

MOTION BY: _____

SUPPORTED BY: _____

TO AMEND THE CITY OF NEW BALTIMORE CODE OF ORDINANCES, ARTICLE 12, TO ADOPT AN ORDINANCE OF THE CITY OF NEW BALTIMORE, MICHIGAN, TO PROVIDE FOR THE REGULATION AND LICENSING OF MEDICAL MARIHUANA FACILITIES; TO ESTABLISH THE MAXIMUM NUMBER OF AND TO ESTABLISH PROCEDURES FOR THE GRANTING OF LICENSES; TO ESTABLISH OPERATIONAL, REQUIREMENTS, AND STANDARDS ATTENDANT THERETO; TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE OF THE CITY OF NEW BALTIMORE AND ITS NEIGHBORHOODS; TO SET LICENSING FEES FOR THE PURPOSE OF DEFRAYING THE COSTS ASSOCIATED WITH THE IMPLEMENTATION AND ENFORCEMENT OF THE PROVISIONS OF THIS ARTICLE; TO DECLARE CERTAIN ACTIVITIES IN THIS ARTICLE AS PUBLIC NUISANCES; TO DECLARE THIS ARTICLE TO BE FOR A PUBLIC PURPOSE; AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS ARTICLE.

**CITY OF NEW BALTIMORE
MACOMB COUNTY, MICHIGAN**

ORDINANCE NO. _____

THE CITY OF NEW BALTIMORE ORDAINS:

Section 1. Article 12, Article IX, Medical Marihuana Facilities Regulation and Permit, is hereby adopted to read as follows:

**ARTICLE 12, ARTICLE IX
MEDICAL MARIHUANA FACILITIES REGULATION AND PERMIT.**

Sec. 12-341. - Legislative Intent.

The purpose of this Article is to exercise the police, regulatory, and land use powers of the City of New Baltimore by licensing and regulating Medical Marihuana Provisioning Centers, Medical Marihuana Grower Facilities, Medical Marihuana Safety Compliance Facilities, Medical Marihuana Secure Transporters and Medical Marihuana Processor Facilities to the extent permissible under State of Michigan and federal laws and regulations and to protect the public health, safety, and welfare of the residents of the City of New Baltimore; and as such this Article constitutes a public purpose.

The City finds that the activities described in this Article are significantly connected to the public health, safety, security, and welfare of its citizens and it is therefore necessary to regulate and enforce safety, security, fire, police, health and sanitation practices related to such activities and also to provide a method to defray administrative costs incurred by such regulation and enforcement.

The City further finds and declares that the protection of the public health, safety, and welfare of City neighborhoods and residents are public purposes.

Except as may be required by law or regulation, it is not the intent of this Article to diminish, abrogate, or restrict the protections for medical use of marihuana found in the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and the Marihuana Tracking Act.

Sec. 12-342. - Definitions, Interpretation and Conflicts.

For the purposes of this Article:

- (a) Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421, et seq., as amended (“MMMA”), the Medical Marihuana Facilities Licensing Act, MCL 333.2701, et seq. (“MMFLA”) shall have the definition given in those Acts, as amended, and the Marihuana Tracking Act (“MTA”), MCL 333.27901, et seq. if the definition of a word or phrase set forth in this Article conflicts with the definition in the MMMA, MMFLA, or MTA, or if a term is not defined but is defined in the MMMA, MMFLA, or MTA, then the definition in the MMMA, MMFLA, or MTA shall apply.
- (b) Any term defined by 21 USC 860(e) referenced in this Article shall have the definition given by 21 USC 860(e).
- (c) Where a conflict between this Ordinance and the MMMA, MMFLA, or MTA cannot be harmoniously resolved then such State laws shall supersede or preempt this Ordinance only to the extent necessary with the remaining provisions remaining in full force and effect.
- (d) All activities related to Medical Marihuana, including those related to a Medical Marihuana Provisioning Center, a Medical Marihuana Grower Facility, a Medical Marihuana Secure Transporter, a Medical Marihuana Processor or a Medical Marihuana Safety Compliance Facility shall be in compliance with the rules and regulations of the City of New Baltimore, the MMMA, MMFLA, and the MTA.
- (e) Any use which purports to have engaged in the cultivation or processing of Medical Marihuana into a usable form, or the distribution of Medical Marihuana, or the testing of Medical Marihuana either prior to or after enactment of this Article without obtaining the required licensing set forth in this Article shall be deemed to be an illegally established use and therefore not entitled to legal nonconforming status under the provisions of this Article, and/or State law. The City finds and determines that it has not heretofore authorized or licensed the

existence of any Medical Marihuana Facility, as defined herein, in the City in and under any form whatsoever. any license granted pursuant to this Article shall be exclusive to the licensee, is a revocable privilege, and is not intended to, nor shall it, create a property right. Granting a license does not create or vest any right, title, franchise, or other property right.

(f) The following terms shall have the definitions given:

- (1) "Application" means an application pursuant to this Article.
- (2) "Application for a License Renewal" means an application for a license renewal pursuant to the terms and conditions of Section 889.09.
- (3) "Article" means Chapter 12, Article IX, of the City of New Baltimore Code of Ordinances.
- (4) "Buffered Use" means a use subject to the buffering and dispersion requirements of Section 12-355.
- (5) "Building" means an independent, enclosed structure having a roof supported by columns or walls, intended and/or used for shelter or enclosure of persons or chattels. when any portion of a structure is completely separated from every other part by dividing walls from the ground up, and without openings, each portion of such structure shall be deemed a separate structure, regardless of whether the portions of such structure share common pipes, ducts, boilers, tanks, furnaces, or other such systems.

This definition refers only to permanent structures, and does not include tents, sheds, greenhouses and private garages on residential property, stables, or other accessory structures not in compliance with MMMA. A building does not include such structures with interior areas not normally accessible for human use, such as gas holders, tanks, smoke stacks, grain elevators, coal bunkers, oil cracking towers or similar structures.

- (6) "Church" means an entire building set apart primarily for purposes of public worship, and which is tax exempt under the law of this State, and in which religious services are held, and the entire building structure of which is kept for that use and not put to any other use inconsistent with that use.
- (7) "City" means the City of New Baltimore.

- (8) "City Council" means the City Council of the City of New Baltimore.
- (9) "Clerk" shall mean the City of New Baltimore Clerk.
- (10) "Cultivation" or "cultivate" as used in this Article means:
 - (i) All phases of growth of marihuana from seed to harvest, drying, trimming and curing; and
 - (ii) Preparing, packaging, repackaging, labeling and relabeling of any form of marihuana.
- (11) "Disqualifying felony" means a felony that makes an individual ineligible to serve as a registered primary caregiver under the MMMA, MMFLA, or MTA.
- (12) "Employee" means any individual who is employed by an employer in return for the payment of direct or indirect monetary wages or profit, under contract, and any individual who volunteers his or her services to an employer for no monetary compensation, or any individual who performs work or renders services, for any period of time, at the direction of an owner, lessee, of other person in charge of a place.
- (13) "License" or "Medical Marihuana Business License" means a license issued for the operation of a Medical Marihuana Facility pursuant to the terms and conditions of this Article and includes a license which has been renewed pursuant to Section 12-349.
- (14) "Licensee" means a person issued a license for a Medical Marihuana Facility pursuant to this Article.
- (15) "License Application" means an application submitted for a license pursuant to the requirements and procedures set forth in this Article.
- (16) "Marihuana" means all parts of the plant *cannabis sativa* L., growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparations of the plant or its seeds or resin.

