



**MINUTES**  
**Committee on Public Safety**  
**Friday, September 2, 2016 @ 2:30 p.m.**  
**City Hall Council Chambers**

**CALL TO ORDER**

The meeting called to order at 2:30 p.m.

**ROLL CALL**

Councilmember Carol Wood, Chair  
Councilmember Adam Hussain, Vice Chair  
Councilmember Kathie Dunbar, Member-excused

**OTHERS PRESENT**

Sherrie Boak, Council Staff  
Jim Smiertka, City Attorney  
Mark Dotson, Deputy City Attorney- arrived at 2:35 p.m.  
Elvis Malcom  
Jim McCool  
Pastor Hernandez  
Joe Friess  
Lee Klein  
Joanne Creede  
Michael Brogan  
Chris Silva  
Steve Green  
Stan Shuck  
Eileen Rohrback  
Elaine Womboldt  
Ryan

Councilmember Wood noted that the public comment will be done after the review of the ordinance, unless there was public who could not stay thru the meeting, they could speak now. There were no comments from the public.

**DISCUSSION – Medical Marihuana Licensing Ordinance (Draft #6A)**

The Committee began review of Draft 6A addressing the items from the review of Draft 5c that lack of consensus. The review at this meeting began with the changes on page 10; (16). The last discussion was to remove “public or private college, community college.” Item (16) now references a location area map and the relative locations. The Committee moved onto page 11, line 20 which now lowered the funds available to \$25,000. The consensus of the Committee was to keep at the new amount of \$25,000.

The Committee moved onto page 12 (C), which was the fees that will be in amounts established by City Council resolution. Mr. Smiertka admitted Law is still not sure of calculations from all the departments, so would recommend that the ordinance language still stay at “ an amount established by City Council Resolution:” He did note that currently the estimate would be under \$3,000 for the application itself, and an estimate for the annual fee appears to be under \$1,500. What is unknown at this time is the potential for appeals so the fees could increase.

The discussion moved to page 14, line 4. It was confirmed by Mr. Dotson that the language is what is currently proposed in the State law. The consensus of the Committee was to leave in 1300.6 (B) (3) into the ordinance.

The change on page 16 was the (C) that spoke to transferring of licenses.

Page 17 (H) was the discussion of drive thru windows. Councilmember Hussain acknowledged he did bring up this issue, and noted it is his understanding transfers are not supposed to take place in areas of the public, and from the last meeting the product is to be transferred in the truck of your vehicle. Councilmember Hussain also acknowledged he did not agree with the comparison to pharmacy drive-thru, stating it is not the same comparison.

Councilmember Wood asked if the State Law requires the transfer to be placed in the trunk. Mr. Dotson confirmed. Consensus of the Committee was made to keep (H) “drive thru not to be permitted in the ordinance.

The Committee onto page 19 (S) line 10 which now adds in “based on the certified laboratory’s state-required testing. Any earlier discussion on advertising is addressed on page 18, line 32-43.

Mr. Dotson stepped away from the meeting at 2:46 p.m.

Councilmember Wood asked if Mr. Smiertka had determined if there was an answer to if disposal had to be a sealed container, page 24. Mr. Smiertka noted that section speaks to general waste, not the marihuana.

The Committee then moved onto page 25, 1300.13 and appeal process on page 27.

Mr. Dotson returned to the meeting at 2:49 p.m.

Page 26 outlines the distance between specified entities. All of Section 1300.14 was new compared to Draft 5c, and now lists the distance between uses of schools, licensed daycare and parks at 1,000 ft and churches and licensed substance abuse centers at 500 ft. The 500 ft setback now applies to substance abuse prevention centers, substance abuse treatment or rehabilitation services, churches, and any other medical marihuana establishments.

Page 27, now has a new item in 20-31 which is the appeal of the revocation. Councilmember Wood referenced line 9 of page 27, and stated that in the past there was a concern with the way this was set up, and would this affect someone who currently is in business once they apply. Mr. Smiertka states that applicant cannot have a license if they commit fraud. They would be required to provide the information on the application. But because there is understanding they are currently open, there is a window provided for them to apply for a license. The Committee had a consensus on the changes.

The Committee began a discussion on the locations and the maps. The two maps with the distance requirements were presented. One map for 1,000 ft distance around the listed uses and a different map based City Attorney recommendation of 1,000 ft. around schools, licensed daycare and parks with churches, substance abuse and other marihuana establishments at 500 ft. Mr. Smiertka

explained that under the zoning law, the City cannot totally exclude a use completely from a municipality through zoning. State has a statute and there is a Supreme Court case on that. If there was a distance requirement of 1,000 feet it was his understanding some thought that would mean there may only allow for three (3) locations in the City that would be allowed, therefore the City Attorney office proposed the 500 ft. distance requirements.

