicants were supposed to provide resumes and photo IDs of each financial backer, operator and employee. The Health Department did not state in its instructions and pre-deadline Q&As that it would grade resumes (or photos, for that matter) on quality.

Nevertheless, the committee scored the section using the sliding scale. Mission Pennsylvania, which earned a Lehigh County dispensary permit but was denied a growing permit, scored 37.11 points.

Despite identical responses, Keystone ReLeaf scored 36.40 on one dispensary application and 31.40 on another.

“It is inconceivable that there is some subjective or holistic scoring approach to determining whether the application did or did not include the required photo identification and resumes,” wrote Seth Tipton, Keystone ReLeaf’s attorney.

Companies such as Keystone that submitted applications in multiple regions of the state caught inconsistencies across their multiple scorecards, according to their appeals. Take PharmaCann LLC, an Illinois company that wanted to open one of two potential grow facilities in Lackawanna County. Nineteen identical sections in PharmaCann’s two applications received different scores from the evaluation committee.

All those decimal points apparently proved challenging to add up. An appeal by Columbia Care LLC, which earned a dispensary permit but not a growing permit, claimed that half of the applications’ total scores were miscalculated. The miscalculations usually amounted to less than a tenth of a point, but some of the scores were indeed wrong.

Ari Molovinsky, a principal of Mission Pennsylvania, wrote in its appeal that random, unpredictable scoring is exactly what launched challenges to various state-licensed medical marijuana programs. This “only serves to delay rollout and harm patients who are eagerly awaiting medication.”

'Shroud of secrecy'

Numerous companies lambasted the appeals process itself as an exercise in futility, given the scope of information that remained confidential.

Many winning applications were **almost entirely redacted by the companies themselves** as part of the initial submission process.

Many losing applicants did the same thing. But they say the department is violating the rejected applicants' right to due process by not publishing the winners' unredacted versions.

"Columbia Care's ability to appeal on the grounds that the department's evaluation and scoring may be contrary to the evidence has been arbitrarily and unreasonably restricted," attorney Richard Limburg wrote.

Others noted that the Health Department continues to **conceal the identities of the evaluation committee members** and has failed to make grading criteria widely available.

"The shroud of secrecy with which the application process and grading was performed allowed for no transparency, review or critique," wrote Mary Parker, CEO of Global Resource Operations LLC.

The department faces another problem: It's given winning applicants six months to get up and running. They keep barreling forward as the department slogs through a mountain of appeals. Any suspension or revocation of specific permits would come at a significant cost to the winners as they invest in business operations.

Now what?

Health Department spokeswoman April Hutcheson did not answer a list of questions from The Morning Call about the permitting process. But in legal responses to administrative appeals, the department has insisted that "the evaluation of the content of the application for compliance with the Act ... is the sole and exclusive responsibility of the [Office of Medical Marijuana] and is accomplished in the sole exercise of the discretion of the Office.

"Appellant's self-serving declarations of compliance with the requirements for application criteria ... attempts to usurp the discretion afforded the Office by the General Assembly to interpret and implement the Act."

Becky Dansky, legislative counsel for the Marijuana Policy Project, a pro-legalization group, said the scoring discrepancies for identical sections of applications do raise questions. She hoped the department would clarify whether multiple members of the evaluation panel reviewed each application.

"One of the purposes of having people from different agencies is that they brought different areas of expertise," she said. "Hopefully more than one set of eyes was on each application."

Still, the most concerning issues raised in the appeals don't seem to reach the "alarming or catastrophic" level that would warrant "shutting down the program and starting over again," she said.

Peter Schweyer, an Allentown state representative who helped write the medical marijuana legislation, also acknowledged the scoring discrepancies were disconcerting and need to be investigated.

“But I think the idea of halting a hugely popular program over certain questions about procedure is a tough one to swallow,” he said. “If I were a parent of a child who’s going to get relief because of this program, I wouldn’t give two seconds of thought about a few procedural issues.”

MORE ONLINE: [Go to themorningcall.com](http://themorningcall.com) to see which companies appealed in the northeast region, and take a look at the application scoring worksheet and point allocation guide.