"Marihuana" (other than for purposes of disposal provisions of this Article) does not include:
 - (i) The mature stalks of the plant;
 - (ii) Fiber produced from the stalks, oil or cake made from the seeds of the plant;

- (iii) Any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, (except the resin extracted from those stalks, fiber, oil or cake);
 - (iv) Any sterilized seed of the plant that is incapable of germination; or
 - (v) Industrial hemp grown or cultivated or both for research, purposes under the industrial hemp research act.
- (17) “Marihuana-infused Product” means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused Product shall not be considered a food for purpose of the food law, 2000 PA 92, MCL 289.1101 to 289.8111.
- (18) “Marihuana Tracking Act” or “MTA” means Public Act 282 of 2016 MCL 333.27901, et seq, as amended from time-to-time.
- (19) “Medical Marihuana” means any marihuana intended for medical use that meets all descriptions and requirements for Medical Marihuana contained in the MMMA, MMFLA, and the MTA and any other applicable law.
- (20) “Medical Marihuana Facilities Licensing Act” or “MMFLA” means Public Act 281 of 2016, MCL 333.27101, et seq, as amended from time-to-time.
- (21) “Medical Marihuana Facility(ies)”, or, “Facility(ies),” means any facility, establishment and/or center that is required to be licensed under this Article and possesses a license or approval to operate under the MMFLA, including: a Medical Marihuana Provisioning Center, a Medical Marihuana Grower Facility; a Medical Marihuana Processor Facility; a Medical Marihuana Secure Transporter; and a Medical Marihuana Safety Compliance Facility.
- (22) “Medical Marihuana Grower Facility,” means a commercial or business entity located in the City that is licensed or approved to operate by the State pursuant to the MMFLA and is licensed by the City pursuant to terms and conditions of this Article that cultivates, dries, trims or cures and packages marihuana in accordance with State law, and is lawfully situated, and compliant in an area zoned for Medical Marihuana Facilities.

- (23) "Medical Marihuana Licensing Board" means the State Board established pursuant to the MMFLA.
- (24) "Medical Marihuana Provisioning Center," means a commercial or business entity located in the City that is licensed or approved to operate by the State pursuant to the MMFLA and is licensed by the City pursuant to the terms and conditions of this Article, that sells, supplies, or provides marihuana to registered qualifying patients only as permitted by State law. Medical Marihuana Provisioning Center, as defined in the MMMA, MMFLA, and MTA, includes any commercial property or business where marihuana is sold in conformance with State law and regulation. A noncommercial or nonbusiness location used by a primary caregiver to assist a qualifying patient, as defined in the MMMA, MMFLA, or MTA connected to the caregiver through the State's marihuana registration process in accordance with the MMMA, MMFLA, or MTA is not a Medical Marihuana Provisioning Center for purposes of this Article, and is lawfully situated and compliant in an area zoned for Medical Marihuana Facilities, and is lawfully situated and compliant in an area zoned for Medical Marihuana Facilities.
- (25) "Michigan Medical Marihuana Act" or "MMMA" means MCL 333.26421 et seq, as amended from time-to-time.
- (26) "Ordinance" means this Ordinance adopting Article IX.
- (27) "Park" means an area of land designated by the City as a park on its master plan or on a City approved list of City parks.
- (28) "Person" means an individual, partnership, firm, company, corporation, association, sole proprietorship, limited liability company, joint venture, estate, trust, or other legal entity.
- (29) "Processor" or "Medical Marihuana Processor Facility" means a commercial entity located in this City that is licensed or approved to operate by the State pursuant to the MMFLA and is licensed by the City pursuant to the terms and conditions of this Article, that extracts resin from the marihuana or creates a marihuana-infused product, to the extent permitted by State law," and is lawfully situated and compliant in an area zoned for Medical Marihuana Facilities.
- (30) "Public Playground equipment" means an outdoor facility, grouping, or concentration open to the public and on public property and containing three or more apparatus, including, but not limited to, slides, climbers, seesaws, and swings, designed for the recreational use of children and owned and operated by a local unit of government, school district, or other unit or agency of government.

- (31) “Restricted/Limited Access Area” means a building, room or other area under the control of the licensee with access governed by the MMMA, the MMFLA, and MTA or other applicable State law.
- (32) “Safety Compliance Facility” or “Medical Marihuana Safety Compliance Facility” means a commercial or business entity located in the City that is licensed or approved to operate by the State pursuant to the MMFLA and is licensed by the City pursuant to the terms and conditions of this Article, that receives marihuana from a Medical Marihuana Facility or a registered qualifying patient or a registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids in accordance with State law, and is lawfully situated, and compliant in an area zoned for Medical Marihuana Facilities.
- (33) “School” means and includes buildings or grounds used for school purposes to provide instruction to children and youth in grades pre-kindergarten through 12, and Head Start when that instruction is provided by a public, private, denominational, or parochial school.
- (34) “Secure Transporter” or “Medical Marihuana Secure Transporter” means a commercial or business entity that is licensed or approved to operate by the State pursuant to the MMFLA and is licensed to operate by the City pursuant to the terms and conditions of this Article, that stores marihuana and transports marihuana between Medical Marihuana Facilities for a fee and in accordance with State law, and is lawfully situated and compliant in an area zoned for Medical Marihuana Facilities, and compliant in an area zoned for Medical Marihuana Facilities.
- (35) “Stakeholder” means, with respect to a trust, the trustee and beneficiaries; with respect to a limited liability company, the managers and members; with respect to a corporation, whether profit or non-profit, the officers, directors, or shareholders; and with respect to a partnership or limited liability partnership, the partners, both general and limited.
- (36) “State” means the State of Michigan.
- (g) Any term defined by the MMMA, the MMFLA, or the MTA and not defined in this Article shall have the definition given in the MMMA, MMFLA, or MTA, as applicable.

Sec. 12-343. - Operation Without License Prohibited.

- (a) Every Medical Marihuana Facility in the City of New Baltimore shall be licensed pursuant to the terms and provisions set forth in this Article. No person shall operate a Medical Marihuana Facility in the City without first obtaining a license for the Medical Marihuana Facility from the City Clerk. A Medical

Marihuana Facility operating without a license under the provisions of this Article or without a state license or approval pursuant to the MMFLA, as amended from time-to-time, is hereby declared to be a public nuisance.