Mr. Dotson outlined the maps, research and zones established. It was noted that currently since there is no licensing, the City is not aware of all the locations of the currently operating in the City, therefore the map could change once the locations are determined.

Councilmember Wood added that the maps also do not depict all the vacant properties or where current businesses are located or where new business could go. Councilmember Hussain asked if they could determine how many parcels in general are in the permissible areas. Mr. Smiertka admitted they did not ask for that level in the research, and is not sure if that information is even available. Councilmember Hussain then asked why Law is proposing 500 ft, since the original discussion was for 1,000 ft. Mr. Smiertka stated that the language was taken from the 2011 ordinance, as they went through they looked at different aspects, due process, appeals, and at that time distance came up in the discussion. It was noted in the research that there were only 3 that are allowed or could be allowed in the 1,000 ft scenario which are schools, licensed daycare, and parks.

Councilmember Hussain noted his frustration with the process thus far, and asked that the public understand that the Committee has compromised time and time again. The Committee consensus was to keep the setbacks as proposed in this draft 6A.

Mr. Smiertka clarified an earlier comment on the fees thus far, nothing that his statement was on tentative costs, and they are still collecting information from all the departments. The fees will be back before the Committee in form of a resolution for passage, and there will be a final determination then.

### **PUBLIC COMMENT**

Pastor Roslinda Hernandez acknowledged the work that Committee and Law have put into the ordinance, and spoke in opposition to the ordinance based on the fact that currently under Federal law, marijuana is illegal.

Mr. Klein acknowledge the Committee for their efforts, but voiced his frustration on items based on what he believed were not enforceable. Councilmember Wood referred Mr. Klein to the ordinance where each section and section required in accordance with State law. Currently there will be no licensing of growing, safe compliance and processing since there is no State Law on those, however there is for provisioning centers. Mr. Klein was assured that the ordinance was written and amended based on recommendation from law. Mr. Klein continued to speak in opposition to the ordinance.

Mr. Dotson stepped away from the meeting at 3:32 p.m.

Mr. Brogan asked the Committee who would get the first license if there were more than one that applied within the same proximity. Councilmember Wood noted that it would be the one that met all the requirements of the applicant first.

Mr. Dotson returned to the meeting at 3:35 p.m.

Mr. Brogan asked for recognition of the efforts made by the businesses that closed when they were told to close.

Mr. Silva acknowledged the Committee and Law for their work, however also spoke in opposition to the ordinance until the State approves something. On a side note, he stated that if the ordinance did

go thru, he would encourage a consideration of the \$25,000 for those that have already opened and the investment they have made into building.

Mr. Dotson stepped away from the meeting at 3:38 p.m.

Councilmember Wood explained that law is still working on a residential ordinance. In 2011 after the passage of the ordinance Council was informed that City Attorney was not licensing Medical Marihuana Establishments and that all businesses should close. Those that are still open or have opened are open illegally, so the question is do they get should receive credit for their investment is based again on an illegal operation.

Mr. Green spoke in opposition to the ordinance.

Mr. Dotson returned to the meeting at 3:40 p.m.

Mr. Green asked reminded the Committee the City cannot make rules more aggressive then State rules, and parks are already prohibited by the Michigan Medical Marihuana Act, so referencing parks in the ordinance is redundant. Mr. Green concluded by stating his opposition to the statement earlier that the product needs to be placed in the trunk.

Mr. Shuck also spoke in opposition to the earlier statement of the product required to be placed in a trunk, giving an example of a truck and van with no trunks. Mr. Shuck then recited the language and definitions of drug paraphanlia in the Act.

Councilmember Wood stated that Council staff will forward the more recent draft and maps that were presented to the group email.

Ms. Rohrback spoke on enforcement

Ms. Womboldt spoke in opposition to the 500 ft distance requires and asked the Committee to keep it at the 1000 ft including churches and substance abuse centers.

Resident provided his personal experience, as a business owner, and issues with usage on site along with signage. Councilmember Wood pointed out the sections of the ordinance that provide the provision that says the medication cannot be taken on site, along with no lounges. There is also a section on signage with no "leaves".

**MOTION BY COUNCILMEMBER HUSSAIN TO FORWARD THE ORDINANCE DRAFT 6A AS WRITTEN TO THE PLANNING BOARD FOR THEIR REVIEW AND PUBLIC HEARING. MOTION CARRIED 2-0.**

The Committee will meet again on September 9, 2016 at 3:30 p.m. The City Attorney office is currently working on the residential medical marihuana ordinance.

### **ADJOURN**

The meeting was adjourned at 4:12 p.m.

Submitted by, Sherrie Boak,

Recording Secretary Lansing City Council

Approved: September 16, 2016