BY THE NUMBERS

- 457 applications
- 418 unsuccessful applications
- 140 administrative appeals filed across the state
- 12 grower/processor permit recipients
- 27 dispensary permit recipients
- 73 total northeast region applications (including the Lehigh Valley)
- 2 regional grower/processor permit recipients
- 4 regional dispensary permit recipients
- 28 administrative appeals filed across the region
- 2 lawsuits filed by regional applicants in Commonwealth Court

awagaman@mcall.com

Twitter [@andrewwagaman](https://twitter.com/andrewwagaman)

610-820-6764

Get the inside scoop on the Lehigh Valley's business scene on *The Business Cycle*, themorningcall.com/business

Like on Facebook: facebook.com/LVBizCycle

Follow on Twitter: [@LVBizCycle](https://twitter.com/LVBizCycle)

Copyright © 2018, Lehigh Valley Business Cycle

MASTER PLAN UPDATE GUIDE



A Redevelopment Ready Communities® tool
for Michigan communities looking to establish
or update a master plan

MICHIGAN ECONOMIC
DEVELOPMENT CORPORATION



INTRODUCTION

Redevelopment Ready Communities® Best Practice 1.1 evaluates community planning and how a community's development vision is embedded in the master plan and other related plans such as the capital improvements plan, downtown plan and corridor plan. Comprehensive planning documents are a community's guiding framework for growth and investment. The RRC program, based on state legislation and best practices, requires that the master plan is up to date and reflects a community's desired direction for the future. Michigan law requires that an adopted plan be reviewed at least every five years. This guide was prepared to help communities determine whether a comprehensive plan needs to be updated based on MPEA and RRC requirements and how to review the plan for potential updates. In addition, the RRC best practices require an annual review to keep implementation moving forward. This review could include a report to the local legislative body on implementation progress and future goals and offers a chance to refresh officials and inform new members about the plan and its components.



TABLE OF CONTENTS

Introduction.....	2
RRC master plan update guide.....	4
Master plan update review table.....	7
Five-year master plan review and update process.....	9



UPDATE GUIDE

RRC Master Plan

Redevelopment Ready Communities® (RRC) supplements Michigan legislation in this guide with recommendations on the master plan review and update to help streamline the process, create better plans, and support better implementation of plans. The Michigan Planning Enabling Act (MPEA) outlines requirements while the RRC program provides recommendations. Meeting the RRC best practice criteria is required in order for a community to become RRC certified. Contact the RRC team or your municipal attorney should there be any confusion on what is required by law and what is required to meet the RRC best practices. Beyond meeting state requirements, updating your community master plan is important for maintaining a community vision that municipal staff and officials can reference during decision-making. Taking a regular look at the master plan can keep staff, officials, and the community on-track for implementation.

ANNUAL REVIEW AND REPORT

- Annual review
- Annual report
- Report to elected body
- Joint meeting

MPEA

The Michigan Planning Enabling Act (Act 33 of 2008; MPEA) provides the legal basis for the master plan. The act outlines requirements for the preparation, content, public review, adoption and regular review of the plan. Key objectives of a plan as outlined in the act include:

- Create a plan that guides development that is coordinated, adjusted, harmonious, efficient, and economical and that best promotes public health, safety and general welfare;
- Make careful and comprehensive studies of present conditions and future growth with due regard for its relation to neighboring jurisdictions;
- Consult and cooperate with representatives of adjacent local units of government, departments of state and federal governments;
- Address land use and infrastructure issues and make recommendations for physical development;
- At least every five years, review the plan to determine whether to amend or readopt the current plan or adopt a new master plan;

The act also outlines requirements for the process of amending an adopted plan or adopting a new plan.

RRC

An updated master plan is essential to articulating the types of development the community desires and the specific areas where the community will concentrate resources. RRC evaluates a plan based on the following:

- The governing body has adopted (or re-adopted) a master plan in the past five years.
- It reflects the community's desired direction for the future.
- It identifies strategies for priority redevelopment areas.
- It addresses land use and infrastructure, including complete streets elements.
- It includes a zoning plan.
- It incorporates recommendations for implementation, including goals, actions, timelines and responsible parties.
- Progress on the master plan is annually reported to the governing body.
- It is accessible online.