- (b) The term of each license for a proposed location shall be one (1) year. A license issued under this Article for a proposed location may be conditioned on the approval of the operator by the state pursuant to the MMFLA at the location licensed under this Article.

Sec. 12-344. - License Application Submission.

- (a) Each Medical Marihuana Facility must be licensed by the City. Applications for a license shall be made in writing to the City Clerk. All applications submitted to the City Clerk in accordance with the provisions of this Article shall be considered for the issuance of a license. An applicant may apply for multiple Medical Marihuana Facility licenses under this Article of the same or different nature simultaneously, each requiring a separate application and application fee.

City Council via resolution shall set forth its policy to establish time periods for filing and acceptance of applications, scoring criteria matrix, and other procedures and process for submission, review, and awarding of licenses.

- (b) A complete application for a license or licenses required by this Article shall be made under oath on forms provided by the City Clerk, and shall contain all of the following:
 - (1) If the applicant is an individual, the applicant's name, date of birth, physical address, email address, one or more telephone numbers, including emergency contact information, and a copy of a government-issued photo identification card of the applicant.
 - (2) If the applicant is not an individual, the names, dates of birth, physical addresses, email addresses, and one or more telephone numbers of each stakeholder of the applicant, including designation of a stakeholder as an emergency contact person and contact information for the emergency contact person, articles of incorporation or organization, internal revenue service SS-4 EIN confirmation letter, and the operating agreement or bylaws of the applicant, if a limited liability company.
 - (3) The name and address of the proposed Medical Marihuana Facility and any additional contact information deemed necessary by the City Clerk.
 - (4) The applicant and for each stakeholder and employee of the applicant, affirmation that each is at least 18 years of age and has not been convicted of or pled guilty or no contest to a felony or misdemeanor.

- (5) A signed release authorizing the City of New Baltimore's Police Department, or its designee, to perform a criminal background check to ascertain whether the applicant, each stakeholder of the applicant, each operator and employee of the applicant meet the criteria set forth in this Article.
- (6) The name, date of birth, physical address, copy of photo identification, and email address for any operator or employee if other than the applicant.
- (7) An affirmation under oath as to whether the applicant or operator has had a business license revoked or suspended, and if revoked or suspended, then the reason for such revocation or suspension.
- (8) For the applicant or for each stakeholder of the applicant, a resume that includes whether the individual has any relevant experience with Medical Marihuana or a related industry.
- (9) A patient education plan to detail to patients the benefits or drawbacks of certain marihuana strains or products in connection with the debilitating medical conditions set forth in the Michigan Medical Marihuana Act.
- (10) A description of drug and alcohol awareness programs that shall be provided or arranged for by the applicant and made available for the public.
- (11) A written description of the training and education that the applicant will provide to all employees.
- (12) A copy of the proposed business plan for the Medical Marihuana Facility, including, but not limited to, the following:
 - (i) The proposed ownership structure of the Medical Marihuana Facility, including percentage ownership of each person or entity; and
 - (ii) Planned worker training programs; and
 - (iii) Financial structure and financing of the proposed Medical Marihuana Facility(s); and
 - (iv) Short term and long term goals and objectives consistent with this Article; and

- (v) If any co-location of Facilities is proposed, provide an explanation of the integration of such Facilities, including a drawing showing the relationship between the Facilities being co-located, including square footages and the separation provided between such Facilities, including identification of any points of entry, ingress or egress, and controls at each locations; and
 - (vi) Community outreach/education plans and strategies; and
 - (vii) Charitable plans and strategies, whether fiscally or through volunteer work.
- (13) One of the following:
- (i) Proof of ownership of the entire premises wherein the Medical Marihuana Facility is to be operated; or
 - (ii) Written consent from the property owner for use of the premises in a manner requiring licensure under this Article along with a copy of any lease for the premises.
- (14) A description of the security plan for the Medical Marihuana Facility, including, but not limited to, any lighting, alarms, barriers, fencing, recording/monitoring devices, and/or security guard arrangements proposed for the Medical Marihuana Facility and premises. The security plan must contain the specification details of each piece of security equipment. Each Medical Marihuana Facility must have a security guard present during business hours or alternative security procedures shall be proposed in the business plan.
- (15) A scaled floor plan of the Medical Marihuana Facility, as well as a scale diagram illustrating the property upon which the Medical Marihuana Facility is to be operated, including all available parking spaces, and specifying which parking spaces, if any, are handicapped-accessible.
- (16) Any proposed elevation drawings, photographs or other materials to be shown on the exterior of the proposed Medical Marihuana Facility.
- (17) A scaled location area map of the Medical Marihuana Facility and surrounding area identifying the relative locations and distances to surrounding property boundaries and buildings as measured pursuant to the buffering sections of this Ordinance.

- (18) A facility sanitation plan to protect against any marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction in the sewerage system is prohibited.
- (19) If applicable, a proposed patient recordkeeping plan that will track quantities sold to individual patients and caregivers, and will monitor inventory.
- (20) A description of procedures for testing of contaminants, including mold and pesticides.
- (21) An affidavit that neither the applicant nor any stakeholder of the applicant is in default to the City specifically, that the applicant or stakeholder of the applicant has not failed to pay any property taxes, special assessments, fines, fee or other financial obligation to the City.
- (22) Verification, including copies of actual financial statements, including bank or investment statements, showing that the applicant has minimum net worth of Five Hundred Thousand Dollars (\$500,000) in the applicant's name.
- (23) An estimate of the number and type of jobs that the Medical Marihuana Facility is expected to create, the amount and type of compensation expected to be paid for such jobs, and the projected annual budget and revenue of the Medical Marihuana Facility.
- (24) A signed acknowledgment that the applicant is aware and understands that all matters related to marihuana, growing, cultivation, possession, dispensing, testing, safety compliance, transporting, distribution, and use are currently subject to state and federal laws, rules, and regulations, and that the approval or granting of a license hereunder does not exonerate or exculpate the applicant from abiding by the provisions and requirements and penalties associated with those laws, rules and regulations or exposure to any penalties associated officials, members, partners, shareholders, employees and agent of those laws, rules, and regulations and hereby waives, and assumes the risk of, any such claims and damages, and lack of recourse against the City of New Baltimore, its elected and appointed officials, employees, attorneys, and agents.
- (25) As it relates to a Medical Marihuana Grower Facility, the following additional items shall be required:

- (i) A cultivation plan that includes, at a minimum, a description of the cultivation methods to be used, including plans for the growing mediums, treatments, and/or additives;
 - (ii) A production testing plan that includes, at a minimum, a description of how and when samples for laboratory testing by an international organization for standardization accredited testing facility will be selected, what type of testing will be requested, and how the test results will be used;
 - (iii) An affidavit that all operations will be conducted in conformance with the MMMA, the MMFLA, MTA and other applicable state law;
 - (iv) Chemical and pesticide storage plan that states the names of the pesticides to be used in cultivation and where and how pesticides and chemicals will be stored in the Medical Marihuana Facility, along with a plan for the disposal of unused pesticides; and
 - (v) All activity related to the Medical Marihuana Facility shall be done indoors, except for cultivation fully compliant with State law so that visibility of marihuana plants from public view does not occur. All plants immediately upon harvesting must be relocated indoors and shall not be stored or left outdoors. Cultivation of plants within one hundred feet (100') of any property boundary is prohibited. The applicant shall specifically acknowledge this provision.
- (26) Proof of an insurance policy covering the Medical Marihuana Facility and naming the City, its elected and appointed officials, employees, and agents, as additional insured parties, primary and non-contributory available for the payment of any damages arising out of an act or omission of the applicant or its stakeholders, agents, employees, or subcontractors, in the amount of:
- (i) At least Two Million Dollars (\$2,000,000) for property damage;
 - (ii) At least Two Million Dollars (\$2,000,000) for injury to one (1) person; and
 - (iii) At least Two Million Dollars (\$2,000,000) for injury to two (2) or more person resulting from the same occurrence. The insurance policy underwriter must have a minimum A.M. Best Company insurance ranking of B+, consistent with state law. The policy shall provide that the City shall be notified by the insurance carrier thirty (30) days in advance of any cancellation.

- (27) (i) Proof of a surety bond in the amount of Fifty Thousand Dollars (\$50,000) with the City of New Baltimore listed as the obligee to guarantee performance by applicant of the terms, conditions and obligations of this Article in a manner and surety approved by the City attorney; or, in the alternative;
- (ii) Creation of an escrow account as follows:
 - a. The account must be provided by a state or federally regulated financial institution or other financial institution approved by the City attorney based upon an objective assessment of the institution's financial stability; and
 - b. The account must be for the benefit of the City to guarantee performance by licensee in compliance with this Article and applicable law; and
 - c. The account must be in the amount of Twenty Thousand Dollars (\$20,000) and in a form prescribed by the City attorney.
- (28) Any other information which may be required by the City Council from time-to-time.
- (c) All applications shall be accompanied by a nonrefundable license application fee in an amount of Five Thousand Dollars (\$5,000).
- (d) Upon receipt of a completed Application meeting the requirements of this ordinance and the appropriate license application fee, the City Clerk shall refer a copy of the Application to each of the following for their approval the: Fire Department, Building Department, Police Department and City Treasurer.
- (e) No Application is eligible to potentially be approved, unless:
 - (1) The Fire Department and the Building Department have inspected the proposed location for compliance with all laws for which they are charged with enforcement and for compliance with the requirements of this Article.
 - (2) The Police Department has confirmed that the proposed location complies with the zoning code and this Article.
 - (3) The City Treasurer has confirmed that the applicant and each stakeholder of the applicant and the proposed location of the Medical Marijuana Facility are not in default to the City.

- (4) The Police Department, or its designee, has determined that the applicant has met the requirements of this Article with respect to the background check and security plan.

Sec. 12-345. - License Application Evaluation.

- (a) The City Council, itself, and/or with the assistance of designees shall assess and evaluate all applications submitted according to the provisions of this Article. Incomplete Applications shall not be accepted for assessment. If, during or following assessment, such Application is found to be incomplete, it shall not be eligible for further consideration until complete. Criteria shall include the following:
 - (1) The content and sufficiency of the information contained in the application.
 - (2) Whether the proposed Medical Marihuana Facility will be consistent with land use for the surrounding neighborhood and not have a detrimental effect on traffic patterns and resident safety.
 - (3) Planned outreach on behalf of the proposed Medical Marihuana Facility, and whether the applicant or its stakeholders have made, or plan to make, significant physical improvements to the building housing the Medical Marihuana Facility, including plans to eliminate or minimize traffic, noise, and odor effects on the surrounding neighborhood.
 - (4) Whether the applicant or any of its stakeholders have a record of acts detrimental to the public health, security, safety, morals, good order, or general welfare prior to the date of the application; whether the applicant or any of its stakeholders have previously operated an illegal business of any kind.
 - (5) Whether the applicant has reasonably and tangibly demonstrated it possesses sufficient financial resources to fund, and the requisite business experience to execute, the submitted business plan and other plans.
 - (6) Whether the proposed location within the City in relation to its proximity to other locations for Medical Marihuana Facilities represents a reasonable and harmonious dispersion of Medical Marihuana Facilities within the City.
 - (7) Whether the size and nature of the use in relationship to previously approved and issued permits and Medical Marihuana Facilities is reasonable.

- (8) Whether the business experience of the applicant previously within the City and elsewhere demonstrates that the applicant has sufficient experience and requisite business experience in the operation of the proposed Medical Marihuana Facility.
- (b) Based upon testimony, written and oral comments from the public, planning board review, maps, historical data, and public hearings, the City finds and determines that it is in the public interest and serves a public purpose that the maximum number of licenses issued for: Medical Marihuana Provisioning Centers shall be capped at two (2); Medical Marihuana Growing Facility capped at two (2); Processing Centers capped at two (2); for Safety Compliance Facilities capped at two (2); and Marihuana Secured Transporters capped at two (2).
- (c) Nothing in this Section is intended to confer a property or other right, duty, privilege or interest in a license of any kind or nature whatsoever including, but not limited to, any claim of entitlement.
- (d) The City in its sole discretion may engage professional expert assistance in performing any of the duties and responsibilities under the Article.
- (e) The City shall at least once a year advertise and receive Applications for any available permits over a sixty (60) day period. At the end of the sixty (60) day period, all properly submitted and complete Applications shall be subject to examination and review by the City. The City may elect to issue or not issue licenses for any of the permitted uses or issue licenses in any combination thereof, but in no instance shall issue more licenses than are permitted pursuant to the terms of this Article. If an applicant is not selected, the applicant may choose to have its Application considered further, in the next round of submittals. The applicant shall pay an Application review and update fee, and shall properly submit whatever necessary materials are required in order to update its Application. The fee for further consideration on a previously submitted Application, regardless of the amount of required updating, shall be twenty-five percent (25%) of the Application fee amount for an original Application.

Sec. 12-346. - Limitation Number of Permits.

The City of New Baltimore limits the issuance of Medical Marihuana Facility permits as follows:

- (a) Medical Marihuana Grower Facility - two (2) permits maximum for all of the permitted facilities in total combined:
 - Class A - five hundred (500) plants
 - Class B - one thousand (1,000) plants
 - Class C - fifteen hundred (1,500) plants

- (b) Medical Marihuana Processing Center - two (2) permits.
- (c) Medical Marihuana Provision Center - two (2) permits.
- (d) Medical Marihuana Safety Compliance Facility – two (2) permits.
- (e) Secured Transporter Facility - two (2) permits.

The City of New Baltimore retains the absolute discretionary right to amend or modify this ordinance to expand or decrease the number of allowable and permitted sites and structures for Medical Marihuana Facilities.

Sec. 12-347. - Duration of Applications and Effect of Application.