UPDATE GUIDE

RRC Master Plan

Annual review and report

Communities should *review* their plan annually to ensure staff and elected and appointed officials have an understanding of their planning documents. This background information can help orient new officials and lead to more consistent and supported decision-making. While the planning act requires review at least every five years, communities should annually consider discussion about the plan, conducting a review of progress made, implementation made the previous year, and priorities for the upcoming year. Also if there is an annual update to the capital improvement plan (CIP), relevant master plan recommendations should be reviewed and promoted to the CIP preparers.

The following should be reviewed by staff and the planning commission:

- ✓ Review goals and major recommendations.
 - Accomplished
 - Still relevant
 - High priority of the year

Create a chart to assist in the review of goals and recommendations:

GOAL : PROGRESS : PRIORITY

- ✓ Review action table and progress toward completing this year's priorities. Some actions may need to be broken down into more manageable subtasks, or next steps, with responsibilities assigned to different staff or departments.

- Accomplished
- Still relevant
- Task for upcoming year
- Task for future year

Does your plan have an action table? If not, create one using any actions provided for each goal and recommendation. Make sure to provide the department or person responsible for completing the task.

Next steps _____

Responsibility _____

- ✓ Review prior year's rezonings and development decisions. Discuss if there are any trends that need to be addressed.
 - Examples: 1. Map rezonings to see if they are located in similar areas and follow the plan's future land use; 2. Discuss any development proposals where the plan did not provide enough direction to assist in a decision or if the plan did not provide enough flexibility to welcome an opportunity.*
- ✓ Identify any potential plan amendments to work on for the upcoming year that can be prepared and adopted then incorporated at a later date when the master plan is updated. This could include:
 - Subarea plans, studies prepared that need to be incorporated in the plan, or planning topics that need to be added or refreshed such as complete streets or placemaking.*
- ✓ Identify any zoning ordinance updates to undertake in the coming year.
- ✓ Review the update checklist at the end of this guide to decide whether the plan needs to be "opened up" and officially updated.



UPDATE GUIDE

RRC Master Plan

Annual review and report *continued*

This review could be documented as part of the annual report that is required by the MPEA Section 125.3819 so that once the five-year period is over, the interim years' activities can be summarized when deciding whether the plan needs to be amended. This annual report is intended to be presented to the legislative body and should include the following:

- ✓ Membership
- ✓ Number of planning commission meetings
- ✓ Master plan implementation
- ✓ Zoning ordinance map and text amendments
- ✓ Major development reviews (including a brief description, whether it was approved and date of action)
- ✓ Priorities for upcoming year

Communities have found success in having an *annual joint meeting* of the governing body and planning commission to summarize the year's accomplishments and set priorities for the next year. Some communities also include their DDA, ZBA, and other applicable boards and committees. Topics of discussion may include:

- ✓ Refresh officials on what a master plan is and what the adopted plan entails.
- ✓ Recap development, projects and progress made in the previous year.
- ✓ Summarize actions that were completed in the past year and the upcoming year's action priorities.
- ✓ Incorporate a presentation on a hot topic (complete streets, RRC, form-based code).



UPDATE REVIEW TABLE

RRC Master Plan

Use the table below to help consider whether your plan needs an overhaul, a refresh, or to add or replace sections of the plan. A refresh is for those that just require minor changes throughout the plan. Section additions or replacements may include new chapters, subareas, the future land use map and/or text, implementation steps, and/or RRC components. The first section of the checklist can be used as a checklist for the annual review and report as described above.

Annual	5-year	CRITERIA	Yes	No	COMMENTS/DOCUMENTATION/LINKS
✓	✓	Have development patterns changed significantly since the plan was written and adopted?	<input type="checkbox"/>	<input type="checkbox"/>	
✓	✓	Does the adopted zoning ordinance align with the goals of the plan?	<input type="checkbox"/>	<input type="checkbox"/>	
✓	✓	Have there been any major changes, such as utility lines, major road improvements, large development approvals, etc?	<input type="checkbox"/>	<input type="checkbox"/>	
✓	✓	Have there been instances when the planning commission or elected body has departed from the plan?	<input type="checkbox"/>	<input type="checkbox"/>	
✓	✓	Are the goals and priorities of the plan in sync with the goals and priorities of appointed and elected officials?	<input type="checkbox"/>	<input type="checkbox"/>	
✓	✓	Does the plan address the location and types of land uses frequently requested?	<input type="checkbox"/>	<input type="checkbox"/>	
✓	✓	Have there been other studies completed that change the relevancy of the plan?	<input type="checkbox"/>	<input type="checkbox"/>	
	✓	Have community goals or vision changed since the plan was written?	<input type="checkbox"/>	<input type="checkbox"/>	
	✓	Are recent best practices integrated? (i.e. Complete Streets, Placemaking, Sustainability, Missing Middle Housing, Local Food)	<input type="checkbox"/>	<input type="checkbox"/>	
	✓	Is the background data relevant and reference the most recent decennial census data and up-to-date local data?	<input type="checkbox"/>	<input type="checkbox"/>	
	✓	Is it user-friendly with clear organization and graphics?	<input type="checkbox"/>	<input type="checkbox"/>	
	✓	Does it reference goals and objectives for a downtown area?	<input type="checkbox"/>	<input type="checkbox"/>	
	✓	Is there an implementation plan including a CIP plan?	<input type="checkbox"/>	<input type="checkbox"/>	
	✓	Are a zoning plan and zoning objectives included?	<input type="checkbox"/>	<input type="checkbox"/>	
	✓	Is a redevelopment strategy provided?	<input type="checkbox"/>	<input type="checkbox"/>	



UPDATE REVIEW TABLE

RRC Master Plan

Annual	5-year	CRITERIA	Yes	No	COMMENTS/DOCUMENTATION/LINKS
	✓	Are priority sites for redevelopment and a strategy for implementation included?	<input type="checkbox"/>	<input type="checkbox"/>	
	✓	Have there been changes along the community borders?	<input type="checkbox"/>	<input type="checkbox"/>	
	✓	Is there upcoming major (re)development (corridor, transportation, university/hospital, utility, vacated sites, or industrial)?	<input type="checkbox"/>	<input type="checkbox"/>	
	✓	Do policy and recommendations support a safe, efficient multi-modal transportation system?	<input type="checkbox"/>	<input type="checkbox"/>	
	✓	Do permitted uses support the job market and reflect the local talent pool?	<input type="checkbox"/>	<input type="checkbox"/>	



REVIEW AND UPDATE PROCESS

Five-year Master Plan

One provision of the MPEA requires the planning commission to review its current plan at least every five years. At that review, it should be determined whether any amendments are needed or whether the process for a new plan should be started. The act does not require that the entire “coordinated planning” process be followed simply for a review of the plan. No notifications need be made to conduct the review. Instead, the planning commission need only conduct the review and document that fact through the minutes of the review meeting.

Although the five-year review requirement may be considered perfunctory, a necessary “fill in the blank” action, communities should take advantage of this opportunity to thoroughly review the plan and make sure it is still relevant to today’s conditions. A table is provided below to assist in the decision of whether to proceed with an amendment or a complete overhaul. Generally, the goals, objectives and future land use plan should be carefully reviewed to contrast with current development trends as well as any major changes or diversions from the plan that have taken place in order to consider whether the plan needs to be updated.

If, after the review is conducted it is decided that changes are indeed necessary—the process outlined by the planning act must be carefully followed. It may be a good idea to have a joint meeting, public or stakeholder workshops to review the current plan and discuss the level of change needed. If the plan needs an “overhaul,” the process will require a 63-day review period. An update, or “refresh,” requires a 42-day review period. An update is appropriate if most of the plan assumptions and recommendations are still valid and only minor updates or additions are required. Once the plan is updated and adopted, it should be posted on the internet to make it accessible to all online.

CONSIDERATIONS WHEN UPDATING YOUR PLAN

- A plan is a balance between technical evaluation and public preferences; between fiscal realities and bold ideas.
- Does your plan consider and integrate the current attitudes of the residents and business interests?
- For more information on how best to include public participation as part of your plan update, see the RRC’s public participation guide.
- Keep in mind how the plan will influence the zoning ordinance and other regulations.
- Who has jurisdiction over capital improvements? RRC encourages collaboration across departments in preparing the CIP so make sure to fully engage the engineering or public works department in the planning process.
- Updating census data alone is not reason to open up your plan for an amendment. When updating your plan, think about what data will be most important in influencing planning decisions. Only include data that are applicable to understanding the planning context and recommendations.