All applications and updates submitted shall be valid up to a maximum of five (5) years from the date of filing. No preference for approval shall be based upon the date of filing or the length of time on file for any application. Submittal of an Application establishes no property right or entitlement to issuance of any permit under the Ordinance.

Sec. 12-348. - Supplemental Application Information.

An applicant may but is not required to submit additional information in order to update or supplement an application. A fee of one quarter of the original application fee shall be required at the time of submission of such information. Such additional information shall not be permitted which changes the ownership of the proposed Medical Marihuana Facility or the location of the site for the proposed Medical Marihuana Facility.

Sec. 12-349. - License Renewal Application.

- (a) Application for a License Renewal required by this Article shall be made in writing to the City Clerk at least thirty (30) days prior to the expiration of an existing license.
- (b) An Application for a License Renewal required by this Article shall be made under oath on forms provided by the City, and shall contain all of the information required by this Article.
- (c) An Application for a license renewal shall be accompanied by a renewal fee in an amount of Five Thousand Dollars (\$5,000). The renewal fee is established to defray the costs of the administration of this Article.
- (d) Upon receipt of a completed Application for a License Renewal meeting the requirements of this Article and the license renewal fee, the City Clerk shall refer a copy of the Renewal Application to each of the following for their approval the: Fire Department, Building Department, Police Department and

City Treasurer.

- (e) No Application for a license renewal shall be approved unless:
 - (1) The Fire Department and Building Department have inspected the proposed location for compliance with all laws for which they are charged with enforcement within the past calendar year; and
 - (2) The Building Department has confirmed that the location complies with the zoning code and this Article, at the time a license is granted; and
 - (3) The City Treasurer has confirmed that the applicant and each stakeholder of the applicant and the location of the Medical Marihuana Facility are not currently in default to the City; and
 - (4) The Police Department, or its designee, has reviewed the Application and determined that the applicant has satisfied the requirements of this Article with respect to the background check and security plan; and
 - (5) The applicant possesses the necessary state licenses or approvals, including those issued pursuant to the MMFLA; and
 - (6) The applicant has operated the Medical Marihuana Facility in accordance with the conditions and requirements of this Article; and
 - (7) The Medical Marihuana Facility has not been declared a public nuisance; and
 - (8) The applicant is operating the Medical Marihuana Facility in accordance with federal, state, and local laws and regulations.
- (f) If written approval is given by each individual, department, or entity identified in Subsection (e), and the Renewal Application is found to be compliant with the additional required provisions of this Ordinance by the City Clerk, the City Clerk shall issue a renewal license to the applicant. The renewal shall be deemed approved if the City has not issued formal notice of denial within sixty (60) days of the filing date of the application, unless the applicant is advised of non-compliance with this Ordinance or incompleteness of information or any required inspection during such period.

Sec. 12-350. - Licenses Generally.

- (a) To the extent permissible under law, all information submitted in conjunction with an Application for a license or license renewal required by this Article is confidential and exempt from disclosure under the Michigan Freedom of

Information Act, 1976 PA 442, MCL 15.231 et seq., including the trade secrets or commercial or financial information exemptions available under Section 13(f) of the Michigan Freedom of Information Act.

Furthermore, no personal or medical information concerning the applicant shall be submitted to the Medical Marihuana Commission.

- (b) Licensees may transfer a license issued under this Article to a different individual or entity upon receiving written approval by the City Clerk. In order to request approval to transfer a license to a different individual or entity, the licensee must make a written request to the City Clerk, indicating the current licensee and the proposed licensee. Upon receiving the written request, the City Clerk shall consider the request as a new Application for a license and the procedures set forth in this Ordinance.
- (c) Licensees shall report any other change in the information required by this Article to the City Clerk within ten (10) business days of the change. Failure to do so may result in suspension or revocation of the license.
- (d) Any License Application approved pursuant to this Article shall not be effective, and no Medical Marihuana Facility may operate, unless the Medical Marihuana Facility is operated pursuant to a license or approval issued under the MMFLA and the site of the proposed use and proposed structure for the Medical Marihuana Facility is properly zoned for such Medical Marihuana Facility under the applicable zoning ordinance Section 60-70.

Sec. 12-351. - Minimum Operational Standards of a Medical Marihuana Provisioning Center.

Except as may be preempted by State law or regulation, the following minimum standards apply for Medical Marihuana Provisioning Centers:

- (a) The entire parcel upon which the Medical Marihuana Facility is to be situated must be properly situated and zoned for Medical Marihuana Facility Zoning and the Medical Marihuana Provisioning Center must be located in a building as defined under Sec. 12-342.
- (b) No Medical Marihuana Provisioning Center shall be open between the hours of 9:00 p.m. and 7:00 a.m.
- (c) Consumption of marihuana shall be prohibited on the premises of a Medical Marihuana Facility.
- (d) In addition to security requirements pursuant to State laws and regulations and any other applicable City Ordinances, the Medical Marihuana Facility shall continuously monitor the entire premises, interior and exterior, with surveillance

systems that include security cameras operating twenty-four (24) hours a day, seven (7) days a week. The video recordings shall be maintained in a secure, off-site location for a period of one (1) year.

- (e) Unless permitted by the MMFLA, public or common areas of the Medical Marihuana Provisioning Center must be separated from restricted or non-public areas of the Medical Marihuana Provisioning Center by a permanently locked barrier. Unless permitted by the MMMA, no Medical Marihuana is permitted to be stored, displayed, or transferred in an area accessible to the general public.
- (f) All Medical Marihuana storage areas within Medical Marihuana Provisioning Center must be separated from any customer/patient areas by a permanent barrier. Unless permitted by the MMMA, no Medical Marihuana is permitted to be stored in an area accessible by the general public or registered customers/patients. Medical Marihuana may be displayed in a sales area only if permitted by the MMFLA. The Medical Marihuana Facility shall be at all times locked, including all interior rooms, all windows, and points of entry and exits with commercial grade non-residential locks and an alarm system monitored. Marihuana shall not be permitted to be stored in trailers or sheds or other accessory structures to the principal building.
- (g) A locking safe permanently affixed to the permitted premises that shall store any processed marihuana and all cash remaining in the Medical Marihuana Facility overnight shall be used. For Medical Marihuana-Infused Products that must be kept refrigerated or frozen, the Medical Marihuana Facility may lock the refrigerated container or freezer in a manner authorized by the City in place of the use of a safe so long as the container is affixed to the building structure.
- (h) Drive-thru windows on the premises of a Medical Marihuana Provisioning Center shall not be permitted.
- (i) No Medical Marihuana Facility shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the property on which the Medical Marihuana Provisioning Center is operated; or any other nuisance that hinders the public health, safety and welfare of the residents of the City of New Baltimore.
- (j) The license required by this Article shall be prominently displayed on the premises of a Medical Marihuana Provisioning Center.
- (k) All disposal systems for spent water and spent soil shall be approved by the City.
- (l) All Medical Marihuana delivered to a patient shall be packaged and labeled as provided by State law and this Article.

The label shall include:

- (1) A unique alphanumeric identifier for the person to whom it is being delivered.
 - (2) A unique alphanumeric identifier for the cultivation source of the marihuana.
 - (3) That the package contains marihuana.
 - (4) The date of delivery, weight, type of marihuana and dollar amount or other consideration being exchanged in the transaction.
 - (5) A certification that all marihuana in any form contained in the package was cultivated, manufactured, and packaged in the State of Michigan.
 - (6) The warning that:

“This product is manufactured without any regulatory oversight for health, safety or efficacy. There may be health risks associated with the ingestion or use of this product. Using this product may cause drowsiness. Do not drive or operate heavy machinery while using this product. Keep this product out of reach of children. This product may not be used in any way that does not comply with State law or by person who does not possess a valid medical marihuana patient registry card.”
 - (7) The name, address, email address, and telephone number of an authorized representative of the Medical Marihuana Provisioning Center whom a patient can contact with any questions regarding the product.
- (m) A licensee shall require all registered patients present both their Michigan Medical Marihuana patient/caregiver ID card and State identification prior to entering restricted/limited areas or non-public areas of the Medical Marihuana Provisioning Center, and if no restricted/limited area is required, then promptly upon entering the Medical Marihuana Provisioning Center. At all times the Medical Marihuana Facility is available and open to the public a security guard shall be furnished. The training, criminal history and summary of civil litigation involving any such security guard shall be kept on file and made available to the City immediately upon request.
- (n) The premises shall be open for inspection during the stated hours of operation and as such other times as anyone is present on the premises.
- (o) Exterior signage shall comply with Chapter 42 of the City of New Baltimore

Code of Ordinances. No sign shall contain the words "marihuana", "marijuana", "weed", "cannabis", "dank", "420", "pot", "grass", "ganga", "mary jane", or any other term referencing marihuana, nor so any sign contain marihuana leafs, marihuana related imagery, green crosses, or other words or images intended to evoke the presence of marihuana. Additional advertising, including but not limited to, vehicle signs, sandwich boards, portable signs, temporary signs, or banners are prohibited on the premises.

- (p) It shall be prohibited to use advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors.
- (q) Compliance with rules issued by the Department of Licensing and Regulatory Affairs Bureau of Medical Marihuana Regulation shall be fully complied with and any violation of such rules shall be deemed a violation of this Ordinance.
- (r) Certified laboratory testing results that display at a minimum the tetrahydrocannabinol ("THC"), cannabidiol ("CBD"), total cannabinoid testing results, and a pass/fail rating based on the certified laboratory's state-required testing must be available to all Medical Marihuana Provisioning Center patients/customers upon request and prominently displayed compliant with State law.

Sec. 12-352. - Minimum Operational Standards of a Medical Marihuana Grower Facility.

- (a) Except as may be preempted by state law or regulation, the following minimum standards for Medical Marihuana Grower Facilities shall apply:
 - (1) The Medical Marihuana Grower Facility shall comply at all times and in all circumstances with the MMMA, the MMFLA, the MTA, and the general rules of the department of licensing and regulatory affairs, or their successors, as they may be amended from time-to-time.
 - (2) Consumption and use of Medical Marihuana by persons, whether employees or otherwise, shall be prohibited at a Grower Facility.
 - (3) All activity related to the Grower Facility shall be done indoors, except for cultivation fully compliant with State law so that the visibility of marihuana plants from public view does not occur. All plants immediately upon harvesting must be relocated indoors, and shall not be stored or left outdoors. The cultivation of plants within one hundred feet (100') of any property boundary is prohibited.
 - (4) The premises shall be open for inspection during the stated hours of operation and as such other times as anyone is present on the premises.

- (5) All Medical Marihuana shall be contained within a locked Medical Marihuana Facility, including all interior doors, all windows and points of entry and exits with commercial grade non-residential locks and with a monitored alarm system. Marihuana shall not be permitted to be stored in trailers, sheds, or other accessory structures to the principal building. Storage shall further be in accordance with the Michigan Medical Marihuana Facilities Licensing Act and promulgated rules as amended.
- (6) All necessary building, electrical, plumbing and mechanical permits shall be obtained from the City of New Baltimore or other applicable government authority for any portion of the structure in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marihuana are located.
- (7) That portion of the structure where any chemicals such as herbicides, pesticides, and fertilizers are stored shall be subject to inspection and approval by the City of New Baltimore Fire Department to insure compliance with the Michigan Fire Codes.
- (8) Co-locations of a Growing Facility with another marihuana use permitted shall be allowed compliant with State law, provided Medical Marihuana Provisioning Centers uses and growing uses are maintained separate and activity allowed in either one is not performed in the other.
- (9) No accessory uses other than uses regulated pursuant to this Ordinance shall be permitted within the same building occupied by a use permitted under this Ordinance.
- (10) All persons working in direct contact with Medical Marihuana shall conform to hygienic practices while on duty, including but not limited to:
 - (i) Maintaining adequate personal cleanliness;
 - (ii) Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when the hands may have become soiled or contaminated; and
 - (iii) Refraining from having direct contact with Medical Marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.
- (11) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Medical Marihuana is exposed. All disposal systems for spent water and spent soil shall be

approved by the City and byproduct materials, soils, plant materials, and other materials shall be stored indoors until pickup for disposal.

- (12) Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
 - (13) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for waste development and minimize the potential for waste becoming an attractant, harborage or breeding place for pests.
 - (14) Any buildings, fixtures and other facilities shall be maintained in a sanitary condition.
 - (15) Each facility shall provide its occupants with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.
 - (16) Medical Marijuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
 - (17) Medical Marijuana grower facilities shall be free from infestation by insects, rodents, birds or vermin of any kind.
 - (18) Medical Marijuana Grower Facilities shall produce no products other than useable Medical Marijuana intended for human consumption.
- (b) In furtherance of the public health, safety, and welfare, exterior signage or advertising identifying the Medical Marijuana Facility as a Medical Marijuana Grower Facility shall be prohibited.
 - (c) Venting of marijuana odors into the areas surrounding the Medical Marijuana Grower Facility is expressly prohibited and is deemed and declared to be a public nuisance.

Sec. 12-353. - Minimum Operational Standards of a Medical Marijuana Safety Compliance Facility.

- (a) Except as may be preempted by State law or regulation, the following minimum standards for safety compliance facilities shall apply:
 - (1) The Safety Compliance Facility shall comply at all times and in all circumstances with the MMMA, the MMFLA, the MTA, and the general rules of the Medical Marijuana Licensing Board as they may be amended

from time-to-time.

- (2) Except as provided by state law consumption and/or use of Medical Marihuana shall be prohibited at the Medical Marihuana Facility.
- (3) The premises shall be open for inspection during the stated hours of operation and as such other times as anyone is present on the premises.
- (4) Any Safety Compliance Facility shall maintain a log book and/or database identifying by date the amount of Medical Marihuana on the premises and from which particular source. The Medical Marihuana Facility shall maintain the confidentiality of qualifying patients in compliance with the Michigan Medical Marihuana Act, as amended from time-to-time.
- (5) All Medical Marihuana shall be contained within the building in an enclosed, locked Medical Marihuana Facility in accordance with the MMMA, the MMFLA, and the MTA, and the rules and regulations of the Medical Marihuana Licensing Board, as amended from time-to-time.
- (6) There shall be no other accessory uses permitted within the same Medical Marihuana Facility other than those associated with testing Medical Marihuana.
- (7) All persons working in direct contact with Medical Marihuana shall conform to hygienic practices while on duty; training programs shall be developed and implemented for all employees on recognized safe health practices in a Safety Compliance Facility.
- (8) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Medical Marihuana is exposed.
- (9) Floors, walls and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
- (10) Any buildings, fixtures and other facilities shall be maintained in a sanitary condition.
- (11) Medical Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.

- (b) Exterior signage comply with Chapter 42 of the City of New Baltimore Code of Ordinances. No signs shall contain the words "marihuana", "marijuana", "weed", "cannabis", "dank", "420", "pot", "grass", "ganga", "mary jane", or any other term referencing marihuana, nor so any sign contain marihuana leafs, marihuana related imagery, green crosses, or other words or images intended to evoke the presence of marihuana. Additional advertising, including but not limited to, vehicle signs, sandwich boards, portable signs, temporary signs, or banners are prohibited on the premises.

Sec. 12-354. - Minimum Operational Standards of a Medical Marihuana Processor Facility and a Medical Marihuana Secure Transporter.

- (a) Except as may be preempted by state law or regulation, the following minimum standards for a Medical Marihuana Processor Facility and a Medical Marihuana Secure Transporter shall apply:
 - (1) The Processor and Secure Transporter shall comply at all times and in all circumstances with the MMMA, the MMFLA, MTA and the general rules of the Medical Marihuana Licensing Board and the department of licensing and regulatory affairs, or their successors, as the foregoing laws and regulations may be amended from time-to-time.
 - (2) Consumption and/or use of Medical Marihuana shall be prohibited at the Processor or Secure Transporter Facility.
 - (3) All activity related to the Processor shall be performed indoors in a building.
 - (4) The premises shall be open for inspection during the stated hours of operation and as such other times as anyone is present on the premises.
 - (5) Any Processor and/or Secure Transporter Facility shall maintain a log book and/or database in accordance with the MMFLA, the MTA and the rules and regulations of the Medical Marihuana Licensing Board identifying by date the amount of Medical Marihuana on the premises which shall not exceed the amount permitted under the Processor license issued by the State of Michigan, to the extent a state permit process exists. This log shall be available to law enforcement personnel to confirm that the Processor does not have more Medical Marihuana than authorized at the location and shall not be used to disclose more information than is reasonably necessary to verify the lawful amount of Medical Marihuana at the Medical Marihuana Facility.
 - (6) All medical marijuana will be tagged and identified in accordance with the MMMA, the MMFLA, MTA and the rules and regulations of the Medical Marihuana Licensing Board, as amended from time-to-time.

- (7) All medical marihuana shall be contained within the building in a locked Medical Marihuana Facility in accordance with the MMMA, the MMFLA, MTA and the rules and regulations of the Medical Marihuana Licensing Board, as amended from time-to-time.
- (8) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring for devices that support the processing or secure transporting of Medical Marihuana are located.
- (9) That portion of the structure where the storage of any chemicals exist shall be subject to inspection and approval by the City of New Baltimore Fire Department to insure compliance with the Michigan Fire Protection Code.
- (10) The dispensing of Medical Marihuana at the Medical Marihuana Processor or Secure Transporter Facility shall be prohibited except as authorized by State law.
- (11) There shall be no other accessory uses permitted within the same Medical Marihuana Facility other than those associated with the processing. Multi-tenant commercial buildings may permit accessory uses in suites segregated from the Processor Facility.
- (12) All persons working in direct contact with Medical Marihuana shall conform to hygienic practices while on duty, including but not limited to:
 - (i) Maintaining adequate personal cleanliness;
 - (ii) Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when the hands may have become soiled or contaminated; and
 - (iii) Refraining from having direct contact with Medical Marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.
- (13) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Medical Marihuana is exposed.
- (14) Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.

- (15) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste development of odor and minimize the potential for waste becoming an attractant, harborage or breeding places for pests.
 - (16) Any buildings, fixtures and other facilities shall be maintained in a sanitary condition.
 - (17) Each Medical Marihuana Processor Facility shall provide its occupants with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.
 - (18) Medical Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
 - (19) Processor facilities shall be free from infestation by insects, rodents, birds, or vermin or any kind.
 - (20) Processor facilities shall produce no products other than useable Medical Marihuana intended for human consumption.
 - (21) All Medical Marihuana Processors shall be certified and accredited pursuant to State laws or rules with regard to any product safety impurity, and provide verification of same.
 - (22) The Processor shall pay for and complete an annual audit using an accredited third party auditor recognized under whatever food safety system the Processor is accredited under. A copy of the audit report shall be provided to the City by the auditor within ten (10) days of the audit completion. In the event there are deficiencies identified by the auditor, the Processor shall submit to the City a corrective action plan to address the deficiencies. All deficiencies shall be addressed within thirty (30) days of submittal of the initial deficiency report.
- (b) Exterior signage comply with Chapter 42 of the City of New Baltimore Code of Ordinances. No signs shall contain the words "marihuana", "marijuana", "weed", "cannabis", "dank", "420", "pot", "grass", "ganga", "mary jane", or any other term referencing marihuana, nor so any sign contain marihuana leafs, marihuana related imagery, green crosses, or other words or images intended to evoke the presence of marihuana. Additional advertising, including but not limited to, vehicle signs, sandwich boards, portable signs, temporary signs, or banners are prohibited on the premises.

Sec. 12-355. - Medical Marihuana Facilities Buffering, Dispersion and Other Requirements.

- (a) The entire parcel upon which the Medical Marihuana Facility is to be situated must be fully compliant with the Ordinance applicable to Medical Marihuana Facilities and other City Zoning Ordinances.
- (b) The parcel upon which the Medical Marihuana Facility is to be situated must be entirely within the boundaries of the Industrial Zoning District as delineated on the zoning map, and must be at least three hundred feet (300') away from:
 - (1) A public or private pre-kindergarten, elementary or secondary school;
 - (2) A public park with playground equipment;
 - (3) A commercial child care organization (non-home occupation) that is required to be licensed or registered with the Michigan Department of Health and Human Services, or its successor agency;
 - (4) A religious institution that is defined as tax exempt by the City Assessing Department;
 - (5) A Medical Marihuana Facility in which substance abuse prevention services, substance abuse treatment, or substance abuse rehabilitation services are provided as those terms are defined in MCLA 333.6101 et seq., as amended.
- (c) Be at least three hundred feet (300') away from residentially zoned property.
- (d) Shall not be located within the same building or unit occupied by any other type of business, unless co-located compliant with the Medical Marihuana Facilities Act and other Medical Marihuana Facility use.
- (e) No Medical Marihuana Facility shall be located in an unzoned area or in an area subject to an agreement entered into pursuant to Public Act 425 of 1984.
- (f) For purposes of calculating buffering and dispersion requirements, the distance shall be measured from the building of the buffered use to the building of the Medical Marihuana Facility nearest to the buffered use. The distance from Medical Marihuana Facility building to the building of the buffered use shall be included in the permit application.
- (g) A grower, processor, or provision center may co-locate their Medical Marihuana Facility within the same building or parcel if compliant with State law. Each type of Medical Marihuana Facility, subject to licenses, requires separate City Applications and Permits pursuant to this Article.

Sec. 12-356. - License Revocation, Suspension and Denial; Basis for Action; Appeal.

- (a) Any license issued under this Article may be revoked or suspended by the City Clerk after an administrative hearing if the City Clerk finds and determines that grounds for revocation or suspension exist. Any grounds for revocation or suspension must be provided to the licensee at least ten (10) days prior to the date of the hearing by first class mail to the address given on the License Application or any address provided to the City Clerk in writing subsequent to the filing of an application.
- (b) A license applied for or issued under this Article may be denied, revoked or suspended on any of the following bases:
 - (1) A violation of any provision of this Article, including, but not limited to, the failure to provide the information required by this Article; or
 - (2) Any conviction of a felony or any misdemeanor involving controlled substances, theft or dishonesty by the licensee, stakeholder, or any person holding an ownership interest in the license; or
 - (3) Commission of fraud or misrepresentation or the making of a false statement by the applicant, licensee, or any stakeholder of the applicant or licensee while engaging in any activity for which this Article requires a license; or
 - (4) Failure to obtain or maintain a license or renewed license from the City Clerk pursuant to this Article; or
 - (5) Failure of the licensee or the Medical Marihuana Facility to obtain or maintain a license or approval from the state pursuant to the MMFLA; or
 - (6) The Medical Marihuana Facility is determined by the City to have become a public nuisance or otherwise is operating in a manner detrimental to the public health, safety or welfare; or
 - (7) Any default in the payment of any charges, taxes, or fees, to the City if not cured upon forty-five (45) days following notice sent by electronic means or mail to the address of the Medical Marihuana Facility; or
 - (8) Violation of any State law applicable to Medical Marihuana Facilities, including statutes or rules as adopted or approved by the City.
- (c) Appeal of denial of an Application, or revocation or suspension of a license: the City Clerk shall notify an applicant of the reason(s) for denial of an Application for a license or license renewal or for revocation or suspension of a

license or any adverse decision under this Article and provide the applicant with the opportunity to be heard. Any applicant aggrieved by the denial or revocation or suspension of a license or adverse decision under this Article may appeal to the City Council, who shall appoint a hearing officer or officers to hear and evaluate the appeal and make a recommendation to the Clerk. Such appeal shall be taken by filing with the City Clerk, within fourteen (14) days after notice of the action complained of has been mailed to the applicant's last known address on the records of the City Clerk, a written statement setting forth fully the grounds for the appeal. The City Council shall review the report and recommendation of the hearing officer and make a decision on the matter.

Sec. 12-357. - Penalties; Temporary Suspension of a License.

- (a) The City of New Baltimore may require an applicant or licensee of a Medical Marihuana Facility to produce documents, records, or any other material pertinent to the investigation of an Application or alleged violation of this Article. Failure to provide the required material may be grounds for application denial or license revocation.
- (b) Any person in violation of any provision of this Article, including the operation of a Medical Marihuana Facility without a license issued pursuant to this Article shall be subject to a civil fine and costs. Increased civil fines may be imposed for a repeat violation. As used in this Section "repeat violation" shall mean a second or any subsequent infraction of the same requirement or provision committed by a person or Medical Marihuana Facility within any twenty-four (24) month period. Unless otherwise specifically provided in this Article, the penalty schedule is as follows:
 - (1) Seven Hundred Fifty Dollars (\$750), plus costs, for the first violation;
 - (2) One Thousand Dollars (\$1,000), plus costs, for a repeat violation;
 - (3) Three Thousand Dollars (\$3,000), plus costs, per day, plus costs, for any violation that continues for more than one day.
- (c) All fines imposed under this Article shall be paid within forty-five (45) days after the effective date of the order imposing the fine or as otherwise specified in the order.
- (d) The Clerk may temporarily suspend a Medical Marihuana Facility license without a prior hearing if the Mayor finds that public safety or welfare requires emergency action affecting the public health, safety, or welfare. The Clerk shall cause the temporary suspension by issuing a suspension notice in connection with institution of proceedings for notice and a hearing.
- (e) If the Clerk temporarily suspends a license without a prior hearing, the licensee is

entitled to a hearing within thirty (30) days after the suspension notice has been served on the licensee or posted on the licensed premises. In the case of a license issued for a Medical Marijuana Grower Facility, the hearing shall be held within seven (7) days after the notice has been served on the licensee or posted on the premises of the licensed Medical Marijuana Facility. The hearing shall be limited to the issues cited in the suspension notice.

- (f) If the Clerk does not hold a hearing within thirty (30) days after the date the suspension was served on the licensee or posted on the licensed premises, or in the case of a Grower Facility within seven (7) days, then the suspended license shall be automatically reinstated and the suspension vacated.
- (g) The penalty provisions of this Article are not intended to foreclose any other remedy or sanction that might be available to, or imposed by the City, including criminal prosecution.

Sec. 12-358. - No Vested Rights.

A property owner lessor, license applicant, or licensee shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this Article or any amendment of this Article, nor any property interest in any Permit Application or issued permit.

Section 2. Severability. If any article, section, subsection, sentence, clause, phrase, or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of remaining portions of the ordinance; it, being the intent of the City is that this Ordinance shall be fully severable.

Section 3. Repealer. All of the City of New Baltimore ordinances or parts of the City of New Baltimore ordinances in conflict herewith are repealed only to the extent necessary to give this ordinance full force and effect.

Section 4. Effective Date. This Ordinance shall be published following adoption and shall be effective twenty (20) days from date of adoption and/or amendment of Section 60-70 of the City of New Baltimore Zoning Ordinance, whichever occurs later.

THE CITY OF NEW BALTIMORE ORDAINS:

AYES _____

NAYS _____

ABSENT _____

ORDINANCE DECLARED ADOPTED.

John Dupray, Mayor

Attested:

Marcella Shinska, City Clerk

CERTIFICATION

I, Marcella Shinska, City Clerk for the City of New Baltimore, County of Macomb, State of Michigan, do hereby certify that Ordinance No. _____ was adopted by the City Council of New Baltimore, assembled in regular session on February _____, 2019. Said Ordinance was posted in the following places:

Notice of said posting was published in February _____, 2019.

Marcella Shinska, City Clerk

City Council Date: _____

Publication Date: _____